

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact/Phone:</b>	<b>CBO Contact/Phone:</b>
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*\* 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**

**Legislation Title:** AN ORDINANCE relating to violations of civil emergency orders; amending Section 10.02.110 of the Seattle Municipal Code to establish enforcement actions for violations of civil emergency orders; adding a new Section 10.02.120 to the Seattle Municipal Code to establish a severability clause to Chapter 10.02; repealing Chapter 12A.26 of the Seattle Municipal Code to consolidate provisions related to civil emergency orders; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

**Summary and background of the Legislation:** Under Chapter 10.02 of the Seattle Municipal Code (SMC), the Mayor is authorized to issue civil emergency orders. Under SMC 10.02.110, the sole method for enforcing violations of a civil emergency order is a criminal penalty that requires a conviction of a misdemeanor before imposing a \$500 fine or imprisonment of no more than 180 days of imprisonment, or both such fine and imprisonment.

This legislation would amend SMC 10.02.110 to (1) authorize a Class 1 civil infraction and private right of action as additional options for enforcing violations of a civil emergency order; and (2) establish the current penalties for a misdemeanor.

#### Class 1 civil infraction

Establishing a civil infraction as enforcement option would provide the Mayor with a civil option for responding to violations of civil emergency orders. Civil infractions would be processed under the procedure established by RCW 7.80 and would subject violators to a maximum penalty of \$250 plus statutory assessments. As specified in each civil emergency order, the Department of Finance and Administrative Services (FAS), the Seattle Police Department (SPD), or the City Attorney's Office (CAO) would review reports of noncompliance with an order and issue notices of infractions. The CAO would represent the City at any contested hearing requested by a defendant. The Seattle Municipal Court (Municipal Court) would facilitate a mitigation conference, contested settlement conference or contested hearing before a magistrate.

#### Private right of action

Establishing a private right of action would provide the public with a civil remedy for violations of civil emergency orders. Upon prevailing, the individual or class bringing the private right of action would be awarded legal or equitable relief, as appropriate to remedy the violation, and reasonable attorney fees.

### Criminal Penalties

Updating the criminal penalties in SMC 10.02.110 would subject persons convicted of a misdemeanor to a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both such fine and imprisonment. The existing penalties in SMC 10.02.110 have not been updated since 1973 and do not reflect the current penalties for a misdemeanor.

Notably, if passed by Council, the proposed amendments to SMC 10.02.110 would provide a legal basis for amending the Mayor's civil emergency order capping restaurant delivery and pick-up commission fees to include a Class 1 civil infraction and a private right of action as additional enforcement actions.

## **2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?** \_\_\_ Yes  x  No

## **3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?** \_\_\_ Yes  x  No

**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?**

The financial impacts of adding civil infractions as an enforcement tool for violations of civil emergency orders would need to be analyzed a case-by-case basis for each order. Generally, implementation of civil infractions would affect up to four departments: FAS, SPD, CAO, and Municipal Court.

If the Mayor's civil emergency order to cap restaurant delivery and pick-up fees is modified to include civil infractions as an enforcement tool, FAS would likely be the sole department to issue notices of infraction. Therefore, the affected departments would include FAS, CAO, and Municipal Court. These departments estimate that enforcing a limited number of civil infractions, such as five cases a month, would not have a financial impact on their resources. If the workload is significantly higher or otherwise exceeds capacity, the City could either (1) require these departments to reprioritize their existing portfolios of work or (2) add resources to support the additional workload during the 2021 budget adoption process.

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

There are no financial costs to the City of not implementing the legislation. However, not implementing the legislation would not provide the Mayor and members of the public with additional tools for enforcing violations of civil emergency orders.

## **4. OTHER IMPLICATIONS**

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

This legislation would not have direct financial impacts on City departments. However, if the Mayor's civil emergency order to cap restaurant delivery and pick-up fees is modified to include civil infractions as an enforcement tool, then FAS, CAO, and Municipal Court would

be affected. These departments estimate that enforcing a limited number of civil infractions would not have a financial impact on department resources.

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

No.

**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?**

No

**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? What is the Language Access plan for any communications to the public?**

This legislation would authorize a civil infraction and a private right of action as options for enforcing civil emergency orders. The race and social justice implications of these enforcement tools would need to be analyzed on a case-by-case basis for each civil emergency order.

If the Mayor's civil emergency order capping restaurant delivery and pick-up commission fees is modified to include these enforcement actions, businesses owned by Black, Indigenous, and People of Color, comprising nearly 48 percent of the accommodation and food services businesses in the Seattle-Tacoma-Bellevue Metropolitan area, would have additional tools for responding to violations of the order.

**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).**

No.

**List attachments/exhibits below:**