



CITY OF SEATTLE

City Council

Agenda

Tuesday, February 11, 2025

2:00 PM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

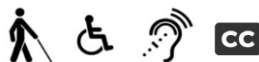
Sara Nelson, Council President
Joy Hollingsworth, Member
Robert Kettle, Member
Cathy Moore, Member
Alexis Mercedes Rinck, Member
Maritza Rivera, Member
Rob Saka, Member
Mark Solomon, Member
Dan Strauss, Member

Chair Info: 206-684-8809; Sara.Nelson@seattle.gov

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CITY OF SEATTLE

City Council Agenda

February 11, 2025 - 2:00 PM

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<http://www.seattle.gov/council>

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at

<https://www.seattle.gov/council/committees/public-comment>

Online registration to speak will begin one hour before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to all Councilmembers prior to 10 a.m. on the day of the meeting at Council@seattle.gov or at Seattle City Hall, Attn: Council Public Comment, 600 4th Ave., Floor 2, Seattle, WA 98104.

A. CALL TO ORDER

B. ROLL CALL

C. PRESENTATIONS

D. PUBLIC COMMENT

Members of the public may sign up to address the Council for up to 2 minutes on matters on this agenda; total time allotted to public comment at this meeting is 20 minutes.

E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:

Introduction and referral to Council committees of Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF) for committee recommendation.

[IRC 466](#)

February 11, 2025

Attachments: [Introduction and Referral Calendar](#)

F. APPROVAL OF THE AGENDA**G. APPROVAL OF CONSENT CALENDAR**

The Consent Calendar consists of routine items. A Councilmember may request that an item be removed from the Consent Calendar and placed on the regular agenda.

Journal:

1. [Min 506](#) February 4, 2025

Attachments: [Minutes](#)

Bills:

2. [CB 120940](#) AN ORDINANCE appropriating money to pay certain claims for the week of January 27, 2025, through January 31, 2025, and ordering the payment thereof; and ratifying and confirming certain prior acts.

Supporting Documents: [Summary and Fiscal Note](#)

H. COMMITTEE REPORTS

Discussion and vote on Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF).

CITY COUNCIL:

1. [CB 120937](#) AN ORDINANCE relating to taxes; creating a new sales and use tax deferral for the conversion of underutilized commercial property to housing; and adding a new Chapter 5.75 to the Seattle Municipal Code.

Supporting Documents: [Summary and Fiscal Note](#)
[Director's Report](#)
[Central Staff Memo](#)

PUBLIC SAFETY COMMITTEE:

2. [CB 120916](#) AN ORDINANCE relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

The Committee recommends that City Council pass as amended the Council Bill (CB).

In Favor: 3 - Kettle, Saka, Nelson

Opposed: 1 - Moore

Abstain: 1 - Hollingsworth

Attachments: [Att A - Seattle Municipal Code Section 3.28.146](#)
 [Att B - Ordinance 126422](#)

Supporting

Documents: [Summary and Fiscal Note](#)

[Amendment A](#)

[Amendment B](#)

[Amendment C](#)

[Amendment D](#)

[Amendment E](#)

[Amendment F](#)

[Amendment G](#)

[Amendment H](#)

[Amendment I](#)

I. ITEMS REMOVED FROM CONSENT CALENDAR

J. ADOPTION OF OTHER RESOLUTIONS

K. OTHER BUSINESS

L. ADJOURNMENT



Legislation Text

File #: IRC 466, **Version:** 1

February 11, 2025



Introduction and Referral Calendar

List of proposed Council Bills (CB), Resolutions (Res), Appointments (Appt) and Clerk Files (CF) to be introduced and referred to a City Council committee

Record No.	Title	Committee Referral
<u>By: Strauss</u>		
1. CB 120940	AN ORDINANCE appropriating money to pay certain claims for the week of January 27, 2025, through January 31, 2025, and ordering the payment thereof; and ratifying and confirming certain prior acts.	City Council
<u>By: Moore</u>		
2. Appt 03072	Appointment of Jennifer LaBrecque as member, Housing Levy Oversight Committee, for a term to December 31, 2030.	Housing and Human Services Committee
<u>By: Moore</u>		
3. Appt 03073	Appointment of Miranda Catsambas as member, Seattle Human Rights Commission, for a term to July 22, 2026.	Housing and Human Services Committee
<u>By: Moore</u>		
4. Appt 03074	Appointment of Phillip Lewis as member, Seattle Human Rights Commission, for a term to July 22, 2026.	Housing and Human Services Committee
<u>By: Moore</u>		
5. Appt 03075	Appointment of Goutham Putta as member, Seattle Human Rights Commission, for a term to July 22, 2026.	Housing and Human Services Committee
<u>By: Moore</u>		
6. Appt 03076	Reappointment of Robert D. Cook as member, Pacific Hospital Preservation and Development Authority Governing Council, for a term to December 31, 2027.	Housing and Human Services Committee
<u>By: Moore</u>		
7. Appt 03077	Reappointment of Paul Feldman as member, Pacific Hospital Preservation and Development Authority Governing Council, for a term to December 31, 2027.	Housing and Human Services Committee

By: Moore

- | | | |
|-------------------------------|---|--------------------------------------|
| 8. Appt 03078 | Reappointment of Douglass L. Jackson as member, Pacific Hospital Preservation and Development Authority Governing Council, for a term to December 31, 2027. | Housing and Human Services Committee |
|-------------------------------|---|--------------------------------------|

By: Rinck

- | | | |
|-------------------------------|--|--|
| 9. Appt 03079 | Appointment of Carol M. Binder as member, Museum Development Authority Governing Council, for a term to July 11, 2027. | Sustainability, City Light, Arts and Culture Committee |
|-------------------------------|--|--|



Legislation Text

File #: Min 506, **Version:** 1

February 4, 2025

SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor
Seattle, WA 98104



Journal of the Proceedings of the Seattle City Council

Tuesday, February 4, 2025

2:00 PM

Public Hearing

Council Chamber, City Hall

600 4th Avenue

Seattle, WA 98104

City Council

Sara Nelson, Council President

Joy Hollingsworth, Member

Robert Kettle, Member

Cathy Moore, Member

Alexis Mercedes Rinck, Member

Maritza Rivera, Member

Rob Saka, Member

Mark Solomon, Member

Dan Strauss, Member

Chair Info: 206-684-8809; Sara.Nelson@seattle.gov

A. CALL TO ORDER

The City Council of the City of Seattle met in the Council Chamber in Seattle, Washington, on February 4, 2025, pursuant to the provisions of the City Charter. The meeting was called to order at 2:02 p.m., with Council President Nelson Presiding.

By unanimous consent, Councilmember Hollingsworth was excused from the February 4, 2025 City Council meeting.

B. ROLL CALL

Present: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Excused: 1 - Hollingsworth

C. PRESENTATIONS

There were none.

D. PUBLIC COMMENT

The following individuals addressed the Council:

Howard Gale
Alex Tsimerman
David Haines
Alberto Alvarez

E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:

[IRC 465](#) **February 4, 2025**

By unanimous consent, the Introduction & Referral Calendar (IRC) was adopted.

In Favor: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

F. APPROVAL OF THE AGENDA

By unanimous consent, the City Council Agenda was adopted.

G. PUBLIC HEARING

[CB 120937](#) **AN ORDINANCE relating to taxes; creating a new sales and use tax deferral for the conversion of underutilized commercial property to housing; and adding a new Chapter 5.75 to the Seattle Municipal Code.**

Public Hearing on Council Bill 120937

The Public Hearing on Council Bill 120937 opened at 2:17 p.m.

The following speakers addressed the Council:

Mark Angelillo
William Leedom
Raymond Connell
Alex Tsimerman
David Haines
Carlen Veasey

The Public Hearing closed at 2:28 p.m.

Councilmember Moore left the Council Chamber at 2:28.

H. APPROVAL OF CONSENT CALENDAR

Motion was made by Council President Nelson, duly seconded and carried, to adopt the Consent Calendar.

Journal:

1. [Min 504](#) **January 27, 2025**

The Minutes were adopted on the Consent Calendar by the following vote, and the President signed the Minutes (Min):

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

2. [Min 505](#) **January 28, 2025**

The Minutes were adopted on the Consent Calendar by the following vote, and the President signed the Minutes (Min):

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

Bills:

3. [CB 120938](#) **AN ORDINANCE appropriating money to pay certain claims for the week of January 20, 2025, through January 24, 2025, and ordering the payment thereof; and ratifying and confirming certain prior acts.**

The Council Bill (CB) was passed on the Consent Calendar by the following vote, and the President signed the Council Bill:

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

Appointments:

PUBLIC SAFETY COMMITTEE:

4. [Appt 03066](#) **Appointment of David Benchlouch as member, Community Police Commission, for a term to December 31, 2027.**

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 4 - Kettle, Saka, Moore, Nelson

Opposed: None

The Appointment (Appt) was confirmed on the Consent Calendar by the following vote:

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

- 5. [Appt 03067](#) **Appointment of Arlecier L.N. West as member, Community Police Commission, for a term to December 31, 2026.**

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 4 - Kettle, Saka, Moore, Nelson

Opposed: None

The Appointment (Appt) was confirmed on the Consent Calendar by the following vote:

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

- 6. [Appt 03068](#) **Reappointment of Joseph Seia as member, Community Police Commission, for a term to December 31, 2025.**

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 4 - Kettle, Saka, Moore, Nelson

Opposed: None

The Appointment (Appt) was confirmed on the Consent Calendar by the following vote:

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

- 7. [Appt 03069](#) **Reappointment of Joel C. Merkel as member, Community Police Commission, for a term to December 31, 2027.**

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 4 - Kettle, Saka, Moore, Nelson

Opposed: None

The Appointment (Appt) was confirmed on the Consent Calendar by the following vote:

In Favor: 7 - Kettle, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

Absent(NV): 1 - Moore

I. COMMITTEE REPORTS

Councilmember Moore entered the Council Chamber at 2:31 p.m.

CITY COUNCIL:

- 1. [CB 120927](#) **AN ORDINANCE relating to floodplains; eighth extension of interim regulations established by Ordinance 126113, and as amended by Ordinance 126536, for an additional six months, to allow individuals to rely on updated National Flood Insurance Rate Maps to obtain flood insurance through the Federal Emergency Management Agency’s Flood Insurance Program.**

Motion was made by Council President Nelson and duly seconded to pass Council Bill 120927.

The Council Bill (CB) was passed by the following vote, and the President signed the Council Bill (CB):

In Favor: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

J. ITEMS REMOVED FROM CONSENT CALENDAR

There were none.

K. ADOPTION OF OTHER RESOLUTIONS

- 2. [Res 32161](#) **A RESOLUTION designating the monthly President Pro Tem of the City Council of The City of Seattle for 2025; superseding Resolution 32123.**

Motion was made by Council President Nelson and duly seconded to adopt Resolution 32161.

The Resolution (Res) was adopted by the following vote, and the President signed the Resolution (Res):

In Favor: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

- 3. [Res 32162](#) **A RESOLUTION relating to committee structure, membership, meeting times, and duties of the standing committees of the Seattle City Council for 2025; and superseding Resolution 32124.**

Motion was made by Council President Nelson and duly seconded to adopt Resolution 32162.

The Resolution (Res) was adopted by the following vote, and the President signed the Resolution (Res):

In Favor: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

- 4. [Res 32163](#) **A RESOLUTION relating to participation, for 2025, on King County Committees, Regional Committees, State Committees, and City of Seattle Committees; and superseding Resolution 32157.**

Motion was made by Council President Nelson and duly seconded to adopt Resolution 32163.

The Resolution (Res) was adopted by the following vote, and the President signed the Resolution (Res):

In Favor: 8 - Kettle, Moore, Nelson, Rinck, Rivera, Saka, Solomon, Strauss

Opposed: None

L. OTHER BUSINESS

There was none.

M. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 2:44 p.m.

Jodee Schwinn, Deputy City Clerk

Signed by me in Open Session, upon approval of the Council, on February 11, 2025.

Sara Nelson, Council President of the City Council



Legislation Text

File #: CB 120940, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE appropriating money to pay certain claims for the week of January 27, 2025, through January 31, 2025, and ordering the payment thereof; and ratifying and confirming certain prior acts.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Payment of the sum of \$23,254,775.01 on PeopleSoft 9.2 mechanical warrants numbered 4100896380 - 4100898539 plus manual or cancellation issues for claims, e-payables of \$32,125.63 on PeopleSoft 9.2 9100015107 - 9100015124, and electronic financial transactions (EFT) in the amount of \$106,559,521.44 are presented to the City Council under RCW 42.24.180 and approved consistent with remaining appropriations in the current Budget as amended.

Section 2. Payment of the sum of \$66,496,972.01 on City General Salary Fund mechanical warrants numbered 10387815 - 10387758 plus manual warrants, agencies warrants, and direct deposits numbered 0000001 - 0012809 representing Gross Payrolls for payroll ending date January 28, 2025, as detailed in the Payroll Summary Report for claims against the City that were reported to the City Council February 6, 2025, is approved consistent with remaining appropriations in the current budget as amended.

Section 3. RCW 35.32A.090(1) states, "There shall be no orders, authorizations, allowances, contracts or payments made or attempted to be made in excess of the expenditure allowances authorized in the final budget as adopted or modified as provided in this chapter, and any such attempted excess expenditure shall be void and shall never be the foundation of a claim against the city."

Section 4. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 11th day of February, 2025, and signed by me in open session in authentication of its passage this 11th day of February, 2025.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2025.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2025.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
Office of City Finance	Julie Johnson	Lorine Cheung

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE appropriating money to pay certain claims for the week of January 27, 2025, through January 31, 2025, and ordering the payment thereof; and ratifying and confirming certain prior acts. Claims include all financial payment obligations for bills and payroll paid out of PeopleSoft for the covered.

Summary and Background of the Legislation:

RCW 42.24.180 requires that payment of certain claims be authorized by the City Council. This bill, prepared each week by the City Treasury, authorizes the payments of funds that were previously appropriated by the City Council, so the passage of this bill does not have a direct result on the City's budget.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

This bill authorizes the payments of funds that were previously appropriated by the City Council, so the passage of this bill does not have a direct result on the City's budget.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

Please describe any financial costs or other impacts of *not* implementing the legislation.

The legislation authorizes the payment of valid claims. If the City does not pay its legal obligations it could face greater legal and financial liability.

4. OTHER IMPLICATIONS

- a. **Please describe how this legislation may affect any departments besides the originating department.**

This type of legislation authorizes payment of bill and payroll expenses for all City departments.

- b. **Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.**

No.

- c. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**

- i. **How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.**

N/A

- ii. **Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

N/A

- iii. **What is the Language Access Plan for any communications to the public?**

N/A

- d. **Climate Change Implications**

- i. **Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

N/A

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

N/A

5. CHECKLIST

- Is a public hearing required?
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?

6. ATTACHMENTS

Summary Attachments: None.



Legislation Text

File #: CB 120937, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to taxes; creating a new sales and use tax deferral for the conversion of underutilized commercial property to housing; and adding a new Chapter 5.75 to the Seattle Municipal Code.

WHEREAS, during the 2024 Washington State legislative session, the legislature passed and Governor Inslee signed Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175), codified in chapter 82.59 RCW, which authorizes The City of Seattle to take legislative action to establish a sales and use tax deferral program to promote the redevelopment of underutilized commercial property in urban areas; and

WHEREAS, E2SSB 6175 promotes the redevelopment of underutilized commercial property into housing and affordable housing by allowing deferral of sales and use tax for would-be developers of such housing; and

WHEREAS, there are significant areas of underutilized commercial properties in Seattle’s urban centers, especially in downtown; and

WHEREAS, there is a lack of affordable housing in Seattle, including within or proximate to areas with underutilized commercial properties, as documented in the housing cost burden section of the housing appendix to the One Seattle Plan Comprehensive Plan; and

WHEREAS, The City of Seattle desires to create a program pursuant to E2SSB 6175 to encourage the redevelopment of underutilized commercial property into additional housing and affordable housing to help meet strong demand for housing in the region and for economic development and downtown activation purposes; and

WHEREAS, in June 2023, Mayor Bruce Harrell released a Downtown Activation Plan that identified numerous strategies and actions to support downtown recovery, including actions that increase residential uses in downtown; and

WHEREAS, additional housing in downtown Seattle and other locations where underutilized commercial space may be converted to housing would further City objectives for economic development, revitalization and activation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.75 of the Seattle Municipal Code is added to Subtitle II of Title 5 as follows:

Chapter 5.75 SALES AND USE TAX DEFERRAL FOR CONVERSION TO HOUSING

5.75.010 Definitions

The definitions in this Section 5.75.010 apply throughout this Chapter 5.75.

“Affordable housing” means:

1. Homeownership housing intended for owner occupancy to low-income households whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income; or
2. Rental housing for low-income households whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

“Applicant” means an owner of commercial property.

“Conditional recipient” means an owner of commercial property granted a conditional certificate of program approval under this Chapter 5.75, which includes any successor owner of the property.

“Director” means the Director of the Office of Planning and Community Development or designee.

“Eligible investment project” means an investment project that is located in Seattle and receiving a conditional certificate of program approval.

“Investment project” means an investment in multifamily housing, including labor, services, and materials incorporated in the planning, installation, and construction of the project, and includes facilities related to the project such as playgrounds and sidewalks as well as facilities used for business use for mixed-use development.

“Low-income household” means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States Department of Housing and Urban Development.

“Underutilized commercial property” means an entire property, or portion thereof, currently used or intended to be used by a business for retailing or office-related or administrative activities.

5.75.020 Application

An owner of underutilized commercial property seeking a sales and use tax deferral for conversion of a commercial building to provide housing and affordable housing under this Chapter 5.75 on an investment

project must apply to the Director in writing, on forms provided by the Office of Planning and Community Development. The application must contain:

- A. Information setting forth the grounds supporting the requested deferral;
- B. A description of the investment project and site plan;
- C. A statement of the expected number of affordable housing units to be created and the total number of dwelling units created due to the conversion of underutilized commercial property;
- D. A statement that the applicant is aware of the potential tax liability involved if the investment project ceases to be used for eligible uses under this Chapter 5.75;
- E. A statement that the applicant is aware that the investment project must be completed within three years from the date of issuance of a conditional certificate of program approval;
- F. A statement that the applicant is aware that the Director may extend the deadline for completion of construction or rehabilitation for a period not to exceed 24 consecutive months;
- G. A statement that the applicant would not have built in this location but for the availability of the tax deferral under this Chapter 5.75;
- H. Documentation of submittal of a construction or land use permit pre-application with the Seattle Department of Construction and Inspections; and
- I. An oath or affirmation by the applicant that the statements and information provided are true.

5.75.030 Approval

A. The Director may approve the application and grant a conditional certificate of program approval if the Director finds that:

1. The investment project consists primarily of multifamily residential use and the applicant commits to renting or selling at least ten percent of the dwelling units as affordable housing. In a mixed-use project, only the ground floor of a building may be used for commercial purposes with the remainder dedicated to multifamily residential use;
2. The investment project is, or will be at the time of completion, in conformance with all local plans and regulations that apply at the time of the conditional certificate of program approval;
3. The investment project will occur on land that constitutes, at the time of the conditional certificate of program approval, underutilized commercial property;
4. The area where the investment project will occur is located within an area zoned for residential or mixed uses;
5. The terms and conditions of the implementation of the development meets the requirements of this Chapter 5.75;
6. The land where the investment project will occur was not acquired through a condemnation proceeding under Title 8 RCW; and

7. All other requirements this Chapter 5.75 appear to be satisfied in the best estimation of the Director.

5.75.040 Appeals

A. The Director must approve or deny an application filed under this Chapter 5.75 within 90 days after receipt of the application.

B. If the application is approved, the Director must issue the applicant a conditional certificate of program approval. The conditional certificate of program approval shall be in a letter, and the letter must contain a statement that the investment project as described in the application will comply with the required criteria of this Chapter 5.75.

C. If the application is denied the Director must state in writing in a letter the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

D. Upon denial of an application, an applicant may appeal the denial to the City's Hearing Examiner within 30 days after receipt of the denial. The appeal before the Hearing Examiner must be based upon the record made before the City with the burden of proof on the applicant to show that there was no substantial evidence to support the City's decision. The decision of the Hearing Examiner on appeal is final.

5.75.050 Additional requirements, conditions, and obligations

A. Within 30 days of the issuance of a certificate of occupancy by the City for an eligible investment project, the conditional recipient must file with the Director:

1. A description of the work that has been completed and a statement that the eligible investment project qualifies the property for a sales and use tax deferral under this Chapter 5.75;

2. A statement of the new affordable housing to be offered as a result of the conversion of underutilized commercial property to multifamily residential use including identification of the specific dwelling units to be offered as affordable housing and the monthly rent charged for each, and a statement of the total number of dwelling units to be offered as a result of the conversion of underutilized commercial property to multifamily residential use; and

3. A statement that the work has been completed within three years of the issuance of the conditional certificate of program approval.

B. Within 30 days after receipt of the statements required under subsection 5.75.050.A, the Director must determine and notify the conditional recipient in a letter as to whether the work completed and the affordable housing to be offered are consistent with the application and the conditional certificate of approval, and the investment project continues to qualify for a tax deferral under this Chapter 5.75. The conditional recipient must notify the Washington State Department of Revenue within 30 days from receiving the determination from the Director that the investment project continues to qualify for a tax deferral under this Chapter 5.75.

C. The Director must notify the conditional recipient within 30 days after receipt of the statements required under subsection 5.75.050.A that a tax deferral under this Chapter 5.75 is denied if the Director determines that:

1. The work was not completed within three years of the conditional certificate of program

approval;

2. The work was not constructed consistent with the application or other applicable

requirements;

3. The affordable housing units to be offered are not consistent with the application and criteria of this Chapter 5.75; or

4. The owner's property is otherwise not qualified for a sales and use tax deferral under this Chapter 5.75.

D. If the Director finds that the work was not completed within the required time period due to circumstances beyond the control of the conditional recipient and that the conditional recipient has been acting and could reasonably be expected to act in good faith and with due diligence, the Director may extend the deadline for completion of the work for a period not to exceed 24 consecutive months, and must notify the Washington State Department of Revenue of the extension.

E. If the Director determines the conditional recipient is not entitled to a sales and use tax deferral under subsection 5.75.050.C, the conditional recipient may appeal the decision to the City's Hearing Examiner within 30 days after receipt of the denial. The appeal before the Hearing Examiner must be based upon the record made before the City with the burden of proof on the applicant to show that there was no substantial evidence to support the City's decision.

F. Upon denial of the sales and use tax deferral under subsection 5.75.050.C the Director shall notify the Washington State Department of Revenue, upon which taxes deferred under this Chapter 5.75 are immediately due and payable, subject to any appeal by the conditional recipient.

5.75.060 Annual report

A. Thirty days after the anniversary of the date of issuance of the certificate of occupancy and each year thereafter for ten years, the conditional recipient must file with the Director an annual report indicating the following:

1. A statement of the affordable housing offered as a result of the conversion of underutilized commercial property to multifamily residential use including identification of the specific dwelling units offered as affordable housing and the rent charged for each, and a statement of the total number of dwelling units offered as a result of the conversion of underutilized commercial property to multifamily residential use;

2. A certification by the conditional recipient that the property has not changed use; and

3. A description of changes or improvements constructed after issuance of the certificate of occupancy.

B. The conditional recipient of a deferral of taxes under this Chapter 5.75 must file a complete annual tax performance report with the Washington State Department of Revenue pursuant to RCW 82.32.534 beginning the year the certificate of occupancy is issued and each year thereafter for ten years.

C. If the City issues a certificate of program approval under this Chapter 5.75, it shall report annually by December 31 of each year, beginning in 2025, to the Washington State Department of Commerce the following information:

1. The number of program approval certificates granted;
2. The total number and type of buildings converted;
3. The number of affordable housing units resulting from the conversion of underutilized

commercial property to multifamily residential use; and

4. The estimated value of the sales and use tax deferral for each investment project receiving a

certificate of program approval and the total estimated value of sales and use tax deferrals granted.

5.75.070 Voluntary discontinuance

A. If a conditional recipient voluntarily opts to discontinue compliance with the requirements of this Chapter 5.75, the recipient must notify the Director and the Washington State Department of Revenue within 60 days of the change in use or intended discontinuance.

B. If, after the Washington State Department of Revenue has issued a sales and use tax deferral certificate and the conditional recipient has received a certificate of occupancy, the City finds that a portion of an investment project is changed or will be changed to disqualify the recipient for sales and use tax deferral eligibility under this Chapter 5.75, the Office of Planning and Community Development must notify the Washington State Department of Revenue and all deferred sales and use taxes are immediately due and payable.

C. This Section 5.75.070 does not apply after ten years from the date of the certificate of occupancy.

5.75.080 Transfer of ownership

Transfer of investment project ownership does not terminate the deferral. The deferral is transferred subject to the successor meeting the eligibility requirements of this Chapter 5.75. The transferor of an eligible project must notify the Director and the Washington State Department of Revenue of such transfer, in writing and whereupon the Director will certify to the Washington State Department of Revenue whether the successor meets the requirements of the deferral. The transferor must provide the information necessary for the Washington State Department of Revenue to transfer the deferral. If the transferor fails to notify the Director and the Washington State Department of Revenue, all deferred sales and use taxes are immediately due and payable.

5.75.090 Combination with multi-family tax exemption

An owner of underutilized commercial property claiming a sales and use tax deferral under this Chapter 5.75 may also apply for the Multifamily Housing Property Tax Exemption under Chapter 5.72 or Chapter 5.73 and chapter 84.14 RCW. For applicants receiving a property tax exemption under Chapter 5.72 or Chapter 5.73 and chapter 84.14 RCW, the amount of affordable housing units required for eligibility under this Chapter 5.75 is in addition to the affordability conditions in Chapter 5.72 or Chapter 5.73 and chapter 84.14 RCW.

5.75.100 Applications no longer accepted

New applications for the sales and use tax deferral shall not be accepted beginning ten years from the effective date of this ordinance. Investment projects that receive a conditional certificate of approval based on an application submitted before this date shall remain eligible for the sales and use tax deferral subject to the terms and conditions in this Chapter 5.75.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application

to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 3. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, 2025, and signed by me in open session in authentication of its passage this _____ day of _____, 2025.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2025.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2025.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
OPCD	Geoff Wentlandt	Christie Parker

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to taxes; creating a new sales and use tax deferral for the conversion of underutilized commercial property to housing; and adding a new Chapter 5.75 to the Seattle Municipal Code.

Summary and Background of the Legislation: This legislation authorizes a sales and use tax deferral program for owners of underutilized commercial properties seeking to convert their buildings into housing and affordable housing. The legislation enacts the authority granted to the City by the State of Washington through Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175), which became effective June 1, 2024. To activate the tax deferral locally, a City must pass a resolution of intention, provide draft program documents for public review, and announce the date of a future public hearing. The City Council Land Use Committee voted to approve the resolution on December 4, 2024, and the full City Council approved the resolution on December 17, 2024. The public hearing is scheduled to take place on February 4, 2025.

The intent of the tax deferral is to encourage the production of affordable housing and employment opportunities in targeted urban areas. Seattle has an acute shortage of affordable housing. Moreover, many commercial buildings downtown continue to experience high vacancy due to the shift in pandemic era work patterns. This in turn creates a drag on the City's economic recovery. Conversion of these buildings into residential units would both further the City's goals to increase the housing supply and support economic development, revitalization, and downtown activation. These goals align closely with the priorities outlined in Seattle's Downtown Activation Plan and draft Comprehensive Plan Update.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts.

The financial impacts of the tax deferral to the City are negligible because the non-collection of sales tax on construction costs applies to projects that would not occur without this policy. Owners seeking to use this program must attest to a “but for” clause indicating that they would not undertake the conversion project in the absence of the tax deferral. That said, it is possible that developers will choose to construct projects that qualify for the tax deferral rather than pursuing a different project that does not qualify for the deferral; if that occurs, the City would lose sales tax revenue that would have been collected absent this legislation.

Office-to-residential conversions have received much attention since the pandemic, but there have been no conversions in Seattle to date. This is possibly because most of these projects are not financially feasible without public support given current economic conditions and development costs. The Office of Planning and Community Development (OPCD) has conferred with several developers who are strongly interested in conversion projects but unlikely to pursue them without this legislation.

Although little to no direct negative fiscal impacts to the City are anticipated as a result of this legislation, this fiscal note includes the following contextual information about sales and use tax collection for construction projects. The total sales and use tax rate in Seattle is 10.35%. The City receives only a fraction of the sales and uses taxes, while the majority is paid to the County, the Sound Transit District, and the State according to the rates in Figure 1. All of the sales and use tax is collected at the point of sale by the vendor business and remitted to the State Department of Revenue (DOR). The portion of the sales tax due to the City is provided by DOR.

	City	County	Sound Transit District	State	Total:
Tax Amount	1 %	1.45%	1.4%	6.5%	10.35%

Figure 1: Seattle Sales Tax Rate & Components (Source: [MRSC](#))

The City’s 1% share is made up of a 0.85% unrestricted sales and use tax that can be used for any governmental purpose and 0.15% for the local transportation benefit district.

Figure 2 illustrates how sales and use taxes would be collected on a \$140 million construction project. Sales and use taxes would be charged on the project’s total hard costs, including services of the contractor, but not on soft costs such as design and permitting fees or financing. This approximates the construction budget of a conversion project for a 200-unit residential development with ground floor retail in a historic-aged structure. If the project received the sales and use tax deferral, its total project costs would be reduced by approximately \$10 million, leading to a 7% reduction in total development costs.

Project Costs	With Sales Tax	Sales Tax Exempt
Land Acquisition	\$9,000,000	\$9,000,000
Hard Costs	\$100,000,000	\$100,000,000
WA Sales Tax	\$10,000,000	Waived
Tenant Improvements	\$2,000,000	\$2,000,000

Soft Costs	\$14,000,000	\$14,000,000
Financing	\$5,000,000	\$5,000,000
Project total:	\$140,000,000	\$130,000,000

Figure 2: Illustrative pro forma for \$140 million conversion project with, and without sales tax

In the Figure 2 example the City’s share of the sales and use taxes would be about \$1 million.

The City may experience positive indirect fiscal impacts by helping property owners initiate conversion development projects. Providing new housing options, especially in downtown buildings, will add residents that support the revitalization of the downtown economy including spending by those residents on other goods and services in downtown, which can support the survival of downtown businesses which pay business and operation taxes. The production of affordable housing units is a direct benefit to low- and moderate-income households who would occupy the housing. This legislation addresses the current shift in taxable consumption away from Seattle’s city center, a pandemic-induced phenomena that has lowered commercial and residential property values. Downtown real estate is currently experiencing a decrease in sales values of properties which is causing a reduction in the assessed values for property tax purposes. [\(source\)](#) Conversions of underutilized commercial buildings have the potential to stabilize property values in the center city. Moreover, new construction activity (so long as the conversion project is additive and not a shift of development projects) would lead to an increase in property tax revenue over time. The indirect positive fiscal impacts are difficult to project and quantify.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

The cost of administering the tax deferral can be absorbed within OPCD’s existing budget and staff. The resources required to manage the program would be small and can be assigned to existing staff – particularly the Downtown Activation Coordinator position during 2025-2027 – and other staff within the Land Use Policy division of the department thereafter. We estimate a total of approximately one dozen or less conversion projects within a 7-year time horizon.

Please describe any financial costs or other impacts of *not* implementing the legislation.

There is a likelihood that not implementing this legislation would deter office-to-residential conversions from moving forward, hindering the City’s Downtown Activation Plan and affordable housing goals. The indirect positive fiscal impacts described above would be less likely to occur in the absence of this legislation.

4. OTHER IMPLICATIONS

- a. Please describe how this legislation may affect any departments besides the originating department.**

The tax deferral program would be managed entirely by OPCD in partnership with the State Department of Revenue (DOR) with the exception of any appeals filed by property owners in the event of application or certificate denial. In such cases, the Office of the Hearing Examiner would hold a closed record hearing and issue a determination. Office of Housing (OH) and Seattle Department of Construction Inspections (SDCI) staff participated in formulating the administrative approach and concur.

- b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.**

The legislation is expected to spur construction on several commercial buildings located primarily downtown.

- c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**

The legislation has the potential to make Seattle's downtown a more inclusive space for communities at risk of displacement by increasing the availability of affordable housing.

- i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.**

This legislation does not impact vulnerable or historically disadvantaged communities. Conversions are expected to occur in downtown in census tracts with high to moderate risk of displacement. However, construction is unlikely to displace anyone since it will occur within commercial buildings.

- ii. Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

None.

- iii. What is the Language Access Plan for any communications to the public?**

OPCD will provide the application for tax deferral in the languages specified in our office's language access plan, including Spanish, Chinese, Vietnamese, Somali, and Togalog. ([source](#)) Initial rollout of program materials will be in English. It will take

approximately 6 – 8 months for OPCD to identify resources and make translations into the other languages.

d. Climate Change Implications

- i. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

The short-term emissions from construction activities will be offset through a combination of improved energy efficiency in refurbished buildings, the reduced per capita energy consumption of multi-family buildings, and increasing the number of residents located within walking distance to transit which will reduce vehicle trips.

[\(source\)](#)

- ii. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

The legislation will improve Seattle’s climate resiliency by increasing the number of residents located in areas that can rely on transit over personal vehicles, and by creating new homes outside of areas that will be impacted by sea level rise. Any conversions downtown are likely to occur in areas outside the projected Sea Level Rise (SLR) zone for 2100. [\(source\)](#)

- e. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

The legislation does not establish a major new program for monitoring. However, property owners are required to report the number of housing units and affordable housing units that are created within their projects over a 10-year period, which should provide the city with a useful performance measure to evaluate this policy in the long run.

5. CHECKLIST

- Is a public hearing required?**

A City Council public hearing must be conducted before this legislation is adopted. The public hearing and consideration of the ordinance is expected to take place on February 4, 2025, beginning at 2 p.m. in Seattle City Hall, located at 600 4th Avenue.

Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?

Yes. Publication is required for the passage of this legislation. Publication of notice for the public hearing on February 4, 2025 is provided at least 30 days in advance of the hearing per City requirements. In addition, E2SSB 6175 requires that notice be published twice, not more than 30 days in advance of the public hearing and not less than seven days prior to the public hearing. Therefore a total of three notices are being published in both the City's Land Use Information Bulletin Public Notices and the Seattle Daily Journal of Commerce.

If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?

Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?

6. ATTACHMENTS

Summary Attachments: None.



Seattle Office of Planning & Community Development

Rico Quirindongo, Director

Date: December, 2024

To: City Council Land Use Committee

From: Rico Quirindongo, OPCD
Geoff Wentlandt, OPCD

Subject: Approach for implementing a sales tax deferral for conversions of underutilized commercial space to residential authorized under E2SSB 6175

Summary

The City wants to support conversions of commercial space to residential, especially in greater downtown, and is seeking to enact a sales and use tax deferral that was authorized under state legislation E2SSB 6175 during the 2024 legislative session. Cities must take local action to put a program in place. This memo summarizes how OPCD proposes to enact the program, including the process to establish it and the method to administer it.

The following are provided as attachments to this memo to provide further information about how the program would work.

- Attachment 1: Draft Application Form
- Attachment 2: Draft Conditional Approval Letter
- Attachment 3: Draft Final Approval Letter

Adoption of the Tax Deferral Program Locally

- **City Council Resolution**

The City must adopt a Resolution of intention to create a sales and use tax deferral program. The Resolution must generally describe the proposed program. It must state the time and place of a public hearing to be held to consider the program. The resolution must provide general information about the application process, the approval process, and the appeals process. OPCD prepared the Resolution and transmitted it to Council on November 20, 2024. The City Council Land Use Committee voted to approve the resolution on December 4, 2024, and the full City Council approved the resolution on December 17, 2024.

- **Public Hearing and Ordinance Adoption**

A public hearing must be held. Notice must be published once each week for two consecutive weeks, not less than seven days, nor more than 30 days before the date of the hearing. OPCD proposes an Ordinance that would make changes to codify the program in the SMC. The public hearing is scheduled to take place on February 4, 2025.

Administration of the Tax Deferral Program

Steps and requirements to administer a program are prescribed by E2SSB 6175, but there are several choices for how the City will perform administration. The purpose of this section is to provide a summary of how the program would work to affected parties. After dialogue with partner departments and other stakeholders, OPCD is proposing to take direct oversight for most aspects of program administration. We are in close contact with the development community and have a high degree of confidence that the volume of conversions to housing will be small. We estimate 12 total projects or fewer within a 7-year time horizon. This volume is manageable for OPCD to administer with existing staffing levels.

- **Owner applies for the tax deferral.**
 - The owner applies to the City by completing and submitting a form provided by OPCD (see attachment 1 Draft Application Form). OPCD proposes that the application for tax deferral be submitted to the OPCD Director. The application requirements closely track with the process laid out in E2SSB 6175.
 - OPCD proposes that the owner shall have at least completed a construction or land use permit pre-application with SDCI.
 - OPCD proposes that the tax deferral application is separate from the land use permitting process and is not subject to the State's Land Use Petition Act (LUPA) processes and requirements.
 - Cities have the option of requiring an application fee. However, to streamline the process and avoid complications of receiving funds and compliance with the City's fee subtitle, OPCD proposes to charge no application fee.
 - The application must contain an oath or affirmation regarding the following information:
 - Project description and site plan
 - Statement describing the number of expected affordable housing units
 - Statement of awareness of tax liability if the project ceases to qualify
 - Statement acknowledging the deadline for construction
 - Statement that the owner would not have built here "but for" the tax deferral
 - Documentation of submittal of a construction or land use permit pre-application with SDCI. (Include SDCI construction or land use permit record number.)
- **The City (OPCD) Reviews the Application and Decides Whether to Grant a "Conditional Certificate of Approval" to the Owner.**
 - An assigned OPCD planner on behalf of the Director reviews the application and determines whether the proposal meets conditions stipulated in E2SSB 6175:
 - The project is multifamily and the applicant has attested to commit to renting/selling at least 10% of the units as affordable
 - The project would be in conformance with plans and regulations when approved
 - The project will occur on underused commercial land (is an existing commercial structure)
 - The project is in an area zoned for commercial or mixed use
 - The project meets the requirements of the RCW
 - The land was not acquired through a condemnation proceeding
 - The City must approve or deny the application within 90 days. If the review finds that the conditions are met the OPCD Director issues a Conditional Certificate of Approval letter to the owner. (See Attachment 2: Draft Conditional Approval Letter).

- If the application is denied, the City must state in writing the reasons for the denial in a letter to the owner.
- OPCD proposes that the owner may appeal a denial decision to the City's Hearing Examiner (see separate section below).
- ***The Conditional recipient (aka owner) submits an application to the State Department of Revenue (DOR) for the tax deferral. (The City has no direct involvement in this portion of the process).***
 - The owner is responsible for submitting its application to DOR. The owner provides a copy of the Conditional Certificate of Approval that was issued to them by the OPCD Director.
 - The owner provides its estimated construction costs and time schedule for construction to DOR.
 - The DOR must rule on the applications within 60 days.
 - The DOR provides information to the owner documenting the approval of the sales tax deferral and determines the total amount of sales taxes up to which the owner is eligible to defer.
 - DOR issues a sales and use tax deferral certificate to the owner that is valid during construction of the project until certificate of occupancy.
- ***The owner proceeds with construction after receiving all other required permits and approvals. (This portion of the process proceeds like any other project.)***
 - The owner procures all other required permits and approvals from the City (SDCI) like any normal development project.
 - The owner undertakes and completes construction of the renovation/conversion.
 - Like any normal project, the City (SDCI) issues a certificate of occupancy upon project completion.
- ***Owner/developer files documentation with the City after project completion***
 - Within 30 days of receiving a Certificate of Occupancy for the building the owner must submit the following documentation to the OPCD Director:
 - i. Description that the work is complete
 - ii. A statement describing the new affordable housing that is offered
 - iii. Statement that the work was completed within 3 years of the conditional certificate of approval letter provided by the City.
 - Within 30 days after receiving the owner's documentation the OPCD Director must determine and notify the owner, in a letter, whether the work completed and the affordable housing to be offered are consistent with the application and the conditional certificate of approval that was provided by the city, and the investment project continues to qualify for a tax deferral. (See Attachment 3 Draft Final Approval Letter.)
 - See separate appeals and denials section below for discussion of denials.
- ***Owner notifies DOR, and DOR certifies the project. (The City is not involved in this step.)***
 - Within 30 days of receiving the City's determination letter, the owner must notify DOR that the project is operationally complete.
 - The DOR proceeds to perform its certification of the project and determine the final qualifying amount of deferred sales taxes.
 - The DOR conducts a site visit to verify the project completion in accord with the conditional approvals.

- ***Owner is responsible for filing annual tax performance documentation to DOR. (The City is not involved in this step.)***
 - The owner of a project receiving the deferral of taxes must file a complete annual tax performance report with DOR pursuant to RCW 82.32.534 beginning the year the certificate of occupancy is issued and each year thereafter for 10 years.
 - This annual tax performance documentation is the State's ongoing monitoring process for administering the tax deferral.

- ***The owner files annual reports to the City (OPCD) for a period of ten years.***
 - Thirty days after the anniversary of the date of issuance of the certificate of occupancy and each year thereafter for 10 years, the conditional recipient must file an annual report to the OPCD Director indicating the following:
 - i. A statement describing the affordable housing units on the property fulfilling the requirements for eligibility of the tax deferral
 - ii. A certification that the property has not changed use
 - iii. A description of any changes or improvements constructed after the certificate of occupancy

- ***The City (OPCD) files one annual report to the State Department of Commerce by December 31st starting in 2025 including the following:***
 - The number of program approval certificates granted
 - The total number and type of buildings converted
 - The number of affordable housing units resulting from the conversion
 - The estimated value of the sales and use tax deferral for each investment project receiving a program approval and the total estimated value of sales and use tax deferrals granted

- ***Appeal process if the City denies the application for conditional approval***
 - If the City issues a denial of the initial application by the owner for conditional approval an appeal can be filed with "the city's governing authority or a city official designated by the city to hear such appeals within 30 days after receipt of the denial", according to E2SSB 6175. The appeal "must be based upon the record made before the city".
 - OPCD proposes that the Ordinance establishing the local program identify that a closed record hearing before the City Hearing examiner would be the venue for an appeal of a denial of a Conditional Certificate of Approval letter. We propose that specific text be added to establish this procedure without identifying the conditional approval decision as a Type II decision.
 - We propose that the City also offer a municipal appeal process if the conditional recipient is denied a letter of approval by the City at the conclusion of construction. E2SSB 6175 gives local governments the option of providing an appeal process at this stage. We propose that the Ordinance establishing the local program identify that a closed record hearing before the City Hearing examiner would be the venue for an appeal of a denial of the final determination letter. We propose that specific text be added to establish this procedure without identifying the final determination as a Type II decision.

Next Steps

OPCD suggests the following next steps:

- Hold public hearing on the proposed Ordinance on February 4, 2025, and consider passing the proposed Ordinance out of Land Use Committee in February or March 2025.



Application for Conditional Certificate of Program Approval Sales and Use Tax Deferral for Conversion of Underutilized Commercial Property to Housing

Overview

During the 2024 Washington State legislative session the legislature passed and Governor Inslee signed Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175) authorizing a limited sales and use tax deferral program intended to stimulate the redevelopment of underutilized commercial property in targeted urban areas and provide housing supply and affordable housing. In [insert month] of 2025 the Seattle City Council passed ordinance [insert] establishing Chapter 5.75 of the Seattle Municipal Code (SMC) enabling the limited sales and use tax deferral in Seattle. The owner of an investment project that is a conversion of underutilized commercial space to multifamily residential may apply to the City and the Washington State Department of Revenue for a deferral of the sales and use taxes on the construction of the conversion. To be eligible for the tax deferral the investment project must meet all the requirements and conditions of SMC Chapter 5.75 and RCW 82.59, including the requirement that at least ten percent of the dwelling units that are created in the conversion be provided as affordable housing.

This application form is the first step in the approval process for the sales and use tax deferral. It contains guiding information in addition to SMC Chapter 5.75. The owner of an investment project seeking the sales and use tax deferral must submit this application form with complete information to the Director of the Office of Planning and Community Development. Based on the information provided in this form the Director will approve or deny a conditional certificate of program approval.

Application Process and Submission Instructions

- Review the requirements and the process described in SMC Chapter 5.75 and RCW 82.59. It is the applicant's responsibility to understand the program steps and requirements in both the City and State laws.
- Prepare your application by entering information in this document under each of the topics listed below. Complete information must be provided under all topics.
- Prepare additional exhibits, drawings and site information as needed to support your responses.

- Submit materials to the Director of the Office of Planning and Community Development by e-mail to Rico.Quirindongo@Seattle.gov. We advise you to contact the Director's executive assistant at Jane.Klein@Seattle.gov to communicate with the department shortly before submitting your documents to ensure smooth transmittal of materials and to facilitate the fastest possible review.
- After submittal of the application materials the Director or their staff designee will contact you should the need arise to discuss your application or clarify any information.
- The Director will issue a letter of either an approval or denial of a conditional certificate of program approval within 90 days of receipt of your application.

Applicant Contact Information

Investment Project Owner

Provide contact information for the investment project owner. This is the person or entity who is an authorized owner of the commercial property being converted to housing.

Name: _____

Company (if applicable): _____

E-mail: _____

Telephone: _____

Mailing Address: _____

Investment Project Representative

If different from above provide contact information for a project representative who will be the main point of contact with our office for communications regarding this application.

Name: _____

Company (if applicable): _____

E-mail: _____

Telephone: _____

Mailing Address: _____

Required Application Information

You must provide complete information for every one of the seven topic areas listed below. For topics that require a statement provide a complete affirmative statement in text inserted by you.

1. Describe the investment project and provide a site plan

Provide enough information for the Director to understand the full extent of the conversion proposal including all proposed uses and the extent of construction or renovation activities. Attach drawings or exhibits as necessary.

2. Statement of affordable housing and total housing quantities

Provide a statement of the number of affordable housing units you will create and the total number of dwelling units that will be created due to the conversion of underutilized commercial property. For income and rent limits on the affordable housing units, refer to the Seattle Office of Housing's Income and Rent Limits for rental housing programs, and use the table for "Other developer agreements; for example IZ, MFTE (P3, P4, P5 only), MHA, MPC-YT" ([link](#)).

3. Statement of potential tax liability

Provide a statement that you are aware of the potential sales and use tax liability involved if the investment project ceases to be used for eligible uses or otherwise ceases to meet the program requirements and conditions under SMC Chapter 5.75 and RCW 82.59.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

4. Statement regarding timeline for project completion

Provide a statement that you are aware that the investment project must be completed within three years from the date of issuance of a conditional certificate of program approval.

5. Statement regarding limited opportunity for extension

Provide a statement that you are aware that the Director may extend the deadline for completion of construction or rehabilitation for a period not to exceed 24 consecutive months, and only if the Director finds that the work was not completed within the required time period due to circumstances beyond the control of the conditional recipient and that the conditional recipient has been acting and could reasonably be expected to act in good faith and with due diligence.

6. Statement regarding construction in the proposed location

Provide a statement that you would not have built in this location but for the availability of the tax deferral under SMC Chapter 5.75 and RCW 82.59.

7. Documentation of construction or land use permit activity

Provide documentation that you have at least submitted pre-application materials with the Seattle Department of Construction and Inspections (SDCI) for the proposed investment project. If you have received a project number for a construction or land use permit application from SDCI please provide it here.

Oath or Affirmation

This application must be certified by oath or affirmation. The investment project owner must provide the oath or affirmation by signing the statement below before a Notary.

I do solemnly affirm that all the statements and information provided by me in this application are true to the best of my knowledge and belief, and this I do under the penalties of perjury.

Signature: _____ Date: _____

Washington Notary Acknowledgement

State of Washington

County of [COUNTY]

On this ____ day of _____ 20__, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who appeared before me, and said person acknowledged that (she/he/they) signed this instrument and acknowledged it to be (her/his/their) free and voluntary act for the uses and purposes mentioned in the instrument.

(Seal or Stamp)

Signature

NOTARY PUBLIC in and for the State of Washington,
Residing at: _____

My Commission Expires:



Seattle
Office of Planning &
Community Development
Bruce Harrell, Mayor | Rico Quirindongo, Director

600 4th Ave, Floor 5
P.O. Box 94788
Seattle, WA 98124-7088

Month, Date, ####

Applicant Address
Applicant Address
Applicant Address

Re: Application for conditional certificate of program approval for the investment project at [site address]

Dear [owner name],

The Director of the Office of Planning and Community Development received your application for a conditional certificate of program approval for the limited sales and use tax exemption for conversion of the underutilized commercial property at [address] to multifamily residential pursuant to SMC Chapter 5.75 and RCW 82.59 on [month, day, year]. The Director has reviewed the information provided in the application and makes the following decision and findings.

Decision

The application for conditional certificate of program approval is [**approved/denied**]. This letter constitutes your [conditional certificate of program approval /notice of denial of conditional certificate of program approval].

Findings

The following findings are made by the OPCD Director in support of the decision. [This section would be revised if the decision is deny, to document the reason for the denial].

1. The investment project consists primarily of multifamily residential use and the applicant commits to renting or selling at least 10 percent of the dwelling units as affordable housing. # total dwelling units will be created by the investment project and # of the dwelling units will be offered as affordable housing. Only the ground floor of the building will be used for commercial purposes and the remainder will be dedicated to multifamily residential use.
2. The investment project is, or will be at the time of completion, in conformance with all local plans and regulations that apply at the time of this conditional certificate of program approval. Receipt of all required construction and land use permits issued by the Seattle Department of Construction and Inspections must be obtained and shall evidence the conformance.

3. The investment project will occur on land that constitutes, at the time of this conditional certificate of program approval, underutilized commercial property.
4. The area where the investment project will occur is located within an area zoned for residential or mixed uses. The investment project is in the [insert zone name].
5. According to the information provided in the application, the terms and conditions of the implementation of the investment project meet the requirements of Seattle Municipal Code Chapter 5.75.
6. The land where the investment project will occur was not acquired through a condemnation proceeding under Title 8 RCW.
7. All other requirements of RCW 82.59 appear to be satisfied in the best estimation of the Director of the Office of Planning and Community Development.

Next Steps

[This section would be revised to identify the appeal opportunity if the decision is deny]. This conditional certificate of program approval may be presented by you to the Washington State Department of Revenue. It is your responsibility to comply with the requirements and conditions of Chapter 5.75 and RCW 82.59 to successfully obtain and maintain the limited sales and use tax deferral.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

The City of Seattle will not be directly involved in your process with the Washington State Department of Revenue. Within 30 days of the issuance of a certificate of occupancy by SDCI for your eligible investment project you must file with the Director of the Office of Planning and Community Development the documentation as described in SMC 5.75.060.

Should you have any questions please do not hesitate to contact my staff member [name] at [e-mail].

Sincerely,

Rico Quirindongo,
Director



Seattle
Office of Planning &
Community Development
Bruce Harrell, Mayor | Rico Quirindongo, Director

600 4th Ave, Floor 5
P.O. Box 94788
Seattle, WA 98124-7088

Month, Date, ####

Applicant Address
Applicant Address
Applicant Address

Re: Project completion certificate of approval for the investment project at [site address]

Dear [owner name],

The Director of the Office of Planning and Community Development received the documentation you provided following the issuance of a certificate of occupancy for the eligible investment project at [insert address] on [month, day, year]. The Director previously issued a conditional certificate of program approval to you for the limited sales and use tax exemption for conversion of the underutilized commercial property at [address] to multifamily residential pursuant to Seattle Municipal Code (SMC) Chapter 5.75 and RCW 82.59 on [month, day, year]. The Director has reviewed the documentation that you provided about the complete investment project and makes the following determination.

Determination

The work completed and the affordable housing to be offered are consistent with the conditional certificate of approval. The investment project continues to qualify for a tax deferral under SMC Chapter 5.75 and RCW 82.59.

Findings

[This section would be revised if the decision is deny, to document the reason for the denial]. The following findings are made by the OPCD Director in support of the determination. [This section would be revised if the decision is deny, to document the reason for the denial].

1. The work was completed within three years of the conditional certificate of program approval.
2. The work was constructed consistent with the application for conditional certificate of approval other applicable program requirements.
3. The affordable housing units to be offered are consistent with the application and criteria of the program requirements. ## total dwelling units will be created by the investment project and ## of the dwelling units will be offered as affordable housing.

Next Steps

[This section would be revised to identify the appeal opportunity if the decision is deny]. This determination that the investment project continues to be eligible for the sales and use tax deferral may be presented by you to the Washington State Department of Revenue. It is your responsibility to comply with the requirements and conditions of SMC Chapter 5.75 and RCW 82.59 to successfully maintain the limited sales and use tax deferral. The City of Seattle will not be directly involved in your process with the Washington State Department of Revenue.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

Thirty days after the anniversary of the date of issuance of the certificate of occupancy and each year thereafter for ten years, you must file with the Director of the Office of Planning and Community Development an annual report containing the information specified in SMC 5.75.070.

Should you have any questions please do not hesitate to contact my staff member [name] at [e-mail].

Sincerely,

Rico Quirindongo,
Director

February 6, 2025

MEMORANDUM

To: Seattle City Council
From: Asha Venkataraman, Analyst
Subject: CB 120937: Sales and use tax deferral for conversions to housing

On February 11, 2025, the City Council will discuss and likely vote on [Council Bill \(CB\) 120937](#), legislation that would create a new sales and use tax deferral program for the conversion of underutilized commercial property to housing. This memo provides background on the bill and describes the legislation.

Background

State authorizing legislation

During the 2024 Washington State legislative session, the state passed Engrossed Second Substitute Senate Bill 6175 ([E2SSB 6175](#)) to “encourage the redevelopment of underutilized commercial property in targeted urban areas, thereby increasing affordable housing, employment opportunities, and helping accomplish the other planning goals of Washington cities.”¹ The bill authorizes cities to defer sales and use taxes for projects that convert commercial buildings into housing if the applicant commits to renting or selling at least ten percent of the dwelling units as affordable housing. “Affordable housing” is defined as rental or ownership housing for low-income households (income of 80 percent of average median income (AMI)). The program will stop accepting applications for deferral in 2034.

E2SSB 6175 requires that a city take the following steps to establish such a program:

- Pass a resolution expressing the intention to create the program;
- Make a legislative finding that there are significant areas of underutilized commercial property and a lack of affordable housing in areas proximate to the land;
- Include an application process, how applications are approved, decisions are appealed, and any other requirements, conditions, and obligations that must be followed after an application is approved; and
- Hold a hearing with notice of the time, date, and location of the hearing in a paper of general circulation in the city once a week for two consecutive weeks, 7 to 30 days before the hearing.

The Council adopted and the Mayor signed [Resolution 32156](#) in December 2024, expressing the intention to create the sales and use tax deferral program, making the required legislative findings, and providing drafts of the ordinance, application form, and approval letters. It also included the time and date of the public hearing, which was held during the City Council meeting on February 4, 2025, at 2:00 pm after publication of appropriate notice as required in E2SSB 6175.

¹ Section 2.

CB 120761

In addition, in July 2024, the Council passed and the Mayor signed [CB 120761](#), legislation that waived certain land use code requirements to incentivize the conversion of buildings from any nonresidential to a residential use in a commercial, Downtown, Seattle Mixed, Highrise, or Midrise zone under specific conditions. This legislation is part of the Mayor's Downtown Activation Plan, which intends to support recovery from the pandemic and address decreased demand and increased vacancy rates for commercial space. Part of the discussion about CB 120761 included the types of assistance that would be needed to support such conversion, given the small scale of projects and balance of various factors in which conversion would be financially viable, of which the sales and use tax deferral is one. Please see the [June 5, 2024](#), Central Staff memo for more information on this bill.

CB 120937

This legislation would implement the program contemplated by E2SSB 6175 and is intended to ease the construction costs of conversion of offices to residential buildings for affordable housing. The following would qualify a project for the sales and use tax deferral:

- The investment project consists primarily of multifamily residential use;
- The applicant commits to renting or selling at least ten percent of the dwelling units as affordable housing:
 - In a mixed-use project, only the ground floor of a building may be used for commercial purposes with the remainder dedicated to multifamily residential use.
 - "Affordable housing" would include rental or ownership housing for low-income households, defined as households with an income at 80 percent AMI.
- If the project is also using multi-family housing property tax exemption (MFTE), the amount of affordable housing required by the MFTE program is additive to the amount of affordable housing required by the sales and use tax deferral program;
- The investment project is, or will be at the time of completion, in conformance with all local plans and regulations that apply at the time of the conditional certificate of program approval;
- The investment project will occur on land that constitutes, at the time of the conditional certificate of program approval, underutilized commercial property;
- The area where the investment project will occur is located within an area zoned for residential or mixed uses; and
- The land where the investment project will occur was not acquired through a condemnation proceeding under Title 8 RCW.

The applicant must state that they are aware that:

- There is potential tax liability involved if the investment project ceases to be used for eligible uses;
- The investment project must be completed within three years from the date of approval of the application; and
- The city can extend the deadline for completion of construction or rehabilitation for a period not to exceed 24 consecutive months.

The applicant must also state that they would not have built in this location but for the availability of the tax deferral. If affordability is maintained for ten years, the sales and use tax will be permanently waived. If the project becomes ineligible within the ten-year period, all taxes deferred up to that point will be due immediately.

Because these projects would not have otherwise been converted without the deferral of sales and use tax, it is unlikely that the City will lose revenue from that tax by implementing this program. While it is possible that without this incentive, a developer would choose to build a different, non-conversion project that would generate revenue for the City from the sales and use tax, conversions may be unlikely without the incentive.

cc: Ben Noble, Director
Yolanda Ho, Deputy Director
Lish Whitson, Lead Analyst



Legislation Text

File #: CB 120916, **Version:** 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

WHEREAS, the City Charter was enacted to enhance “the health, safety, environment, and general welfare of the people,” and under the Charter the “Chief of Police shall maintain the peace and quiet of the City”;

and

WHEREAS, The City of Seattle (“City”) has a strong interest in encouraging and supporting civic celebrations, festivals, sporting events, and other gatherings that foster a vibrant and engaged community; and

WHEREAS, the City has a long tradition of encouraging expression, supporting free speech, and facilitating the right of assembly through public demonstrations; and

WHEREAS, the City Charter authorizes the Chief of Police to prescribe rules and regulations, consistent with law, for the governance and control of the Police Department; and

WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, codified in relevant part at RCW 10.116.030, establishing requirements for tactics and equipment used by peace officers, which include 1) restricting law enforcement agencies from using tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation; 2) requiring that, before using tear gas the law enforcement officer or employee must exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a supervising officer, announce to the subject or subjects the intent to

use tear gas, and allow sufficient time and space for compliance with the officer's or employee's directives; and 3) directing that, in the case of a riot outside of a correctional, jail, or detention facility, the law enforcement officer or employee may use tear gas only after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used; and

WHEREAS, the public demonstrations, protests, and the police response in the summer of 2020 demonstrated a need for changes in the tactics, philosophy, and approach by the Police Department to crowd management; and

WHEREAS, the Police Department made critical updates to its crowd management policy, which were approved in 2021 by the Honorable Judge James R. Robart of the Western District of Washington, as part of iterative policy revisions under the 2012 Settlement Agreement with the Department of Justice, and with passage of this ordinance the City Council requests that the City Attorney submit the Police Department's updated policies to the Court-appointed Monitor, the U.S. Department of Justice, and the Court for review and approval; and

WHEREAS, the 2021 policy changes made by the Police Department incorporated recommendations from the department's internal review process, the Office of Inspector General for Public Safety, and the Office of Police Accountability and are consistent with the terms of a federal court injunction issued in *Black Lives Matter-King County, et al. v. City of Seattle*, No. 2:20-civ-00887-RAJ (W.D. Wa.), by the Honorable Judge Richard A. Jones; and

WHEREAS, less lethal tools, such as OC (pepper spray), pepper ball launchers, blast balls, CS (tear gas), 40mm launchers, and batons, are use of force substances/devices designed and intended to apply force not intended nor likely to cause the death of the subject or great bodily harm; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102 and attached to this ordinance as Attachment A, and Ordinance 126422, attached to this ordinance as Attachment B, are repealed.
Section 2. The Seattle Police Department shall adopt and maintain a crowd management policy that is consistent with the following City values and expectations:

- A. The people of Seattle have the right to assemble to celebrate, engage, worship, watch sporting events, exchange ideas, protest, or simply gather. The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the U.S. Constitution and Article I, sections 4 and 5 of the Washington State Constitution. These rights are essential to democracy and will be protected in Seattle.
- B. The Police Department has a role in facilitating safe gatherings.
- C. Police Department collaboration with event sponsors or organizers shall facilitate and advance Seattle’s public safety interests and help maintain the peace and safety of the City. De-escalation, engagement, and dialogue to resolve conflicts shall be prioritized when safe and feasible.
- D. Any police use of force for crowd control shall be objectively reasonable, necessary, and proportional to the threat presented.
- E. Police Department crowd management and use of force policies shall prohibit the use of less lethal tools on a person or persons for crowd control purposes unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage. Police Department policy shall continue to require approval by an Incident Commander or supervisor before less lethal tools may be used for general crowd dispersal.
- F. A police officer may only use less lethal tools expressly authorized by Police Department policy and for which that officer has been trained.
- G. Police Department policy on the use of tear gas shall be consistent with RCW 10.116.030, which states that a “law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation.” It also requires that before using tear gas, the following conditions must be met:
- “(a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;
 - “(b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;
 - “(c) Announce to the subject or subjects the intent to use tear gas; and
 - “(d) Allow sufficient time and space for the subject or subjects to comply with the officer’s or employee’s directives.”

RCW 10.116.030 further mandates that, “In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after ... [r]eceiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used...”.

In addition to the requirements of RCW 10.116.030, Police Department policy shall prohibit the use of tear gas in crowd management unless 1) all other reasonable force options have been exhausted or are not feasible, 2) specific facts and circumstances establish that the risk to life is imminent, and 3) the Mayor has issued a proclamation order of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

H. Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02. Additionally, SPD policy shall prohibit the use of blast balls to move or disperse a crowd unless specific facts and circumstances establish an imminent threat of violence against persons or significant property damage.

Police Department officers should be trained to understand that a blast ball's two-stage combustion may create some degree of inaccuracy during deployment, potentially disrupting the blast ball's trajectory from the intended destination.

When used for crowd movement or dispersal purposes, Police Department policy shall reflect that blast balls shall be deployed, when safe and feasible, consistent with training in an open space to mitigate against the risk of injury to a person.

The Police Department's Mutual Aid policy (currently SPD 16.240) shall require the Seattle Police Operations Center to coordinate mutual aid requests such that any request for mutual aid for crowd management purposes must include appropriate planning documents such as an Incident Action Plan or Briefing Sheet.

Mutual Aid officers responding to the city at the request of SPD for crowd management purposes must agree to follow the command and control of the on-scene SPD Incident Commander. Mutual Aid officers may not deploy any less lethal weapons in a crowd management setting contrary to the on-scene Incident Commander's direction and any applicable state laws or standards established by the Washington State Criminal Justice Training Commission. The Police Department shall provide to its mutual aid partners copies of curricula and written materials that are used to train Police Department officers to deploy blast balls, and shall offer the opportunity to meet with mutual aid partners to discuss best practices in the use of physical force in crowd management settings.

To the extent possible and when appropriate, the Police Department should seek to include as a component of interjurisdictional disaster planning or other law enforcement trainings discussions that address the Police Department’s crowd management policies and tactics, the Washington State Attorney General’s Office best practices, and recommendations from the Office of Inspector General for Public Safety’s Sentinel Event Review.

Section 3. To the extent collective bargaining is required with regard to implementation of this ordinance or the Police Department’s associated revisions to its crowd management policy, the City will comply with its legal obligations.

Section 4. The Police Department shall publish its crowd management policy and any future revisions on its website, which shall be available to the public.

Section 5. The Seattle Police Department shall report to the OIG and Community Police Commission any deployment of less lethal weapons in a crowd management setting as soon as feasible. The OIG shall evaluate the deployment promptly for compliance with the goals of this ordinance and values established herein. OIG shall work with the CPC and SPD leadership to ensure deployments are consistent with community values and expectations. When appropriate the OIG and CPC will meet with community members to collect experiential feedback and provide SPD with timely recommendations on crowd communication and de-escalation tactics, as necessary to ensure that the tactics are consistent with the Department’s training and policies. OIG may initiate a sentinel event review for any situations that create significant community concern.

The Police Department, in collaboration with the Office of Inspector General for Public Safety, shall create an annual report on the use of force in crowd management situations, including details of the use of less lethal tools, to be filed with the City Clerk by the end of the first quarter of the following year. This report shall include information on the Police Department’s training on the use of blast balls and whether the training is consistent with Section 2 of this ordinance.

Section 6. Before authorizing any new policy in the Policy Manual, the Police Department shall ensure that it complies with the provisions of subsection 3.29.410.C of Ordinance 125315, known as the Accountability Ordinance.

Section 7. Prior to authorizing the use of any less lethal weapon type for crowd management purposes that is not currently authorized in SPD policy as of the effective date of this ordinance, the Police Department shall notify the Council Public Safety Committee, or its successor Committee, and report on: (1) the potential impacts and uses that could harm individuals within or outside of a crowd; (2) the specific policies and training curriculum that will mitigate potential harms; and (3) whether use of the less lethal weapon is consistent with emerging practices as determined by civil liberty organizations, national policing organizations such as the Police Executive Research Forum, International Association of Chiefs of Police, and the Center for Policing Equity, and the Office of Inspector General for Public Safety.

Section 8. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, 2024, and signed by me in open session in authentication of its passage this _____ day of _____, 2025.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2025.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2025.

Scheereen Dedman, City Clerk

(Seal)

Attachments:
Attachment A - Seattle Municipal Code Section 3.28.146

3.28.146 Prohibition of the use of crowd control weapons

A. Unless exempted or excepted, no City department shall own, purchase, rent, store or use crowd control weapons.

B. Law enforcement agencies operating under mutual aid agreements are prohibited from using crowd control weapons while rendering aid to the Seattle Police Department. Seattle Police Department mutual aid agreements for crowd control must prohibit other law enforcement agencies from using crowd control weapons for the purpose of crowd dispersal.

C. As used in this Section [3.28.146](#), "crowd control weapons" means kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort.

D. Oleoresin capsicum (OC) spray is not a crowd control weapon for purposes of owning, purchasing, renting, or storing under subsection 3.28.146.A. Use of OC spray is prohibited under subsection 3.28.146.A if:

1. It is used in a demonstration, rally, or other First Amendment-protected event; or
2. When used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual.

E. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of crowd control weapons for crowd dispersal that occur after this ordinance takes effect.

F. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section [3.28.146](#) shall be \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery or process available to a person under federal and state law.

CITY OF SEATTLE
ORDINANCE 126422
COUNCIL BILL 120105

AN ORDINANCE relating to the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 of the Seattle Municipal Code.

WHEREAS, in 2020, tens of thousands of community members joined mass demonstrations in Seattle in support of black lives and against police violence; and

WHEREAS, the Seattle Police Department (SPD) responded to these protests against police violence with devices designed to cause severe discomfort and/or pain, including tear gas, pepper spray and explosive devices such as blast balls and stun grenades; and

WHEREAS, Seattle’s Office of Professional Accountability reported on June 3, 2020 that it had received 15,000 complaints of police misconduct related to SPD’s response to these protests; and

WHEREAS, studies into the impacts of policing at protests have determined that escalating force by police at protests leads to increasing violence; and

WHEREAS, on June 15, 2020, the City Council adopted Ordinance 126102 banning the ownership, purchase, rent, storage, or use of crowd control weapons, defined as kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort; and

WHEREAS, on July 24, 2020, the Honorable Judge James L. Robart of the U.S. District Court for the Western District of Washington imposed a temporary restraining order against

1 enactment of Ordinance 126102, expressing concern that “by removing all forms of less
2 lethal crowd control weapons from virtually all police encounters, the Directive and the
3 CCW Ordinance will not increase public safety,” and asked the Office of Police
4 Accountability, the Community Police Commission, and the Office of the Inspector
5 General to review its possible impact on court-mandated police reforms. Judge Robart
6 also expressed concern in the temporary restraining order that the CCW Ordinance did
7 not “provide time for police training in alternative mechanisms to de-escalate and resolve
8 dangerous situations if the crowd control implements with which the officers have been
9 trained are abruptly removed”; and

10 WHEREAS, on August 10, 2021, the Honorable Judge Richard Jones of the U.S. District Court
11 for the Western District of Washington issued a preliminary injunction extending a ban
12 on SPD’s use of less lethal chemical and projectile weapons against peaceful protesters;
13 and

14 WHEREAS, on September 11, 2020, as requested in Ordinance 126102 and consistent with the
15 advisory roles established in the Accountability Ordinance (Ordinance 125315),
16 subsection 3.29.030.B, the Office of Police Accountability, the Community Police
17 Commission, and the Office of the Inspector General reported their findings with respect
18 to the impact of banning less lethal weapons to the Council’s Public Safety and Human
19 Services Committee. The findings showed consensus among the three reports to allow
20 specific non-crowd control uses of pepper spray, 40-millimeter launchers and noise flash
21 diversionary devices, and to ban patrol officers’ use of tear gas; and

22 WHEREAS, on October 1, 2020, the Honorable Judge James L. Robart converted the Court’s
23 temporary restraining order regarding Ordinance 126102 into a preliminary injunction in

1 order to facilitate review under the process set forth in paragraphs 177 to 181 of the
2 Consent Decree (“Policy Review Process”); and

3 WHEREAS, on December 7, 2020, the Honorable Judge Richard Jones found the Seattle Police
4 Department in contempt of court for the indiscriminate use of blast balls and noted that
5 “Of the less lethal weapons, the Court is most concerned about SPD’s use of blast balls”;
6 and

7 WHEREAS, the City Council recognizes the role of the Chief of Police to prescribe rules and
8 regulations for the government and control of the police department; and

9 WHEREAS, at the time of passing this ordinance, pursuant to a federal consent decree, the
10 United States Department of Justice, the Honorable James L. Robart of the U.S. District
11 Court for the Western District of Washington, and the court-appointed Seattle Police
12 Monitor exercise oversight of SPD’s policies related to the use of force; and

13 WHEREAS, on February 26, 2021, the U.S. District Court for the Western District of
14 Washington issued an order in *United States v. City of Seattle*, Civil Case Number 12-
15 1282, approving SPD’s revised use of force and crowd management policies, which
16 included authorization of the deployment of officers trained in the use of use of 40-
17 millimeter launchers in crowd management events, upon approval of the Chief of Police,
18 and authorization of the use of a pepperball launcher “only when such force is objectively
19 reasonable, necessary, and proportional to protect against a specific imminent threat of
20 harm to officers or identifiable others or to respond to specific acts of violence or
21 destruction of property”; and

22 WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, establishing requirements
23 for tactics and equipment used by peace officers, which include 1) restricting law

1 enforcement agencies from using tear gas unless necessary to alleviate a present risk of
2 serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation; 2)
3 requiring that, prior to using tear gas the law enforcement officer or employee must
4 exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a
5 supervising officer, announce to the subject or subjects the intent to use tear gas, and
6 allow sufficient time and space for compliance with the officer's or employee's directives;
7 and 3) directing that, in the case of a riot outside of a correctional, jail, or detention
8 facility, the law enforcement officer or employee may use tear gas only after receiving
9 authorization from the highest elected official of the jurisdiction in which the tear gas is
10 to be used; NOW, THEREFORE,

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

12 Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102,
13 is amended as follows:

14 **3.28.146 Prohibition of the use of ((~~crowd control~~)) less lethal weapons**

15 A. Unless exempted or excepted, no City department shall own, purchase, rent, store or
16 use ((~~crowd control~~)) less lethal weapons.

17 B. Law enforcement agencies operating under mutual aid agreements are prohibited from
18 using ((~~crowd control~~)) less lethal weapons in a manner inconsistent with this Section 3.28.146
19 while rendering aid to the Seattle Police Department. Seattle Police Department mutual aid
20 agreements for crowd control must prohibit other law enforcement agencies from using ((~~crowd~~
21 ~~control~~)) less lethal weapons ((~~for the purpose of crowd dispersal~~)) in a manner inconsistent with
22 this Section 3.28.146.

23 C. As used in this Section 3.28.146((~~;~~)) :

1 “For the purpose of crowd control” means with the intent to move or disperse a
2 crowd.

3 ~~“(crowd control)~~ Less lethal weapons” means kinetic impact ~~((projectiles))~~
4 launchers used to deploy chemical irritants; ((;)) chemical irritants, including but not limited to
5 pepper spray and tear gas; ((;)) acoustic weapons((;)) ; directed energy weapons((;)) ; water
6 cannons((;)) ; disorientation devices, including but not limited to blast balls and noise flash
7 diversionary devices; ultrasonic cannons((;)) ; or any other device that is primarily designed to be
8 used on multiple individuals for crowd control and is designed to cause pain or discomfort.

9 “Violent public disturbance” means any gathering where 12 or more persons who
10 are present together use or threaten to use unlawful violence towards another person or group of
11 people and the conduct of them (taken together) is such as would cause a person of reasonable
12 firmness present at the scene to fear for his personal safety.

13 D. ~~((Oleoresin capsicum (OC) spray is not a crowd control weapon for purposes of~~
14 ~~owning, purchasing, renting, or storing under subsection 3.28.146.A. Use of OC spray is~~
15 ~~prohibited under subsection 3.28.146.A if~~

16 ~~1. It is used in a demonstration, rally, or other First Amendment-protected event;~~

17 ~~or~~

18 ~~2. When used to subdue an individual in the process of committing a criminal act or~~
19 ~~presenting an imminent danger to others, it lands on anyone other than that~~
20 ~~individual.))~~

21 Noise flash diversionary devices are not banned as less lethal weapons for purposes of subsection
22 3.28.146.A if used by Special Weapons and Tactics (SWAT) officers outside the setting of a

1 demonstration or rally in circumstances in which the risk of serious bodily injury from violent
2 actions outweighs the risk of harm to bystanders.

3 E. Forty-millimeter launchers used to deploy chemical irritants and launchers used to
4 deploy pepperballs are not banned as less lethal weapons for purposes of subsection 3.28.146.A
5 if:

6 1. Used by SWAT officers outside the setting of a demonstration or rally in
7 circumstances in which the risk of serious bodily injury from violent actions outweighs the risk
8 of harm to bystanders; or

9 2. Used by SWAT officers in a demonstration or rally for purposes other than
10 crowd control in circumstances in which the risk of serious bodily injury from violent actions
11 outweighs the risk of harm to bystanders.

12 F. Oleoresin capsicum (OC) spray is not banned as a less lethal weapon for purposes of
13 subsection 3.28.146.A if:

14 1. It is being used outside the setting of a demonstration or rally and the risk of
15 serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

16 2. It is being used at a demonstration or rally, but not for the purpose of crowd
17 control, and the risk of serious bodily injury from violent actions outweighs the risk of harm to
18 bystanders; or

19 3. It is being used at a demonstration or rally for the purpose of crowd control,
20 during a violent public disturbance, and the risk of serious bodily injury from violent actions
21 outweighs the risk of harm to bystanders.

22 G. Tear gas is not banned as a less lethal weapon for purposes of subsection 3.28.146.A
23 if:

1 1. It is being used by SWAT officers outside the setting of a demonstration or
2 rally, the use is reasonably necessary to prevent threat of imminent loss of life or serious bodily
3 injury, and the risk of serious bodily injury from violent actions outweighs the risk of harm to
4 bystanders; or

5 2. It is being used in a violent public disturbance, under direction of or by officers
6 who have received training for its use within the previous 12 months, with a detailed tactical plan
7 developed prior to deployment, the use is reasonably necessary to prevent threat of imminent loss
8 of life or serious bodily injury, and the risk of serious bodily injury from violent actions
9 outweighs the risk of harm to bystanders.

10 ~~((E))~~H. A person shall have a right of action against the City for physical or emotional
11 injuries proximately caused by the use of ~~((crowd control))~~ less lethal weapons in violation of
12 this Section 3.28.146~~((for crowd dispersal))~~ after this ordinance takes effect. A person who, in
13 the judgment of a reasonable person, commits a criminal offense at or immediately prior to the
14 use of less lethal force may not recover under this Section 3.28.146.

15 ~~((F))~~I. Absent evidence establishing a greater amount of damages, the damages payable
16 to an individual for injuries proximately caused in violation of this Section 3.28.146 shall be
17 \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery
18 or process available to a person under federal and state law.

19 Section 2. In accordance with United States of America v. City of Seattle, 12 Civ. 1282
20 (JLR), during the pendency of the consent decree Council requests that notice of this action be
21 submitted by the City Attorney to the Department of Justice and the Monitor.

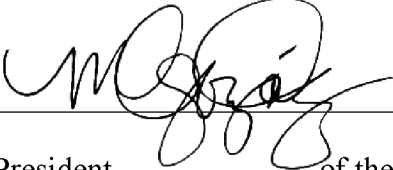
22 Section 3. Council will engage with the Labor Relations Director and staff as they work
23 with the City's labor partners in the implementation of this ordinance.

1 Section 4. Within 60 days after this ordinance takes effect, the Seattle Police Department
2 shall draft revisions to the Seattle Police Manual to bring it into compliance with this ordinance
3 and publish the proposed revisions on its website.

4 Section 5. Section 1 of this ordinance shall take effect and be in force 30 days after the
5 Court in *United States v. City of Seattle*, Western District of Washington Civil Case Number 12-
6 cv-1282, has approved the revised policies required by Section 4 of this ordinance.

1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 16th day of August, 2021,
5 and signed by me in open session in authentication of its passage this 16th day of
6 August, 2021.

7 
8 President _____ of the City Council

9 Approved returned unsigned vetoed this 27th day of August, 2021.

10 **Returned Unsigned by Mayor**

11 Jenny A. Durkan, Mayor

12 Filed by me this 27th day of August, 2021.

13 
14 _____

14 Monica Martinez Simmons, City Clerk

15 (Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
Mayor's Office	Michelle Nance	

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the Seattle Police Department; mandating that the Police Department adopt and maintain crowd management policies that prohibit the use of less lethal tools in crowd management settings unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage; and repealing Section 3.28.146 of the Seattle Municipal Code and Ordinance 126422.

Summary and Background of the Legislation: The legislation mandates that the Police Department maintain crowd management policies that prohibit the use of less lethal tools for crowd control purposes “unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage.” It also requires that any police use of force for crowd control be objectively reasonable, necessary, and proportional to the threat presented. In addition, it requires that the adopted crowd management policies affirm and protect the rights to free speech and peaceable assembly.

The proposed ordinance also codifies state law requirements in City law regarding the use of tear gas. Further, it restricts tear gas as a tool of last resort when the risk to life is imminent, and then only when the Mayor has issued an order of civil emergency.

This legislation repeals Section 3.28.146 of the Seattle Municipal Code, as well as Ordinance 126422.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts.

No.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

N/A

Please describe any financial costs or other impacts of *not* implementing the legislation.

Crowd management experts and constitutional policing experts widely agree that police officers should be equipped with less lethal tools, in addition to firearms. The previous ordinances, passed in 2020 and 2021, are more restrictive since they do not allow SPD officers to use a less lethal tool, such as pepper spray, in a targeted manner to isolate an offender and when it is reasonable, necessary, and proportional to protect the safety, property rights, and First Amendment rights of protesters and bystanders.

The Court overseeing the Consent Decree has ordered the Police Department to submit a revised crowd management policy for further review. If this ordinance passes, the Police Department will submit a revised crowd management policy consistent with this ordinance for the Court's review and approval.

4. OTHER IMPLICATIONS

a. Please describe how this legislation may affect any departments besides the originating department.

N/A

b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.

No.

c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.

i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.

This ordinance is designed to protect the First Amendment rights of protesters and bystanders. It upholds and affirms the constitutional rights of individuals to freely exercise their freedom of speech and assembly. In limited circumstances, force is necessary to protect the safety, property rights, and First Amendment rights of all crowd members and bystanders. This ordinance articulates strict standards for the use of less lethal weapons, limiting it to situations where there is an imminent risk of physical injury to any person or significant property damage.

- ii. **Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

N/A

- iii. **What is the Language Access Plan for any communications to the public?**

d. Climate Change Implications

- i. **Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

N/A

- ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

N/A

5. CHECKLIST

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**

6. ATTACHMENTS

Summary Attachments: None.

Amendment A to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Kettle

Add Community Police Commission Recommendations

Effect: This amendment would amend current recitals, add a new recital, add new crowd management guidelines, blast ball deployment training and deployment guidelines and accountability agency reporting requirements, some of which were recommended in a January 8, 2025 Community Police Commission (CPC) letter sent to the Mayor and City Council.

After the second recital to CB 120916, strike everything and insert the following:

(changes from CB 120916 as amended, are underlined or stricken in the amendment text)

WHEREAS, the City has a long tradition of encouraging expression, supporting free speech, and facilitating the right of assembly through public demonstrations, and recognizes rights of residents and the exercise of these rights; and

WHEREAS, the City Charter authorizes the Chief of Police to prescribe rules and regulations, consistent with law, for the governance and control of the Police Department; and

WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, codified in relevant part at RCW 10.116.030, establishing requirements for tactics and equipment used by peace officers, which include 1) restricting law enforcement agencies from using tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation; 2) requiring that, before using tear gas the law enforcement officer or employee must exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a supervising officer, announce to the subject or subjects the intent to use tear gas, and allow sufficient time and space for compliance with the officer's or employee's directives; and 3) directing that, in the case of a riot outside of a correctional, jail, or

detention facility, the law enforcement officer or employee may use tear gas only after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used; and

WHEREAS, the public demonstrations, protests, and the police response in the summer of 2020, as well as the use of less lethal weapons in crowd management contexts in the previous decade, as recognized in the Consent Decree process, demonstrated a need for changes in the tactics, philosophy, and approach by the Police Department to crowd management; and

WHEREAS, the Police Department made critical updates to its crowd management policy, which were approved in 2021 by the Honorable Judge James R. Robart of the Western District of Washington, as part of iterative policy revisions under the 2012 Settlement Agreement with the Department of Justice, and with passage of this ordinance the City Council requests that the City Attorney submit the Police Department's updated policies to the Court-appointed Monitor, the U.S. Department of Justice, and the Court for review and approval; and

WHEREAS, the 2021 policy changes made by the Police Department incorporated recommendations from the department's internal review process, the Office of Inspector General for Public Safety, and the Office of Police Accountability and are consistent with the terms of a federal court injunction issued in *Black Lives Matter-King County, et al. v. City of Seattle*, No. 2:20-civ-00887-RAJ (W.D. Wa.), by the Honorable Judge Richard A. Jones; and

WHEREAS, less lethal tools, such as OC (pepper spray), pepper ball launchers, blast balls, CS (tear gas), 40mm launchers, and batons, are use of force substances/devices designed and

intended to apply force not intended nor likely to cause the death of the subject or great bodily harm; and

WHEREAS, the Community Police Commission indicated in a January 8, 2025 letter to the Mayor and City Council that: “when other law enforcement agencies assist the Police Department in responding to major events or disruptions, their actions have the potential to impact the rights and wellbeing of Seattle residents and to affect public confidence in policing to the same extent as actions of Police Department officers, and members of the public should be able to expect their rights to be observed by any law enforcement officer deployed in The City of Seattle by agreement and request of The City of Seattle”; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102 and attached to this ordinance as Attachment A, and Ordinance 126422, attached to this ordinance as Attachment B, are repealed.

Section 2. The Seattle Police Department shall adopt and maintain a crowd management policy that is consistent with the following City values and expectations:

A. The people of Seattle have the right to assemble to celebrate, engage, worship, watch sporting events, exchange ideas, protest, or simply gather. The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the U.S. Constitution and Article I, sections 4 and 5 of the Washington State Constitution. These rights are essential to democracy and will be protected in Seattle.

B. The Police Department has a role in facilitating safe gatherings, and in recognizing the right of speech and assembly when those are threatened by the actions of other members of the public.

C. Police Department collaboration with event sponsors or organizers shall facilitate and advance Seattle’s public safety interests and help maintain the peace and safety of the City, and support the exercise of free speech and assembly. De-escalation, engagement, and dialogue to resolve conflicts shall be prioritized when safe and feasible.

D. Any police use of force for crowd control shall be objectively reasonable, necessary, and proportional to the threat presented, and directed in such a manner as to minimize harm to members of the public that are engaged in peaceful speech and assembly.

E. Police Department crowd management and use of force policies shall prohibit the use of less lethal tools on a person or persons for crowd control purposes unless specific facts and circumstances are occurring or about to occur that create an imminent risk of physical injury to any person or significant property damage. Police Department policy shall continue to require approval by an Incident Commander or supervisor before less lethal tools may be used for general crowd dispersal.

F. A police officer may only use less lethal tools expressly authorized by Police Department policy and for which that officer has been trained.

G. Police Department policy on the use of tear gas shall be consistent with RCW 10.116.030, which states that a “law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation.” It also requires that before using tear gas, the following conditions must be met:

“(a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;

“(b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;

“(c) Announce to the subject or subjects the intent to use tear gas; and

“(d) Allow sufficient time and space for the subject or subjects to comply with the officer’s or employee’s directives.”

RCW 10.116.030 further mandates that, “In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after ... [r]eceiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used...”.

In addition to the requirements of RCW 10.116.030, Police Department policy shall prohibit the use of tear gas in crowd management unless 1) all other reasonable force options have been exhausted or are not feasible, 2) specific facts and circumstances establish that the risk to life is imminent, and 3) the Mayor has issued a proclamation order of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

H. Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02. Additionally, Police Department (SPD) policy shall prohibit the use of blast balls to move or disperse a crowd unless specific facts and circumstances establish an imminent threat of violence against persons or significant property damage.

Police Department officers should be trained to understand that a blast ball's two-stage combustion may create some degree of inaccuracy during deployment, potentially disrupting the blast ball's trajectory from the intended destination.

When used for crowd movement or dispersal purposes, Police Department policy shall reflect that blast balls ~~shall~~ may be deployed, when safe and feasible, and shall be deployed consistent with training, away from people in an open space to mitigate against the risk of injury to a person.

The Police Department's Mutual Aid policy (currently SPD 16.240) shall require the Seattle Police Operations Center to coordinate mutual aid requests such that any request for mutual aid for crowd management purposes must include appropriate planning documents such as an Incident Action Plan or Briefing Sheet.

Mutual Aid officers responding to the city at the request of SPD for crowd management purposes must agree to follow the command and control of the on-scene SPD Incident Commander. Mutual Aid officers may not deploy any less lethal weapons in a crowd management setting contrary to the on-scene Incident Commander's direction and any applicable state laws or standards established by the Washington State Criminal Justice Training Commission. The Police Department shall provide to its mutual aid partners copies of curricula ~~and written materials~~ that are used to train Police Department officers to deploy blast balls, and shall offer the opportunity to meet with mutual aid partners to discuss best practices in the use of physical force in crowd management settings.

To the extent possible and when appropriate, the Police Department should seek to include as a component of interjurisdictional disaster planning or other law enforcement trainings discussions that address the Police Department's crowd management policies and tactics, the

Washington State Attorney General’s Office best practices, and recommendations from the Office of Inspector General for Public Safety’s Sentinel Event Review.

Section 3. To the extent collective bargaining is required with regard to implementation of this ordinance or the Police Department’s associated revisions to its crowd management policy, the City will comply with its legal obligations.

Section 4. The Police Department shall publish its crowd management policy and any future revisions on its website, which shall be available to the public.

Section 5. The Seattle Police Department shall report to the Office of Inspector General for Public Safety (OIG) and Community Police Commission any deployment of less lethal weapons in a crowd management setting as soon as feasible, and shall obtain, when appropriate, public input, independently of, or from the CPC, on the impact, intended and unintended, of the deployment, and incorporate feedback received in reports, including those required by this section.

~~The As soon as feasible, the OIG shall evaluate the deployment promptly for compliance with the goals of this ordinance and values established herein. OIG shall work with the CPC and SPD leadership to ensure deployments are consistent with community values and expectations. When appropriate the OIG and CPC will meet with community members to collect experiential feedback and provide SPD with timely recommendations on crowd communication and de-escalation tactics, as necessary to ensure that the tactics are consistent with the Department’s training and policies. The Community Police Commission shall meet with community members to collect experiential feedback and provide feedback to the Police Department for deployments to be consistent with community values and expectations. When appropriate, the Office of Inspector General for Public Safety shall work with Police Department leadership to ensure that~~

crowd communication and de-escalation tactics are consistent with the Police Department's training and policies. OIG may initiate a sentinel event review for any situations that create significant community concern.

The Police Department, in collaboration with the ~~Office of Inspector General for Public Safety~~ OIG, and after consulting with the Community Police Commission, shall create an annual report on the use of force in crowd management situations, including details of the use of less lethal tools, to be filed with the City Clerk by the end of the first quarter of the following year. This report shall include information on the Police Department's training on the use of blast balls and whether the training is consistent with Section 2 of this ordinance.

Section 6. Before authorizing any new policy in the Policy Manual, the Police Department shall ensure that it complies with the provisions of subsection 3.29.410.C of Ordinance 125315, known as the Accountability Ordinance.

Section 7. Prior to authorizing the use of any less lethal weapon type for crowd management purposes that is not currently authorized in SPD policy as of the effective date of this ordinance, the Police Department shall notify the Council Public Safety Committee, or its successor Committee, and report on: (1) the potential impacts and uses that could harm individuals within or outside of a crowd; (2) the specific policies and training curriculum that will mitigate potential harms; and (3) whether use of the less lethal weapon is consistent with emerging practices. ~~as determined by civil liberty organizations, national policing organizations such as the Police Executive Research Forum, International Association of Chiefs of Police, and the Center for Policing Equity, and the Office of Inspector General for Public Safety.~~

Section 8. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, ~~2024~~ 2025, and signed by me in open session in authentication of its passage this _____ day of _____, ~~2024~~ 2025.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, ~~2024~~ 2025.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, ~~2024~~ 2025.

Scheereen Dedman, City Clerk

(Seal)

Attachments:
Attachment A – Seattle Municipal Code Section 3.28.146

Attachment B – Ordinance 126422

Amendment B to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Kettle

SPD Chief must provide authorization for the deployment of blast balls

Effect: This amendment would prohibit the use of blast balls to move or disperse a crowd unless authorization is provided by the Chief of Police. This authorization is in addition to the amended bill requirement that the Executive issue a proclamation of civil emergency.

Background SPD 8.300-POL-10 (Blast Balls) sets forth a number of conditions that must be met before officers may deploy blast balls. As amended in the Public Safety Committee on January 14, 2025, the use of Blast Balls is conditioned on the Executive issuing a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

Once authorized per the requirement above, and the Mayor's Office has issued a proclamation of civil emergency, any SPD Incident Commander ranked Lieutenant or higher may authorize use of blast balls to move or disperse a crowd. This is the current standard set in SPD's Crowd Management, Intervention and Control policy (SPD 14.090).

1. Amend Amendment A by striking the first paragraph in Section 2, subsection H, and replacing it with the following:

H. Police Department (SPD) policy shall prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02. Additionally, Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless: 1) specific facts and circumstances establish an imminent threat of violence against persons or significant property damage, and 2) use of blast balls is authorized by the Chief of Police.

Amendment C to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Mayoral authorization required for use of blast balls

Effect: This amendment would require the Mayor to provide authorization for the use of blast balls. If a President Pro Tem is acting as the Mayor, then authorization for the use of blast balls shall come from the Chief of Police.

Once authorized per the requirement above, and the Mayor's Office has issued a proclamation of civil emergency, any SPD Incident Commander ranked Lieutenant or higher may authorize use of blast balls to move or disperse a crowd. This is the current standard set in SPD's Crowd Management, Intervention and Control policy (SPD 14.090).

Background: Under CB 120319, as amended in Committee on January 14, 2025, Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02.

1. Amend Amendment A by striking the first paragraph in Section 2, subsection H, and replacing it with the following:

H. Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless the Mayor has issued a proclamation of civil emergency pursuant to Seattle Municipal Code Chapter 10.02, and provided authorization to use blast balls. If a President Pro Tem is acting as Mayor, then the authorization shall come from the Chief of Police. Additionally, Police Department policy shall prohibit the use of blast balls to move or disperse a crowd unless specific facts and circumstances establish an imminent threat of violence against persons or significant property damage.

Amendment D to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Add blast ball deployment restrictions

Effect: This amendment would require Police Department policy to reflect, that when used for crowd movement or dispersal purposes, blast balls shall not be deployed directly into a crowd. Blast balls shall only be deployed underhand using a bowling motion, away from people. In cases of individual interdiction, when reasonable, necessary, and proportional to address immediate threats to life safety, officers may deploy blast balls overhand and near a person.

Background on Accountability Agency Input: On January 8, 2025, the Community Police Commission sent to City Council members and the Mayor a letter that requested that blast balls be “directed away from people, underhand, at a distance of at least 10 yards.”

On January 14, 2021, the Office of Police Accountability (OPA) made in a Management Action Recommendation (MAR) three recommendations on the deployment of blast balls:

[SPD should] “Modify the blast balls policy to prohibit the following:

1. Deploying blast balls directly into crowds unless individuals in those crowds pose a direct threat of harm to officers. A direct threat cannot be established simply because a crowd is not complying with an order to disperse.
2. Deploying blast balls directly at a person’s body or in a manner that creates a likelihood that a person could be struck unless to prevent imminent serious bodily harm or death.
3. Deploying blast balls overhand unless to prevent imminent serious bodily harm or death.”

On January 10, 2025, OPA sent a letter to Councilmembers and the Mayor that largely endorsed the SPD Interim Policies in SPD 14.090 and also indicated that the Mayor’s Office had engaged with the Office on revised policy language that requires that, when feasible, blast balls be directed towards and “open space.”

Background on SPD Policy:

SPD 8.300-POL-10 (Blast Balls) sets forth a number of conditions that must be met before officers may deploy blast balls.

SPD 8.300-POL-10 (Blast Balls) also contains an exception that allows sworn employees to make individual decisions to deploy blast balls “if reasonable, necessary, and proportional to address immediate threats to life safety, but not for crowd dispersal purposes.” Under this exemption, any officer may use blast balls for targeted interdiction with a person or persons

who are creating an immediate threat to life safety. But, blast balls may not be used to disperse a crowd.

1. Amend Amendment A by striking the third paragraph in Section 2, subsection H, and replacing it with the following:

When used for crowd movement or dispersal purposes, Police Department policy shall reflect that blast balls shall not be deployed directly into a crowd. Blast balls shall only be deployed underhand using a bowling motion, in an open space away from people. In cases of individual interdiction, when reasonable, necessary, and proportional to address immediate threats to life safety, officers may deploy blast balls overhand and near a person.

Amendment E to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Add CPC Recital

Effect: This amendment would add a recital that is recommended by the Community Police Commission (CPC) in a January 8, 2025, letter to the Mayor and City Council:

“WHEREAS, the CPC indicated in a January 8, 2025 letter to the City Council that blast balls, as used in Seattle over the last decade, have a demonstrated track record when used according to past policy of inflicting injury, including serious injury, to individuals including bystanders, journalists, lawful demonstrators and in at least one instance, a police officer, when past policy intended to reduce the risk of such injury but was unable to achieve that outcome;”

Amend CB 120916, as amended, by adding a new recital before the enacting clause:

“; and

WHEREAS, the Community Police Commission indicated in a January 8, 2025 letter to the City Council that “blast balls, as used in Seattle over the last decade, have a demonstrated track record when used according to past policy of inflicting injury, including serious injury, to individuals including bystanders, journalists, lawful demonstrators and in at least one instance, a police officer, when past policy intended to reduce the risk of such injury but was unable to achieve that outcome;”

Amendment F to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Mutual Aid Officers must follow SPD Crowd Management Policies

Effect: This amendment would prohibit SPD Incident Commanders from assigning to a crowd management role any mutual aid officer who is unable or unwilling to comply with SPD's Crowd Management Policies (SPD 14.090). SPD may deploy mutual aid officers for any other purpose.

Background: The OIG made a mutual aid recommendation to SPD as part of its Wave 2 Sentinel Event Review: "SPD should review its policy and training for using less-lethal munitions in crowd management situations, including the use of less-lethal munitions by mutual aid agencies. OPA noted in 2015 its concern that projectiles may strike and injure people lawfully exercising their constitutional rights.

The Executive and SPD have indicated that requiring other agencies to follow SPD policies may result in a refusal to come to the aid of SPD.

1. Amend CB 120916, as amended, by adding at the end of Section 2 the following:

The Police Department's mutual aid policy (SPD 16.240) and interim crowd management policy (SPD 14.090) shall prohibit the department's Incident Commanders from assigning to a crowd management role any mutual aid officer who is unable or unwilling to comply with policy 14.090. The Police Department may deploy mutual aid officers for any other purpose,

Amendment G to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Moore

Council approval required for changes to certain SPD crowd management policies

Effect: This amendment would (1) better enable Council review of SPD proposed policy changes regarding the use of less lethal weapons to move or disperse a crowd and any policy which would lower the threshold for issuing orders to disperse a crowd. It would further establish a Council disapproval procedure of such proposed policy changes. The amendment is principally modeled after the federal Congressional Review Act which applies generally to major rulemakings issued by federal agencies.

1. Amend the first sentence of Section 7 to CB 120916 as follows:

Section 7. Prior to ~~((authorizing))~~ altering its policy to authorize the use of any less lethal weapon type for crowd management purposes that is not currently authorized in SPD policy as of the effective date of this ordinance or lowering the threshold for issuing an order to disperse or using reasonable, necessary, and proportional force to move or disperse a crowd, the Police Department shall notify the Council ~~((Public Safety Committee, or its successor Committee))~~ , provide a copy of the proposed policy, and report on:

* * *

2. Amend Section 7 to include at the end of Section 7 the following:

A. A proposed Police Department policy change covered by this section shall not take effect if the City Council enacts a resolution of disapproval.

B. For the purposes of this section, the term "resolution of disapproval" means a resolution, introduced in the period beginning on the date on which a policy and report under this section are received by the City Council and ending 120 days thereafter, indicating that the

DOSS/HENRY
Public Safety Committee
January 27, 2025
D3a

City Council disapproves the policy submitted by the Police Department and such policy shall have no force or effect.

C. If the City Council does not enact a resolution of disapproval, a Police Department policy submitted under this section shall take effect 120 days after the date on which the City Council receives the policy and report required by this section.

Amendment H to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Rinck

Role of SPD in Crowd Management Settings. Identify and communicate safe entry and exit points whenever practicable.

Effect: This amendment would require SPD to amend the purpose statement for its Crowd Management, Intervention, and Control (CMIC) policy (14.090-POL-1 Purpose). The purpose statement shall specify that “a fundamental function of the role of police in all crowd management settings is to, **whenever necessary, safe and feasible**, identify and clearly communicate safe entry and exit points for individuals assembled in crowds as well as individuals passing by, living in the area, or working in the area.”

Background: SPD’s CMIC policy requires that Incident Commanders to ensure that there is an avenue of egress sufficient to allow a crowd to depart an assembly that has been declared unlawful under CMIC Phase 5. This requirement is reflected in the Crowd Control and Dispersal procedures outlined in SPD 14.090-POL-8. Separately, the CMIC policy has a purpose statement that serves as a guideline for SPD’s crowd management activities:

4.090-POL-1 Purpose

The rights to free speech and peaceable assembly are guaranteed by the First Amendment to the United States Constitution and Article 1, § 4 and 5 of the Washington State Constitution. The Seattle Police Department (SPD) takes seriously its responsibility and commitment to support and facilitate the exercise of these rights in a fair and equitable manner, without consideration as to content or political affiliation, with as minimal a footprint as is reasonably necessary to preserve public safety and order.

This policy recognizes that assemblies in Seattle may range from small gatherings that require no police support, to permitted celebratory and/or protest marches, to large-scale, unpermitted demonstrations where activities outside of First Amendment protections, including significant traffic disruption, property destruction, and/or threats of violence may require a greater police presence.

This policy is intended to provide clear guidance to officers, supervisors, and commanders in employing appropriate crowd management, intervention, and control strategies in a manner to facilitate, to the extent safe and feasible, the right to free expression and peaceable assembly. This policy is also intended to provide guidance by which officers and supervisors may objectively determine at what juncture a demonstration or assembly leaves the realm of legal protest and becomes an abridgement on the life-safety and property rights of others. At all times, SPD’s response will be based upon the conduct of those assembled, not the content of their speech or affiliation. See RCW 9A.84.010.

The department recognizes that the visible appearance and/or actions of law enforcement may affect the demeanor and behavior of a crowd. It is the department’s mission

to de-escalate whenever safe and feasible to do so, without compromising public order and safety.

The department also recognizes that the unlawful acts of some members of a crowd do not automatically turn an assembly from peaceable to unpeaceable. It is the department's commitment to provide officers and supervisors with crowd management and intervention strategies that allow for the peaceable expression of federal and state rights while at the same time removing individuals whose illegal behavior jeopardize the safety of lawful activity. This policy is intended solely to guide the decisions, actions, and operations of department personnel in planning for and responding to crowd management situations within the City of Seattle. It is not intended to expand or abridge constitutional analyses with respect to the parameters of First Amendment protections and restrictions more appropriate for a court of law.

This policy is to be read in conjunction with manual sections 14.100 – Special Events and Title 8 – Use of Force.

Add a new Section 8 to CB 120916, as amended, as follows, renumbering subsequent sections accordingly:

Section 8. The purpose statement for Seattle Police Department Policy 14.090-POL-1 - Crowd Management, Intervention, and Control, shall be amended to include a statement that a fundamental function of the role of police in all crowd management settings is to, whenever necessary, safe and feasible, identify and clearly communicate safe entry and exit points for individuals assembled in crowds as well as individuals passing by the area, living in the area, or working in the area.

Amendment I to CB 120916 Crowd Management Ordinance

Sponsor: Councilmember Rinck

Create a private right of action for individuals. Attorney and Court fees not recoverable.

Effect: This amendment would create a private right of action against the City when a person incurs physical injuries proximately caused by the use of less lethal weapons in violation of SPD's Crowd Management, Intervention, and Control policy.

A person who, in the judgment of a reasonable officer, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this Section. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section shall be \$10,000. This does not preclude any other legal recovery or process available to a person under federal and state law.

A private right of action would allow individuals to make a claim against the City. If the claim is not resolved, then the individual could file a civil lawsuit for damages.

Background: This private right of action is similar to that in Ordinance 126422, except that this action does not allow for recovery for emotional damages, and it does not allow for recovery of attorney's fees or court fees.

Ordinance 126422 did not take effect because its implementation was conditioned on the Court approving compliant policies, and per a recommendation from the Executive, the federal monitor did not allow a submittal for judicial review. The Ordinance was not signed by then Mayor Durkan.

Add a new Section 8 to CB 120916, as amended, as follows, renumbering subsequent sections accordingly:

Section 8. A person shall have a right of action against the City for physical injuries proximately caused by the use of less lethal weapons in violation of Seattle Police Department Policy 14.090 - Crowd Management, Intervention, and Control. A person who, in the judgment of a reasonable officer, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this section.

Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this section shall be \$10,000. This does

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not preclude any other legal recovery or process available to a person under federal and state law.