



Seattle City Council
 Central Staff – Memorandum

Date: October 2, 2015
To: Select Committee on Housing Affordability
From: Ketil Freeman, Council Central Staff
Subject: Amendments to Council Bill 118498, Affordable Housing Impact Mitigation Program for Commercial Development, and Resolution 31612, Intent to Implement a Mandatory Inclusionary Housing for Residential Development

This memorandum sets out amendments sponsored by Councilmember Licata to Council Bill (CB) 118498, which establishes the framework for the Affordable Housing Impact Mitigation Program for Commercial Development, also known as Mandatory Housing Affordability (MHA) – Commercial, and Resolution 31612, which sets out the Council’s intent and minimum expectations for implementing a mandatory inclusionary housing program for residential development, also known as MHA – Residential. This memorandum supplements the memorandum dated September 16, 2015

Collectively, these two programs are sometimes referred to as the “Grand Bargain.” Both are recommended by HALA and the Mayor. Generally, both programs would require that new development provide affordable units or make a payment in-lieu of providing those units, in exchange for increased height or density. Together both are intended to produce 6,000 rent and income restricted units over a ten year period.

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Amendment	Language
<p>1. Amend CB 118498 to establish that the program apply to non-residential development in South Lake Union and Downtown by the end of the third quarter 2016 and make a corresponding change to proposed SEPA policies in section 4.</p> <p><i>Discussion:</i> The “Grand Bargain” makes implementation of the affordable housing impact mitigation program for commercial development contingent on prescribed future increases in height or density. Those increases are anticipated to be ripe for Council action by the end of the third quarter, 2016. The proposed amendment would make the program effective in those areas whether or not height or density increases are granted.</p>	<p>Section 1. A new Chapter 23.58B is added to Division 2, Authorized Uses and Development Standards, within Subtitle III, Land Use Regulations, of Title 23 of the Seattle Municipal Code as follows:</p> <p>Chapter 23.58B Affordable Housing Impact Mitigation Program for Commercial Development</p> <p style="text-align: center;">***</p> <p>23.58B.010 Intent for implementation</p> <p>A. Application of this Chapter 23.58B</p> <p>1. The provisions of this Chapter 23.58B apply in areas for which the provisions of the zone specifically refer to this Chapter 23.58B, <u>in the Downtown and South Lake Union Urban Centers after September 30, 2016, if reference has not earlier been made to this Chapter 23.58B in the provisions of zones for which cash contribution and performance requirements are set forth in Table A for Section 23.58B.040 and Table A for Section 23.58B.050,</u> or through the terms of a contract rezone in accordance with Section 23.34.004. <u>Except in the Downtown and South Lake Union Urban Centers where, after September 30, 2016, the provisions of this Chapter would apply even without increasing development capacity,</u> The Council intends that references to this Chapter 23.58B be made in the provisions of zones in conjunction with:</p> <p>a. Land Use Code amendments increasing commercial development capacity in the zone through increases in allowable FAR and/or height or other measures;</p>

b. Land Use Map amendments increasing commercial development capacity in an area; or

c. A combination of Land Use Code and Land Use Map amendments increasing commercial development capacity in an area.

3. The Council recognizes that factors outside of Council control, such as appeals of environmental determinations made pursuant to the State Environmental Policy Act, can delay or forestall submission of legislation or Council consideration of submitted legislation. The Council intends to consider and act on increases in FAR and/or height described in Section 23.58B.010.A.2.a by September 30, 2016. However, should factors outside of Council control preclude consideration of, or should Council choose not to adopt, increases in FAR and/or height in the Downtown and South Lake Union Urban Centers as described in Section 23.58B.010.A.2.a by September 30, 2016, the provisions of this Chapter 23.58B apply without those increases after September 30, 2016 to mitigate affordable housing impacts associated with new commercial floor area.

C. Process for modifications of development standards

1. The Council intends that, at the time reference to this Chapter 23.58B is made in the provisions of a zone consistent with subsection 23.58B.010.A.1, and no later than September 30, 2016, for the Downtown and South Lake Union Urban Centers, Land Use Code changes will be adopted providing a process by which the Director would be authorized to modify certain dimensional development standards to ensure that, in most cases, utilization of the increased commercial development capacity is not prohibited by development standards.

23.58B.015 Scope of Chapter

This Chapter 23.58B contains provisions that apply:

A. In areas for which the provisions of the zone specifically refer to this Chapter 23.58B, ~~or~~

B. Inside the Downtown and South Lake Union Urban Centers after September 30, 2016, if reference has not earlier been made to this Chapter 23.58B in the provisions of zones for which cash contribution and performance requirements are set forth in Table A for Section 23.58B.040 and Table A for Section 23.58B.050; or

C. ~~or~~ through the terms of a contract rezone in accordance with Section 23.34.004.

23.58B.020 Voluntary agreements for affordable housing

E. Relationship to incentive zoning. In areas ~~for which the provisions of the zone specifically refer to this Chapter 23.58B and~~ for which the provisions of the zone ~~also~~ allow additional chargeable floor area to be achieved in accordance with Section 23.49.012, or extra non-residential floor area to be achieved in accordance with Chapter 23.58A, beyond a base height and/or base FAR, the following provisions apply in areas for which the provisions of the zone specifically refer to this Chapter 23.58B and inside the Downtown and South Lake Union Urban Centers after September 30, 2016, if reference has not earlier been made to this Chapter 23.58B in the provisions of zones for which cash contribution and performance requirements are set forth in Table A for Section 23.58B.040 and Table A for Section 23.58B.050:

Section 4. Subsection 25.05.675.I of the Seattle Municipal Code, which section was last amended by Ordinance 124378, is amended as follows:

25.05.675 Specific environmental policies

I. Housing((?))

3. Commercial development - Policies

a. The following policies apply to the development of a new structure, or an addition to an existing structure, that is not categorically exempt and contains more than 4,000 square feet of new chargeable floor area devoted to commercial uses as defined in Section 23.84A.006 in areas for which the provisions of the zone specifically refer to Chapter 23.58B, [inside the Downtown and South Lake Union Urban Centers after September 30, 2016, if reference has not earlier been made to Chapter 23.58B in the provisions of zones for which cash contribution and performance requirements are set forth in Table A for Section 23.58B.040 and Table A for Section 23.58B.050, or to development requiring a contract rezone in accordance with Section 23.34.004:](#)

<p>2. Amend CB 118498 to establish the Council's expectation that 6,000 <i>net new</i> units should be collectively produced under the residential and commercial programs.</p> <p><i>Discussion:</i> HALA's recommendations are based on a target of 20,000 net new rent and income restricted units and 30,000 net new market rate units. However, the targets for MHA - Commercial program and MHA - Residential program are not measured as net to allow greater flexibility to achieve overall targets.</p> <p>Changing measurement to net would require that existing affordable units demolished for new construction under both programs be deducted from the total when measuring progress towards the 6,000 unit goal and could accelerate consideration of</p>	<p>Section 1. A new Chapter 23.58B is added to Division 2, Authorized Uses and Development Standards, within Subtitle III, Land Use Regulations, of Title 23 of the Seattle Municipal Code as follows:</p> <p>Chapter 23.58B Affordable Housing Impact Mitigation Program for Commercial Development</p> <p style="text-align: center;">***</p> <p>23.58B.010 Intent for implementation</p> <p style="text-align: center;">***</p> <p style="text-align: center;">B. Amendment of payment and performance amounts</p> <p style="text-align: center;">1. Initial implementation phase review. The Council recognizes that amendments to the payment and performance amounts provided in this Chapter 23.58B may be needed during the initial implementation phase described in subsection 23.58B.010.A.2 to further the target production level of no fewer than 6,000 <i>net new</i> affordable units for households with incomes no higher than 60 percent of median income over a ten-year period described in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee. Such amendments could include changes to the payment and performance amounts in Table A for 23.58B.040, Table B for 23.58B.040, Table A for 23.58B.050, and Table B for 23.58B.050, and adding amounts for additional zones or portions of zones in connection with rezones of specific subareas such as portions of the University District. The Council intends</p>
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alternatives if the programs are not anticipated to meet the goal.

that amendments during the initial implementation phase be preceded by a robust stakeholder engagement process including representatives of the for-profit and non-profit development sectors who participated in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee.

2. Ongoing review. The Council directs that, during the first six months of 2018 and every two years after July 1, 2018, the Director prepare a report on the performance of the mandatory inclusionary housing program described in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee, and the affordable housing impact mitigation program provided in this Chapter 23.58B, including the amount of payments collected under the payment option, the number of affordable housing units produced and preserved with such payments, and the number of affordable housing units constructed under the performance option. Units produced under the mandatory inclusionary housing program described in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee, and the affordable housing impact mitigation program provided in this Chapter 23.58B, shall be measured as net new units. Existing affordable units demolished for development subject to the programs do not count towards the target production.

<p>3. Amend CB 118498 to establish that production under the MHA – Commercial and MHA-Residential programs would be measured beginning on the date CB 118498 passes Council.</p> <p><i>Discussion:</i> The Mayor proposes to track progress based on (1) actual production after both programs are implemented and (2) modeled production as increases in development capacity occur over the next several years.</p> <p>The proposed amendment would advance the start date of actual production measurement to the date Council passes CB 118498.</p>	<p>Section 1. A new Chapter 23.58B is added to Division 2, Authorized Uses and Development Standards, within Subtitle III, Land Use Regulations, of Title 23 of the Seattle Municipal Code as follows:</p> <p>Chapter 23.58B Affordable Housing Impact Mitigation Program for Commercial Development</p> <p style="text-align: center;">***</p> <p>23.58B.010 Intent for implementation</p> <p style="text-align: center;">***</p> <p style="padding-left: 40px;">B. Amendment of payment and performance amounts</p> <p style="text-align: center;">***</p> <p style="padding-left: 80px;">2. Ongoing review. The Council directs that, during the first six months of 2018 and every two years after July 1, 2018, the Director prepare a report on the performance of the mandatory inclusionary housing program described in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee, and the affordable housing impact mitigation program provided in this Chapter 23.58B, including the amount of payments collected under the payment option, the number of affordable housing units produced and preserved with such payments, and the number of affordable housing units constructed under the performance option. <u>Production shall be measured from the date the ordinance introduced as Council Bill 118498 passed Council.</u></p>
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<p>4. Amend CB 118498 to establish that if, by the end of the second quarter of 2018, the mandatory inclusionary housing program for residential development is not producing the number of units anticipated, the Council will consider implementing an affordable housing impact mitigation program for residential development that is not contingent on increased height or density.</p> <p><i>Discussion:</i> The “Grand Bargain” anticipates that parties to it will revisit the terms of the agreement, if the modeled 6,000 production target cannot be met.</p> <p>The proposed amendment would establish the Council’s intent to consider an affordable housing impact mitigation program for residential development that is not contingent on increased</p>	<p>Section 1. A new Chapter 23.58B is added to Division 2, Authorized Uses and Development Standards, within Subtitle III, Land Use Regulations, of Title 23 of the Seattle Municipal Code as follows:</p> <p>Chapter 23.58B Affordable Housing Impact Mitigation Program for Commercial Development</p> <p style="text-align: center;">***</p> <p>23.58B.010 Intent for implementation</p> <p style="text-align: center;">***</p> <p style="padding-left: 40px;">B. Amendment of payment and performance amounts</p> <p style="text-align: center;">***</p> <p style="padding-left: 80px;">Inclusionary Housing and Commercial Linkage Fee.</p> <p style="padding-left: 40px;">2. Ongoing review. The Council directs that, during the first six months of 2018 and every two years after July 1, 2018, the Director prepare a report on the performance of the mandatory inclusionary housing program described in the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee, and the affordable housing impact mitigation program provided in this Chapter 23.58B, including the amount of payments collected under the payment option, the number of affordable housing units produced and preserved with such payments, and the number of affordable housing units constructed under the performance option. <u>If the initial report indicates that the Affordable Housing Impact Mitigation Program for commercial development and the mandatory</u></p>
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height or density as one strategy to meet the target, if it appears by the end of the second quarter 2018 that production will fall short.

inclusionary housing program for residential development will not meet the target of 6,000 net new affordable units, the Council intends to consider implementing a mandatory inclusionary housing program for residential development that would apply with or without increasing development capacity.

<p>5. Amend Resolution 31612 to request that the Mayor develop displacement risk analyses for commercial and residential development in implementation areas.</p> <p><i>Discussion:</i> As part of the Seattle 2035 Comprehensive Plan update, DPD developed <i>Growth and Equity – Analyzing Impacts on Displacement and Opportunity Related to Seattle Growth Strategy</i>.</p> <p>The proposed amendment would request similar analyses for upzones or increases in development capacity to implement the Grand Bargain.</p>	<p>Section 2. Successfully and quickly implementing the changes to zoning and land use regulations described in Section 1 will require: continuous, ongoing, and inclusive participation by the public; environmental review; ongoing affordable housing needs assessments; and implementation of programs to address impacts, such as transportation, parks, affordable childcare and preschool facilities, and open space impacts. The Council will only consider changes to land use and zoning if the following minimum outreach, planning, and mitigation requirements have been met.</p> <p style="text-align: center;">***</p> <p>C. Planning and Environmental Review. The Council requests that the Mayor develop necessary planning studies to inform decision makers and the public about proposed changes to zoning and land use regulations. Such studies should include, but are not limited to: (1) architectural massing studies that illustrate how increased development capacity would translate into the height, bulk and scale of new development relative to existing zoning and development; (2) view corridor studies from State Environmental Policy Act (SEPA) protected viewpoints; and(3) transportation, parks and open space impact studies; <u>and (4) analyses of the risk of displacement of current residents and businesses</u>. As appropriate, studies should be incorporated into environmental documents required under SEPA.</p>
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