



**Legislative Department
Seattle City Council
Memorandum**

Date: December 5, 2013

To: Mike O’Brien, Chair
Sally Clark, Vice Chair
Tim Burgess, Member
Nick Licata, Alternate
Energy and Environment Committee

From: Ketil Freeman, Council Central Staff

Subject: Council Bill (C.B.) 117908 - Downtown Bonus Program In-Lieu Fee Increases

Introduction

In May, through [Ordinance 124172](#), the Council increased the fee that a developer of property in the South Lake Union Urban Center may pay in-lieu of providing affordable housing or childcare when a development includes bonus commercial or residential floor area above base densities or heights.

At the time, constituents expressed the concern that raising in-lieu fees for the South Lake Union Urban Center might negatively impact South Lake Union projects because similarly situated projects in the Downtown Urban Center, which is immediately south of the South Lake Union Urban Center, would pay lower fees. Because those fees are codified in sections of the Seattle Municipal Code that were not before the Council when considering Ordinance 124172, the Council could not make commensurate changes to downtown fees. Those changes are proposed to be made through Council Bill (C.B.) 117908.

This memorandum 1) summarizes the content of C.B. 117908 and 2) describes technical amendments in a proposed substitute.

What Would C.B. 117908 Do?

C.B. 117908 would make adjustments to in-lieu fees that apply in the Downtown Urban Center. Increased fees for bonus commercial floor area would be phased in as shown in the table below:

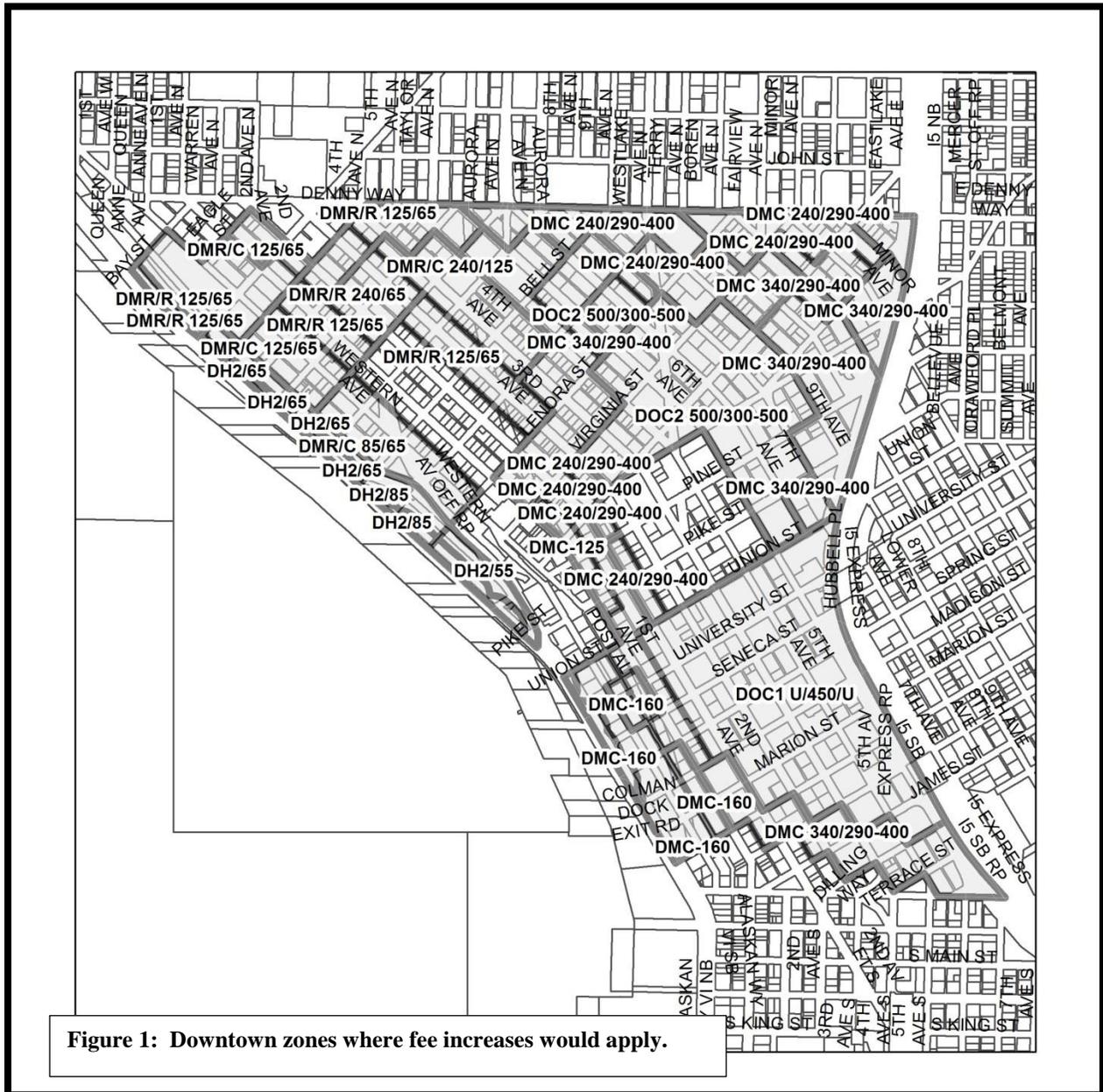
Phase	Bonus Commercial Floor Area (Fee / Gross Square Foot (g.s.f))
Current	\$18.75 (Housing) + \$3.25 (Childcare) = \$22.00
Effective Date to – June 30, 2014	\$22.88 (Housing) + \$3.97 (Childcare) = \$26.85
July 1, 2014 - June 30, 2015	\$24.95 (Housing) + \$4.32 (Childcare) + (29.27 X 2013 Annual Inflation) ≈ \$29.86*

*Assuming a 2% 2013 annual inflation rate.

Fees for bonus residential floor area would be increased, without phasing, from the current average maximum of \$15.15 per g.s.f. to \$21.68 per g.s.f.

Increased fees reflect inflationary adjustments based on the year of bonus program major revision or inception. The in-lieu fee for bonus commercial floor area downtown was significantly revised in 2001.¹ The in-lieu fee for bonus residential floor area was first established in 2006.² In addition to inflationary adjustments, the in-lieu fee for residential floor area includes a 20% premium to encourage development of units, either on-site or off-site, instead of in-lieu fee payment. Finally, C.B. 117908 would establish automatic inflationary adjustments to the in-lieu fees that would begin in July of 2015 and July of 2014 for commercial development and residential development, respectively. Those fees can currently be adjusted for inflation by executive branch rulemaking. However, inflationary adjustments to fees have not been made since they were codified.

Downtown zones where increased fees would apply are shown in figure 1.



¹ [Ord. 120443](#), July 2001.
² [Ord. 122054](#), March 2006.

What Is In the Proposed Substitute?

The proposed substitute makes the following changes to the introduced bill.

- ***Effective date of fee changes.*** As introduced, the fee increases would take effect on January 1, 2014. The Seattle Municipal Code requires that, absent special circumstances, the earliest an ordinance can take effect is 30 days after approval by the Mayor.³ Because Council action on the bill can occur no earlier than December 16, 2013, an ordinance could not be effective by January 1st. The substitute clarifies that the fee increases would take effect as soon as the ordinance is effective.
- ***Vesting clarification.*** Through Ordinance 124172, the Council amended the incentive zoning ordinance, Chapter 23.58A of the Seattle Municipal Code, to clarify that an applicant vests to a fee price when their Master Use Permit (MUP) vests. Most, if not all, projects utilizing extra floor area would be subject to Design Review. Projects subject to Design Review vest to development standards in place when they begin early design guidance, provided that a complete MUP application is filed within a certain number of days.⁴
- ***Drafting Error.*** Finally, the substitute shows in strikethrough existing Code language that was omitted from the introduced bill. That language describes how net residential floor area is calculated. Consistent with changes made through Ordinance 124172, through Council Bill 117908 calculations would be based on gross, not net, floor area.

³ Seattle Municipal Code (SMC) Section 1.04.020.

⁴ SMC Section 23.76.026.