

SUMMARY and FISCAL NOTE

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Office of Planning & Community Development (OPCD), Office of Housing (OH), Seattle Department of Construction & Inspections (SDCI)	Laura Hewitt Walker/4-0429	Robert Feldstein/6-1320

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to land use and zoning, expressing City Council's intent for implementation of Chapter 23.58B; amending Sections 23.41.012, 23.58B.010, 23.58B.015, 23.58B.020, 23.58B.025, 23.58B.030, 23.58B.040, 23.58B.050, 23.58B.060, 23.76.006, and 25.05.675 of the Seattle Municipal Code; and repealing Section 23.58B.035 of the Seattle Municipal Code.

Summary and background of the Legislation: This Council Bill amends Chapter 23.58B of the Seattle Municipal Code, which provides a framework for requiring affordable housing for commercial development (commonly referred to as mandatory housing affordability for commercial development, or MHA-C). The requirements apply to development that includes more than 4,000 square feet of gross floor area in commercial use. [Ordinance 124895](#), adopted in November 2015, established the new Chapter 23.58B (“Affordable housing impact mitigation program”) of the land use code. MHA-C is implemented with adoption of increased commercial development capacity (e.g. height, FAR, floor plate size) through either legislative action or contract rezones. The purpose of MHA-C is to help mitigate a portion of the impacts of commercial development on the need for affordable housing.

This Council Bill by itself does not implement MHA-C in any zone or area. Instead it amends a regulatory framework that is expected to be implemented in 2016 and 2017 with adoption of zone changes providing development capacity increases. The associated up-zones are a key strategy outlined in the Mayor’s Action Plan to Address Seattle’s Affordability Crisis, released in July 2015 in response to the Housing Affordability and Livability Agenda (HALA) Advisory Committee recommendations.

This bill amends MHA-C primarily to improve consistency with Chapter 23.58C “Mandatory Housing Affordability for Residential Development” or MHA-R, which was approved by [Ordinance 125108 \(MHA-R\)](#) in August 2016. These changes clarify regulatory requirements, add new standards for the performance option, and make other technical edits.

2. CAPITAL IMPROVEMENT PROGRAM

_____ This legislation creates, funds, or amends a CIP Project.

3. SUMMARY OF FINANCIAL IMPLICATIONS

X **This legislation does not have direct financial implications.**

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

The framework legislation will have fiscal impacts, but not until actual implementation of MHA-C, which will happen as additional development capacity is provided through separate zoning legislation. The Office of Housing (OH) and the Seattle Department of Construction and Inspections (SDCI) both anticipate a need for additional staff to administer the two MHA programs (review of permit applications, expenditure of revenue, and long-term oversight of investments). Permit review of each development subject to Chapter 23.58B will involve a calculation of the number of units of affordable housing or in-lieu payments to be provided and a review of any requests for modification of such requirements and/or modification of development standards according to the provisions of the legislation.

Permit review by SDCI may include requests for modification of payment and performance requirements (1) in zones where height limits exceed 85 feet but applicable development standards prohibit the development from exceeding 85 feet, (2) the mitigation exceeds the amount needed to mitigate the actual demand for affordable housing created by the commercial development; and (3) the required mitigation causes severe economic impact. The second two modifications would require a discretionary review (special exception), which involves review of evidence brought forth by the applicant, and the potential for appeal.

SDCI also anticipates impacts related to information technology and permit tracking. The need for tracking affordable housing and other public benefit features provided through incentive zoning, alley vacations, and development agreements has increased in recent years. This MHA-C legislation highlights the need for a record tracking system for all in-lieu payments received and any units of affordable housing provided on- or off-site. SDCI will also need to – in cases when the performance option is used – track completion of key permit milestones related to the housing agreement and, when applicable, developers' agreement and letter of credit requirements, all as reviewed and approved by the Office of Housing. A tracking system is currently planned to be designed and implemented in SDCI's permit database in 2017 and 2018. MHA requirements will also increase the amount of SDCI staff time needed for permit reviews.

All in-lieu payments for affordable housing from MHA-C by developers will be deposited directly to OH and used to support the development of rental and ownership affordable housing in the city of Seattle. General administration of cash contributions made by developers electing the payment option will impact OH finance staff, who are responsible for administering the receipt, proper usage, and tracking of funds. Expenditure of revenue will entail soliciting and underwriting affordable housing proposals, preparation and review of legal documents, closing and disbursement of loans in coordination with other investors and lenders, monitoring of construction progress, and general oversight of projects to ensure consistency with funding policies and procedures such as payment of prevailing wages. Long-term impacts include

ongoing monitoring to ensure affordable housing investments are maintained for the required affordability term (e.g. annual compliance reviews, physical inspections, tenant file reviews, and technical assistance to property owners).

General administration related to affordable housing provided through the performance option, including reviewing project plans for comparable unit distribution, reviewing affirmative marketing plans, and drafting and executing required agreements and security requirements (e.g. housing agreement and, when applicable, developers' agreement and letter of credit) will impact OH staff. OH will also incur costs for long-term monitoring of affordable housing provided by developers through the performance option.

For administration of the payment option-related activities described above, consistent with incentive zoning, OH will utilize a portion of cash contributions for program administration. The costs of administration of performance option-related activities will be paid for by a \$150 annual fee per affordable unit provided on- or off-site, charged to the rental property owner. This amount will cover the monitoring costs. (All affordable housing provided through the MHA-C performance option must be renter-occupied.)

OH anticipates the need to supplement its data systems to provide for more substantial management and compliance functions. The scope and cost of such systems will depend in part on SDCI's final implementation of Accela.

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

If the framework legislation is not implemented affordable housing dedicated for households earning 60% of area median income (AMI) or less will not be provided as contemplated.

c) Does this legislation affect any departments besides the originating department?

Fiscal impacts, described herein, are primarily on the Office of Housing (OH) and Seattle Department of Construction and Inspections (SDCI). Other departments that may be impacted are the Office of Civil Rights (OCR) and, during the implementation phase, the Office of Planning & Community Development (OPCD), the Department of Neighborhoods (DON), and the Law Department (LAW).

d) Is a public hearing required for this legislation?

Yes. A public hearing is tentatively scheduled for the week of November 14, 2016.

e) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Publication is required in the Daily Journal of Commerce.

f) Does this legislation affect a piece of property?

MHA-C requirements will apply in zones where commercial development capacity is increased through legislative or contract rezones (e.g. Downtown, Seattle Mixed, commercial, and Industrial Commercial zones throughout the city).

g) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged

communities?

MHA is a critical step to furthering City goals for racial and social justice. MHA-C will go into effect in zones where commercial development capacity is increased. The affordable housing that will be created will serve households with incomes no higher than 60% AMI.

The Office of Housing (OH) has a 30-year track record of leveraging payment dollars with other sources to build affordable housing in neighborhoods throughout Seattle, using a lens of equity. OH will invest MHA funds strategically in long-term affordable housing developments across the city. When determining the location of affordable housing funded with MHA cash contributions, the City will consider the following factors:

1. Affirmatively furthering fair housing choice;
2. Locating within an urban center or urban village;
3. Locating in proximity to frequent bus service or current or planned light rail or street car stops;
4. Furthering City policies to promote economic opportunity and community development and addressing the needs of communities vulnerable to displacement; and
5. Locating near developments that generate cash contributions.

Consistent with the locational criteria for expenditure of MHA payment dollars, OH's existing Housing Funding Policies' location criteria for affordable housing investments emphasizes housing choice, access to opportunity and community development investments, and preventing displacement. OH will encourage affordable housing locations that afford low-income residents the greatest access to jobs, quality education, parks and open space, and services. Access to transit is a priority, since transportation costs are second only to housing costs for a majority of low-income households, many of whom do not own a car. Over half of the households served by providers of City-funded low-income housing are households of color. MHA enables the City to strategically locate affordable housing in neighborhoods to serve lower income households where investments clearly support the City's RSJI principles.

h) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.

This legislation does not include a new initiative or major programmatic expansion. This bill amends MHA-C, as adopted by Ordinance 124895, to clarify regulatory requirements, add new standards for performance, and make other technical edits, primarily with the goal of improving consistency with MHA-R (adopted in August 2016). The long-term measurable goals for MHA-C are unchanged.

i) Other Issues: None.

List attachments below: None.