



**ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**SEPA Threshold Determination
for
Interim Coronavirus Home Occupation Regulations**

Project Proponent: City of Seattle

BACKGROUND AND PROPOSAL

Adoption of Council Bill 120001 as Ordinance 126293 is a non-project action that updated and amended various provisions of the Land Use Code on an interim basis. It addressed temporarily reduced requirements and conditions for home occupation uses, as an interim response to economic and operational difficulties caused by COVID-19 and related emergency proclamations.

The ordinance has temporarily reduced requirements and conditions in Seattle's Land Use Code addressing the operation of home occupation businesses. This includes:

1. Eliminate the requirement that customer visits are by appointment only;
2. Eliminate restrictions on the visibility of the home occupation from the exterior of a structure and limits on outdoor activities;
3. Eliminate a limit of two employees who are not residents;
4. Eliminate a prohibition, except for automotive retail sales and services uses, on substantial increases in on-street parking congestion or traffic in the vicinity.
5. Allow a home occupation to occupy an otherwise required parking space for the home occupation;
6. Allow one non-illuminated sign up to 720 square inches bearing the name of the business;
7. Prohibit drive-in businesses; and
8. Establish that changes or modifications do not establish a non-conformity and that the property must be returned to conformity after the ordinance is no longer in effect.

Public Comment

The changes to the Land Use Code required City Council approval. Opportunity for public comment occurred during Council meetings and hearings. The ordinance and this environmental review and SEPA Determination will be available online for public comments.

ANALYSIS – OVERVIEW

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The following report describes the analysis conducted to determine that the ordinance is not likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- the language of the proposed amendments and related contents as described above;
- the information contained in the *SEPA checklist* (dated October 14, 2021), including annotations made by SDCI staff;
- review of materials prepared as background information about the code amendments, prepared by City staff; and
- the experience of the SDCI analyst in reviewing similar documents and actions.

ELEMENTS OF THE ENVIRONMENT

Short-Term and Long-Term Impacts

A. Natural Environment

Earth, Water, Water Quality, Plants/Animals/Fisheries/Marine Life

The ordinance is not expected to generate significant adverse impacts for these natural environmental elements, at a non-project level or in its potential for indirect or cumulative impacts related to future development influenced by the ordinance.

Seattle is mostly urbanized in its development patterns, but it also has retained greenbelts, hillsides, stream, river, bay, and lake environments with diverse kinds of plant, animal, fish and marine habitats. This includes many shoreline edges hosting birds, fish, and other marine life.

- Wildlife on land largely includes those species habituated to urban areas and fragmented vegetated areas in the city, with common types including squirrels, opossum, coyotes, and a variety of bird species including eagles. Threatened, protected, or endangered species that could be present near future development include heron, and salmon in locations downstream via natural drainages.
- Seattle has numerous soil types, including mineral soils dominated by clay, silt, or sand, as well as organic soils such as peats and mucks. No agricultural soils or prime farmland are located within the Seattle corporate limits. As a densely urbanized area, much of Seattle's native soils have been extensively altered by filling, grading, and other activity.
- The Seattle area is known to be in an active seismic area, as is the entire Puget Sound region.
- Seattle's surface waters include marine areas (Puget Sound), rivers, lakes, and creeks. Rivers and creeks include but are not limited to the Duwamish waterway, Longfellow,

Fauntleroy, Taylors, Thornton, and Pipers Creek. Freshwater lakes include the Lake Union/Ship Canal, Green, Haller, and Bitter Lakes and numerous ponds and wetlands.

This non-project ordinance will result in no direct adverse or significant adverse impacts to earth, water, plants, animals, fish, or marine life environmental elements because it does not directly propose development of new buildings. Also, environmentally sensitive resources of this kind (such as endangered species habitat, wetlands, floodplains, riparian corridors) are relatively scarce across most of Seattle's urban residential areas. Regarding indirect impacts, any net difference in home occupation uses generated by the ordinance is likely to create little or no potential for significant adverse impacts on these kinds of resources. Also, for environmentally critical areas such as steep slope and landslide hazards, the ordinance would not eliminate existing City regulatory protections, which would help avoid impacts to those resources.

Air Quality, Noise, Energy, Natural Resources Depletion, Environmental Health

This adopted ordinance will not result in direct adverse or significant adverse impacts to these environmental elements because it does not directly propose development. Similarly, this analysis identifies no adverse or significant adverse indirect or cumulative environmental impacts of these kinds.

Air Quality, Toxic/Hazardous Substances, Noise

The adopted ordinance will not directly, indirectly, or cumulatively be likely to generate significant increases in discharges or emissions of toxic or hazardous substances, to the air or water, or significantly increase the production of noise. Rather, it provides more flexibility in code requirements to accommodate more business activity in home occupations in residential uses throughout the city. This is an interim allowance responding to COVID-19 related emergency conditions. Existing home occupation businesses widely vary but include types such as child care, self-employed professional or administrative services, and ranges of production and physically-related business activities such as food production, equipment or vehicle repair, craft work and similar activities. These existing uses include some that already generate noise and/or use of toxic substances, and air emissions. Under existing regulations, the spillover impacts must be avoided or mitigated if experienced, subject to enforcement.

The ordinance gives a slightly broader accommodation for expansion of home-occupation activities on a property, such as using space in existing parking spaces, or making interior or exterior alterations, sometimes in publicly-visible places, to accommodate more or different activities. Outcomes conceivably could include more business activity of a physical nature, more employee-related activities on a property, and comings and goings of customers, including more parking on local streets by employees or customers. In a worst-case, these incremental increases could create additional noise, which could be annoyances regardless of their specific level of noise increase. But despite the interim regulations, the existing code's regulations against spillover nuisance impacts would remain in place, against noise, odor, light, glare, dust and other similar impacts. This is also true for City noise limits in Chapter 25.08. Nuisance complaints on home occupations could still occur and violations would be enforced. Given this, there is not a substantial potential for significantly higher noise levels related to the ordinance that might exceed permissible noise levels or other similar nuisance spillover impacts.

Energy and Natural Resource Depletion

This ordinance will not directly, indirectly, or cumulatively generate negative impacts on energy or natural resource depletion. While the ordinance could lead to temporarily increased levels of activity in home occupations, any net difference experienced at individual properties or as a whole are likely to be negligible in comparison to urban neighborhood or city energy consumption patterns.

B. Built Environment

Land and Shoreline Use, Height/Bulk/Scale, Housing, Relationship to Plans and Policies

The ordinance is not likely to generate significant adverse impacts on land use and shoreline use patterns or potential for land use incompatibilities, directly, indirectly, or cumulatively.

The ordinance will accommodate interior and exterior alterations to buildings and properties, to better accommodate home occupations and potential increases in their operations or activities. These could include relatively minor changes such as temporarily using a parking space for another activity, or adding equipment in a shed, or other physical adjustments. Some of these changes in use or activity, especially outdoor activity, might be visible from off-site locations. Some building alterations could also become newly visible, and some might not meet the amended development standards that applied prior to the interim regulations.

However, such alterations and activities would still be held to nuisance control regulations addressing spillover impacts such as light, glare, noise, odor, dust, and similar impacts. These requirements and enforcement of complaints would avoid or reduce nuisances that might occur. Given this, potential adverse land use-related compatibility impacts would be avoided or minimized. Also, the proposed ability to use a site in an expanded or more flexible ways, including ways that are non-conforming according to existing City regulations, is only temporarily allowed for one year. After that, non-conforming features or operations would need to be discontinued and removed, as needed, to comply with those City regulations.

Housing

The ordinance has only a limited potential to indirectly impact the presence of existing housing, because interim operation or expansion of home occupation uses conceivably could lead to temporary conversion of living spaces that might include accessory dwelling units. However, given the temporary nature of the proposed regulatory flexibility, the ordinance will not likely induce permanent displacement of housing units or demolition of buildings containing housing. This determination therefore identifies no probable significant adverse housing impacts.

Relationship to Plans and Policies

The ordinance supports interim land use flexibility measures to help restore healthier business and employment activity levels that will contribute to restoration of economic vibrancy, greater public safety, and other aesthetic and social benefits. These are objectives aligning with Comprehensive Plan goals and principles relevant to the city, such as:

Goal GS G1 *Keep Seattle as a city of unique, vibrant, and livable urban neighborhoods, with concentrations of development where all residents can have access to employment, transit, and retail services that can meet their daily needs.*

Goal LU G9 *Create and maintain successful commercial/mixed-use areas that provide focus for the surrounding neighborhood and that encourage new businesses, provide stability and expansion opportunities for existing businesses, and promote neighborhood vitality, while also accommodating residential development in livable environments.*

Historic Preservation and Cultural Preservation

Seattle contains numerous landmarks, properties, and districts that are listed on, or proposed for, national, state, and local preservation registers. In addition, while Seattle today comprises a highly urbanized and developed area, it is also an area with potential for the presence of cultural artifacts from indigenous peoples.

The ordinance is not likely to affect whether historic sites or structures might be redeveloped. Existing historic sites or structures are effectively protected by current regulations and so they may only be demolished in rare circumstances that occur with consent of the City. The ordinance analyzed in this environmental determination does not contain provisions that would increase the probability of future development of new buildings, but rather accommodates the possibility of increased pursuit of home occupation activities during a time of unprecedented disruption of regular working patterns and economic activity patterns. Therefore, there is minimal potential for adverse historic site or cultural resource impacts with implementation of the ordinance.

Most cultural sites and resources at risk from future development in Seattle are in unknown locations due to their being buried under soils, although certain vicinities such as near-shore areas are known to have greater potential for presence of such resources given past activities of indigenous peoples. The ordinance does not include provisions that would alter the likelihood of future development occurring in any given location or type of vicinity such as near-shore areas. And the ordinance does not include provisions that would be likely to increase total site clearing and grading of future permanent development.

Also, implementation of the ordinance will not affect the strength of the City's regulatory protection of cultural sites or resources if they are discovered during future development, which is addressed by other State and local regulations, policies, and practices. With or without the ordinance, such processes are mandated to stop construction, assess the resources, and take appropriate next steps for the cultural resources' protection or preservation.

Transportation, Parking, Public Services and Utilities

The ordinance is not likely to generate significant direct, indirect, or cumulative adverse impacts on transportation, parking, public services, or utilities.

Transportation and Parking

There are no probable significant adverse traffic and parking related impacts of the ordinance, because the interim regulations will likely generate only minor-to-modest levels of changes in any given location. This characterization relates both to the relatively infrequent occurrence of home occupations in residential areas, and the relatively limited degree of net difference in activity levels and features that might be possible if a home occupation made use of the interim regulations. Where such uses do make full use of the flexibility for home occupations, it is possible that increases in traffic volumes, turning movements at intersections, and parking on local streets could occur. However, as noted in the ordinance, a prohibition on drive-in businesses

is in place, and increases in traffic and parking caused by an automobile service business home occupation is not a permissible kind of adverse impact.

Public Services

Additional employees and/or minor-to-modest increases in activity levels at home occupation uses in existing buildings and properties could generate additional call volumes by fire/emergency and police service providers, like other typical residential or non-residential uses would. However, this difference is likely to be slight or minor in level of magnitude due to the relatively infrequent occurrence of these uses in the environment and limited degree of net difference in activity levels and features that might occur.

Utilities

This ordinance will not directly, indirectly, or cumulatively create negative impacts on utilities, due to a lack of probable significant increase in utility service demands in any given area. While utility demand increases might be conceivable due to an expansion of home occupation use, they would likely be a rare occurrence, and would tend to be temporary in nature, given the terms of the ordinance. As such, the ordinance is not likely to lead to the need for utility service or infrastructure improvements.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: _____/s/_____ Date: _____ November 1, 2021
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