



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119234

**Record No.:** CB 119234

**Type:** Ordinance (Ord)

**Status:** Passed

**Version:** 2

**Ord. no:** Ord 125586

**In Control:** City Clerk

**File Created:** 04/06/2018

**Final Action:** 06/01/2018

**Title:** AN ORDINANCE related to the Seattle Design Commission; amending Sections 3.58.010, 3.58.030, 3.58.050, 3.58.080, 3.58.090, and 22.900G.080 of the Seattle Municipal Code (SMC); and adding a new Section 3.58.100 to the SMC; to clarify the role of the Seattle Design Commission in reviewing petitions for long-term or permanent use of the public right-of-way and to set fees for Design Commission review of such projects.

	<u>Date</u>
<b>Notes:</b>	<b>Filed with City Clerk:</b> 6/1/2018
	<b>Mayor's Signature:</b> 6/1/2018
<b>Sponsors:</b> O'Brien	<b>Vetoed by Mayor:</b>
	<b>Veto Overridden:</b>
	<b>Veto Sustained:</b>

**Attachments:** Mayor's Letter on Returning Bill Unsigned

**Drafter:** linda.diibon@seattle.gov

**Filing Requirements/Dept Action:**

### History of Legislative File

**Legal Notice Published:**

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	04/10/2018	sent for review	Council President's Office			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Council President's Office						
	<b>Notes:</b>						
1	Council President's Office	04/11/2018	sent for review	Sustainability and Transportation Committee			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
	<b>Notes:</b>						
1	City Council	04/16/2018	referred	Sustainability and Transportation Committee			
	<b>Action Text:</b> The Council Bill (CB) was referred. to the Sustainability and Transportation Committee						



**CITY OF SEATTLE**

**ORDINANCE** 125586

**COUNCIL BILL** 119234

AN ORDINANCE related to the Seattle Design Commission; amending Sections 3.58.010, 3.58.030, 3.58.050, 3.58.080, 3.58.090, and 22.900G.080 of the Seattle Municipal Code (SMC); and adding a new Section 3.58.100 to the SMC; to clarify the role of the Seattle Design Commission in reviewing petitions for long-term or permanent use of the public right-of-way and to set fees for Design Commission review of such projects.

WHEREAS, the Seattle Design Commission was created through Ordinance 96897 in July 1968;

and

WHEREAS, since 1986, Seattle's Street Vacation Policies have identified a role for the Seattle

Design Commission in reviewing petitions for vacation of the public right-of-way; and

WHEREAS, the Council intends to clarify the role of the Seattle Design Commission in review

of street vacation petitions and certain term permit applications; NOW, THEREFORE,

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

Section 1. Section 3.58.010 of the Seattle Municipal Code, last amended by Ordinance 96977, is amended as follows:

**3.58.010 Commission established ((-))**

There is established, as of October 1, 1968, a Seattle Design Commission to act in a consulting capacity advisory to the City in connection with environmental and design aspects of City capital improvement projects and private or public-agency proposals for the long-term use of public rights-of-way, or the permanent use of a street, alley, or other public right-of-way subject to a vacation. The Seattle Design Commission shall serve functions and carry out duties as provided in this ~~((chapter))~~ Chapter 3.58.

1 Section 2. Section 3.58.030 of the Seattle Municipal Code, last amended by Ordinance  
2 121568, is amended as follows:

3 **3.58.030 Membership ((-))**

4 Subject to the provisions of this ~~((chapter))~~ Chapter 3.58, the Commission shall act in a  
5 consulting capacity, advisory to the Mayor, the City Council, and appropriate City officials in  
6 connection with environmental and design aspects of capital improvement projects of the City  
7 and private or public-agency proposals for the long-term use of public rights-of-way, or the  
8 permanent use of a street, alley, or other public right-of-way subject to a vacation. The  
9 Commission shall consist of nine ~~((9))~~ members appointed by the Mayor, subject to  
10 confirmation ~~((of))~~ by a majority of the City Council, and may be removed by the Mayor, subject  
11 to such confirmation. Membership shall include two ~~((2))~~ licensed architects, one ~~((1))~~  
12 professional fine artist, and one ~~((1))~~ lay member; and ~~((5))~~ at least one ~~((1))~~ and no more than  
13 two ~~((2))~~ from each of the following categories, for a maximum total of five: ~~((5))~~  
14 professional urban planner, professional environmental or urban designer, landscape architect,  
15 and licensed professional engineer. The Mayor shall solicit recommendations for membership  
16 from the American Institute of Architects, Seattle Chapter; the American Planning Association,  
17 Puget Sound Section of the Washington State Chapter; the American Society of Landscape  
18 Architects; the Consulting Engineers Council of Washington; the American Society of Civil  
19 Engineers; the Seattle Arts Commission; and other professional organizations for the ~~((nonlay))~~  
20 non-lay members. The lay member shall be selected because of particular qualifications in  
21 matters related to the Commission's purpose, ~~((of the Commission.))~~

22 In addition to the members set forth above, one ~~((1))~~ designated young adult position  
23 shall be added to the Seattle Design Commission pursuant to the Get Engaged Program, ~~((SMC))~~

1 Chapter 3.51. The terms of service related to this young adult position are set forth in ~~((SMC))~~  
2 Chapter 3.51.

3 Section 3. Section 3.58.050 of the Seattle Municipal Code, enacted by Ordinance 96897,  
4 is amended as follows:

5 **3.58.050 Compensation— ~~((Calling in of))~~ Engaging consultants ~~((;))~~**

6 A. Compensation for the professional ~~((and))~~ or skilled services rendered by members of  
7 the Commission ~~((;))~~ while serving in a consultant capacity to the City in meeting sessions ~~((;))~~  
8 shall be ~~((at the rate of Twenty five Dollars (\$25.00)))~~ \$25 for each hour, including the time of  
9 travel to Commission meetings, provided ~~((, however,))~~ that the total compensation ~~((that shall~~  
10 ~~become due and payable))~~ paid to any member shall not exceed ~~((Two Hundred Dollars (\$200)))~~  
11 \$200 for any one ~~((+))~~ day in meeting sessions of the Commission. Commission members shall  
12 be reimbursed for actual costs incurred by them in ~~((performance of))~~ performing the duties of  
13 the Commission including the cost of travel to Commission meetings. Members of the  
14 Commission shall not participate on a design team under consideration for appointment by the  
15 Commission ~~((;))~~ or be recommended for appointment by the Commission for a design contract.

16 B. Subject to prior approval by the ~~((City))~~ Executive Director of the Seattle Design  
17 Commission, the Commission may ~~((from time to time call in special))~~ retain consultants to  
18 advise the Commission. ~~((Such))~~ The consultants shall be chosen by the Commission for their  
19 recognized competence and experience in ~~((the planning and design of specific projects, or for~~  
20 ~~their overall particular competence in the design of public works))~~ evaluating and advising on the  
21 matter before the Commission. All costs related to engaging the consultants shall be paid by the  
22 applicant whose proposal necessitated the need for the consulting services.

1 Section 4. Section 3.58.080 of the Seattle Municipal Code, last amended by Ordinance  
2 120479, is amended as follows:

3 **3.58.080 Advisory duties ((:))**

4 The advisory and review function of the Commission shall include:

5 A. ~~((Study of))~~ Studying capital improvement projects ~~((prior to commencement of))~~  
6 before design starts and ~~((formulation of))~~ formulating recommended aesthetic, environmental,  
7 and design principles and objectives that the Commission believes should be sought in ~~((the~~  
8 ~~development of))~~ developing the project. These recommendations should be discussed with the  
9 project designers and appropriate City officials ~~((prior to commencement of))~~ before starting  
10 design work.

11 B. ~~((Review of))~~ Reviewing capital improvement projects ~~((from time to time))~~ during  
12 the design period and ~~((recommendation for))~~ recommending approval or changes upon  
13 ~~((completion of))~~ completing the schematic design phase, the design development phase, and the  
14 construction document phase. It shall be the Commission's function ~~((of the Commission))~~ to  
15 advise and assist the project designer and appropriate City officials in ~~((the development of))~~  
16 developing the project. The Commission may recommend changes in the project designer's work  
17 or ~~((may))~~ recommend approval. Commission review of the construction document phase shall  
18 mean review relative to compliance with previously-determined environmental and aesthetic  
19 objectives.

20 C. ~~((Assist))~~ Assisting City officials in selecting project designers. At the request of the  
21 City department with responsibility for ~~((management of))~~ managing a capital improvement  
22 project, individual Commission members shall serve on the selection panel that recommends  
23 design services for ~~((the execution of such))~~ executing the projects.

1 D. Reviewing requests for street, alley, or other public place vacations pursuant to  
2 Chapter 15.62; skybridge petitions pursuant to Chapter 15.64; or other above-grade significant  
3 structure term permit applications pursuant to Chapter 15.65. The Commission shall provide the  
4 Council with a recommendation on the proposed application or petition and any proposed public  
5 benefits associated with a petition.

6 Section 5. Section 3.58.090 of the Seattle Municipal Code, last amended by Ordinance  
7 124919, is amended as follows:

8 **3.58.090 Fees and charges for Design Commission review**

9 ((A.)) The Commission is authorized to charge fees pursuant to Section ((22.900D.170))  
10 22.900G.080.

11 ((B. The Commission in its discretion, with the concurrence of the City Budget Director,  
12 may waive its fee under subsection 3.58.090.A, in whole or in part, in the following  
13 circumstances:

14 1. ~~Whenever Commission fees, if charged, would be disproportionate to the sums~~  
15 ~~available and could cause abandonment for the following types of projects: artworks, projects~~  
16 ~~funded by grants and donations, neighborhood self-help projects undertaken by volunteers and~~  
17 ~~nonprofit organizations, and for small capital improvements.~~

18 2. ~~For Low-income and Special Needs Housing Projects Subject to Design~~  
19 ~~Commission Review. The Commission may require a deposit of its fee before reviewing a~~  
20 ~~project or giving its advice.~~

21 C. ~~The Commission shall charge fees for its review of City departments' capital~~  
22 ~~improvement projects as set forth in subsections 22.900G.080.A through 22.900G.080.D.))~~

1 Section 6. A new Section 3.58.100 is added to the Seattle Municipal Code as follows:

2 **3.58.100 Public Benefits Subcommittee**

3 A. The Commission may convene a Public Benefit Subcommittee to review public  
4 benefit proposals related to petitions for vacations of public rights-of-way and make  
5 recommendations to the full Commission regarding the proposals. The subcommittee will  
6 evaluate petitioner-initiated proposals that include public benefit features that do not require  
7 upgrading the public realm or creating open space, such as: affordable housing, financial  
8 payments to social service agencies, or financial payments to City agencies or other similar  
9 entities that provide job training or other similar programs.

10 B. The subcommittee will be comprised of Commission members, City staff, and  
11 additional members with expertise in community development, low-income housing, workers'  
12 rights, and other areas of relevant expertise not otherwise existing on the Commission. The  
13 Commission will recruit and appoint the additional members, following Commission rulemaking  
14 that establishes the recruitment and appointment process. The subcommittee will not comprise a  
15 quorum of Commission members.

16 C. When appropriate, the subcommittee will hold evening meetings as needed and accept  
17 public comment on the public benefit proposal before making a recommendation to the  
18 Commission.

19 Section 7. Section 22.900G.080 of the Seattle Municipal Code, last amended by  
20 Ordinance 125492, is amended as follows.

21 **22.900G.080 Design Commission fees**

22 ~~((A. City Capital Improvement Projects, as Defined in Section 3.58.020. Design~~  
23 ~~Commission fees shall be assessed at a rate of 0.3 percent of the construction cost for City capital~~

1 improvement projects for which billing will commence on or before December 31, 1998, except  
2 as specified in subsections 22.900G.080.B and 22.900G.080.D. Billing will occur at the time of  
3 contract award by the Department of Finance, who will forward the bills to the Department for  
4 distribution to appropriate City departments. Payment will be made through a fund transfer to the  
5 Department Operating Fund.

6 B. Major City Capital Improvement Projects. Except as specified in subsection  
7 22.900G.080.D, Design Commission fees shall be assessed at a rate of up to 0.3 percent of the  
8 construction cost for major City capital improvement projects (greater than \$10,000,000  
9 construction budget) for which billing will commence on or before December 31, 1998. The fee  
10 shall be set through negotiations with the City Budget Director and the Design Commission.  
11 Billing shall occur in accordance with a schedule agreed upon by the City Budget Director and  
12 the Design Commission.

13 C. 1. For City capital improvement projects, as defined in Section 3.58.020, for which no  
14 billing commenced under subsections 22.900G.080.A or 22.900G.080.B on or before December  
15 31, 1998, and that do not fall within an exception in subsection 22.900G.080.D, the City Budget  
16 Director, the Design Commission, and each affected City department will attempt to agree on  
17 that department's projects that are expected to be assessed by the Design Commission in the  
18 following year. If no agreement is reached by a date established by the City Budget Director, the  
19 City Budget Director will establish the list of such projects. The City Budget Director may  
20 establish the assessable appropriation of a City capital improvement below the actual  
21 appropriation in order that the project not be assessed an unduly high fee relative to the cost of  
22 the anticipated Design Commission review.

1                   2. ~~The City Budget Director will assess a uniform fee of up to one percent of the~~  
2 ~~total of all departments' capital improvement project appropriations for those projects assessable~~  
3 ~~for Design Commission fees. Such fee shall be set so as to be sufficient, when combined with~~  
4 ~~other funding sources, to support the anticipated costs of the Design Commission for the~~  
5 ~~following year, but in no case shall the fee exceed one percent.~~

6                   3. ~~The Director of the Seattle Department of Construction and Inspections shall~~  
7 ~~bill each department in the amount determined by the City Budget Director, and that amount~~  
8 ~~shall be paid by fund transfer to the Department Operating Fund.~~

9                   4. ~~If a capital improvement project's appropriation has been included in a fee~~  
10 ~~assessed under this section, but Design Commission review of that project is delayed into a~~  
11 ~~future year, that appropriation amount shall not be counted again in the calculation of the fee for~~  
12 ~~any future year. If review of a project on which a fee has been assessed under this subsection~~  
13 ~~22.900G.080.C is canceled, or if review commences on a project that, but for timeliness, would~~  
14 ~~have been included but was not included in the calculation of a fee under this subsection~~  
15 ~~22.900G.080.C, the City Budget Director shall adjust the department's total assessable~~  
16 ~~appropriation downwards or upwards, respectively, when establishing the subsequent year's fee.~~

17                   D. ~~Special exceptions.))~~

18                   The Commission will bill non-City ~~((projects))~~ applicants seeking long-term or  
19 permanent use of a right of way through a street, alley, or other public place vacation pursuant to  
20 Chapter 15.62, a skybridge term permit pursuant to Chapter 15.64 or a significant structure  
21 pursuant to Chapter 15.65 at the hourly rate of \$112 an hour per Commissioner for subcommittee  
22 review, or \$791 an hour for full Commission review. Billing will be sent to the Seattle  
23 Department of Transportation for inclusion in the plan review costs charged to the applicant or

1 will be billed directly to the applicant by the Seattle Department of Transportation. For projects  
2 billed through the Seattle Department of Transportation, applicant payments made to the Seattle  
3 Department of Transportation will be transferred from the Transportation Fund to the Office of  
4 Planning and Community Development to support the Commission's work. ((, except that  
5 fees)) Fees may be waived, in whole or in part, at the discretion of the Commission with the  
6 concurrence of the City Budget Director in the following circumstances:

7 1. ~~((Whenever))~~ When Commission fees, if charged, would be disproportionate to  
8 the sums available for the project and could cause abandonment of the project for the following  
9 types of projects: art-works, projects funded by grants and donations, neighborhood self-help  
10 projects undertaken by volunteers and nonprofit organizations, and small public agency capital  
11 improvements;

12 2. For low-income and special needs housing projects subject to ~~((Design))~~  
13 Commission review.

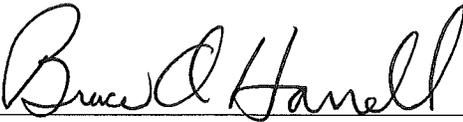
14 ~~((E. Street use permit reviews. Street use permit reviews, which are required before~~  
15 ~~issuance of a street use permit for improvements within the public right of way, will be billed at~~  
16 ~~the hourly rate of \$112 an hour per Commissioner for subcommittee review, or \$794 an hour for~~  
17 ~~full Commission review. Billing will be sent to the Seattle Department of Transportation for~~  
18 ~~inclusion into the plan review costs charged to the applicant, or be billed directly by the~~  
19 ~~Department. For those projects billed through the Seattle Department of Transportation, payment~~  
20 ~~will be made by a fund transfer from the Transportation Fund to the Department Fund from~~  
21 ~~funds paid by the applicant.~~

22 ~~F. Early Master Use Permit stage or projects outside City contract process. For design~~  
23 ~~review at an early Master Use Permit stage or for projects outside The City of Seattle contract~~

1 ~~award process, Design Commission fees will be billed by the Department at an hourly rate of~~  
2 ~~\$112 an hour per Commissioner for subcommittee review, or \$791 an hour for full Commission~~  
3 ~~review.))~~

1 Section 8. 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 21<sup>st</sup> day of May, 2018,  
5 and signed by me in open session in authentication of its passage this 21<sup>st</sup> day of  
6 May, 2018.

7   
\_\_\_\_\_

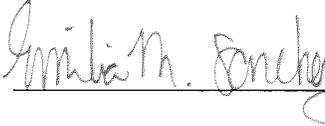
8 President \_\_\_\_\_ of the City Council

9 Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

10 **Returned Unsigned  
by Mayor**  
\_\_\_\_\_

11 Jenny A. Durkan, Mayor

12 Filed by me this 1<sup>st</sup> day of June, 2018.

13   
\_\_\_\_\_

14 for Monica Martinez Simmons, City Clerk

15 (Seal)



# City of Seattle

FILED  
CITY OF SEATTLE  
18 JUN -1 PM 4:27  
CITY CLERK

June 1, 2018

Monica Martinez Simmons  
Seattle City Clerk  
600 4<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I am returning Council Bill 119234. This legislation amends several sections of the Seattle Municipal Code related to the Seattle Design Commission and its role in the City's street vacation process.

Although the street vacation process is governed by the Legislative branch per RCW Chapter 35.79, I want to convey my concern that this legislation may create quasi-legislative and executive authority in an unelected Commission. Moreover, department staff has education and professional experience in the necessary fields and should be the primary resource for the Council in their determination of public benefits.

Since the legislation impacts duties delegated to the legislative branch by state law, I am returning it to you unsigned. By returning this legislation unsigned, I understand that it will become law.

Sincerely,

Jenny A. Durkan  
Mayor of Seattle