

**Council Bill Number: 111503**

**Ordinance Number: 118412**

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AN ORDINANCE establishing a **University District** Parking and **Business** Improvement Area; providing for the levy of special assessments upon **business** within the area, the deposit of revenues in a special account, and expenditures therefrom; providing for an implementing agreement; and making a conditionally reimbursable appropriation from the General Fund therefor, all by three-fourths vote of the City Council.

**Date introduced/referred:** October 14, 1996

**Date passed:** November 25, 1996

**Status:** PASSED

**Vote:** 8-0

**Date of Mayor's signature\*:** December 3, 1996

**Committee:** Business, Economic and Community Development

**Sponsor:** DRAGO

**Index Terms:** BUSINESS-IMPROVEMENT-AREAS, UNIVERSITY-DISTRICT

**Note:** Creating University District BIA

**Text**

AN ORDINANCE establishing a University District Parking and Business Improvement Area; providing for the levy of special assessments upon business within the area, the deposit of revenues in a special account, and expenditures therefrom; providing for an implementing agreement; and making a conditionally reimbursable appropriation from the General Fund therefor, all by three-fourths vote of the City Council.

WHEREAS, the owners and/or operators of businesses, buildings and property located within the area and subject to sixty percent or more of the special assessments levied by this ordinance filed a petition with The City of Seattle to establish a Parking and Business Improvement Area pursuant to RCW Chapter 35.87A, which is filed in C.F. 301515; and pursuant thereto, the City Council adopted Resolution

29453, declaring its intent to establish the same, and Resolution \_\_\_\_\_, making changes to the boundaries;

WHEREAS, the University District Parking and Business Improvement Area (BIA) established herein is for the purpose of enhancing conditions for the operation of those businesses. The budget of the BIA shall be dedicated to activities in addition to basic services provided by The City of Seattle. Services provided by the City of Seattle shall not be reduced because of BIA activities and at all times be maintained at or above a level consistent with services provided to comparable business areas within the City; and

WHEREAS, as provided by Resolution 29453 and Resolution \_\_\_\_\_ (both published in the Daily Journal of Commerce on \_\_\_\_\_, 19\_\_\_\_), the City Council held a public hearing thereon on \_\_\_\_\_, 19\_\_\_\_, at 6:00 p.m. in the City Council Chambers, 11th Floor, Municipal Building, 600 4th Avenue, Seattle., Washington.

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. District Established. As authorized by RCW Chapter 35.87A, there is hereby established a University District Parking and Business Improvement Area within the following boundaries and as shown on the map attached as Exhibit "A" (when a street or alley is named, the area boundary is the centerline of the right-of-way including vacated portions).

North Boundary:

Northeast 41st Street between 15th Avenue Northeast and the alley between 15th Avenue Northeast and University Avenue Northeast; Northeast 47th Street from the alley between 12th Avenue Northeast and Brooklyn Avenue Northeast to Brooklyn Avenue Northeast; the east-west line running from the North end of the 4th lot North of Northeast 47th Street from Brooklyn Avenue Northeast to the alley between Brooklyn Avenue Northeast and University Way Northeast; and Northeast 50th Street from the alley between Brooklyn Avenue Northeast and University Way Northeast to University Way Northeast; and Northeast 52nd Street from University Way Northeast to the alley between University Way Northeast and 15th Avenue Northeast.

East Boundary:

The alley between University Way Northeast and 15th Avenue Northeast from Northeast 52nd Street to Northeast 41st Street; and 15th Avenue between Northeast 41st Street and Northeast Campus Parkway.

South Boundary:

Campus Parkway between the west side of 15th Avenue Northeast and the alley between University Way Northeast and Brooklyn Avenue Northeast; and Northeast 43rd Street between the alley between University Way Northeast and Brooklyn Avenue Northeast and the alley between Brooklyn Avenue Northeast and 12th Avenue Northeast;

West Boundary:

The alley between University Way Northeast and Brooklyn Avenue Northeast from Northeast Campus Parkway and Northeast 43rd Street; and the alley between Brooklyn Avenue and 12th Avenue Northeast from 43rd Avenue Northeast and 47th Avenue Northeast; and Brooklyn Avenue Northeast from 47th Avenue North for four (4) lots; and the alley between Brooklyn Avenue Northeast and University Way Northeast continuing North to 50th Street; and the east side of University Way Northeast from Northeast 50th Street to Northeast 52nd Street.

The area includes:

Northeast Campus Parkway , The north side between 15th Avenue Northeast and the alley between Brooklyn Avenue Northeast and University Way Northeast;

University Way Northeast , East and West sides of the street between Northeast Campus Parkway and Northeast 50th Street and the east side of the street between Northeast 50th Street and Northeast 52nd Street;

15th Avenue Northeast , The west side of the street between Northeast Campus Parkway and Northeast 41st Street;

Brooklyn Avenue Northeast , East and West sides of the street between Northeast 43rd Street and Northeast 47th Street and the east side of the street between Northeast 47th Street and the four lots to the North;

Northeast 41st Street , The South side of the street between 15th Avenue Northeast and the alley between Brooklyn Avenue Northeast and University Way Northeast, and the North side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between University Way Northeast and Brooklyn Avenue Northeast;

Northeast 42nd Street , The North and South side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between University Way Northeast and Brooklyn Avenue Northeast;

Northeast 43rd Street , The North and South side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between University Way Northeast and Brooklyn Avenue Northeast;

Northeast 45th Street , The North and South side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between Brooklyn Avenue Northeast and 12th Avenue Northeast;

Northeast 47th Street , The South side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between Brooklyn Avenue Northeast and 12th Avenue Northeast, and the North side of the street between the alley between 15th Avenue Northeast and University Way Northeast and Brooklyn Avenue Northeast;

Northeast 50th Street , The South side of the street between the alley between 15th Avenue Northeast and University Way Northeast and the alley between University Way Northeast and Brooklyn Avenue Northeast, and the North side of the street between University Way Northeast and the alley between 15th Avenue Northeast and University Way Northeast;

Northeast 52nd Street , The South side of the street between the alley between 15th Avenue Northeast and University Way Northeast.

Section 2. Programs. Special Assessment Revenues shall be used for component programs. (The first year's program is more fully described in the petition attached hereto as Exhibit B.)

(a) The Security Program is intended to enhance the level of public safety in the area through creating and opening a neighborhood police office to serve as a drop-in space for Seattle Police Department officers, both regular patrol and Community Service Officers; and providing funds to hire off-duty Seattle Police officers to provide supplemental security of at least 500 hours during the first year. A half-time staff person will be hired to check for conditions needing

remedial action by business or property owners, government or the BIA..

(b) The Common Area Maintenance and Improvement Program is intended to enhance the physical appearance of the area by such activities as daily removal of debris and litter from public areas; installing banners, murals, signage or other decorations; beautification with flowers and baskets; cleaning sidewalks and removing graffiti; and development of cooperative programs with government and others to improve the physical character of the area.

(c). The organizational element is intended to provide a forum for people who live, work, do business or own property in the affected area to work together toward addressing community issues in the area and activities of the BIA, and for administering BIA activities.

The listing of services is illustrative and not exclusive. All such activities are supplemental to street maintenance and law enforcement provided by the City and are not to displace any services regularly provided by municipal government.

Section 3. Levy of Special Assessments. To finance the programs authorized in Section 2, there is levied upon and shall be collected from the businesses and property owners in the University District Parking and Business Improvement Area described in Section 1 an annual special assessment, measured by the type of use and rate of assessment in the following table, subject to the calculations and limitations in Sections 4 and 5:

Annual Assessment Formula

Category	Rate of Assessment
I. Retail/commercial uses	
Ground Floor	\$ .10 sq. ft.
Upper Floor	\$ .05 sq. ft.
Below Ground Floor	\$ .05 sq. ft.
II. Commercial Parking	\$ 5 / space
III. Full Service Hotels / Motels	\$10 / room
IV. Apartments	\$ 5 / Unit
V. Property Owners	\$ .05 sq ft

Section 4. Calculation of and limitations upon assessments.

(a) Floor space or area assessed under one classification shall not be reassessed under another. The applicable assessment rate for the more general categories shall apply, and the rate for the more general categories shall apply and shall be determined in this sequence:

(i) Category I, retail space and all commercial uses (including

office, restaurants, theaters, and personal services);

(ii) Category II, commercial parking;

(iii) Category III, full service hotels/motels; and

(iv) Category V, property owners.

Among the residential categories, the sequence is:

(i) Category III, full service hotels/motels;

(ii) Category IV, apartments.

(b) Except in the case where the owner of the property is the ratepayer, concessions, leased departments, or restaurants in office buildings and hotels, are assessed as separate business enterprises, whenever the occupancy has a separate City business license and appears to the public as an independently-operated enterprise.

(c) If multiple activities or uses are undertaken in a single business space, the predominant activity or usage determines the classification.

(d) If an owner of a building or of a business retains or franchises an independent contractor to manage or operate the structure or enterprise, respectively, collection shall be made from the owner unless the independent contractor agrees with the City to make payment or the owner can show that the contractor is obliged by a lease or contract to pay the special assessment.

(e) A minimum assessment of \$100 (one-hundred dollars) will be applied to every business, organization, and property within the BIA boundaries.

(f) The total assessment upon any single business site within the BIA shall not initially exceed \$10,000 (ten-thousand dollars) annually.

Section 5. Exemptions. No special assessments shall be levied upon and collected from:

(a) Organizations eligible for charitable contributions under the United States Internal Revenue Code [26 USC 170 (c) or (3)];

(b) Contractors constructing or rehabilitating buildings in the District on account of structures or work in progress in the Area and owners of structures under construction or rehabilitation, which are closed to occupancy;

(c) Sponsors of public events and concessionaires, and vendors or entertainers, who engage in business activities in the area for less than 30 days in aggregate per year;

(d) Newsstands in street right-of-ways and mobile vending carts in a public places;

(e) Individual P-patch plots under the City's urban gardening program, provided that the City may elect to pay an assessment for a site as a whole; and

(f) Utilities on account of their occupation of street area. An owner and/or operator of an enterprise or activity which is exempt under this section may elect to participate in the BIA by paying to the City for the BIA One Hundred Dollars (\$100.00) per year.

Section 6. Collection Schedule. Insofar as consistent with this ordinance and RCW Chapter 35.87A, special assessments shall be collected on an annual basis or in such a manner deemed appropriate by the Director of the Department of Finance or a successor official.

Section 7. Deposit of Revenues. There is hereby established in the City Treasury's Business Improvement Area Fund, a separate subaccount designated the University District Parking and Business Improvement Area Account (called "the Account"). The following monies shall be deposited in the Account:

(a) All revenues from special assessments levied under this ordinance;

(b) All income to the City from public events financed with special assessments;

(c) Gifts and donations for the Account;

(d) Interest and all other income from the investment of Account deposits;

(e) Restitution moneys for expenditures made from the Account and reimbursements due to the Account.

Section 8. Expenditures. Expenditures from the Account shall be made upon vouchers drawn by the Director of the Department of Finance or a successor official and shall be used exclusively for the statutory purposes each as more fully defined in Section 2 and the petition to establish the area (C.F. 301515).

Section 9. Ratepayers Advisory Group. The Director of the Department of Finance or a successor official shall appoint an interim Ratepayers Advisory Board comprised of ratepayers from the Area. Within approximately 60 days of City Council approval of the establishment of a University District BIA, the interim Ratepayers Advisory Board will recommend and the Department of Finance will implement procedures to establish a permanent Ratepayers Advisory Board. Procedures shall be designed to insure inclusion of members representative of the entire geographic area of the District and representative of the classifications subject to assessment as defined in Section 1.

The Director of the Department of Finance may appoint additional members to the Ratepayer Advisory Board to ensure that a broad representation of ratepayers is provided. The additional members so appointed shall not exceed one-third (1/3) of the entire membership of the Board.

The Ratepayers Advisory Board shall be responsible for providing advice and consultation to the Department of the Department of Finance initially, and any individual or agency hired to manage the day-to-day operations of the Parking and Business Improvement Area program on all matters related to the operation of the program.

The Ratepayers Advisory Board will meet regularly; approve an annual work program and budget; address and discuss ratepayer concerns and questions regarding the BIA district and program; review all reports submitted to the Department of Finance by the program management; and sponsor an annual ratepayers meeting.

Section 10. Administration. The Director of the Department of Finance shall administer the program for the City with authority to:

- (a) Classify ratepayers within the types of use under Section 3 and resolve ambiguities in the application of rates;
- (b) Remit funds to the University District Chamber of Commerce or a successor organization under the terms of a contractual agreement, as provided for in RCW 35.87A.110;
- (c) Collect the special assessments; refund special assessments when overpaid or paid for the same area by more than one ratepayer; extend the deadline for payment and/or waive delinquency charges and interest whenever the delinquency is a result of a failure by the City to provide a statement of the amount due or nonpayment results from extenuating circumstances beyond the ratepayers control, such as a casualty loss causing premature closure of the business or bankruptcy or the total payment due to the City (exclusive of penalty and interest) is Ten Dollars (\$10.00) or less; and exempt homes for which the King County Assessor has granted an exemption from property taxes under RCW 84.36.381 - .389 on account of the low income status of the owner - resident.
- (d) Calculate and collect the interest for late payments contemplated by Section 12;
- (e) Establish a schedule of proportionate payments for new ratepayers first becoming subject to the assessment;
- (f) Subject to advice and direction of the Ratepayers Advisory Board, execute an annual program management contract with a Program Manager, to be hired by the Ratepayers Advisory Board;
- (g) After consultation and with the advice of the BIA Ratepayers Board, take such other actions as necessary and appropriate to carry out the program with special assessments;
- (h) Accept and deposit advance payment of assessments by ratepayers; accept donations from governmental agencies and the public for BIA programs; assist the Program Manager on applying for grants; and working with the Ratepayers Advisory Board and the Program Manager in soliciting or improving governmental services to the area; and
- (i) Under the City Administrative Code (SMC Chapter 3.01) to

adopt, publish, and enforce rules, consistent with this ordinance, for carrying out its provisions.

Section 11. Annual Budget. After \_\_\_\_\_, 1997, in consultation with the Program Manager and the Ratepayers Advisory Board, the Director of the Department of Finance or a succeeding official shall submit to the City Budget Director on or before March 31st of each year a statement of the projects and activities to be conducted during the ensuing fiscal year; the proposed program budget; and a statement of the assessment rates and business classifications requested for financing the proposed budget. A summary for the comments and recommendations received during such consultations shall accompany the Department of Finance Director's submission to the Budget Director, and the Mayor's recommended budget to the City Council. The "Proposed First Year Expenses" attached to the Petition shall constitute the approved budget for 1997.

Section 12. Delinquent Payments. If an assessment has not been paid within thirty (30) days after its due date and the ratepayer had been making prompt payment in the past, the Director shall send a reminder notice and add a Five Dollar (\$5.00) processing fee. However, if (a) the assessment was not paid within sixty (60) days after its due date or (b) the assessment was not paid within thirty (30) days and the ratepayer has been late on one of the previous two payments, a delinquency charge shall be added in the amount of ten percent (10%) of the assessment in addition to the processing fee. All assessments, which are not paid within sixty (60) days, shall also bear interest from the date payment was due at twelve percent (12%) per annum. The Director of The Department of Finance is authorized to bring an action to collect any unpaid assessments in the Seattle Municipal Court as a civil action, or at the discretion of the Director, in the Seattle District Court.

Section 13. Contract For Program Management. The Director is authorized to contract with a Program Manager as recommended by the Ratepayers Advisory Board at the annual meeting to administer the projects and activities. It is the intent of the City Council that the Director contract with the Greater University Chamber of Commerce to administer the program during the initial year, and for each year thereafter for as long as the Ratepayers Advisory Board concurs in its continuation as the Program Manager. The selection of a Program Manager upon the recommendation of the Ratepayers Advisory Board shall obviate compliance with the consultant selection procedures of Seattle Municipal Code Chapter 3.114 and Section 20.46A.170. Any contract for private security shall be reviewed by the Seattle Police Department.

Section 14. Rate Changes. Any change in the assessment rate shall only be made by ordinance and as authorized in RCW 35.87A.140. No increase shall occur in the assessment rate unless recommended by the Ratepayers Advisory Board.

To prevent reduction in services due to inflation in prices the City may from time to time, upon recommendation of the Ratepayers Advisory Board and by ordinance, increase or reduce assessment rates, to reflect changes in the purchasing power of money. Any increase in the assessment formula shall be based on the increase, if any, of the Consumer Price Index (CPI) for the metropolitan Seattle area;

provided, however, that the increase shall not exceed five percent (5%) in any calendar year. The percentage of increase in the assessment formula shall be computed as follows:

$$\frac{(\text{Ending CPI} - \text{Beginning CPI})}{(\text{Beginning CPI})} \times 100 = \text{Percentage of Increase}$$

Rates after the percentage increase shall be rounded to the nearest one-thousandth (mil) as to square footage rates in Categories I, II, III, and IV, and nickel as to Category V.

Section 15. Notices. Notices of assessment, installment payments, or delinquency, and all other notices contemplated by this ordinance may be sent by ordinary mail or delivered by the City to the address shown on the records of the Director of the Department of Finance, and, if no address is shown there, to the address shown on the records of the City maintained for business or utility tax purposes under Seattle Municipal Code Chapters 5.44 and 5.48. Failure of the ratepayer to receive any mailed notice shall not release the ratepayer from the duty to pay the assessment, or except as authorized by Section 10 (b), from payment on the due date and any delinquency charges.

Section 16. Disputes. Any ratepayer aggrieved by the amount of an assessment or delinquency charge may on request obtain a meeting with the Director, or senior assistant designated by the Director to act on his or her behalf; and, if not satisfied, the ratepayer may appeal the matter to the City's Hearing Examiner in the manner provided for a contested case under the City's Administrative Code, Seattle Municipal Code Chapter 3.02.

Section 17. Interim Appropriation. To provide for start-up costs as recommended by the Mayor and the Director, the sum of Thirty Thousand Dollars (\$30,000), or so much thereof as may be necessary is hereby appropriated from the General Fund, to be reimbursed unless the City's 1997 Budget provides otherwise from the Business Improvement Area Fund with revenues from special assessments no later than December 31, 1997.

Section 18. Commencement of Assessments. Assessment shall commence as of \_\_\_\_\_, 1997.

Section 19. Ratification and Confirmation. The making of contracts and expenditures, and the sending of assessment notices pursuant to the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 20. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the City Charter.

PASSED by a three-fourths vote of all the members of the City Council the

\_\_\_\_\_ day of \_\_\_\_\_, 1996, and signed by me in open session

in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_,  
1996.

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

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

Norman B. Rice, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

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

(Seal)

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(Ver. 1 )