SEATTLE CITY COUNCIL

Legislative Summary

CB 118498

Record No.: CB 118498 **Type:** Ordinance (Ord) **Status:** Passed

Version: 3 124895 **In Control:** City Clerk

File Created: 08/25/2015

Final Action: 11/17/2015

Title: AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.58B of the Seattle Municipal Code (SMC) to establish the framework for an Affordable Housing Impact Mitigation Program for commercial development; and amending subsection 23.40.020.A, subsection 23.76.006.B, subsection 23.76.006.C, and subsection 25.05.675.I of the SMC.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Full Text: CB 118498 v3, Att A - Findings of Fact

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

NO

History of Legislative File

Legal Notice Published: ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	08/25/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text:	The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk					
	Notes:						
1	City Clerk	08/31/2015	sent for review	Council President's Office			
	Action Text:	The Council Bill (CB) was sent for review. to the Council President's Office					
	Notes:						
1	Council President's Office	09/02/2015	sent for review	Select Committee on Housing Affordability			
	Action Text:	The Council Bill (CB) was sent for review. to the Select Committee on Housing Affordability					
	Notes:						

1	Full Council	09/08/2015	referred	Select Committee on Housing Affordability	

Action Text: The Council Bill (CB) was referred. to the Select Committee on Housing Affordability
Notes:

1	Select Committee on Housing Affordability	09/18/2015	discussed		

Action Text: The Council Bill (CB) was discussed.

1	Select Committee on Housing Affordability	09/30/2015	discussed		

Action Text: The Council Bill (CB) was discussed and a public hearing was held.

1	Select Committee on Housing Affordability	10/05/2015	discussed		

Action Text: The Council Bill (CB) was discussed.
Notes:

1	Select Committee on Housing Affordability	10/12/2015	pass as amended		Pass

Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).

In Favor: 9 Chair O'Brien, Vice Chair Okamoto, Councilmember Burgess, Councilmember Bagshaw, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

2	Full Council	11/09/2015	passed as amended		Pass

Action Text: The Motion carried, the Council Bill (CB) passed as amended by the following vote, and the President signed the Bill
Notes: ACTION 1:

Motion was made and duly seconded to pass Council Bill 118498.

ACTION 2:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend Council Bill 118498, by adding a new Section 1, as shown below; and by attaching Attachment A entitled, Findings of Fact.

Section 1. The City Council hereby makes the Findings of Fact in Attachment A to this ordinance.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 118498 as amended.

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

3	City Clerk	11/12/2015	submitted for Mayor's signature	Mayor	

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
Notes:

3	Mayor	11/17/2015	Signed	
	Action Text:	The Council Bill (CB) was Signed.		
	Notes:			
3	Mayor	11/17/2015	returned	City Clerk
	Action Text:	The Council Bill (CB) was returned. to the City Clerk		
	Notes:			
3	City Clerk	11/17/2015	attested by City Clerk	
	Action Text:	The Ordinance (Ord) was attested by City Clerk.		
	Notes:			

CITY OF SEATTLE

ORDINANCE 124895

COUNCIL BILL 118498

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.58B of the Seattle Municipal Code (SMC) to establish the framework for an Affordable Housing Impact Mitigation Program for commercial development; and amending subsection 23.40.020.A, subsection 23.76.006.B, subsection 23.76.006.C, and subsection 25.05.675.I of the SMC.

WHEREAS, development of new commercial floor area accommodates new employees, including lower-wage employees, and creates a demand for affordable housing; and

WHEREAS, in May 2013 the Council adopted Resolution 31444, which established a work program for reviewing and potentially modifying the City's affordable housing incentive programs; and

WHEREAS, in accordance with Resolution 31444, the Council commissioned reports examining national best practices for increasing the availability of affordable housing to identify new strategies for Seattle; and

WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Council and Mayor proposed that a Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee be jointly convened by the Council and Mayor to evaluate potential housing strategies; and

WHEREAS, in October 2014 the Council adopted Resolution 31551, which established the Council's intent to adopt and implement a program to mitigate demand for affordable housing caused by development of new commercial floor area; and

WHEREAS, the HALA Advisory Committee issued final recommendations to the Mayor and City Council on July 13, 2015; and

WHEREAS, the HALA Advisory Committee recommended that the City boost market capacity by extensive citywide upzoning of residential and commercial zones and, in connection with such upzones, implement a mandatory inclusionary housing program for new construction residential development and a commercial linkage fee program for new construction commercial development; and

WHEREAS, the HALA Advisory Committee recommended that the program offer the alternatives of payment of a per-square-foot fee to fund preservation and production of affordable housing, or construction of affordable housing on-site or off-site, and that the program be implemented upon approval of additional commercial development capacity through rezones of specified areas or Land Use Code changes; and

WHEREAS, the City has the authority to adopt an affordable housing impact mitigation program in accordance with its police power; and

WHEREAS, the City also has authority to mitigate impacts on the need for affordable housing in accordance with the State Environmental Policy Act (SEPA) upon adoption of appropriate substantive SEPA policies; and

WHEREAS, an affordable housing impact mitigation program for development of new commercial floor area is one of many actions the City intends to undertake to implement the Comprehensive Plan's goals and policies for affordable housing; and

WHEREAS, one of the City's planning goals under the Growth Management Act, Chapter 36.70A RCW, is to make adequate provision for the housing needs of all economic segments of the city; and

WHEREAS, the Affordable Housing Incentives Program Act, RCW 36.70A.540, encourages cities to enact or expand affordable housing incentive programs; and

WHEREAS, the Affordable Housing Incentives Program Act set minimum standards for cities choosing to implement or expand upon an affordable housing incentive program, but encouraged programs that address local circumstances and conditions while simultaneously contributing to the statewide need for additional low-income housing; and

WHEREAS, to facilitate implementation of an affordable housing impact mitigation program for commercial development recommended by the HALA Advisory Committee, the Council deems it advisable to promptly adopt the governing framework for such a program; and

WHEREAS, in setting the initial payment and performance levels, the City has set levels that are lower than those that would be necessary to fully mitigate the housing impacts disclosed in a study by David Paul Rosen & Associates commissioned by the City Council; and

WHEREAS, the July 13, 2015 Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee states that the mandatory inclusionary housing and commercial linkage fee programs should be developed to achieve a projected production level of no fewer than 6,000 affordable units for households with incomes no higher than 60 percent of median income over ten years, and that if the projected production levels fall below the target, all parties agree to develop and consider options to achieve the agreed upon production target; and

WHEREAS, the Council also deems it advisable to adopt amendments to the City's substantive SEPA policies to allow for mitigation of certain affordable housing impacts under SEPA; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the Findings of Fact in Attachment A to this ordinance.

Section 2. 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:

Chapter 23.58B Affordable Housing Impact Mitigation Program for Commercial Development

23.58B.005 Purpose

The purpose of this Chapter 23.58B is to mitigate certain adverse impacts of development of new commercial floor area on the need for affordable housing for the households of new workers having lower-wage jobs. Chapter 23.58B provides for voluntary agreements for mitigation of affordable housing impacts associated with new commercial floor area. The mitigation provided in this Chapter 23.58B is not intended to eliminate all affordable housing impacts of new commercial floor area.

23.58B.010 Intent for implementation

A. Application of this Chapter 23.58B

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, or through the terms of a contract rezone in accordance with Section 23.34.004. The Council intends that references to this Chapter 23.58B be made in the provisions of zones in conjunction with:

a. Land Use Code amendments increasing commercial development capacity in the zone through increases in allowable FAR and/or height or other measures;

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.

2. The Council intends that the initial implementation phase of enacting amendments described in subsection 23.58B.010.A.1 will consist of:

a. An increase in FAR and/or height for all zones in the Downtown and South Lake Union Urban Centers except the Downtown Harborfront 1 (DH-1), Pike Market Mixed (PMM), Seattle Mixed 85/65-160 (SM 85/65-160), Seattle Mixed 85-240 (SM 85-240), and Commercial 2-40 (C2-40) zones to be enacted no later than September 2016;

b. Zone-wide increases in development capacity in all Neighborhood Commercial (NC), Commercial (C), Seattle Mixed (SM), and Industrial Commercial (IC) zones outside the Downtown and South Lake Union Urban Centers to be enacted no later than September 2017; and

c. Increases in development capacity through rezones of any portions of the University District that are upzoned in accordance with the University District urban design framework process.

B. Amendment of payment and performance amounts

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 net new rent and income restricted 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 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 rent and income restricted affordable units demolished for development subject to the programs are subtracted from the target production.

3. Post-initial implementation phase review. Except as provided in subsection 23.58B.010.B.4, the Council intends that, after the completion of the initial implementation phase described in subsection 23.58B.010.A.2, amendments to the payment and performance

amounts in Tables A and B for 23.58B.040 and Tables A and B for 23.58B.050 shall be consistent with the following provisions:

a. Amendments may be considered if:

1) After five years from the effective date of the ordinance introduced as Council Bill _____, there is a failure to meet expectations for program performance;

2) There are significant positive or negative changes in real estate development market conditions; or

3) Neither of the preceding criteria is met and ten years have elapsed since the completion of the initial implementation phase described in subsection 23.58B.010.A.2.

b. If amendments are considered in accordance with a criterion in subsection 23.58B.010.B.3.a, the Mayor and Council shall appoint a Technical Review Committee whose membership includes appropriate stakeholder representation, including representatives of the for-profit and non-profit development sectors and members of community-based groups, and shall provide the Committee with clear objectives to be accomplished by a revision of the payment and performance amounts in this Chapter 23.58B.

c. If appointed, the Technical Review Committee shall prepare a report and recommendation regarding amendments 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. The Mayor shall consider the Technical Review Committee's report and recommendations and shall transmit them to the Council along with any recommendation by the Mayor for amendments.

4. Amendments concurrent with increased capacity. In conjunction with any increase in commercial development capacity other than those identified in subsection 23.58B.010.A.2, the Council will apply Chapter 23.58B to the zones or areas in which capacity is increased and may amend 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 for those zones or areas in which capacity is increased.

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, 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.

2. To enable development of such Land Use Code changes, the Director shall report on which development standards, if any, might be appropriate for modification in particular zones and the extent to which modifications might be allowed from particular standards.

3. The Council intends that any development standard modification process will also provide for a reduction of the payment and/or performance amounts in a limited number of cases where a portion of the increased development capacity cannot be used because of a development standard from which a modification is not available or is not granted, and not because of decisions of the applicant.

23.58B.015 Scope of Chapter

This Chapter 23.58B contains provisions that apply only in areas for which the provisions of the zone specifically refer to this Chapter 23.58B, or through the terms of a contract rezone in accordance with Section 23.34.004.

23.58B.020 Voluntary agreements for affordable housing

A. General. If an applicant elects to seek approval of a permit for a development as described in subsection 23.58B.020.B, the applicant shall enter into a voluntary agreement with the City to mitigate impacts on the need for affordable housing in accordance with this Chapter 23.58B.

B. Applicability. Except as provided in subsection 23.58B.020.C, Table B for 23.58B.040, or Table B for 23.58B.050, this Chapter 23.58B shall apply to development of either a new structure, or an addition to an existing structure, that contains more than 4,000 square feet of new chargeable floor area devoted to commercial uses.

C. Exemptions

The following commercial uses are exempt from the requirements of this Chapter 23.58B in a structure with at least 50 percent of its above-grade gross floor area in residential use:

1. Up to a total of 4,000 square feet of street-level floor area containing the following uses:

a. Arts facilities;

b. Eating and drinking establishments;

c. Entertainment uses other than adult cabarets, adult motion picture theaters, and adult panorams; and

d. Sales and services, general.

2. Street-level uses along a designated pedestrian street that are required to meet the street-level use standards of a Pedestrian designation.

3. Commercial uses within a development with rent- or income-restricted housing if, for at least 75 percent of the units, a regulatory agreement, housing covenant, or other legal document on the property title limits the income of households that may rent the units to no higher than 60 percent of median income and controls the rents that may be charged for at least 50 years.

D. Options for mitigating affordable housing impacts. The applicant shall enter into a voluntary agreement with the City to mitigate affordable housing impacts either by providing affordable housing through the payment option in accordance with Section 23.58B.040, the performance option in accordance with Section 23.58B.050, or a combination thereof.

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:

1. The base FAR and maximum FAR and base height and maximum height shall be in accordance with the provisions of the zone.

2. To exceed the base FAR and/or base height, the requirements of the provisions of the zone and/or Chapter 23.58A for achieving chargeable floor area or extra non-residential floor area above the base height and/or base FAR shall be met, provided that:

a. Affordable housing provided through the payment option in accordance with Section 23.58B.040 or the performance option in accordance with Section 23.58B.050 may also be counted toward:

1) The low-income housing requirements for achieving chargeable floor area above the base FAR in accordance with Section 23.49.012; and

2) The affordable housing, as defined in subsection 23.58A.004.B, requirements for achieving extra non-residential floor area in accordance with Chapter 23.58A, whichever applies;

b. If the applicant uses the performance option in accordance with Section 23.58B.050, the applicant shall provide the greater of the following:

1) The performance amount required by this Chapter 23.58B for the applicable chargeable floor area in accordance with subsection 23.58B.020.B; or

2) The low-income housing performance amount required by Section 23.49.012 for achieving chargeable floor area above the base FAR, or the affordable housing, as defined in subsection 23.58A.004.B, performance amount required by Chapter 23.58A for achieving extra non-residential floor area, whichever applies;

c. If the applicant uses the payment option in accordance with Section 23.58B.040, the applicant shall provide the greater of the following:

1) The payment amount required by this Chapter 23.58B for the applicable chargeable floor area in accordance with subsection 23.58B.020.B; or

2) The low-income housing payment amount required by Section 23.49.012 for achieving chargeable floor area above the base FAR, or the affordable housing, as

defined in 23.58A.004.B, payment amount required by Chapter 23.58A for achieving extra non-residential floor area, whichever applies; and

d. The applicant shall also satisfy all other requirements of the provisions of the zone and/or Chapter 23.58A for achieving chargeable floor area or extra non-residential floor area above the base height or base FAR, including but not limited to any requirements for child care, open space, regional development credits, and TDR.

3. If an applicant does not seek to exceed the base FAR or base height, the applicant shall provide the amount of performance or payment required in accordance with this Chapter 23.58B for the applicable chargeable floor area in accordance with subsection 23.58B.020.B.

23.58B.025 Permit application and decision

A. Permit application. The Master Use Permit application or, if no Master Use Permit is required, the application for the permit described in subsection 23.58B.035.A shall meet the following requirements:

1. The permit application shall describe the amount of affordable housing impact mitigation to be provided, expressed on a per-square-foot basis for performance and/or payment, in accordance with Section 23.58B.040 and/or Section 23.58B.050.

2. The permit application shall indicate whether the payment option in accordance with Section 23.58B.040, performance option in accordance with Section 23.58B.050, or a combination of the payment and performance options will be pursued. The applicant shall include the following information:

a. If providing affordable housing impact mitigation through a combination of the payment and performance options, the applicant shall identify the portions of chargeable floor area for which the payment option and performance option shall be used.

b. If providing affordable housing impact mitigation through the performance option, the applicant shall submit to the Director of Housing for review and approval a proposal for provision of affordable housing and a draft housing covenant ensuring the affordable housing shall meet the standards of subsection 23.58B.050.B.

c. If the applicant requests a modification in accordance with Section 23.58B.030, the applicant shall request such a modification, explain the basis on which the applicant believes the modification should be granted, and provide such supporting documentation as is necessary for review of the request.

B. Permit decision. The Master Use Permit decision or, if no Master Use Permit is required, the decision on the permit described in subsection 23.58B.035.A shall meet the following requirements:

1. Subject to subsection 23.58B.025.B.2 and subsection 23.58B.025.B.3, the permit decision shall include approval of the type of mitigation to be provided, whether by payment, performance, or a combination of payment and performance, and specify the amount of mitigation to be provided, expressed on a per-square-foot basis, for performance and/or payment in accordance with Section 23.58B.040 and/or Section 23.58B.050.

2. If a modification is requested in accordance with subsection 23.58B.030.C, the permit decision shall, as a Type I decision, include approval or disapproval of such a modification and specify the amount of mitigation to be provided, expressed on a per-square-foot basis, for performance and/or payment.

3. If a modification is requested in accordance with subsection 23.58B.030.B or subsection 23.58B.030.D, the permit decision shall, as a Type II decision, include approval or disapproval of such a modification and specify the amount of mitigation to be provided, expressed on a per-square-foot basis, for performance and/or payment.

4. In the absence of a signed voluntary agreement, acceptance of the permit shall constitute a voluntary agreement for the purposes of this Chapter 23.58B.

23.58B.030 Modification of amount of payment or performance

A. General. An applicant may request from the Director a modification of the amount of mitigation required by Section 23.58B.040 or Section 23.58B.050. A request shall comply with the following:

1. Prior to requesting a modification in accordance with subsection 23.58B.030.C or subsection 23.58B.030.D, the applicant shall have applied for any available modifications of development standards that would allow the applicant to utilize the increased commercial development capacity provided by amendments described in subsection 23.58B.010.A.1.

2. The request for modification shall be submitted as a part of the relevant permit application. An applicant requesting a modification in accordance with subsection 23.58B.030.D shall also request any available modification under subsection 23.58B.030.B or subsection 23.58B.030.C.

3. The request shall describe the scope and extent of the proposed modification. The applicant shall provide such additional information as may be required by the Director to make a determination on the request.

4. The Director shall consult with the Director of Housing in considering modification requests.

5. The applicant has the burden of proving that a modification is justified.

B. Mitigation greater than impact. The Director shall modify the amount of mitigation required in accordance with Section 23.58B.040 or Section 23.58B.050 if the applicant demonstrates that the required amount of mitigation exceeds the amount that would be needed to mitigate the actual demand for affordable housing created by the development. A request for such a modification shall include information showing the affordable housing impacts created by the development, based on the actual characteristics of the development, including for example, the unique characteristics and space utilization of the workforce that will use the development and the demand of that workforce for affordable housing expressed in terms of the number of employees in households with income at or below 60 percent of median income, and the number of employees in households with income higher than 60 percent of median income but not higher than 80 percent of median income, and such other factors the applicant believes justify a modification.

C. Mitigation in zones with height limits exceeding 85 feet. The Director shall modify the amount of mitigation if the development is in a zone with a height limit greater than 85 feet and the Director finds that applicable development standards prohibit the development from exceeding a height of 85 feet. The reduced mitigation shall be the payment or performance required in accordance with Section 23.58B.040 or Section 23.58B.050 for the same zone classification as the zone in which the development is located that has a height limit of 85 feet, or if that zone classification does not exist, the most comparable zone classification that has a height limit of 85 feet or less, as determined by the Director.

D. Financial hardship

1. The Director may modify the amount of mitigation required in accordance with Section 23.58B.040 or Section 23.58B.050 if the amount of mitigation, after any modification to which the applicant would be entitled in accordance with the standards of subsection 23.58B.030.B and subsection 23.58B.030.C, would cause a severe and unexpected financial hardship that outweighs the affordable housing impacts.

2. The request for a modification authorized by subsection 23.58B.030.D.1 shall include, at a minimum, all of the following:

a. The use of the site before the request;

b. How application of the requirements for which the modification is being requested restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of this Chapter 23.58B;

c. The possible remaining uses of the site if the modification were not granted;

d. The uses of the site that would have been allowed prior to the adoption of this Chapter 23.58B;

e. An appraisal prepared by a competent appraiser with a valuation date within thirty days of the modification request that (1) values the property taking into account the requirements of this Chapter 23.58B as well as any increase in commercial development capacity provided at the time reference to this Chapter 23.58B is made in the provisions of the zone in which the property is located or at the time of a contract rezone, and (2) values the property absent those requirements and absent any such increase in development capacity; and

f. The feasibility of altering the project to apply the requirements of this Chapter 23.58B.

3. The Director may grant a modification authorized by subsection 23.58B.030.D.1 only after considering the following factors:

a. The severity of the financial hardship caused by the mitigation and the degree to which the mitigation requirement could have been anticipated;

b. The extent to which alternative designs and uses of the property would remedy any severe and unexpected financial hardship associated with the required mitigation; and

c. The extent to which the qualities of the particular property, its zoning, and other factors are such that the required mitigation creates a unique burden that imposes a severe impact on the ability to utilize the property.

4. The Director may grant a modification authorized by subsection 23.58B.030.D.1 only to the extent necessary to provide relief from the identified financial hardship.

5. When the Director grants a modification authorized by subsection 23.58B.030.D.1, the Director may impose alternative requirements, implemented through a voluntary agreement, to offset or mitigate a portion of any remaining adverse impacts of the development on the need for affordable housing.

23.58B.035 Documentation and timing

A. The documentation required by subsection 23.58B.035.B shall be provided prior to issuance of the first construction permit other than a demolition, excavation, or shoring permit

or, if the Director has approved a phased building permit application, prior to issuance of the portion of the building permit that includes the structural frame for the entire building.

B. Required documentation

1. The applicant shall execute and record a declaration in a form acceptable to the Director that shall commit the applicant to mitigating affordable housing impacts consistent with the permit decision.

2. The applicant shall provide to the Director of Housing any cash contributions for affordable housing to be provided through the payment option in accordance with Section 23.58B.040.

3. The owner of affordable housing provided through the performance option in accordance with Section 23.58B.050 shall execute and record housing covenants approved by the Director of Housing.

23.58B.040 Affordable housing impact mitigation – payment option

A. Amount of cash contributions

1. Initial payment amounts inside the Downtown and South Lake Union Urban Centers. Inside the Downtown or South Lake Union Urban Centers, an applicant using the payment option shall provide a cash contribution to the City, calculated by multiplying the per-square-foot amount shown in Table A for 23.58B.040 by the total square footage of new chargeable floor area devoted to the uses set forth in subsection 23.58B.020.B.

Table A for 23.58B.040
Cash contribution to be provided for affordable housing (payment requirement): inside Downtown and South Lake Union Urban Centers

Zone	Dollars per square foot of new chargeable floor area according to subsection 23.58B.020.B
All DH1 zones	$0.00
DH2/55	$14.25

Table A for 23.58B.040 Cash contribution to be provided for affordable housing (payment requirement): inside Downtown and South Lake Union Urban Centers	
Zone	Dollars per square foot of new chargeable floor area according to subsection 23.58B.020.B
DH2/65	$15.00
DH2/85	$15.25
DMC-65	$8.25
DMC-85	$8.00
DMC 85/65-150	$11.75
DMC-125	$10.00
DMC-160	$8.00
DMC 240/290-400	$10.00
DMC 340/290-400	$12.50
DOC1 U/450/U	$14.75
DOC2 500/300-500	$14.25
DRC 85-150	$13.50
DMR/C 65/65-85	$9.75
DMR/C 65/65-150	$9.75
DMR/C 85/65	$17.50
DMR/C 125/65	$17.50
DMR/C 240/125	$14.25
DMR/R 85/65	$14.00
DMR/R 125/65	$16.00
DMR/R 240/65	$16.00
All IDM zones	$8.00
IDR 45/125-240	$10.00
IDR 150	$10.00
IDR/C 125/150-240	$8.00
PMM-85	$0.00
PSM 100/100-120	$11.00
PSM 100/100-130	$11.00
PSM 100/120-150	$11.00
PSM-100	$11.00
PSM-245	$10.25
PSM-85-120	$12.25
SM 85/65-125	$8.00
SM 85/65-160	$0.00
SM 85-240	$0.00
SM 160/85-240	$11.25
SM 240/125-400	$10.00
SM/R 55/85	$8.25
SM-85	$8.00
SM-125	$8.00

Table A for 23.58B.040 Cash contribution to be provided for affordable housing (payment requirement): inside Downtown and South Lake Union Urban Centers	
Zone	Dollars per square foot of new chargeable floor area according to subsection 23.58B.020.B
IC-45	$8.00
IC-65	$8.00
C2-40	$0.00

2. Initial payment amounts outside the Downtown and South Lake Union Urban Centers. Outside the Downtown or South Lake Union Urban Centers, an applicant using the payment option shall provide a cash contribution to the City, calculated by multiplying the per-square-foot amount shown in Table B for 23.58B.040, based on the location of the development as shown on Map A for 23.58B.050, by the total square footage of new chargeable floor area devoted to the uses set forth in subsection 23.58B.020.B.

Table B for 23.58B.040 Cash contribution to be provided for affordable housing (payment requirement): outside Downtown and South Lake Union Urban Centers			
Zone	Dollars per square foot of new chargeable floor area according to subsection 23.58B.020.B		
	Low	Medium	High
IC 85-160	$10.00	$10.00	$10.00
All other zones[(1)]	$5.00	$7.00	$8.00
Footnotes to Table B for 23.58.B.040 [(1)] Except that the requirements of this Chapter 23.58B are not applicable in Lowrise Multifamily (LR), Midrise Multifamily (MR), Highrise Multifamily (HR), Residential Small Lot (RSL), Single-family (SF), Industrial Buffer (IB), Industrial General (IG), and Master Planned Community – Yesler Terrace (MPC-YT) zones.			

3. Automatic adjustments to initial payment amounts. On March 1, 2016, and on the same day each year thereafter, the payment amounts in Table A for 23.58B.040 and Table B for 23.58B.040 shall automatically adjust in proportion to the annual change for the previous calendar year (January 1 through December 31) in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bremerton, WA, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index.

B. Deposit and use of cash contributions

1. Cash contributions shall be deposited in a special account established solely for preserving and producing housing for renter households with incomes no higher than 60 percent of median income and owner households with incomes no higher than 80 percent of median income. Earnings on balances in the special account shall accrue to that account.

2. Use of cash contributions shall support the preservation and production of renter-occupied housing within the city of Seattle. Rental housing supported by the cash contributions shall be rent- and income-restricted to serve households with incomes no higher than 60 percent of median income for a minimum period of 50 years. Monthly rent, including basic utilities, shall not exceed 30 percent of 60 percent of median income, all as determined by the Director of Housing. Use of cash contributions may also include capital expenditures for development of owner-occupied housing within the city of Seattle. Owner-occupied housing supported by the cash contributions shall be priced to serve households with incomes no higher than 80 percent of median income, with resale restrictions for a minimum period of 50 years. For purposes of determining the location for use of funds, the City shall consider the extent to which the housing advances the following factors:

a. Affirmatively furthering fair housing choice.

b. Locating within an urban center or urban village.

c. Locating in proximity to frequent bus service or current or planned light rail or street car stops.

d. Furthering the City policies to promote economic opportunity and community development and addressing the needs of communities vulnerable to displacement.

3. Each cash contribution shall be expended within five years of collection. Any cash contribution not so expended shall be refunded with any interest required by law.

23.58B.050 Affordable housing impact mitigation – performance option

A. Amount of affordable housing

1. Inside Downtown and South Lake Union Urban Centers. Inside the Downtown or South Lake Union Urban Centers, an applicant using the performance option shall provide net rentable floor area of affordable housing meeting the standards of subsection 23.58B.050.B, calculated by multiplying the applicable percentage shown in Table A for 23.58B.050 by the square footage of new chargeable floor area devoted to the uses set forth in subsection 23.58B.020.B, unless such amount totals fewer than three dwelling units, using a conversion factor for unit size as determined by the Director, in which case the applicant shall make a cash contribution using the payment option in accordance with Section 23.58B.040.

Table A for 23.58B.050
Affordable housing to be provided (performance requirement): inside Downtown and South Lake Union Urban Centers

Zone	Percentage of new chargeable floor area according to subsection 23.58B.020.B
All DH1 zones	0.0%
DH2/55	8.6%
DH2/65	9.1%
DH2/85	9.2%
DMC-65	5.0%
DMC-85	5.0%
DMC 85/65-150	7.1%
DMC-125	6.1%
DMC-160	5.0%
DMC 240/290-400	6.1%
DMC 340/290-400	7.6%
DOC1 U/450/U	8.9%
DOC2 500/300-500	8.6%
DRC 85-150	8.2%
DMR/C 65/65-85	5.9%
DMR/C 65/65-150	5.9%

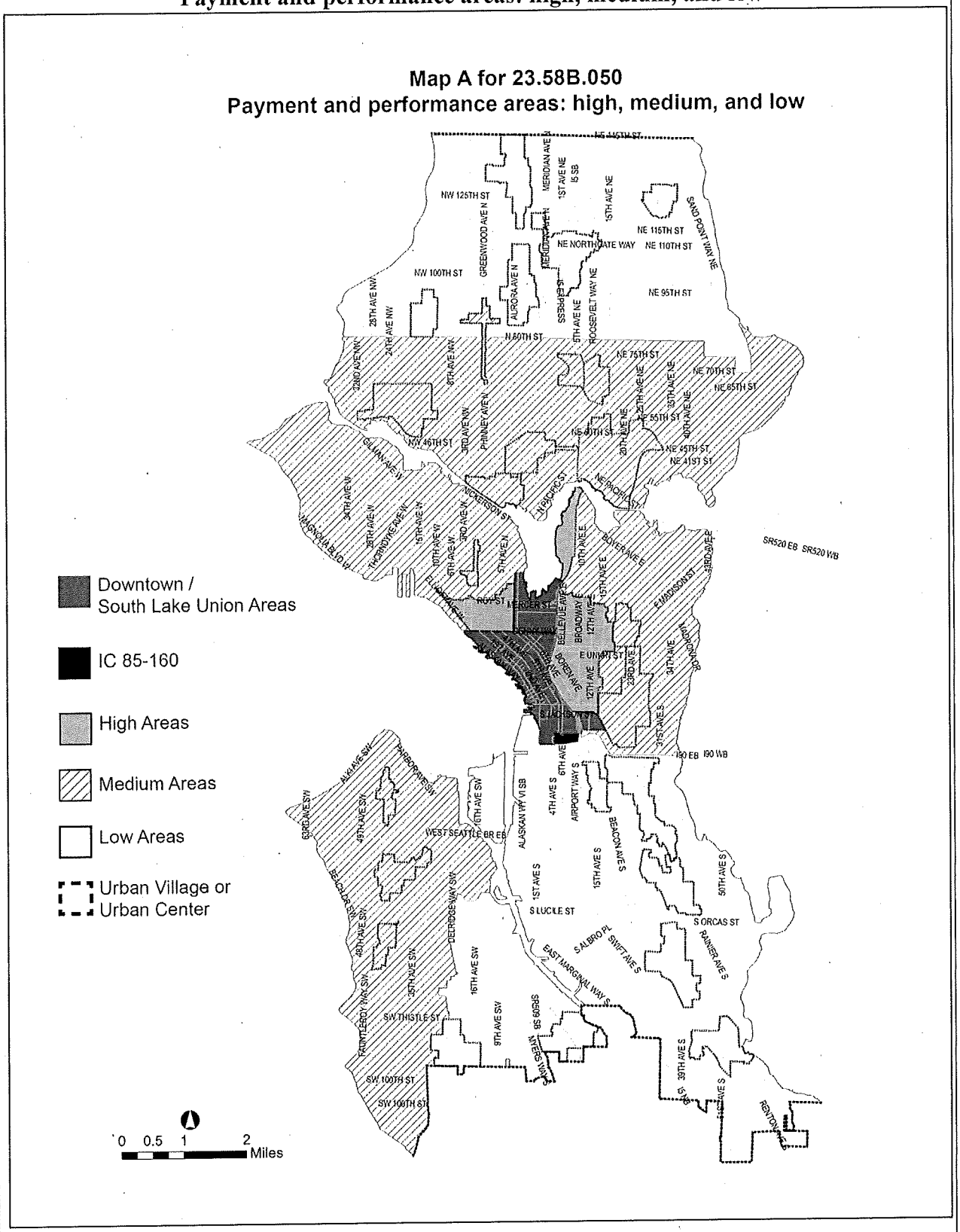
Table A for 23.58B.050 Affordable housing to be provided (performance requirement): inside Downtown and South Lake Union Urban Centers	
Zone	Percentage of new chargeable floor area according to subsection 23.58B.020.B
DMR/C 85/65	10.6%
DMR/C 125/65	10.6%
DMR/C 240/125	8.6%
DMR/R 85/65	8.5%
DMR/R 125/65	9.7%
DMR/R 240/65	9.7%
All IDM zones	5.0%
IDR 45/125-240	6.1%
IDR 150	6.1%
IDR/C 125/150-240	5.0%
All PMM zones	0.0%
PSM 100/100-120	6.7%
PSM 100/100-130	6.7%
PSM 100/120-150	6.7%
PSM-100	6.7%
PSM-245	6.2%
PSM-85-120	7.4%
SM 85/65-125	5.0%
SM 85/65-160	0.0%
SM 85-240	0.0%
SM 160/85-240	6.8%
SM 240/125-400	6.1%
SM/R 55/85	5.0%
SM-85	5.0%
SM-125	5.0%
IC-45	5.0%
IC-65	5.0%
C2-40	0.0%

2. Outside the Downtown and South Lake Union Urban Centers. Outside the Downtown or South Lake Union Urban Centers, an applicant using the performance option shall provide net rentable floor area of affordable housing meeting the standards of subsection 23.58.B.050.B, calculated by multiplying the applicable percentage shown in Table B for 23.58B.050, based on the location of the development as shown on Map A for 23.58B.050, by the square footage of new chargeable floor area devoted to uses set forth in subsection

23.58B.020.B, unless such amount totals fewer than three dwelling units, using a conversion factor for unit size as determined by the Director, in which case the applicant shall make a cash contribution for affordable housing using the payment option in accordance with Section 23.58A.040.

Table B for 23.58B.050 Affordable housing to be provided (performance requirement): outside Downtown and South Lake Union Urban Centers	
Zone	Percentage of new chargeable floor area according to subsection 23.58B.020.B
IC 85-160	6.1%
All other zones[1]	5.0%
Footnotes to Table B for 23.58.B.050 [1] Except that the requirements of this Chapter 23.58B are not applicable in Lowrise Multifamily (LR), Midrise Multifamily (MR), Highrise Multifamily (HR), Residential Small Lot (RSL), Single-family (SF), Industrial Buffer (IB), Industrial General (IG), Master Planned Community – Yesler Terrace (MPC-YT) zones.	

Map A for 23.58B.050
Payment and performance areas: high, medium, and low



B. Performance standards. Affordable housing provided through the performance option shall meet the following standards:

1. General performance standards

a. Duration. Affordable housing provided through the performance option shall be for a minimum period of 50 years from the date of issuance of the final certificate of occupancy for the affordable housing.

b. Rent limits. Monthly rent, including basic utilities, shall not exceed 30 percent of 60 percent of median income except that, for rental housing units of 400 square feet or fewer of net rentable floor area, monthly rent, including basic utilities, shall not exceed 30 percent of 40 percent of median income. Affordable housing provided through the performance option shall be for rental, not ownership.

c. Unit size, type, and distribution. The average size and type of the affordable housing units provided through performance, regardless of whether provided on-site or off-site, shall generally be comparable to the dwelling units in the residential portion, if any, of the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B. The affordable units shall have substantially the same functionality as the other residential units, if any, in the development in which they are located and shall be generally distributed throughout the residential portion of the development.

d. Eligible households. Affordable housing provided through the performance option shall serve only:

1) For rental housing units of 400 square feet or fewer of net rentable floor area, households with incomes no higher than 40 percent of median income; or

2) For rental housing units of greater than 400 square feet of net rentable floor area, households with incomes no higher than 60 percent of median income.

e. Prohibition on public subsidy. Affordable housing provided through the performance option shall not use any public subsidy or tax incentive, except the following:

1) Washington State 4% Low-Income Housing Tax Credit with Multifamily Housing Bonds; and/or

2) Property tax exemptions in accordance with Chapter 5.73 or any other program implemented in accordance with Chapter 84.14 RCW, provided the affordable housing provided through the performance option to mitigate affordable housing impacts is in addition to any dwelling units provided to satisfy conditions for a property tax exemption in accordance with Chapter 5.73, unless the rent and income limits for dwelling units provided to satisfy requirements for purposes of both this Chapter 23.58B and Chapter 5.73 provide measurably greater public benefit than providing affordable housing through the performance option to mitigate affordable housing impacts in addition to any dwelling units provided to satisfy conditions for a property tax exemption in accordance with Chapter 5.73.

f. Time of completion. Any affordable housing provided through the performance option shall be completed and ready for occupancy at or before the time when a final certificate of occupancy is issued for the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B, and shall be a condition to any right of the applicant to such certificate of occupancy.

g. Reporting. At such times as may be authorized by the Director of Housing, but no less than annually, and for as long as the housing covenant approved by the Director of Housing remains in effect, the owner of the affordable housing provided through the

performance option shall submit to the Director of Housing a written report demonstrating compliance. The written report shall state, at a minimum, the occupancy and vacancy of the affordable housing, the monthly rents charged for each affordable housing unit, and the income and size of each household occupying the affordable housing. The Director of Housing may require other documentation to ensure compliance with this subsection 23.58B.050.B and any housing covenant approved by the Director of Housing, including but not limited to documentation of rents, copies of tenant certifications, and documentation supporting determinations of tenant income (e.g., employer's verification or check stubs). The Director of Housing may require other documentation necessary to track program outcomes and the demographics of households served. The first annual report shall include documentation of issuance of the final certificate of occupancy for the affordable housing.

2. Off-site performance standards. In addition to meeting the standards in subsection 23.58B.050.B.1, affordable housing provided through the performance option but not located on the same lot as the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B shall meet the following additional standards:

a. The applicant shall demonstrate to the satisfaction of the Director of Housing that affordable housing impact mitigation provided through the performance option on a site other than the same lot as the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B is equal to that provided by the on-site performance option.

b. Affordable housing not located on the same lot as the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B shall be located:

1) Within the same urban center or urban village if the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B is located within an urban center or urban village; or

2) Within one mile of the development required to mitigate affordable housing impacts in accordance with this Chapter 23.58B if such development is located outside of an urban center or urban village.

23.58B.060 Definitions

Definitions in this Chapter 23.58B supersede any definitions of the same terms in Chapter 23.84A and Section 23.58A.004 for the purposes of provisions of this Chapter 23.58B, unless otherwise specified in this Chapter 23.58B.

"Affordable housing" means dwelling units affordable to households with a range of incomes no higher than 80 percent of median income.

"Net rentable floor area" means total square feet of floor area as measured between the interior walls of each dwelling unit.

Section 3. Subsection 23.40.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 124378, is amended as follows:

23.40.020 Variances

A. Variances may be sought from the provisions of Subtitle III, Divisions 2, 3, and 4 of this Title 23, except for the establishment of a use that is otherwise not permitted in the zone in which it is proposed, for a structure height in excess of that shown on the Official Land Use Map or in excess of a height limit established in Chapter 23.75, from the provisions of subsection 23.55.014.A, or from the provisions of ((~~Chapters~~)) Chapter 23.52, ((~~and~~)) Chapter

23.58A, and Chapter 23.58B. Applications for prohibited variances shall not be accepted for filing.

* * *

Section 4. Subsection 23.76.006.B and subsection 23.76.006.C of the Seattle Municipal Code, which section was last amended by Ordinance 124843, are amended as follows:

23.76.006 Master Use Permits required

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

2. Establishment or change of use for uses permitted outright, interim use parking under subsection 23.42.040.G, uses allowed under Section 23.42.038, temporary relocation of police and fire stations for 24 months or less, transitional encampment interim use, and temporary uses for four weeks or less not otherwise permitted in the zone, and renewals of temporary uses for up to six months, except temporary uses and facilities for light rail transit facility construction and transitional encampments;

3. The following street use approvals:

a. Curb cut for access to parking whether associated with a development proposal or not;

b. Concept approval of street improvements associated with a development proposal, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving;

c. Structural building overhangs associated with a development proposal;

d. Areaways associated with a development proposal;

4. Lot boundary adjustments;

5. Modification of the following features bonused under Title 24:

a. Plazas;

b. Shopping plazas;

c. Arcades;

d. Shopping arcades;

e. Voluntary building setbacks;

6. Determinations of Significance (determination that an environmental impact statement is required) for Master Use Permits and for building, demolition, grading, and other construction permits (supplemental procedures for environmental review are established in Chapter 25.05, Environmental Policies and Procedures), except for Determinations of Significance based solely on historic and cultural preservation;

7. Discretionary exceptions for certain business signs authorized by subsection 23.55.042.D;

8. Waiver or modification of required right-of-way improvements;

9. Special accommodation pursuant to Section 23.44.015;

10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Determination of public benefit for combined lot development;

13. Streamlined design review decisions pursuant to Section 23.41.018 if no development standard departures are requested pursuant to Section 23.41.012, and design

review decisions in an MPC zone if no development standard departures are requested pursuant to Section 23.41.012;

14. Shoreline special use approvals that are not part of a shoreline substantial development permit;

15. Determination that a project is consistent with a planned action ordinance, except as provided in subsection 23.76.006.C;

16. Decision to approve, condition, or deny, based on SEPA policies, a permit for a project determined to be consistent with a planned action ordinance; ((~~and~~))

17. Modification of mitigation amounts under Section 23.58B.040 or Section 23.58B.050 pursuant to subsection 23.58B.025.B.2; and

18. Other Type I decisions.

C. The following are Type II decisions:

1. The following procedural environmental decisions for Master Use Permits and for building, demolition, grading, and other construction permits are subject to appeal to the Hearing Examiner and are not subject to further appeal to the City Council (supplemental procedures for environmental review are established in Chapter 25.05, Environmental Policies and Procedures):

a. Determination of Non-significance (DNS), including mitigated DNS;

b. Determination that a final environmental impact statement (EIS) is adequate; and

c. Determination of Significance based solely on historic and cultural preservation.

2. The following decisions are subject to appeal to the Hearing Examiner (except shoreline decisions and related environmental determinations that are appealable to the Shorelines Hearings Board):

a. Establishment or change of use for temporary uses more than four weeks not otherwise permitted in the zone or not meeting development standards, including the establishment of temporary uses and facilities to construct a light rail transit system for so long as is necessary to construct the system as provided in subsection 23.42.040.F, but excepting temporary relocation of police and fire stations for 24 months or less;

b. Short subdivisions;

c. Variances; provided that the decision on variances sought as part of a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

d. Special exceptions; provided that the decision on special exceptions sought as part of a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

e. Design review decisions, except for streamlined design review decisions pursuant to Section 23.41.018 if no development standard departures are requested pursuant to Section 23.41.012, and except for design review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested pursuant to Section 23.41.012;

f. Administrative conditional uses, provided that the decision on administrative conditional uses sought as part of a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

g. The following shoreline decisions; provided that these decisions shall be made by the Council pursuant to Section 23.76.036 when they are sought as part of a Council land use decision (supplemental procedures for shoreline decisions are established in Chapter 23.60A):

1) Shoreline substantial development permits;

2) Shoreline variances; and

3) Shoreline conditional uses;

h. Major Phased Developments;

i. Determination of project consistency with a planned action ordinance, only if the project requires another Type II decision;

j. Establishment of light rail transit facilities necessary to operate and maintain a light rail transit system, in accordance with the provisions of Section 23.80.004;

k. Downtown planned community developments;

l. Establishment of temporary uses for transitional encampments, except transitional encampment interim uses provided for in subsection 23.76.006.B.2; ((~~and~~))

m. Modification of mitigation amounts under Section 23.58B.040 or Section 23.58B.050 pursuant to subsection 23.58B.025.B.3; and

((~~m~~))n. Except for projects determined to be consistent with a planned action ordinance, decisions to approve, condition, or deny based on SEPA policies if such decisions are integrated with the decisions listed in subsections 23.76.006.C.2.a. through 23.76.006.C.2.l; provided that, for decisions listed in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f, and 23.76.006.c.2.g that are made by the Council, integrated

decisions to approve, condition, or deny based on SEPA policies are made by the Council pursuant to Section 23.76.036.

* * *

Section 5. 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((~~.~~))

1. Demolition, rehabilitation, or conversion

a. Policy ((~~B~~))background. Demolition or rehabilitation of low-rent housing units or conversion of housing for other uses can cause both displacement of low-income persons and reduction in the supply of housing.

((~~2~~))b. Policies((~~.~~))

((~~a.~~))1) It is the City's policy to encourage preservation of housing opportunities, especially for low-income persons, and to ensure that persons displaced by redevelopment are relocated.

((~~b.~~))2) Proponents of projects shall disclose the on-site and off-site impacts of the proposed projects upon existing housing, with particular attention to low-income housing.

((~~c.~~))3) Compliance with legally valid City ordinance provisions relating to housing relocation, demolition, and conversion shall constitute compliance with this housing policy.

((~~d.~~))4) Housing preservation shall be an important consideration in the development of the City's public projects and programs. The City shall give high priority to limiting demolition of low-income housing in the development of its own facilities.

2. Commercial development - Policy background

a. The housing goal of the Growth Management Act, Chapter 36.70A RCW, encourages the availability of housing to all economic segments of the population. In accordance with the Growth Management Act, the housing element of the City's Comprehensive Plan shall, among other things, make adequate provision for existing and projected needs of all economic segments of the community.

b. SEPA provides that each person has a fundamental and inalienable right to a healthful environment. Affordable housing is a critical component of a healthful environment.

c. Development of new commercial floor area is accompanied by employment growth, including lower-wage jobs. An increase in lower-wage jobs associated with new commercial floor area correlates with an increase in the need for affordable housing.

d. The impact correlated with commercial development on the need for affordable housing falls disproportionately on persons of certain incomes and certain races and ethnicities. The City has a strong interest in mitigating the impacts of development of new commercial floor area in creating a need for affordable housing, particularly to ensure housing for those households earning no higher than 60 percent of median income.

e. Because affordable housing is in short supply in the City and newly constructed housing is generally not affordable, lower-wage employees may be forced to live in less than adequate housing within the City, pay a disproportionate share of their incomes to live

in adequate housing in the City, or commute ever increasing distances to their jobs from housing located outside the City when they are unable to locate adequate housing within the City.

f. It is the City's policy that all people have the right to safe, healthy, and affordable 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:

1) It is the City's policy to mitigate a portion of the affordable housing impacts of commercial development on low-income people, including people of color.

2) In determining the necessary affordable housing impact mitigation, the decision maker shall consider the need for affordable housing created by the development due to employment growth, including lower-wage jobs, associated with the development.

3) Mitigation measures may include, but are not limited to:

a) Production of affordable housing units on-site or off-site; and

b) Payment to fund affordable housing.

4) Subject to the Overview Policy set forth in Section 25.05.665, the decision maker may condition or deny a commercial development project described in this subsection 25.05.675.I.3.a to mitigate adverse impacts on the need for affordable housing.

Compliance with Chapter 23.58B shall constitute compliance with the policies set forth in this subsection 25.05.675.I.3.a.

* * *

Section 6. The provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this subtitle or the validity of its application to other persons or circumstances.

Section 7. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 9th day of NOVEMBER, 2015, and signed by me in open session in authentication of its passage this 9th day of NOVEMBER, 2015.

President _____ of the City Council

Approved by me this 17th day of November, 2015.

Edward B. Murray, Mayor

Filed by me this 17th day of NOVEMBER, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment A – Findings of Fact

Attachment A

CITY OF SEATTLE

FINDINGS OF FACT

Part 1 - Background

1. In general, housing is considered affordable for a household occupying a housing unit if gross housing costs, including utilities, consume no more than 30 percent of the household's income. According to the U.S. Department of Housing and Urban Development, households who pay more than 30 percent of their income for housing and basic utilities are considered cost burdened. Cost burdened households may have difficulty affording necessities such as food, clothing, transportation, and medical care. Households who pay more than 50 percent of their income for housing are considered severely cost burdened.

2. Securing affordable housing in Seattle is a priority for the City as the population and business community grow. To this end, the City has engaged in a thorough investigation of present and future barriers to housing affordability; the demand for, and supply of, affordable housing; affordable housing strategies implemented in other jurisdictions across the United States; present production of affordable housing within the City; productivity of present incentive programs; and how the market would react to regulation of certain activities that increase the need for affordable housing.

3. In May 2013 the Council adopted Resolution 31444, which established a work program for reviewing and potentially modifying the City's affordable housing incentive zoning and other affordable housing programs.

4. In accordance with Resolution 31444, the Council commissioned reports to identify new strategies for Seattle, including:

    a. Cornerstone Partnership produced reports dated February 4, 2014, entitled "Seattle Incentive Zoning Analysis of data relating to the historical production under Seattle's Incentive Zoning System," and July, 2014, entitled "Policy Options for Refining Seattle's Incentive Zoning Program," as well as a memo dated September 12, 2014, entitled "Recommendations for implementation of an Affordable Housing Linkage Fee."

    b. Otak, Inc., in partnership with Paul Peninger, produced a report dated May 2014 entitled "Seattle Workforce Housing / Programs and Policies Related to Meeting Workforce Housing Needs in Seattle: A Survey and Analysis of Best Practices in Comparative Jurisdictions."

    c. David Paul Rosen & Associates (DRA) produced a report dated October 10, 2014, entitled "Seattle Affordable Housing Incentive Program Economic Analysis," later supplemented by a memo dated May 18, 2015, containing economic impact analysis for additional prototypes.

5. The Council has reviewed the reports and recommendations. To evaluate affordable housing needs and approaches in Seattle, the Council participated in many forums and public meetings, reviewed many materials and deliberated extensively. This analysis included the following sessions and events in 2014:

a. February 13, 2014 Workforce Housing Forum: a half-day forum featuring national experts discussing best practices in affordable housing production in growing urban centers like Seattle. Consultant reports and presentations discussed and reviewed at the forum included the "City of Seattle Housing Needs Data" by Council Central Staff, "Benchmarking and Best Practice Report" by Otak Inc., an additional presentation by Otak Inc., "Seattle Cornerstone Report" by Cornerstone Partnership, and the "Incentive Zoning Presentation" by Cornerstone Partnership. A panel presentation was then made addressing "New Strategies for Workforce Housing," including presentations by the City of Minneapolis, the Urban Land Conservancy, and the Silicon Valley Leadership Group. A second panel presentation was made addressing "Best Practices for Incentive Zoning," including presentations by the City of Denver, Citizens Housing and Planning Association Presentation, and Center for Housing Policy Presentation.

b. June 16, 2014 Workforce Housing Listening Session: a listening session to hear directly from residents who presented to the Council their experiences finding affordable housing in Seattle.

c. July 16, 2014 Offsite Committee Meeting and Public Comment: a meeting held in Ballard by the Housing Affordability, Human Services, and Economic Resiliency Committee, featuring presentations from the Office of Housing, the Tenants Union, and Ballard community members and receiving public comment.

d. July 21, 2014 Draft Recommendations Feedback Session: a presentation of draft recommendations by DRA and Cornerstone Partnership at an evening workshop with an opportunity for community feedback. DRA presented its "Economic Analysis Public Review Draft" and Cornerstone Partnership presented its "Draft Report on Best Practices and Policy Options."

e. July 21, 2014 Council Deliberation: presentation to the Council of draft recommendations.

f. September 16, 2014 Council Deliberation: presentation by consultants of final recommendations to the Planning, Land Use, and Sustainability Committee.

g. September 30, 2014 and October 14, 2014 Committee Deliberation: discussions before the Planning, Land Use, and Sustainability Committee regarding incentive zoning and a proposed housing linkage fee to mitigate demand for affordable housing caused by development of new floor area.

6. In September 2014 the Council adopted Resolution 31546, in which the Council and Mayor proposed that a Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee be jointly convened by the Council and Mayor to evaluate potential housing strategies to support development and preservation of a diversity of housing types and rents for residents of the City over the next ten years. The HALA Advisory Committee was comprised of 28 stakeholders and interested persons.

7. In October 2014 the Council adopted Resolution 31551, which established the Council's intent to adopt and implement a program to mitigate demand for affordable housing caused by new development, referred to as a "linkage fee" program.

8. On April 23, 2015, the Planning, Land Use and Sustainability Committee heard a presentation by the Department of Planning and Development on Detached Accessory Dwelling Units (DADUs), also known as mother-in-law apartments and backyard cottages. The presentation included historical production in Seattle of DADUs and Accessory Dwelling Units (ADUs), data regarding DADUs, opportunities in Seattle regarding DADU eligible lots, survey results from backyard cottage owners, and potential next steps. Staff from the City of Portland and the State of Oregon Department of Environmental Qualify each presented on use of ADUs as a housing solution in Portland and Oregon. CAST Architecture made a presentation on designing such structures. A discussion was then held regarding expanding the use of DADUs and ADUs.

9. The Department of Planning and Development issued a Determination of Non-Significance (DNS) under SEPA, dated June 8, 2015, for the Affordable Housing Mitigation Program and Incentive Zoning Update and Comprehensive Plan Amendments Regarding Affordable Housing. The DNS was appealed but the appeal was withdrawn. The Council has considered the DNS and supporting documents related thereto.

10. On July 13, 2015, the HALA Advisory Committee issued final recommendations to the Mayor and City Council.

    a. The HALA Advisory Committee recommended that the City boost market capacity by extensive Citywide upzoning of residential and commercial zones and, in connection with such upzones, implement a mandatory inclusionary housing program for new residential development and a commercial linkage fee program for development of new commercial floor area.

    b. The HALA Advisory Committee recommended that the commercial program offer the alternatives of payment of a per-square-foot fee to fund preservation and production of affordable housing, or construction of affordable housing on-site or off-site, and that the commercial program be implemented upon approval of additional commercial development capacity through rezones of specified areas or Land Use Code changes.

11. On July 13, 2015, the Mayor, Councilmember O'Brien, the Co-Chairs of the HALA Advisory Committee and representatives of the non-profit and for-profit development communities signed the Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee ("Framework Agreement") that described two strategies to address the City's affordable housing needs. The Framework Agreement identifies mandatory inclusionary housing and commercial linkage fees as key to achieving a projected production level of no fewer than 6,000 affordable units for households with incomes no higher than 60 percent of area median income ("AMI") over 10 years, and states that if the projected production levels fall below the target, all parties agree to develop and consider options to achieve the agreed upon production target.

12. In July, 2015 the Council established a Select Committee on Housing Affordability to work with the Mayor and members of the HALA Advisory Committee to increase housing affordability in the City.

13. The Select Committee on Housing Affordability met July 20, August 10 and August 17, 2015. During these meetings the Committee received public comment and received presentations from the Council Central Staff, the Mayor's Office, the Department of Planning and Development, and the Office of Housing to inform the Committee's consideration of the recommendations of the HALA Advisory Committee and how to move forward with programs to pursue the recommendations, including adoption of an affordable housing impact mitigation program for commercial development.

14. On September 9, 2015, the Select Committee on Housing Affordability held a public hearing on two resolutions including Resolution 31612 stating the Council's intent to make changes to zoning and land use regulations to implement a mandatory inclusionary affordable housing program for residential development and an affordable housing impact mitigation program for commercial development, as recommended by the HALA Advisory Committee and the Mayor, clarifying the scope of changes to be considered, establishing minimum outreach, planning, and implementation requirements, and requesting regular reporting; and Resolution 31609, stating the City Council's intent to consider strategies to increase the availability of affordable housing in the City, and requesting the State Legislature to adopt new policies or modify existing policies in order to provide additional opportunities for cities and counties to increase the availability of affordable housing.

15. On September 18, 2015, the Select Committee on Housing Affordability met and voted to recommend Resolution 31609 to the full Council. Public comment was heard.

16. The Select Committee on Housing Affordability also considered on September 18, 2015, Council Bill 118498, a proposed ordinance that, *inter alia*, adds a new Chapter 23.58B of the Seattle Municipal Code (SMC) to establish the framework for an Affordable Housing Impact Mitigation Program for commercial development. The Council considered, *inter alia*, the August 25, 2015 letter from the Mayor transmitting the proposed Council Bill, the Summary and Fiscal Note, the DPD Director's Report dated September 2015, a Central Staff Memo dated September 16, 2015 addressing Council Bill 118498 and Resolution 31612, proposed Resolution 31612, and the Seattle Non-Residential Affordable Housing Impact and Mitigation Study dated September 15, 2015 by DRA. The Council received a presentation from Chris Gregorich and Leslie Brinson Price of the Mayor's Office, Brennon Staley of the Department of Planning and Development, and Lindsay Masters of the Office of Housing. Public comment was heard. As set forth in the Director's Report, the Affordable Housing Impact Mitigation Program for commercial development is also referred to as Mandatory Housing Affordability through Commercial Development, or MHA-Commercial.

17. On September 28, 2015, the Full Council passed Resolution 31609. Public comment was heard. The Resolution passed unanimously.

18. On September 30, 2015, the Select Committee on Housing Affordability held a public hearing on Council Bill 118498.

19. On October 5, 2015, the Full Council passed Resolution 31622, which replaced Resolution 31609, and declared the City Council's intent to consider strategies to increase the availability of affordable housing in the City, and requested the State Legislature to adopt new policies or modify existing policies in order to provide

additional opportunities for cities and counties to increase the availability of affordable housing. Public comment was heard.

20. On October 5, 2015, the Select Committee on Housing Affordability again considered Council Bill 118498. The Select Committee also considered Resolution 31612.

21. On October 12, 2015, the Select Committee on Housing Affordability approved Council Bill 118498 with amendments and sent it to the Full Council. The Select Committee on Housing Affordability also approved Resolution 31612 with amendments and sent it to the Full Council.

22. To facilitate implementation of an affordable housing impact mitigation program for commercial development recommended by the HALA Advisory Committee, the Council deems it advisable to promptly adopt the governing framework for such a program.

Part 2 - Applicability

23. The Affordable Housing Impact Mitigation Program set forth in Council Bill 118498 (the "Program") will apply to development of either a new structure or an addition to an existing structure that contains more than 4,000 square feet of new chargeable floor area that will be devoted to commercial use.

24. The following commercial uses in structures with at least 50 percent of above-grade floor area in residential use will be exempt from housing mitigation requirements under the Program:

    a. up to 4,000 square feet of street-level floor area containing arts facilities, eating and drinking establishments, entertainment uses (other than adult cabarets, adult motion picture theaters, and adult panorams); and general sales and services;

    b. street-level uses along a designated pedestrian street that are required to meet street-level use standards in Pedestrian zones; and

    c. commercial uses within a low-income housing development, provided that a regulatory agreement or housing covenant limits the incomes and rents to no higher than 60 percent of AMI for at least 75 percent of the units for at least 50 years.

25. The first two exemptions from housing mitigation requirements are intended to acknowledge existing City priorities to activate street fronts. The third exemption exempts low-income housing developments with long term affordability restrictions because the low-income housing will adequately mitigate the affordable housing impacts of the development of the commercial space.

26. Consistent with the HALA Advisory Committee recommendations, the Affordable Housing Impact Mitigation Program will allow provision of affordable housing either through construction of affordable dwelling units on- or off-site ("performance option") or a cash contribution in lieu of performance ("payment option")..

27. The Council has expressed an intent that amendments to the payment and performance amounts provided in Council Bill 118498 may be needed during an initial implementation phase, but that after the completion of the initial implementation phase, amendments may be considered if there is a failure to meet expectations for program performance after five years from the effective date of Council Bill 118498, if there are significant positive or negative changes in real estate development market conditions, or

if neither of these criteria is met and ten years have elapsed since the completion of the initial implementation phase.

28. Council Bill 118498 employs race-neutral tools to combat racial isolation and foster diversity within Seattle. CB 118498 furthers the City's desire to take actions to address segregation and related barriers for groups with characteristics protected by the Fair Housing Act, as often reflected in racially or ethnically concentrated areas of poverty.

Part 3 – Present and Future Affordability Challenges

Seattle Is Facing Increasing Affordability Challenges.

29. Seattle is facing increasing affordability challenges. Many Seattle residents are cost-burdened or severely cost burdened. An estimated 15 to 20 percent of all Seattle households are severely cost burdened. An estimated 105,000 households (or roughly 38 percent) of all Seattle households are cost-burdened.

30. Severe housing cost burdens disproportionately impact very low-income households. About 26,250 very low-income Seattle households—or 62 percent of the households with incomes of 30 percent AMI or less—spend more than half their income on housing.

31. Housing cost burdens also disproportionately impact minority racial and ethnic communities. Over 25 percent of Black/African American Seattle homeowners, and close to 35 percent of Black/African American Seattle renters, are severely cost burdened.

32. Renters in Seattle are more likely to have incomes below area median income. While only about 29 percent of Seattle owner households have incomes at or below 100 percent AMI, an estimated 76 percent of renters have incomes at or below 100 percent AMI. Among owner-households, Black/African American homeowner households are disproportionately likely to have incomes at or below 100 percent of AMI: 51 percent of Black/African American homeowner households have incomes at or below 100% of AMI. Among owner households, low incomes of 80 percent of AMI or below are also disproportionately common among Black/African American households.

33. Racial and ethnic minorities in Seattle are more likely to rent. Homeownership rates for Black/African American, Hispanic/Latino and mixed race households are significantly lower than for Asian and White households. Overall, the 2010 Decennial Census showed a 48 percent homeownership rate for Seattle households. In contrast, only 27 percent of Hispanic/Latino households; 29 percent of Blacks/African American households; and 33 percent of two-or-more-races households own their own homes. In Seattle, 46 percent of Asian households own their own homes and 52 percent of White households own their own homes.

34. Average rents for one-bedroom and even studio apartments in Seattle are unaffordable to individuals working in some of the region's most common occupations, such as medical assistants, retail salespeople, childcare workers, janitors, and nurse assistants, or those making minimum wage. Average rent for newer one-bedroom apartments is not even affordable to a household with two people making the new minimum wage, which for some employers will increase to $15 per hour in 2017.

35. Affordable monthly rent for a person making a $15 per hour wage is $780. Affordable monthly rent for a household with two people who both work full-time at $15 per hour is $1,560. Dupre+Scott Apartment Advisors reported the following average monthly rents in their Spring 2015 Apartment Vacancy Report for the City of Seattle market area: Studios $1,181 (all 20+ unit buildings); Studios $1,386 (newer 20+ unit buildings only); One-bedroom/one bath $1,443 (all 20+ unit buildings); One bedroom/one-bath $1,789 (newer 20+ unit buildings only); Two-bedroom/one-bath $1,651 (all 20+ unit buildings); Two bedroom/one bath $2,129 (newer 20+ unit buildings only).

36. While a significant segment of Seattle is encountering challenges associated with lack of available affordable housing, these challenges are having a disproportionate impact on access to housing for households of certain races and ethnicities and those with incomes less than 60 percent AMI.

The City of Seattle is Taking a Number of Steps to Address Present Affordable Housing Shortfalls

37. Presently there are estimated shortages of 23,500 affordable and available units for renter households with incomes of 0-30% of AMI, 25,000 affordable and available units for renter households with incomes of 0-50% of AMI, and 9,500 affordable and available units for renter households with incomes of 0-80% of AMI. Affordable and available means the housing is both affordable and not presently occupied by households in higher income categories.

38. The Affordable Housing Impact Mitigation Program is not designed to address the preexisting shortfall in affordable housing. Instead, a comprehensive strategy that includes existing and new approaches, separate from the Affordable Housing Impact Mitigation Program, will be employed to address this issue. New approaches to boosting preservation and production of rent- and income-restricted units may include: finding new funding sources for rental housing (for households whose income is 0-60 percent AMI); offering tax and other incentives; expanding and renewing the Seattle housing levy; considering use of surplus property revenue, County document recording fees, hotel/motel tax, and local option sales tax to fund housing; investigating federal equity investment in federal tax credits; and pursuing direct U.S. Department of Housing and Urban Development investment.

39. Efforts may also include addressing other barriers to access to affordable housing. Preliminary findings from the Seattle Office of Civil Rights 2014 Fair Housing Testing, which involves sending testers – including some protected by the Fair Housing Act – to seek housing on the private market, showed that rental practices continue to favor White households. Tests for discriminatory practices showed that 64 percent of tests generally favored White households over non-White households, and 67 percent of tests showed evidence of different treatment based on national origin.

The Affordable Housing Impact Mitigation Program Mitigates Impacts of Commercial Development.

40. The Affordable Housing Impact Mitigation Program mitigates a portion of the impacts of development of new commercial floor area on the need for affordable housing in Seattle.

41. Seattle's population is projected to increase by another 120,000 people and the City is projected to add 70,000 additional housing units and 115,000 additional jobs by 2035. A significant portion of the additional households will be lower income.

42. Part of the demand for affordable housing is caused by commercial development.

43. Most population growth is job driven, and net job growth does not occur without construction of new buildings to accommodate workers.

44. Many of the employees associated with new commercial development are lower-income.

45. There is a significant existing shortage of housing affordable and available to lower-income households. New market-rate housing is generally not affordable to lower-income households.

46. The September 15, 2015, Seattle Non-Residential Affordable Housing Impact and Mitigation Study, prepared by DRA, identifies the impact that certain nonresidential development prototypes have on the need for affordable housing. The DRA prototypes reflect the range of commercial development to which the Program would apply.

47. The DRA study determines the amounts of mitigation fees that would be needed to address the identified impacts caused by commercial development on the need for affordable housing. The fee amounts in Council Bill 118498 are in all cases less than those determined by the study. The City finds that the fee amounts in Council Bill 118498 are intended to mitigate, and do mitigate, some but not all of the affordable housing impacts of the new commercial developments that would be subject to the Program.

48. The City also calculated the amounts of affordable housing, in terms of percentage of floor area, that would need to be provided through performance in order to address the identified impacts of the prototypes. The performance amounts in Council Bill 118498 are in all cases less than those amounts. The City finds that the performance percentages in Council Bill 118498 are intended to mitigate, and do mitigate, some but not all of the affordable housing impacts of the new commercial developments that would be subject to the Program.

49. To accommodate potentially unique characteristics of individual developments, the Council finds the need to include administrative remedies to allow the applicant for a commercial development to seek to reduce the payment or performance requirement if the applicant demonstrates that the required amount of mitigation exceeds the amount that would be needed to mitigate the actual demand for affordable housing created by the development.

50. Commercial development's affordable housing impacts fall disproportionately on persons of certain incomes and certain races and ethnicities. It is necessary to mitigate some of

the affordable housing impacts of new commercial development, particularly to ensure housing for those with incomes at or below 60 percent AMI.

51. Because affordable housing is in short supply in the City, lower-income employees associated with new commercial development may be forced to live in less than adequate housing within the City, pay a disproportionate share of their incomes to live in adequate housing in the City, or commute ever increasing distances to their jobs from housing located outside the City when they are unable to locate adequate housing within the City.

52. The Council also finds it important to continue to monitor the Program to ensure that the results are consistent with the goals of the legislation.

53. It is anticipated that the Affordable Housing Impact Mitigation Program will provide approximately 2,400 units of the 6,000 affordable housing unit production level identified in the Framework Agreement, to address a portion of the new affordable housing needed for low wage workers generated by the commercial developments over the next decade.

The City Relies on Numerous Sources to Provide Affordable Housing but Existing Programs Have Proved Insufficient

54. The City relies on a variety of sources to provide affordable housing, including payments and provision of affordable units by developers under bonus programs, provision of units by developers pursuant to tax exemptions, property tax revenues raised through voter-approved levies, and other sources.

55. The City has commercial and residential bonus programs in Downtown, South Lake Union, and limited other areas of the City. The programs allow developers to develop additional floor area, beyond what would otherwise be allowed, if they provide a variety of public benefits, including not only affordable housing (in most cases, via either performance or payment) but also, to a varying extent, childcare, open space, and other items. From 2001 through September, 2015, bonus programs raised $83 million for affordable housing plus direct production of 116 affordable units by developers.

56. Since 1998, the City has administered a Multifamily Tax Exemption (MFTE) program that supports more than 2,000 affordable units in mixed income buildings throughout the City.

57. In 2009, Seattle voters approved, for the fifth time, a property tax levy to fund affordable housing for low income residents. The current levy is for $145 million and runs through 2016. For over 30 years, the City has managed investments from the voter-approved Seattle Housing Levy plus state and federal sources to fund the preservation and production of affordable apartments and homes. The Office of Housing also develops policies and manages programs that support further affordable housing preservation and production. To date, nearly 12,000 affordable rental units have been produced and thousands of homes and apartments have been repaired or weatherized.

58. Existing programs, including the Seattle Housing Levy, Multifamily Tax Exemption, City bonus programs, and other City, state and federal programs, have proved insufficient to meet the demand for affordable housing, as demonstrated by existing shortages of affordable and available units for renter households.

59. The non-mandatory nature of the City's bonus programs limits the potential usefulness of this approach. The bonus programs allow development to a "base" level without the

provision of any affordable housing, via either performance or payment. Not all projects that are eligible to use bonuses may choose to do so, and under a bonus approach those that do not are not required to mitigate any of their affordable housing impacts. By contrast, the Affordable Housing Impact Mitigation Program will require developers to mitigate, to some extent, the affordable housing impacts of all new commercial floor area.

60. Every year the City loses some amount of affordable market-rate housing due to demolition and redevelopment. Additional income- and rent-restricted housing is sometimes lost through expiring use restrictions. The reality of ongoing displacement of low-income households was a consistent theme in many HALA discussions and a major concern raised in the public forums. The City is considering options for a preservation and production strategy to reduce displacement and minimize loss of affordable housing, in addition to its efforts to mitigate the impact of commercial development on the need for affordable housing.

Part 4 – The City's Responsibility For Managing Growth

61. In developing and adopting its comprehensive plan and implementing development regulations, the City must be guided by the goals of the Growth Management Act (GMA), Chapter 36.70A RCW, including the housing goal which encourages the availability of affordable housing to all economic segments of the population. The GMA also requires that the housing element of the City's Comprehensive Plan include an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, include a statement of goals, policies, objectives and mandatory provisions for the preservation, improvement, and development of housing, identify sufficient land for housing, and make adequate provision for existing and projected needs of all economic segments of the community.

62. WAC 365-196-410 recommends that the City prepare a housing inventory whose purpose is to gauge the availability of existing housing for all economic segments of the community and a housing needs analysis to estimate the type and densities of future housing needed to serve all economic segments of the community. The rule supports the desirability of evaluating progress towards achieving the goals and policies of the housing element.

63. The City originally adopted its Comprehensive Plan in 1994. The Comprehensive Plan has been amended annually since its adoption, most recently by Ordinances 124886, 124887, and 124888 in October, 2015. The process for the major update of Seattle's Comprehensive Plan, called Seattle 2035, is underway. A first draft of the Seattle 2035 Comprehensive Plan was released in July 2015 for public comment and Mayor Murray's proposed plan is anticipated for release in early 2016.

64. As amended by Ordinance 124886, Comprehensive Plan land use and housing goals and policies include the following:

    a. LU5(2): Seek opportunities in rezones or changes in development regulations to require or encourage development of housing that is affordable for the longest term practical.

    b. HG2: Maintain housing affordability over the life of this Plan.

    c. HG2.5: Seek to reduce involuntary housing cost burden for households by supporting the creation and preservation of affordable housing.

d. H8: Consider using programs that require or encourage public agencies, private property owners, and developers to build housing that helps fulfill City policy objectives.

e. H8.5 Encourage a shared responsibility among the private and public sectors for addressing affordable housing needs.

f. H9.5 When using federal, state, local, and private resources to preserve, rehabilitate or redevelop properties for affordable housing, consider access to transit service and estimated household transportation costs.

g. H29.4: Consider requiring that new development provide housing affordable to low-income households. Consider adopting such an approach either with or without rezones or changes in development standards that increase development capacity.

h. H29.8 Recognize that the provision of housing affordable to low-income households can help provide low-income households with access to education, employment, and social opportunities; support the creation of a more inclusive city; and reduce displacement of households from their neighborhoods or the city as a whole.

65. Ordinance 124887 updated the Comprehensive Plan to adopt new growth estimates of 70,000 additional housing units and 115,000 additional jobs. This is the City's share of the region's projected housing and employment growth between 2015 and 2035, identified through the countywide process conducted by the Growth Management Planning Council.

66. A substantial portion of the additional households addressed by the new growth estimates will have incomes under 80 percent of AMI, and substantial portions will have incomes under 60 percent of AMI and under 30 percent of AMI. Addressing the housing needs of these households will require that tens of thousands of housing units affordable to lower-income households be produced.

67. The City has the prerogative and duty to control and regulate the use of land within the City of Seattle.

68. The City has determined that the Affordable Housing Impact Mitigation Program is in the best interest of the citizens of Seattle and is consistent with its Comprehensive Plan.

Part 5 – The City's Police Power

69. Council Bill 118498 is adopted pursuant to the City's police power authority to protect the public health, safety, and welfare.

70. The purpose of Council Bill 118498 is, through regulation, to mitigate a portion of the impact of development of new commercial floor area on the need for affordable housing, recognizing that the new lower-wage workers associated with new commercial development increase demand for affordable housing.

71. Housing is necessary to the public health and general welfare. The City has a strong governmental interest in the pursuit of housing for all its citizens, including for households with low incomes. Through Council Bill 118498, the City pursues its goal of creating more affordable housing to meet the substantiated need for affordable housing caused by commercial development. A failure by the City to act to provide and promote

affordable housing for its citizens under current circumstances would result in great harm.

72. The provisions of Council Bill 118498 will substantially advance the City's legitimate interest in ensuring low-income households' access to affordable housing dispersed throughout Seattle.

73. The City has considered various alternatives, has taken into account the needs and viewpoints of stakeholders and citizens, has considered the economic impact of the proposed mitigation program on developers of commercial projects, and has set performance and payment amounts well below the level that would be required to fully mitigate the impact of new commercial floor area on the need for affordable housing.

74. The Affordable Housing Impact Mitigation Program is part of a comprehensive legislative strategy that spreads the burden of addressing affordable housing needs in a fair manner. The City has determined that Council Bill 118498 represents a reasonable approach to mitigate impacts of new commercial development on the need for affordable housing in the City.

Part 6 – The Growth Management Act's Authorization of Affordable Housing Incentive Programs

75. The Affordable Housing Impact Mitigation Program may also be adopted pursuant to the Growth Management Act, RCW 36.70A.540, as an affordable housing incentive program.

76. As proposed by Council Bill 118498, the Program would not become effective in any given area or zone of the City until reference is made to Chapter 23.58B in the provisions of the zone. Council Bill 118498 expresses the Council's intent that references to Chapter 23.58B be made in conjunction with Land Use Code or Land Use Map amendments increasing commercial development capacity. Implementation conditioned on commercial development capacity increases may allow for authorization under RCW 36.70A.540. However, the Affordable Housing Impact Mitigation Program is also authorized under separate legal authority and could be implemented absent any development capacity increases.

77. The Program establishes standards for affordable housing, including affordability guidelines and income limits consistent with local housing needs.

78. The City has held a public hearing in order to establish that the 60% of AMI income level for rental housing set forth in Council Bill 118498 is consistent with RCW 36.70A.540(2)(b)(iii).

79. Average rents for apartments in Seattle are not affordable to households with incomes at the 30%, 60%, and (except for studios) 80% of AMI levels, and the gap is even greater for apartments in newer buildings.

80. Over 80% of Seattle renter households with incomes 0-80% of AMI are in the 0-30% of AMI and 30-60% of AMI categories, which supports the Council's decision to address affordable housing needs for rental housing up to the 60% of AMI level.

81. In 2009, the City of Seattle was recognized by the John D. and Catherine T. Macarthur Foundation for its strong track record of creating long-term low-income rental housing,

and awarded funding as part of a national preservation initiative. The Office of Housing has also proven its efficiency in aligning resources to maximize production, as demonstrated by its success in meeting and exceeding production goals established for its voter-approved affordable housing levies. The 2002 Housing Levy resulted in 2,215 affordable housing units over 7 years, compared to a goal of 1,718, while 2009 Levy Rental Housing and Production outcomes already reached nearly 2,000 units as of year 5, exceeding the 7-year program goal of 1,670.

82. The Office of Housing, which awards funding for preservation and production of low-income housing, has provided sufficient information to assure the Council that payments from commercial developments will achieve a result that is equal to or better than the provision of affordable housing on-site, based on the overall amount of affordable housing produced, the affordability of the housing produced, and the extent to which affordable housing funded by the City supports other community benefits.

83. In nearly all zones, the amount of payments received would ultimately yield a number of affordable housing units that exceeds the amount that would be produced on-site, if the payments support housing at the same income and rent levels (60% of AMI). This is largely due to the other public and private financing that these funds can leverage, a significant amount of which remains untapped by low-income housing developers.

84. Unlike with housing produced on-site, the investment of the payment funds allows the flexibility to create housing affordable at rents even lower than 60% of AMI. While this may create tradeoffs with the amount of housing produced, the City has in many cases made the policy choice to support housing for individuals and families with incomes lower than the maximum target income level, due to compelling cases that can be made for addressing the greatest needs.

85. Funds invested in affordable housing can result in a range of other community benefits. For instance, public investment can stimulate economic development in areas of the City that lack private investment; preserve historic buildings that would otherwise be lost to deterioration or demolition; and help stabilize rents in areas where residents are at risk of displacement. On the whole, funds can be strategically invested to maximize housing choice throughout the city. In addition to leveraging other investment in housing, public funds can also leverage investments in a range of non-residential spaces such as affordable childcare, small business space, and social service facilities. Finally, affordable housing projects often include resident service programs and other connections to social services that help individuals and families to thrive. These types of benefits are generally not achieved through new market rate commercial developments, many of which may have no residential component at all.

Part 7 – The City's Authority under the State Environmental Policy Act

86. The City also has the authority, upon adoption of appropriate substantive SEPA policies, to impose the requirements of the Affordable Housing Impact Mitigation Program pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.

87. WAC 197-11-444 defines housing as an element of the environment.

88. The Council deems it advisable to adopt amendments to the City's substantive SEPA policies to allow for mitigation of certain affordable housing impacts under SEPA.

89. The record demonstrates that development of new commercial floor area creates a need for affordable housing.

90. The City finds that for proposals to which the City's substantive SEPA housing policies, as amended, will apply, compliance with the Affordable Housing Impact Mitigation Program constitutes adequate mitigation under SEPA.

STATE OF WASHINGTON -- KING COUNTY

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330915 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

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was published on

12/01/15

The amount of the fee charged for the foregoing publication is the sum of $46.50 which amount has been paid in full.

JENNIFER A. BARNES
COMMISSION EXPIRES
6-24-19
STATE OF WASHINGTON

Subscribed and sworn to before me on

12/01/2015

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on Noveneber 9, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124894

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 124895

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.58B of the Seattle Municipal Code (SMC) to establish the framework for an Affordable Housing Impact Mitigation Program for commercial development; and amending subsection 23.40.020.A, subsection 23.76.006.B, subsection 23.76.006.C, and subsection 25.05.675.I of the SMC.

Date of publication in the Seattle Daily Journal of Commerce, December 1, 2015.

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