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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117898

AN ORDINANCE relating to land use and zoning; extending by six months the effect of interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council makes the following legislative findings of fact and declarations:

1. Ordinance 123978 adopted interim development regulations regulating development on certain undersized lots located in single-family zones. Ordinance 123978 expires September 20, 2013 unless the duration of that ordinance is extended.

2. Although the City has worked to develop permanent regulations to regulate such development, that work has not been completed and the City Council is unlikely to act upon the proposed permanent regulations until after the expiration of the interim development regulations on September 20, 2013.

3. If the City Council does not adopt permanent development regulations before the expiration of the interim development regulations, City development regulations will revert to the regulations in effect before Ordinance 123978 became effective. If this were to occur, development projects could be permitted that are inconsistent with the public interest, as described in the findings of fact contained in Ordinance 123978, which are hereby incorporated by reference. To prevent such incompatible development an emergency is declared to exist.

4. RCW 36.70A.390 authorizes the City to extend the duration of interim development regulations for one or more six-month periods.

Section 2. Ordinance 123978 is amended to add a new Section 8 to read as follows:

Section 8. This ordinance expires on March 20, 2014.

Section 3. By reason of the findings set out in this ordinance, and the emergency that is declared to exist, this ordinance shall become effective immediately upon its passage by a three-fourths vote of the City Council, and its approval by the Mayor, as provided by Article 4, Subsection 1(I) of the Charter of the City.

Passed by a three-fourths vote of all the members of the City Council on the ____ day of _____ 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

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	Ketil Freeman/48178	Not Applicable

Legislation Title:

AN ORDINANCE relating to land use and zoning; extending by six months the effect of interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

Summary of the Legislation:

This legislation extends interim development regulations adopted by Ordinance 123978 for development on undersized lots. The interim controls extension would expire on March 20, 2014.

In reviewing Land Use Code provisions governing undersized lots and minimum lot area exceptions, the Department of Planning and Development (DPD) has determined that development approved under current standards is often out of character with surrounding conditions and inconsistent with the policy intent of allowing infill development on undersized lots. Interim measures are proposed in order to prevent a rush to obtain permits and develop properties in a manner that is not appropriate while this issue is being studied and legislation for permanent provisions is completed.

The interim measures would:

- Limit application of the lot area exception provided for lots of historic record to those lots with an area of at least 50 percent of the general minimum requirement for the zone.
- End the use of historic tax records as a basis for qualifying for lot area exceptions.
- Continue to allow development of lots with an area of between 50 and 75 percent of the general minimum lot area of the zone (i.e. lots between 2,500 and 3,750 square feet in an SF 5000 zone) by allowing development on such lots to be built to the height and floor area that would be allowed for a detached accessory dwelling unit on a lot of the same dimensions.

Background:

Seattle has imposed minimum lot area requirements in single-family zones since the 1950s, including exceptions to the minimum requirements. Exceptions were allowed for infill housing

opportunities on lots that otherwise would remain vacant, and to allow property owners who had acquired a parcel prior to the adoption of the minimum lot area requirement to continue to benefit from their investment. The latter purpose was the chief reason behind the exception in Section 23.44.010.B.1.d, made for certain historic lots of record prior to July 24, 1957, the date which the City adopted minimum lot area standards and exceptions to those standards.

Unlike most of the lot area exceptions in Section 23.44.010.B, the exception for historic lots of record includes no absolute minimum area requirement. In recent years, development of lots under 50 percent of the minimum lot area requirement has been approved pursuant to the historic lot exception. Development on significantly undersized lots has triggered strong and persistent complaints from neighbors. Typically, the following issues have been raised:

- Development is occurring on lots that are so small that they are out of scale with the surrounding development pattern; neighbors never expected that they could be separately developed.
- In some cases it appears that a lot, although technically treated as separate in an historic record, most likely was never held with any intention that it might someday be separately developed.
- The separate development of lots based on historic tax records does not appear to be justified based on the intent behind the exception made for other historic lots, to preserve the opportunity to develop, as the separate tax lots were not historically created or acquired for separate development. These arcane tax record provisions benefit developers rather than the historic owners of the parcels.
- Houses being built on undersized lots are often taller than surrounding homes, or otherwise present imposing façades or other design problems, due to the desire to maximize potential floor area, at the expense of compatibility with adjacent development.
- Because the development of a house on an undersized lot requires no discretionary review, it triggers no public notice. Neighbors often become aware that the lot is to be separately developed only when construction begins. No administrative appeal is available; the only recourse is to go to court under the Land Use Petition Act, and the opportunity to do that is subject to a very tight deadline.

The Department charges fees to cover the cost of review of these permit applications. The proposed amendments will not add review time or cost. No fiscal impacts are anticipated from the adoption of this legislation. A schedule for adoption of permanent legislation is included in the legislation with an anticipated effective date of September 2013. Fiscal impacts of the future legislation will be considered as part of the preparation of that proposal.

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?**
No.

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, after the vote on this ordinance.

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.

g) **Does this legislation affect a piece of property?**
The legislation is of general application to property having the characteristics described in the ordinance.

h) **Other Issues:** None.

List attachments to the fiscal note below: None.