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Land Use and Sustainability Committee
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Amendment 1 Version #1 to CB 121215 LEG SEPA Appeals ORD

Sponsor: Councilmember Hollingsworth

Increase comment periods for SEPA documents that are not subject to appeal to the Seattle Hearing Examiner

Effect: Council Bill (CB) 121215 would amend the City's regulations implementing the State Environmental Policy Act (SEPA), to remove the opportunity to appeal some SEPA decisions to the Seattle Hearing Examiner. Under CB 121215, appeals would not be available for SEPA threshold determinations, such as Determinations of Nonsignificance (DNS), or Final Environmental Impact Statements (FEIS) for "any Comprehensive Plan or development regulation, whether new or amended."

This amendment would amend the bill to allow for longer comment periods for Draft Environmental Impact Statements (DEIS) and Supplemental Environmental Impact Statements (SEIS) that are not subject to appeal, to ensure that members of the public have sufficient time to provide input prior to Council action on development regulations and Comprehensive Plan amendments. It also delays any final action on a proposal for 30 days after issuance of a DNS or FEIS.

For proposals exempt from Seattle Hearing Examiner appeals, the amendment would: 1) extend the comment period on a DEIS or Draft SEIS from 30 days to 45 days; 2) extend the time after which the Council could act on legislation from 7 days to 30 days after the publication of an FEIS or a Final SEIS; and, 3) extend the time after which the Council could act on legislation from 14 days to 30 days after publication of a DNS. Because the provisions of CB 121215 are targeted to legislative proposals that require City Council public hearings with a 30-day public hearing notice period, increasing the time after issuance of an FEIS, SEIS, or DNS up to 30 days should not delay Council action on most land use legislation.

The amendment would add five new sections to the bill to provide for these longer comment periods.

1. Amend the title of CB 121215 as follows:

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

2. Add new Sections 3, 4, 5, 6, and 7 to CB 121215 as follows, and renumber the subsequent sections:

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

25.05.070 Limitations on actions during SEPA process

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

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

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

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

a. Another agency with jurisdiction;

b. Demolition of any structure or facility not exempted by ((~~Section~~)) subsection 25.05.800.B.6 (exempt construction other than historic) or Section 25.05.880 (Emergencies);

c. Issuance of clearing or grading permits not exempted in Subchapter IX of these rules;

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

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

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

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

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

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

6. The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines

that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

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

25.05.455 Issuance of DEIS

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

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

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

25.05.460 Issuance of FEIS

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

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

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

25.05.502 Inviting comment

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E. DEIS

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

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

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

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