

The City of Seattle
Ordinance 127477
Council Bill 121215

An ordinance relating to Council land use decisions; amending Sections 23.76.050, 23.76.062, 25.05.070, 25.05.340, 25.05.455, 25.05.460, 25.05.502, and 25.05.680 of the Seattle Municipal Code to clarify processes for Council land use decisions.

Recitals:

In the past several years, Washington State has updated the State Environmental Policy Act (SEPA) to exempt from administrative appeals various types of local legislative actions.

Revised Code of Washington (RCW) 43.21C.075 allows local jurisdictions to decide whether to provide pre-decision administrative appeals of environmental determinations under SEPA.

The City of Seattle (City) has opted to use an administrative process to consider appeals of SEPA decisions, through the City's Hearing Examiner.

Many jurisdictions that have administrative appeals processes for SEPA decisions, including King County, Bellevue, Tacoma, and Everett, exempt SEPA procedural decisions for legislative actions from administrative appeals.

Washington State has adopted numerous statutes requiring timely updates to the City's land use regulations. The City has been in danger of missing deadlines to update its regulations due to additional time needed for administrative appeals of environmental documents.

The Seattle Hearing Examiner has dismissed administrative appeals of environmental documents on statutory grounds that administrative appeals are not allowed for certain types of regulatory changes, but the consideration of whether an appeal is permitted can take months or more to process.

SEPA does not require jurisdictions to allow administrative appeals of SEPA Determinations of Non-Significance or Environmental Impact Statements.

Seattle Municipal Code (SMC) section 25.05.535 mandates that a required public hearing on a proposal "be open to consideration of the environmental impact of the proposal, together with any environmental document that is available."

SMC section 25.05.535 also requires a public hearing on every draft EIS.

SMC section 25.05.560 requires the final EIS to include all comments received on the draft EIS .

SMC section 25.05.560 requires that the lead agency respond to all substantive comments on the proposal by: modifying alternatives; developing new alternatives; supplementing, improving or modifying the analysis; making factual corrections; or explaining why the comments do not warrant further response citing the sources, authorities, or reasons that support that finding.

The State of California has developed guidance for specific topics to guide analysis of impacts under the California Environmental Quality Act (CEQA).

The City of New York has developed a technical manual to guide analysis of proposals under the City Environmental Quality Review.

Unlike some states, like California, or cities, like New York City, neither Washington State nor the City of Seattle have developed detailed guidance on how SEPA analysis should be performed, resulting in each environmental impact statement using different approaches to analyze possible impacts.

Clear and uniform SEPA guidelines can increase clarity, trust, and consistency in environmental documents.

The Land Use Code requires director's reports for Type IV and V Council land use decisions but does not clearly contemplate reports for Council-sponsored land use decisions.

This bill makes director's reports optional for Council-sponsored land use legislation.

This bill also removes from the Land Use Code the pre-decision SEPA appeals for legislation adopting or amending the Comprehensive Plan or development regulations. Therefore,

Be it ordained by The City of Seattle as follows:

Section 1. Section 23.76.050 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

23.76.050 Reports for Type IV and V Council land use decisions

A. Reports on Council land use decisions

1. Except for Type V Council land use decisions that are proposed by the Director of the Office of Planning and Community Development or the Council, the Director shall prepare a written report on Type IV and V decisions and any associated

Type II decisions listed in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f, and 23.76.006.C.2.g and SEPA decisions integrated with such Type II decisions as set forth in subsection 23.76.006.C.2.i.

2. For Type V Council land use decisions proposed by the Director of the Office of Planning and Community Development, the Director of the Office of Planning and Community Development shall prepare the report required under this Section 23.76.050. ~~((For purposes of this Section 23.76.050 the word “Director” refers to the Director of the Seattle Department of Construction and Inspections or the Director of the Office of Planning and Community Development that is responsible for preparation of the report required by this section.))~~

3. For Type V Council land use decisions proposed by the Council:

a. Any councilmember may request that the Director, or the Director of the Office of Planning and Community Development prepare a report under this Section 23.76.050.

b. Council Central Staff shall prepare a report as described in subsection 23.76.050.D.

B. The Director’s report for Type IV and V Council land use decisions other than those listed in ~~((subsection))~~ subsections 23.76.050.C and 23.76.050.D shall include:

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application or request;

2. Responses to written comments from the public;

3. An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with applicable City policies;

4. All environmental documentation, including any checklist, EIS, or DNS;
and

5. The Director's recommendation to approve, approve with conditions, or deny a proposal.

C. For adoption of the Comprehensive Plan, Comprehensive Plan amendments, Land Use Code amendments, area-wide amendments to the Official Land Use Map, and ((Planned Action Ordinances)) planned action ordinances, the Director's report shall include:

1. An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with applicable City policies;

2. ((a)) A summary of the public notice and outreach efforts undertaken to evaluate the proposal;

3. All environmental documentation, including any checklist, EIS, or threshold determination;

4. A summary of any EIS, Supplemental EIS, or Addendum to an EIS, no more than 10 pages long, in accessible formats, and written in plain language, describing impacts of the legislation and mitigation measures identified in the EIS; and

((3-)) 5. The Director's recommendation to approve or reject a proposal.

D. ~~((A DNS or the Director's determination that an EIS is adequate shall be subject to appeal pursuant to the procedures in subsection C of Section 23.76.022-))~~

For proposals from the Council to adopt the Comprehensive Plan, Comprehensive Plan

amendments, Land Use Code amendments, area-wide amendments to the Official Land Use Map, and planned action ordinances, Council Central Staff shall prepare a report that includes:

1. A summary of the proposal based on the standards and criteria for the approval sought and consistency with applicable City policies;

2. A summary of the public notice efforts undertaken related to the proposal; and

3. Any environmental documentation prepared, including any checklist, EIS or threshold determination.

E. For Type IV ((~~Decisions~~)) decisions, the Director's report shall be submitted to the Hearing Examiner and filed with the City Clerk on the same date the notice of availability of the Director's report is given pursuant to Section 23.76.052. The Director's report shall be made available for public inspection at least 21 days prior to the Hearing Examiner's open record predecision public hearing described in Section 23.76.052.

F. For Type V Council land use decisions not proposed by the Council, the Director's report shall be submitted to the Council ((~~and shall be made available to the public~~)) at least 15 days before the Council hearing described in Section 23.76.062. When a Councilmember requests a Director's report under subsection 23.76.050.A.3, the Director should attempt to provide the report to the Council at least 15 days before the Council hearing described in Section 23.76.062. All Director's reports shall be made available to the public upon submission to the Council. The Council may act on a Type V land use decision even if the Council-requested Director's report is untimely or not provided to Council and the public.

Section 2. Section 23.76.062 of the Seattle Municipal Code, last amended by Ordinance 123913, is amended as follows:

23.76.062 Type V Council land use decisions

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B. Public Hearing. The Council shall conduct a public hearing for each Type V Council land use decision, including any related environmental determinations and documents, except that no public hearing is required for an emergency amendment to the text of the Land Use Code. The Council may also appoint a hearing officer to conduct an additional fact-finding hearing to assist the Council in gathering information. Any hearing officer so appointed shall transmit written Findings of Fact to the Council within ten days of the additional hearing.

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D. Council ~~((Decision))~~ decision. In making a Type V Council land use decision, the Council shall consider the oral and written testimony presented at the public hearing, as well as any required report of the Director. ~~((The City Council shall not act on any Type V Council land use decision until the end of the appeal period for any applicable determination of nonsignificance (DNS) or final EIS or, if an appeal is filed, until the Hearing Examiner issues a decision affirming the Director's DNS or EIS decision.))~~

Section 3. Section 25.05.070 of the Seattle Municipal Code, last amended by Ordinance 125964, is amended as follows:

25.05.070 Limitations on actions during SEPA process

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B. In addition, certain DNS's require a 14-day period prior to agency action ~~((subsection 25.05.340.B))~~, and FEIS's require a seven day period prior to agency action ~~((subsection 25.05.460.E))~~. DNS's and FEIS's that are exempt from administrative appeal to the Seattle Hearing Examiner pursuant to subsection 25.05.680.F require a 30-day period prior to agency action.

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Section 4. Section 25.05.340 of the Seattle Municipal Code, last amended by Ordinance 119096, is amended as follows:

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B. When a DNS is issued for any of the proposals listed in subsection 25.05.340.B.1 ~~((of this section))~~, the requirements in this subsection shall be met. The requirements of this subsection do not apply to a DNS issued when the early review DNS process in Section 25.05.355 is used.

1. An agency shall not act upon a proposal for ~~((fourteen-))14(())~~ days after the date of issuance of a DNS if the proposal involves:

- a. Another agency with jurisdiction;
- b. Demolition of any structure or facility not exempted by ~~((Section))~~ subsection 25.05.800.B.6 (exempt construction other than historic) or Section 25.05.880 (Emergencies);
- c. Issuance of clearing or grading permits not exempted in Subchapter IX of these rules;

d. A DNS under ~~((Section))~~ subsection 25.05.350.B, ~~((Section))~~ subsection 25.05.350.C (mitigated DNS),¹ or ~~((Section))~~ subsection 25.05.360.D (withdrawn DS); or

e. A Growth Management Act (GMA) action, except that, when a DNS is exempt from administrative appeal to the Seattle Hearing Examiner pursuant to subsection 25.05.680.F, agencies shall not act on the underlying proposal for at least 30 days after issuance of the DNS.

2. The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the Department of Ecology, and affected tribes, the SEPA Public Information Center, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under Section 25.05.510.

3. Any person, affected tribe, or agency may submit comments to the lead agency within 14 days of the date of issuance of the DNS.

4. The date of issue for the DNS is the date the DNS is sent to the Department of Ecology and agencies with jurisdiction and the SEPA Public Information Center and is made publicly available.

5. An agency with jurisdiction may assume lead agency status only within this 14-day period (Section 25.05.948).

6. The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.

When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

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Section 5. Section 25.05.455 of the Seattle Municipal Code, last amended by Ordinance 114057, is amended as follows:

25.05.455 Issuance of DEIS

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G.

1. Upon request, the lead agency may grant an extension of up to 15 days to the comment period. Agencies and the public must request any extension before the end of the comment period.

2. For an EIS that is exempt from administrative appeal to the Seattle Hearing Examiner pursuant to subsection 25.05.680.F, the lead agency shall extend the comment period for 15 days.

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Section 6. Section 25.05.460 of the Seattle Municipal Code, last amended by Ordinance 114057, is amended as follows:

25.05.460 Issuance of FEIS

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E. Agencies shall not act on a proposal for which an EIS has been required prior to seven days after issuance of the EIS, except that, for an EIS that is exempt from administrative appeal to the Seattle Hearing Examiner pursuant to subsection

25.05.680.F, agencies shall not act on the underlying proposal for at least 30 days after issuance of the EIS.

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Section 7. Section 25.05.502 of the Seattle Municipal Code, last amended by Ordinance 119096, is amended as follows:

25.05.502 Inviting comment

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E. DEIS

1. Agencies shall invite comments on and circulate DEIS's as required by Section 25.05.455.

2. The commenting period shall be ~~((30 days unless extended by the lead agency under))~~ as required by Section 25.05.455.

3. Agencies shall comment and respond as stated in this Subchapter V. This meets the Act's formal consultation and comment requirement in RCW 43.21C.030(2)(d).

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Section 8. Section 25.05.680 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

25.05.680 Appeals

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F. ~~((RCW 36.70A.070, 36.70A.600 and 43.21C.495 exempt certain Council land use actions from administrative or judicial appeals, except as provided in subsection 25.05.680.G. Environmental documents and Council land use actions intended to be~~

~~exempt from SEPA appeals pursuant to RCW 43.21C.495 should so state.))~~ There is no administrative appeal to the Hearing Examiner of a SEPA threshold determination or the adequacy of an EIS associated with any proposed Comprehensive Plan or development regulation, whether new or amended.

Section 9. The Office of Planning and Community Development (OPCD) should consult with other City agencies and City Boards and Commissions to develop a report on options for the creation of uniform guidelines for review under the City of Seattle's SEPA Policies, Seattle Municipal Code Section 25.05.675. OPCD should provide its report by March 1, 2027 and provide a briefing to the Land Use and Sustainability Committee or the City Council. The report should include:

1. An inventory of existing resources available to support analysis of specific elements of the environment, consistent with the City's environmental policies, including guidance provided by State agencies.
2. A recommendation on whether to prepare guidance for analysis of specific elements of the environment, or for a more comprehensive set of guidelines covering all elements of the environment.
3. If the report recommends development of uniform guidance on a subset of the elements of the environment, a prioritized list of elements.
4. A timeline and costs for implementing the recommendations of the report.

This ordinance shall take effect as provided by Seattle Municipal Code Sections
1.04.020 and 1.04.070.

Passed by the City Council and signed in open session in authentication of its
passage on July 28, 2026.



President _____ of the City Council

Approved _____ on July 31, 2026.



Katie B. Wilson, Mayor

Attested on July 31, 2026.



Scheereen Dedman, City Clerk

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