

#4
CB117110

YELLOW

Amendment #1 to Council Bill (CB) 117110 – MFTE and Affordable Housing Incentive Programs

Section 8 of CB 117110
Sponsor: Licata
February 28, 2011, Full Council Meeting

Multifamily Property Tax Exemption (MFTE) Program – Content of annual program report to be provided to the Council by the Office of Housing.

This amendment would add a new, required component to the annual MFTE program report that the Office of Housing provides to the Council. Should any new affordable housing incentive programs or policies be adopted in the future that apply to areas of the City where MFTE projects may be developed, this amendment would make the Office of Housing responsible for identifying any specific MFTE program amendments that might be necessary to enable the MFTE program to operate in unison with those new policies.

The new language would amend Section 8 of CB 117110 as shown below in red with double strikethrough and underline.

Section 8. Ordinance 121415, Section 2, is hereby amended as follows:

A. Annually, beginning in ~~((2005, a committee composed of the Directors, or their designees, of))~~ 2012, the Office of Housing ~~((, the Department of Finance, the Department of Planning and Development, or such City departments or agencies that shall succeed to their functions with respect to this chapter, and a member City Council central staff,))~~ shall review the Multifamily Housing Property Tax Exemption ((p)) Program ~~((established by this ordinance))~~ and provide a written report to the City Council, which shall include: ((outlining))

1. A summary of development activity,
2. ~~((types and))~~ The number((s)), size, and affordability level of units planned or produced pursuant to Chapter 5.72 and Chapter 5.73,
3. ~~((and their))~~ The number and location((s,)) of projects planned or produced pursuant to Chapter 5.72 and Chapter 5.73,
4. The number of projects owned by for-profit and nonprofit entities,

5. The rent and sales prices of the affordable and market rate units for projects receiving a Final Certificate in the prior calendar year,

6. ~~((information regarding t))~~ The number of low and moderate income households benefiting from the program,

7. ~~((t))~~The estimated total amount of tax exempted annually and cumulatively for individual projects and for the entire program,

8. ~~((t))~~The estimated annual impact of the tax exemption program on the average individual homeowner~~((s-ef))~~ in the City, ~~((and other appropriate factors.))~~

9. The number of approved projects for which the tax exemption has expired or the Final Certificate has been terminated, ~~and~~

10. The number of units planned or produced in each Residential Targeted Area pursuant to Chapter 5.72 and Chapter 5.73, and

11. As necessary, recommendations from the Office of Housing about how the Multifamily Housing Property Tax Exemption Program might be amended to adapt to any changes in affordable housing incentive programs that apply within the City of Seattle.

1 ~~below ninety percent (90%) of Median Income for two-bedroom and larger units))~~ 65 percent of
2 Median Income for studio units, at or below 75 percent of Median Income for one bedroom
3 units, and at or below 85 percent of Median Income for two bedroom and larger units.

4 ***

5
6 Section 2. Section 5.73.050 of the Seattle Municipal Code, which section was last
7 amended by Ordinance 122730, is hereby amended as follows:

8 **5.73.050 Application procedure – Fee((-))**

9 A. The Owner of Multifamily Housing applying for exemption under this chapter shall
10 submit an application to the Director, on a form ~~((adopted by the City Council))~~ provided by the
11 Office of Housing. The Owner shall verify the application by oath or affirmation. The
12 application shall contain such information as the Director may deem necessary or useful, and
13 shall include:

14 1. A brief written description of the units, and preliminary schematic site and
15 floor plans of the Multifamily Housing units and the structure(s) in which they are proposed to
16 be located;

17 2. A statement from the Owner acknowledging the potential tax liability when the
18 Multifamily Housing ceases to be eligible for exemption under this chapter;

19 3. Information describing how the Owner will comply with the affordability
20 requirements in ~~((Subsections 5.73.040 B and C))~~ subsections 5.73.040.B and C of this chapter;

21 4. In the case of rehabilitation or conversion of an existing vacant building,
22 verification from DPD of non-compliance with applicable building and housing codes as
23 required under Section ~~((5.73.040 A 4))~~ 5.73.040.A.4, and an affidavit from the Owner verifying
24 that the residential portion of the building has been vacant for a period of ~~((twenty-four))~~ 24
25 months prior to filing the application;

1 5. ~~((If available, a))~~ A housing market study that includes comparable rents or
2 sales prices in other nearby housing projects; and

3 6. ~~((For rental projects, a preliminary operating budget, utilizing a form provided~~
4 ~~by the Office of Housing that outlines annual anticipated operating income and expenses for the~~
5 ~~first ten (10) years of project operation))~~ A recent title report confirming the legal description and
6 ownership of the property where the Multifamily Housing is or will be located; evidence
7 satisfactory to the Director concerning the type of Owner entity or entities and organizational
8 structure; a sample signature block for the Owner(s); and evidence satisfactory to the Director of
9 authority of the person or persons signing the application.

10 B. At the time of application under this Section 5.73.050, the Owner shall pay to the City
11 an initial application fee of ~~(((\$6,000.00))~~ \$3,000 if the ~~((Project))~~ project contains only residential
12 uses for which a tax exemption is sought under this chapter, or ~~(((\$6,800.00))~~ \$3,400 if the
13 ~~((Project))~~ project contains any non-residential use. The Director ~~((application fees))~~ shall have
14 the authority to increase the application fee by up to five percent ~~((5%))~~ each calendar year
15 following adoption of this Ordinance, unless revised by Ordinance.

16 C. The Director shall notify the Owner within ~~((twenty-eight ()))~~ 28(()) days of the
17 application being filed if the Director determines that an application is not complete and shall
18 identify what additional information is required before the application will be complete. Within
19 ~~((twenty-eight ()))~~ 28(()) days of receiving additional information, the Director shall notify the
20 Owner in writing if the Director determines that the application is still not complete, and what
21 additional information is necessary. An application shall be deemed to be complete if the
22 Director does not notify the Owner in writing by the deadlines in the section that the application
23 is incomplete; however, a determination of completeness does not preclude the Director from
24 requiring additional information during the review process if more information is needed to
25 evaluate the application according to the criteria in this chapter.

1 D. The deadline for application ((is as follows:

2 ~~1. For Owners whose first building permit under SMC Chapter 22 for the Project~~
3 ~~was issued between July 22, 2007 and the effective date of this amendment to this chapter the~~
4 ~~application shall be submitted prior to completion of construction of the Project. Owners who~~
5 ~~meet the foregoing conditions and have previously submitted an application for exemption or~~
6 ~~received a Conditional Certificate of Tax Exemption may reapply for exemption under this~~
7 ~~chapter prior to completion of construction of the Project.~~

8 2. ~~For all others, the application)) shall be ((submitted)) any time before, but no~~
9 ~~later than, the date the first building permit under ((SMC))Chapter 22((;)) is issued.~~

10
11 Section 3. Section 5.73.060 of the Seattle Municipal Code, which section was last
12 amended by Ordinance 122730, is hereby amended as follows:

13 **5.73.060 Application review – Issuance of conditional certificate – Denial – Appeal –**
14 **Recording of contract((;))**

15 A. The Director shall approve or deny an application under this chapter within ((ninety
16 (90))90((;)) days after a complete application is submitted to the Director.

17 B. If the application is approved, the ((applicant)) Owner shall enter into a contract with
18 the City((; subject to approval by resolution of the City Council,)) containing the terms and
19 conditions and eligibility for exemption under this chapter. ((The City Council's resolution to
20 approve the applicant's contract with the City shall be adopted within one hundred twenty (120)
21 days of the Director's receipt of a complete application.))

22 C. The Director is authorized to cause to be recorded, or to require the ((applicant or
23 owner))Owner to record, in the real property records of the King County Department of Records
24 and Elections, the contract or such other document(s) as will identify such terms and conditions

1 of eligibility for exemption under this chapter as the Director deems appropriate for recording,
2 including the affordability requirements under this chapter.

3 D. ~~((Upon Council approval of the contract,))~~ Following execution of the contract by the
4 Owner and the City, the Director ~~((shall execute the contract as approved by the City Council,~~
5 ~~and))~~ shall issue a ~~((e))~~ Conditional ~~((e))~~ Certificate of ~~((a))~~ Acceptance of ~~((t))~~ Tax ~~((e))~~ Exemption
6 ("Conditional Certificate"). The ~~((e))~~ Conditional ~~((e))~~ Certificate shall expire three ~~((3))~~ years
7 from the date of approval unless an extension is granted as provided in this chapter.

8 E. If the application is denied, the Director shall state in writing the reasons for the
9 denial and send notice of denial to the ~~((applicant's))~~ Owner's last known address within ten
10 days of the denial.

11 F. An ~~((applicant))~~ Owner may appeal the Director's denial of the application by filing
12 an appeal to the City Council with the City Clerk within ~~((thirty-))~~30~~(())~~ days of receipt of the
13 denial. The appeal before the City Council will be based on the record before the Director, and
14 the Director's decision will be upheld unless the ~~((applicant))~~ Owner can show that there is no
15 substantial evidence in the record to support the Director's decision. The City Council's
16 decision on appeal is final.

17
18 Section 4. Section 5.73.065 of the Seattle Municipal Code, which section was last
19 amended by Ordinance 122730, is hereby amended as follows:

20 **5.73.065 Amendment of contract~~((:))~~**

21 A. An Owner may seek an amendment of the contract ~~((approved by the City~~
22 ~~Council))~~ between the Owner and the City by submitting a request in writing to the Director at
23 any time prior to receiving the Final Certificate of Tax Exemption ("Final Certificate") ~~((within~~
24 ~~three (3) years of the date of the Council's approval of the contract))~~.

1 ((applicant))Owner shall file with the Director such information as the Director may deem
2 necessary or useful to evaluate eligibility for the Final Certificate, and shall include:

3 1. A statement of expenditures made with respect to each housing unit and the
4 total expenditures made with respect to the entire multifamily housing project;

5 2. A description of the completed work and a statement of qualifications for the
6 exemption;

7 3. A statement that the work was completed within the required three-year period
8 or any approved extension; and

9 4. Information on the ((applicant's))Owner's compliance with the affordability
10 requirements in subsections 5.73.040.B and C((G and H)).

11 ***

12 Section 6. Section 5.73.090 of the Seattle Municipal Code, which section was last
13 amended by Ordinance 122730, is hereby amended as follows:

14 **5.73.090 Exemption – Duration – Limits(~~(-)~~)**

15 A. The value of ((~~new construction and Rehabilitation Improvements~~))Multifamily
16 Housing qualifying under this chapter will be exempt from ad valorem property taxation as
17 provided in RCW 84.14.020 (1) as follows:

18 1. For eligible rental Multifamily Housing as provided in Section 5.73.040, for
19 ((~~twelve (12)~~)) successive years beginning January 1st of the year immediately following the
20 calendar year of issuance of the Final Certificate((~~of Tax Exemption~~)); or

21 2. For eligible units in owner-occupied Multifamily Housing as provided in
22 Section 5.73.040, for eight ((~~8~~)) successive years beginning January 1st of the year immediately
23 following the calendar year of issuance of the Final Certificate((~~of Tax Exemption~~)); or if at
24 least ((~~twenty~~))20 percent ((~~20%~~)) of all units in the owner-occupied Multifamily Housing are
25 eligible units, for ((~~twelve (12)~~)) successive years beginning January 1st of the year

1 immediately following the calendar year of issuance of the Final Certificate(~~of Tax~~
2 Exemption)).

3
4 Section 7. Section 5.73.120 of the Seattle Municipal Code, which section was last
5 amended by Ordinance 122730, is hereby amended as follows:

6 **5.73.120 Expiration of program**

7 The program established by this chapter shall expire on (~~December 31, 2010,~~)
8 December 31, 2015, unless extended by the City Council by ordinance. Upon expiration, no
9 further applications (~~for a Conditional Certificate of Tax Exemption~~) under Section 5.73.050
10 shall be accepted. Incomplete applications shall be returned to the Owner. Pending applications
11 for a Conditional Certificate (~~of Tax Exemption~~), extension of Conditional Certificate(~~of Tax~~
12 ~~Exemption~~) and Final Certificate (~~of Tax Exemption~~) shall be processed as provided in this
13 chapter.

14
15 Section 8. Ordinance 121415, Section 2, is hereby amended as follows:

16 A. Annually, beginning in (~~2005, a committee composed of the Directors, or their~~
17 ~~designees, of~~) 2012, the Office of Housing(~~, the Department of Finance, the Department of~~
18 ~~Planning and Development, or such City departments or agencies that shall succeed to their~~
19 ~~functions with respect to this chapter, and a member City Council central staff,~~) shall review the
20 Multifamily Housing Property Tax Exemption ((p))Program ((established by this ordinance)) and
21 provide a written report to the City Council, which shall include: ((outlining))

- 22 1. A summary of development activity,
23 2. (~~types and~~) The number((s)), size, and affordability level of units planned or
24 produced pursuant to Chapter 5.72 and Chapter 5.73,

1 3. ~~((and their))~~ The number and location((s,)) of projects planned or produced
2 pursuant to Chapter 5.72 and Chapter 5.73,

3 4. The number of projects owned by for-profit and nonprofit entities,

4 5. The rent and sales prices of the affordable and market rate units for projects
5 receiving a Final Certificate in the prior calendar year,

6 6. ~~((information regarding t))~~ The number of low and moderate income
7 households benefiting from the program,

8 7. ~~((t))~~ The estimated total amount of tax exempted annually and cumulatively for
9 individual projects and for the entire program,

10 8. ~~((t))~~ The estimated annual impact of the tax exemption program on the average
11 individual homeowner((s of)) in the City, ((and other appropriate factors.))

12 9. The number of approved projects for which the tax exemption has expired or
13 the Final Certificate has been terminated, and

14 10. The number of units planned or produced in each Residential Targeted Area
15 pursuant to Chapter 5.72 and Chapter 5.73.

16 These reports may include recommendations on whether any neighborhoods should be
17 added or removed, whether affordability limits should be changed in certain areas, and will
18 include analysis of any issues related to the use of the program for homeownership units. The
19 annual report shall be submitted to the City Council no later than March 30 of each year the
20 program is in effect, starting in ~~((2005))~~ 2012. Each report shall include information for the
21 previous year. In June of ~~((2008))~~ 2015 the ~~((committee))~~ Office of Housing shall complete a
22 comprehensive review and provide a written report to the City Council regarding the
23 effectiveness of the program. Such review shall include the items included in the annual reports
24 as well as the costs and benefits of the program, an assessment of the affordability limits, and
25 any recommended program modifications.

1 B. The Office of Housing shall also provide the City Council with periodic reports on
2 recently approved applications for the Multifamily Housing Property Tax Exemption Program.
3 These reports shall be submitted to the City Council three times per calendar year and no later
4 than January 31, May 31 and September 30 of each year the program is in effect. Each report
5 shall provide information for the previous four-month reporting period, including:

- 6 1. The number of applications approved and the locations of the projects
7 described in each approved application,
- 8 2. The number, size and affordability of units in the projects described in the
9 approved applications,
- 10 3. The rent and sales prices of the affordable and market rate units,
- 11 4. The estimated total amount of tax exempted annually and cumulatively for
12 individual projects,
- 13 5. The estimated annual impact of each project on the average individual
14 homeowner in the City, and
- 15 6. Information about any pending applications received by the Office of Housing.

16
17 Section 9. Any act taken after passage of this ordinance consistent with the authority and
18 prior to the effective date of this ordinance is hereby ratified and confirmed.
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1 Section 10. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2011, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2011.

7 _____
8
9 President _____ of the City Council

10
11 Approved by me this ____ day of _____, 2011.

12 _____
13
14 Michael McGinn, Mayor

15
16 Filed by me this ____ day of _____, 2011.

17 _____
18
19 City Clerk

20 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Sara Belz/4-5382 (Legislative)	Amanda Allen/4-8894

Legislation Title:

AN ORDINANCE relating to the Multifamily Housing Property Tax Exemption Program; amending Sections 5.73.040, 5.73.050, 5.73.060, 5.73.065, 5.73.080, 5.73.090, and 5.73.120 of the Seattle Municipal Code; amending Section 2 of Ordinance 121415; and ratifying and confirming certain prior acts.

Summary of the Legislation:

This Council Bill will make amendments to the Multifamily Housing Property Tax Exemption (MFTE) Program, Seattle Municipal Code Chapter 5.73.

Background:

The City's MFTE Program expired on December 31, 2010. The proposed Ordinance would reauthorize the program through December 31, 2015. It would also implement changes to the Program's affordability levels, modify the application requirements for projects; authorize the Office of Housing (OH) to approve projects; and enhance the content of the reports on the MFTE Program that OH presents to the City Council. Authorizing OH to approve projects removes the requirement of a Council resolution for every project, resulting in an estimated 50% application fee reduction.

Please check one of the following:

This legislation does not have any financial implications.
 (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)

Appropriations:

This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2011 Appropriation	2012 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.



Appropriations Notes:

Because of the unpredictable nature of MFTE applications, additional appropriations for new program-related fees are not included in the 2011-2012 Adopted Budget. For planning purposes, OH's 2011 and 2012 revenue estimates, below, are based on the approval of four projects per year. OH may seek appropriation authority for these fee revenues once they are received, and once their use is determined.

Anticipated Revenue/Reimbursement: Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2011 Revenue	2012 Revenue
Low-Income Housing Fund (16400) – Downtown Housing Maintenance Subfund (16440)	Office of Housing	Fee revenue	(\$13,600)	(\$13,600)
TOTAL			(\$13,600)	(\$13,600)

Revenue/Reimbursement Notes:

The proposed legislation reduces the application fee authorized in SMC 5.73.050 B from \$6,000 to \$3,000 (residential only), and from \$6,800 to \$3,400 (residential plus non-residential uses). The 2011 and 2012 revenue revisions are based on applying the new fee structure to four applications per year for mixed-use projects.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2011 Positions	2011 FTE	2012 Positions*	2012 FTE*
TOTAL							

* 2012 positions and FTE are total 2012 position changes resulting from this legislation, not incremental changes. Therefore, under 2012, please be sure to include any continuing positions from 2011.

Position Notes:

No position changes are included in this legislation.

Do positions sunset in the future?

Not applicable.



Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2011 Expenditures	2012 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Spending/Cash Flow Notes:

Not applicable.

What is the financial cost of not implementing the legislation?

If the MFTE Program is not reauthorized, no new projects will be eligible to participate. As such, no revenues from applications will be collected. In addition to the lost application fees, some projects that need the property tax exemption might be cancelled. This could result in lost permit fees to the Department of Planning and Development (DPD).

Does this legislation affect any departments besides the originating department?

As is noted above, reauthorization of the MFTE Program could affect the amount of permit fees collected by DPD.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

The City's MFTE Program expired on December 31, 2010. Pursuant to SMC 5.73.120, reauthorization of the Program requires Council action via ordinance.

Is the legislation subject to public hearing requirements?

No.

Other Issues:

None.

List attachments to the fiscal note below:

None.

