

July 14, 2016

MEMORANDUM

To: Councilmembers Rob Johnson, Chair; Lisa Herbold; and Mike O'Brien – Planning Land Use and Zoning Committee

From: Ketil Freeman, Council Central Staff

Subject: Council Bill 118736, Revised Mandatory Housing Affordability – Residential Bill

On Monday, July 18, Councilmember Johnson will introduce [Council Bill \(CB\) 118736](#), which is a revised version of the bill establishing a Mandatory Housing Affordability – Residential (MHA-R) program. CB 118736 replaces [CB 118692](#). This memorandum describes changes in the new bill.

The new bill (1) authorizes application of the MHA-R program to quasi-judicial rezones, sometimes called “contract rezones,” (2) delegates responsibility to the Seattle Department of Construction and Inspections (SDCI) to promulgate interim payment and performance amounts for contract rezones, and (3) clarifies how the fee-in-lieu of continuing affordability will be calculated for rental projects developed under the program that convert to condominiums.

A new bill, as opposed to an amended bill, is needed to comply with Seattle Municipal Code (SMC) provisions requiring that the title of legislation amending the SMC set out the sections to be amended in full.¹ Proposed changes related to contract rezones are in a section of the SMC not referenced in the title to CB 118692.

Contract Rezones

Both CB 118692 and CB 118736 contain proposed language indicating that the MHA-R program is intended to apply to contract rezones. However, without payment or performance amounts, the requirements of the program cannot be administered. CB 118736 addresses this by (1) clarifying in the section of the SMC that authorizes contract rezones that the program applies and (2) delegating to the SDCI Director authority to promulgate by directors rule interim payment and performance amounts that would apply until permanent payment and performance amounts are established with future upzones.²

There are currently 19 pending contract rezone applications to which the MHA-R program could apply. Thirteen of those applications were filed with the City Clerk after the Mayor announced [Housing Seattle: A Roadmap to an Affordable and Livable City](#) in July 2015, which includes the recommendation for mandatory inclusionary housing programs.

¹ [Seattle Municipal Code Section 1.01.030](#).

² Page 9, lines 11-18 of CB 118763.

Payment In-lieu of Continuing Affordability

The MHA-R program would require that if rental projects developed under the performance option of the program convert to condominiums, the owner must make a payment to the City in-lieu of continuing affordability. That payment is calculated by (1) determining what the cash contribution would have been at the time of the initial building permit, (2) adjusting that amount by Consumer Price Index changes since that time, and (3) then multiplying that amount by a percentage based on the number of years the project provided affordable housing.

The previous bill reserved the percentage table for inclusion in a future bill. CB 118736 contains the percentage table, which is set out below.³

Table C for 23.58C.050 Payment in lieu of affordability calculation percentages for conversion to ownership housing	
Number of years units provided through performance option satisfied the requirements according to subsection 23.58C.050.C	Percentage
Less than 5	100%
Between 5 and 10	95%
Between 10 and 15	90%
Between 15 and 20	85%
Between 20 and 25	80%
Between 25 and 30	75%
Between 30 and 35	65%
Between 35 and 40	55%
Between 40 and 45	40%
Between 45 and 50	20%

cc: Kirstan Arestad, Central Staff Executive Director
Dan Eder, Central Staff Deputy Director

³ Page 34, line 17 of CB 118763.