Legislation Details (With Text)

File #:	CB 120587 **Version:** 1	**Name:**	CB 120587
Type:	Ordinance (Ord)	**Status:**	Passed
		In control:	City Clerk
On agenda:	6/20/2023		
Final Action:	6/29/2023	**Ord. No.**	Ord 126843
Title:	AN ORDINANCE relating to environmental review; amending Section 25.05.800 of the Seattle Municipal Code to update categorical exemptions for “infill” development consistent with changes to the State Environmental Policy Act.		
Sponsors:	Dan Strauss		
Indexes:			
Attachments:	1. Att 1 - Summary of Environmental Protections, 2. Summary and Fiscal Note, 3. Central Staff Presentation (6/8/2023), 4. Signed Ordinance 126843, 5. Affidavit of Publication		

Date	Ver.	Action By	Action	Result
6/29/2023	1	City Clerk	attested by City Clerk	
6/29/2023	1	Mayor	returned	
6/29/2023	1	Mayor	Signed	
6/22/2023	1	City Clerk	submitted for Mayor's signature	
6/20/2023	1	City Council	passed	Pass
6/14/2023	1	Land Use Committee	pass	Pass
6/8/2023	1	Land Use Committee	discussed	
5/30/2023	1	City Council	referred	
5/18/2023	1	Council President's Office	sent for review	
5/17/2023	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to environmental review; amending Section 25.05.800 of the Seattle Municipal Code to update categorical exemptions for “infill” development consistent with changes to the State Environmental Policy Act.

WHEREAS, in 2003, regulations governing the State Environmental Policy Act (SEPA) categorical exemptions for infill development was enacted by the state of Washington to encourage growth consistent with the Growth Management Act (chapter 36.70A RCW); and

WHEREAS, RCW 43.21C.229 authorizes cities planning under RCW 36.70A.040 to establish categorical exemptions from the State Environmental Policy Act (RCW 43.21C) that differ from the exemptions in RCW 43.21.C.110(1)(a); and

WHEREAS, under RCW 43.21C.229, the infill development categorical exemptions are allowed to be applied by local governments within an urban growth area, when the environmental impacts of such exemptions have been considered, when the City's comprehensive plan has received environmental review in the form of an environmental impact statement, and where current density and intensity for growth areas are lower than called for in the City's comprehensive plan; and

WHEREAS, in 2016, pursuant to the provisions of RCW 43.21C.229, The City of Seattle adopted infill development exemptions for urban centers that were higher than the categorical exemptions that the Washington State Department of Ecology (Ecology) had promulgated pursuant to RCW 43.21C.110; and

WHEREAS, in 2022, Ecology adopted new and higher infill development exemptions by rule pursuant to RCW 43.21C.110 for urban areas, and The City of Seattle wishes to recognize those limits in its SEPA regulations; and

WHEREAS, development in Downtown Seattle has exceeded the growth estimates adopted for the Urban Center, and the current exemptions in Seattle's regulations are unreasonably low; and

WHEREAS, the City has the opportunity to update its regulations for Downtown Seattle to make sure that development in the Downtown Urban Center does not need to undertake lengthy and costly environmental review in cases where other regulations will appropriately mitigate impacts of that development; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds and declares:

A. Infill development categorical exemptions are authorized by the State, and have been effective as a

factor to encourage new development to locate within urban areas consistent with the City's Comprehensive Plan.

B. Environmental analysis, protection, and mitigation for impacts to elements of the environment are adequately addressed through existing codes and regulations as demonstrated in Attachment 1 to this ordinance.

C. Seattle Municipal Code subsection 25.05.800.B.7 requires that buildings that may have historical significance be reviewed by the City's Department of Neighborhoods whether or not proposed development exceeds SEPA thresholds set forth elsewhere in Section 25.05.800.

Section 2. Section 25.05.800 of the Seattle Municipal Code, last amended by Ordinance 126509, is amended as follows:

25.05.800 Categorical exemptions

The proposed actions contained in this Section 25.05.800 are categorically exempt from threshold determination and environmental impact statement requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

A. Minor new construction; flexible thresholds

1. The exemptions in this subsection 25.05.800.A apply to all licenses required to undertake the construction in question. To be exempt under this Section 25.05.800, the project shall be equal to or smaller than the exempt level. For a specific proposal, the exempt level in subsection 25.05.800.A.2 shall control. If the proposal is located in more than one city or county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. The exemptions in this subsection 25.05.800.A apply except when the project:

a. Is undertaken wholly or partly on lands covered by water;

b. Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

c. Requires a license governing emissions to air that is not exempt under RCW

43.21C.0381 or WAC 197-11-800(7) or 197-11-800(8); or

d. Requires a land use decision that is not exempt under subsection 25.05.800.F.

2. The following types of construction are exempt, except when undertaken wholly or partly on lands covered by water:

a. The construction or location of residential or mixed-use development containing no more than the number of dwelling units identified in Table A for 25.05.800 ((~~below~~)):

Table A for 25.05.800 Exemptions for residential uses			
Zone	**Number of exempt dwelling units**		
	Outside urban centers and urban villages	**Within urban centers and urban villages where growth estimates have not been exceeded**	**Within urban centers and urban villages where growth estimates have been exceeded**
NR and RSL	4	4	4
LR1	4	200[1]	20
LR2	6	200[1]	20
LR3	8	200[1]	20
NC1, NC2, NC3, C1, and C2	4	200[1]	20
MR, HR, and Seattle Mixed zones	20	200[1]	20
MPC-YT	NA	30[1]	20
Downtown zones	NA	250[1]	((~~20~~)) <u>200</u>
Industrial zones	4	4	4
Footnotes to Table A for 25.05.800 NA = not applicable Urban centers and urban villages are identified in the Seattle Comprehensive Plan [1] Pursuant to RCW 43.21C.229, new residential development or the residential portion of new mixed-use development located in an urban center or in an urban village is categorically exempt from the State Environmental Policy Act, unless the Department has determined that residential growth within the urban center or village has exceeded exemption limits for the center that the Department has established pursuant to subsection 25.05.800.A.2.i.			

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet or less, and to be used only by the property owner or the property owner's agent in the conduct of farming the property. This exemption does not apply to feed lots;

c. The construction of office, school, commercial, recreational, service, or storage buildings, containing no more than the gross floor area listed in Table B for 25.05.800 ((~~below~~)):

Table B for 25.05.800 Exemptions for non-residential uses			
Zone	**Exempt area of use (square feet of gross floor area)**		
	Outside urban centers and hub urban villages	**Within urban centers and hub urban villages where growth estimates have not been exceeded**	**Within urban centers and hub urban villages where growth estimates have been exceeded**
NR, RSL, and LR1	4,000	4,000	4,000
LR2 and LR3	4,000	12,000[1] or 30,000[2]	12,000
MR, HR, NC1, NC2, and NC3	4,000	12,000[1] or 30,000[2]	12,000
C1, C2, and Seattle Mixed zones	12,000	12,000[1] or 30,000[2]	12,000
Industrial zones	12,000	12,000	12,000
MPC-YT	NA	12,000	12,000
Downtown zones	NA	((~~12,000[1] or~~)) 30,000((~~[2]~~))	((~~12,000~~)) 30,000
Footnotes to Table B for 25.05.800 NA = not applicable Urban centers and urban villages are identified in the Seattle Comprehensive Plan [1] New non-residential development that is not part of a mixed-use development and that does not exceed 12,000 square feet in size is categorically exempt from the State Environmental Policy Act (SEPA). [2] Pursuant to RCW 43.21C.229, new non-residential development that does not exceed 30,000 square feet and that is part of a mixed-use development located in an urban center or in a hub urban village is categorically exempt from SEPA, unless the Department has determined that employment growth within the urban center or village has exceeded exemption limits for the center that the Department has established pursuant to subsection 25.05.800.A.2.i.			

d. The construction of a parking lot designed for 40 or fewer automobiles, as well as the addition of spaces to existing lots up to a total of 40 spaces;

e. Any fill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any excavation, fill, or grading necessary for an exempt project in subsections 25.05.800.A.2.a, 25.05.800.A.2.b, 25.05.800.A.2.c, or 25.05.800.A.2.d shall be exempt;

f. Mixed-use construction, including but not limited to projects combining residential and commercial uses, is exempt if each use, if considered separately, is exempt under the criteria of subsections 25.05.800.A.2.a through 25.05.800.A.2.d, unless the uses in combination may have a probable significant

adverse environmental impact in the judgment of an agency with jurisdiction (see subsection 25.05.305.A.2.b);

g. In zones not specifically identified in this subsection 25.05.800.A, the standards for the most similar zone addressed by this subsection 25.05.800.A apply;

h. For the purposes of this subsection 25.05.800.A, "mixed-use development" means development having two or more principal uses, one of which is a residential use comprising 50 percent or more of the gross floor area;

i. To implement the requirements of Table A for 25.05.800 and Table B for 25.05.800, the Director shall establish implementation guidance by rule for how growth is measured against exemption limits and how changes to thresholds will occur if exemption limits are reached. The exemption limits shall consist of the growth estimates established in the Comprehensive Plan for a given area, minus a "cushion" of ten percent to assure that development does not exceed growth estimates without SEPA review; and

j. The Director shall monitor residential and employment growth and periodically publish a determination of growth for each urban center and urban village. Residential growth shall include, but need not be limited to, net new units that have been built and net new units in projects that have received a building permit but have not received a certificate of occupancy. Per implementation guidance established by rule, if the Director determines that exemption limits have been reached for an urban center or urban village subsequent development will be subject to the lower thresholds as set forth in Table A for 25.05.800 and Table B for 25.05.800.

* * *

Section 3. 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 _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

_____

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

_____

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

_____

Anne Frantilla, Interim City Clerk

(Seal)

Attachments:
Attachment 1 - Summary of environmental protections in other codes and rules for each of SEPA's elements of the environment