

November 27, 2023

MEMORANDUM

To: Land Use and Neighborhood Committee
From: Ketil Freeman, Analyst
Subject: Council Bill 120674 – Master Use Permit Extensions

On November 29, 2023, the Land Use Committee (Committee) will have an initial briefing on [Council Bill \(CB\) 120674](#), which would extend the life of Master Use Permits approved for issuance from March 1, 2020, to December 31, 2026, from three to six years.

This memo: (1) provides some background information on regulations for Master Use Permit and building permit vesting, duration, expiration, and renewal; (2) describes what CB 120674 would do; and (3) identifies preliminary issues.

Background

To ensure that new development meets the most current land use and construction regulations, permits issued for development have limited lives and, although subject to renewal, can expire if construction does not occur.

Most Master Use Permits (MUPs), which are land use approvals, expire three years from the date approved for issuance.¹ MUPs may be renewed for an additional two years provided they conform with current regulations at the time of renewal.² Issuance of, or submittal of a complete application for, a building permit extends the life of a MUP for the life of the building permit.³ For most projects, a MUP alone does not constitute permission to build. A developer must also obtain a building permit.

Building permits expire 18 months after issuance.⁴ But, they can be renewed if (1) the MUP approval, if any, has not expired and (2) they comply with the most current Building, Mechanical, Fuel, Gas, Energy, Stormwater, Side Sewer, and Grading codes.⁵ The Seattle Department of Construction and Inspections (SDCI) can waive the requirement to comply with the most recent technical codes if work authorized by the permit is delayed by “litigation, appeals, strikes or other extraordinary circumstances... beyond the permit holder’s control.” Such waivers are uncommon.

¹ [Seattle Municipal Code \(SMC\) Section 23.76.029](#).

² [SMC Section 23.76.032.A](#).

³ [SMC Section 23.76.030](#).

⁴ [2018 Seattle Building Code \(SBC\) Section 106.9](#).

⁵ [2018 SBC Section 106.10](#). Compliance with the most recent construction codes is required for renewals made more than 18 months after the date for compliance with the most recent code update cycle.

What CB 120674 Would Do

CB 120674 would amend the Land Use Code (Seattle Municipal Code Title 23) to extend the life of active MUP applications, including those with associated building permits, from three to six years. Qualifying MUPs include those ready for issuance by March 1, 2020, and include current and future applications that will be ready for issuance by December 31, 2026. The extension would also apply to the first phase of Major Phased Developments or Planned Community Developments, which are typically large, multi-building development proposals. Applications that are eligible for the extension would not be able to renew their MUPs. The extension would not apply to temporary use permits, shoreline permits, variances, and subdivisions.

The proposed MUP extensions will allow projects to remain vested longer to land use regulations applicable at the time the MUP vested, meaning that those projects would not be subject to more restrictive land use regulations that the City may identify in the future.

Not including future applications, SDCI estimates the proposed extension would apply to approximately 200 projects with issued MUP decisions and approximately 150 projects that are under review. In 2009 in response to the Great Recession, the City passed [Ordinance 123072](#), which similarly extended the life of MUPs for projects approved for issuance from June 1, 2006, to December 31, 2012.

Preliminary Issue Identification

The proposal would mitigate some hardship for developers associated with post-pandemic changes to real estate markets including increases in interest rates. However, mitigation could come at a cost to the City, including reduced purchasing power of payments made through the Mandatory Housing Affordability (MHA) program and foregone opportunities for future land use regulations identified as being necessary for the public health, safety, and welfare to have as full of an effect. Those issues are discussed below:

MHA Purchasing Power

Projects subject to MHA either provide affordable units on-site or make an in-lieu payment, which is used to fund low-income housing development. A project vests to the payment amount with MUP vesting and makes a payment to the City at building permit issuance. For projects subject to Design Review, which would be the MUP component for the majority of projects that would benefit from the proposal, vesting occurs at early design guidance for most projects.

Early design guidance can occur between 15 months to two years prior to MUP issuance.⁶ MHA payments are adjusted annually on March 1st based on the Consumer Price Index change of the prior calendar year. SDCI currently adjusts MHA payment amounts to current, inflation-adjusted requirements when an applicant renews a MUP. Extending the lives of MUPs subject to MHA will further erode the purchasing power of MHA payments by allowing older projects to maintain a vested right to payment amounts that have not been adjusted for inflation.

⁶ [Permit Timelines Summary Report, at p.2. SDCI. January 2023.](#)

SDCI estimates that the proposal could result in forgone MHA revenue of between \$3.5 to \$5 million from projects that were vested to development standards prior to MHA and would be eligible for extended vesting and reduced MHA payments of between 3 to 5 percent annually for other current and future projects. The Council could consider amendments to the bill to modify MHA payment provisions.

Future Land Use Regulation

Extended vesting would allow current and future MUP holders to lock in land use regulations in place at the time their MUPs vest. Consequently, on a rolling basis as codes are updated, any future regulatory efforts by the City to address public health, safety, and welfare through land use policy and regulation would only apply to some new projects.

The SDCI Director's Report indicates that the proposal is based on the recognition that "national and regional economic conditions lead to uncertainties that may affect development project viability to proceed," and pegs the start date for extended vesting from March 1, 2020, the start of the Covid civil emergency. Mayor Harrell ended the Covid civil emergency on October 31, 2022, when the State ended its civil emergency.

Since March 17, 2022, when the Federal Reserve began raising interest rates to address Covid-related inflation, applicants have known that they would be in an environment of interest rate increases. The Council could consider amendments to the bill to modify the period during which MUPs would be eligible for an automatic extension.

Next Steps

The Committee will have an initial briefing on CB 120674 on November 29, 2023. The Committee will hold a public hearing and may vote on the bill at a special meeting scheduled for December 8, 2023.

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst