

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>Executive Contact/Phone:</b>
LEG	Ketil Freeman / 48178	NA

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

#### **a. Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending Sections 23.76.004, 23.76.022, and 23.88.020 of the Seattle Municipal Code to provide that interpretations by the Director of the Seattle Department of Construction and Inspections are not administrative remedies that must be exhausted prior to seeking judicial review.

#### **b. Summary and background of the Legislation:**

The proposed legislation would amend Seattle Municipal Code (SMC) Chapters 23.76 and 23.88 to remove language providing that Land Use Code interpretations are administrative remedies that must be exhausted prior to seeking judicial review.

SMC Section 23.88.020 authorizes the Director of the Seattle Department of Construction and Inspections to make decisions about the “meaning, application or intent” of development regulations in the Land Use Code, Title 23 of the SMC, and SMC Chapter 25.09, Regulations for Environmentally Critical Areas, through interpretations. Interpretations may be sought by any person or they may be initiated by the SDCI Director. Interpretations may be requested in the context of review of a proposed project or separately. Interpretations may be appealed to the Hearing Examiner. Interpretations cost requesters \$3,150, which covers the first 10 hours of review by SDCI. SDCI charges \$315 / hour for any additional review.

SMC Section 23.88.020 provides that for issues subject to interpretation, interpretations are an administrative remedy that must be exhausted for those issues to be subject to judicial review. That provision—and the SDCI fees an interpretation entails—have had a chilling effect on those seeking redress through the Examiner and courts. The proposed amendment would mean that failure to seek an interpretation would not be an affirmative defense for the City in judicial proceedings.

The applicability section of the proposed legislation is intended to allow someone who has requested an interpretation to withdraw that request if SDCI has not issued the interpretation on or before the legislation’s effective date.

## 2. CAPITAL IMPROVEMENT PROGRAM

- a. Does this legislation create, fund, or amend a CIP Project? \_\_\_ Yes  X  No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2022:

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

- a. Does this legislation amend the Adopted Budget? \_\_\_ Yes  X  No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

- b. Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

No.

- c. Is there financial cost or other impacts of *not* implementing the legislation?

No.

## 4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?

The legislation affects the Seattle Department of Construction and Inspections and the Hearing Examiner's Office.

- b. Is a public hearing required for this legislation?

A public hearing with 30-day notice is required.

- c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

No.

- d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Notice in the Daily Journal of Commerce is required.

**e. Does this legislation affect a piece of property?**

No.

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

The legislation reduces barriers, here the cost of an interpretation, to seeking judicial review. That could make access to the courts easier for disadvantaged communities that might otherwise find judicial recourse cost-prohibitive. Conversely, removal of the barrier may facilitate judicial appeals of land use decisions for projects that may be considered locally undesirable by near-neighbors, such as low-income housing projects, work-release centers, and homeless shelters. This could have a negative effect on vulnerable or historically disadvantaged communities.

**g. 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).**

NA

**h. Other Issues:**

**List attachments/exhibits below:**