

MEMORANDUM

To: Councilmember Rob Johnson, Chair; Lisa Herbold, and Mike O'Brien – Planning Land Use and Zoning Committee
From: Ketil Freeman, Council Central Staff
Date: July 18, 2016
Subject: Council Bill 118736 – Draft Potential Amendments

Planning, Land Use and Zoning Committee members are considering 14 amendments to Council Bill 118736. This memo sets out **draft** potential amendments under consideration. These amendments may be modified or abandoned based on committee discussion and ongoing internal review.

Proposed amendments are grouped by the following categories:

- A. Council Intent – Initial Implementation Phase: Setting Initial Payment and Performance Amounts;
- B. Council Intent – Initial Implementation Phase: Ongoing Review;
- C. Program Requirements – Criteria for Use of Payments, Term of Affordability, and Geographic Tiers;
- D. Program Requirements – Ownership Performance; and
- E. Modification of Payment and Performance Amounts – Land Use Decision Type.

Background

Council Bill 118736 would establish the Mandatory Housing Affordability – Residential (MHA-R) program. Under the program residential development in areas where the program applies would be required to provide (1) rental housing affordable to households earning up to 60% of Area Median Income (AMI), \$43,380 annually for a 2-person household; (2) ownership housing affordable to households earning up to 80% of AMI, \$55,450 annually for a 2-person household; or (3) make a payment in lieu of providing affordable housing. Performance and payment amounts would be established by future legislation. The program would be implemented concurrently with future increases in residential development capacity.

The MHA-R program is proposed as part of the Mayor's [Housing Seattle: A Roadmap to an Affordable and Livable City](#), which is informed by the work of the Housing Affordability and Livability Action Committee. The Council established the intent to implement the program through [Resolution 31612](#) in November 2015.

Proposed Amendment	Draft Proposed Amendment Language
A. Council Intent – MHA-R Initial Implementation Phase – Setting Initial Payment and Performance Amounts	
<p>1. Establishes Council’s intent to consider initial higher payment and performance amounts in areas identified as having a higher risk of displacement.</p> <p>Sponsor: O’Brien</p>	<p>Section 1. The Council expresses the following intent as to implementation of Seattle Municipal Code Chapter 23.58C:</p> <p>A. Initial implementation</p> <p style="text-align: center;">***</p> <p>2. Setting initial payment and performance amounts</p> <p>a. Payment and performance amounts are not included in Chapter 23.58C in this Council Bill _____. Payment and performance amounts for particular zones will be added to Tables A and B for 23.58C.040 and Tables A and B for 23.58C.050 at the time development capacity is increased in those zones during the initial implementation phase according to subsection A.1 of this section. <u>The Council intends to consider whether to include higher performance and payment amounts, subject to statutory limits, for those areas that have been identified as having a high displacement risk in Seattle 2035, Growth and Equity, Analyzing Impacts on Displacement and Opportunity Related to Seattle’s Growth Strategy, May 2016.</u></p> <p style="text-align: center;">***</p>
<p>2. Establishes Council’s intent to consider initial higher payment and performance amounts in areas identified as having a higher risk of displacement and identify, as a factor in establishing payment and performance amounts, replacement of affordable units identified as being at risk of demolition.</p> <p>Sponsor: Herbold</p>	<p>Section 1. The Council expresses the following intent as to implementation of Seattle Municipal Code Chapter 23.58C:</p> <p>A. Initial implementation</p> <p style="text-align: center;">***</p> <p>2. Setting initial payment and performance amounts</p> <p>a. Payment and performance amounts are not included in Chapter 23.58C in this Council Bill _____. Payment and performance amounts for particular zones will be added to Tables A and B for 23.58C.040 and Tables A and B for 23.58C.050 at the time development capacity is increased in those zones during the initial implementation phase according to subsection A.1 of this section. <u>The Council intends to consider whether to include higher performance and payment amounts for those areas that have been identified in Seattle 2035, Growth and Equity, Analyzing Impacts on Displacement and Opportunity Related to Seattle’s Growth Strategy, May 2016, as having a high displacement risk, regardless of whether they are also identified as having high or low access to opportunity. For these areas, the Council will consider whether, subject to statutory limits, performance and payment amounts should be established that result in a total number of new affordable units that meet minimum program parameters contemplated by the July 13, 2015, Statement of Intent for Basic Framework for Mandatory Inclusionary Housing and Commercial Linkage Fee plus a number of units equal to those affordable units identified through planning processes, including, but not limited to, the SEPA processes for MHA-R implementation, as being at risk of demolition.</u></p> <p style="text-align: center;">***</p>
B. Council Intent – MHA-R Initial Implementation Phase – Ongoing Review	
<p>3. Establishes Council’s intent to review actual and modeled program performance in a July 1, 2018 report that analyzes developers’ choices of program options outside of Downtown and the South Lake Union Urban Centers.</p> <p>Sponsor: Johnson</p>	<p>Section 1. The Council expresses the following intent as to implementation of Seattle Municipal Code Chapter 23.58C:</p> <p style="text-align: center;">***</p> <p>B. Amendment of payment and performance amounts</p> <p>1. Ongoing review. The Council directs that, during the first six months of 2018 and annually after July 1, 2018, the Director of the Seattle Department of Construction and Inspections (SDCI) and Director of Housing shall report on the performance of the mandatory affordable housing program provided in Chapter 23.58C, including the amount of payments collected under the payment option, the number of units produced with such payments, and the number of units constructed through the performance option. <u>The July 1, 2018 report should include an assessment of anticipated program performance, including an assessment of whether a developer building outside of the Downtown and South Lake Union Urban Centers would be indifferent between performance and payment given market conditions at that time. If the Council determines that adopted in-lieu fee payments for projects outside of the Downtown and South Lake Union Urban Centers favor the payment option, the Council will consider raising payment amounts to avoid a bias towards payment, consistent with statutory authority.</u></p> <p>Units produced under the mandatory housing affordability program provided in Chapter 23.58C shall be measured as net new units. Existing rent- and income-restricted affordable units demolished for development subject to the program are subtracted from the target production.</p> <p style="text-align: center;">***</p>

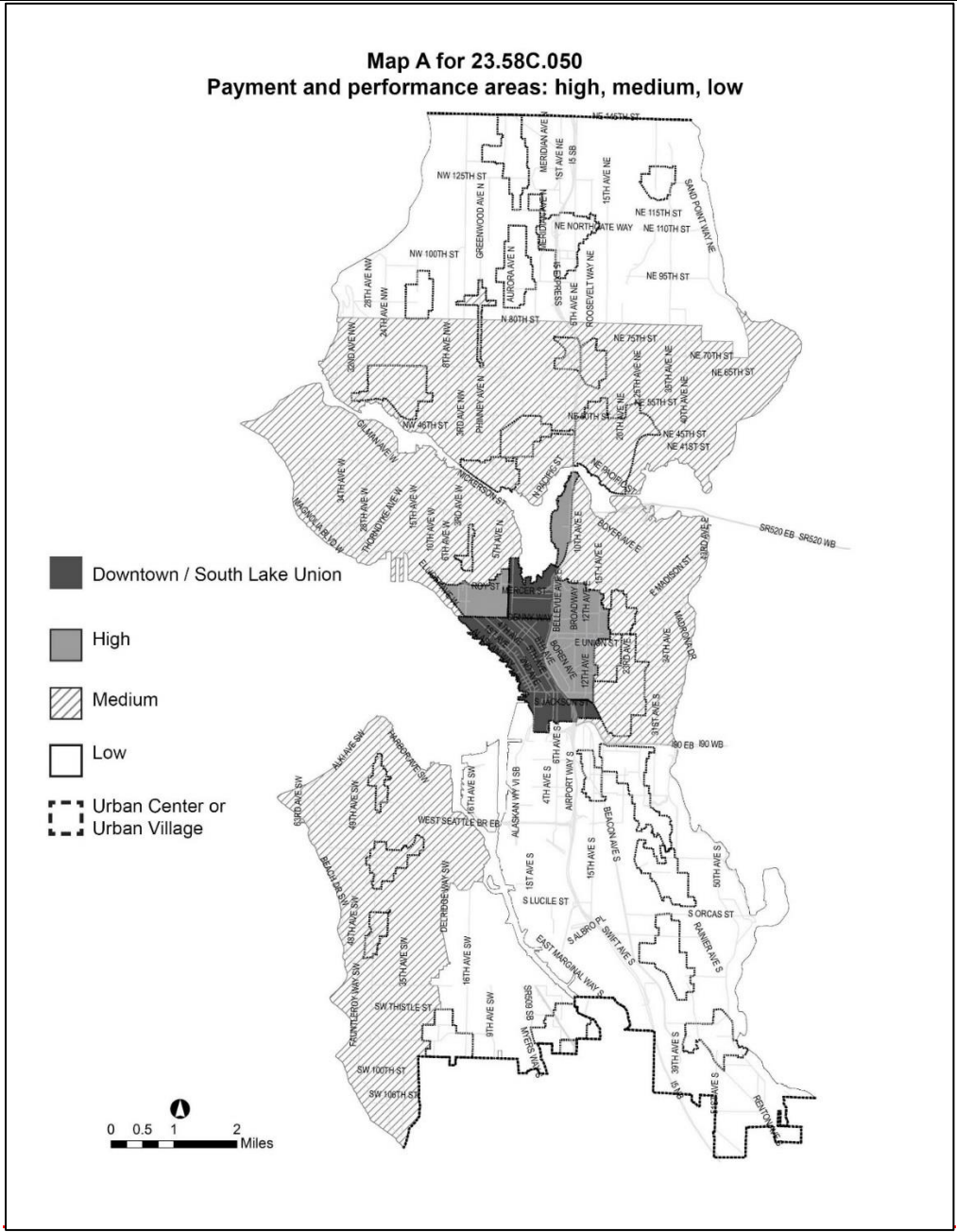
Proposed Amendment	Draft Proposed Amendment Language
<p>4. Similar to three above with specific direction for a recommendation on how to achieve an even split between program options.</p> <p>Sponsor: O'Brien</p>	<p>Section 1. The Council expresses the following intent as to implementation of Seattle Municipal Code Chapter 23.58C:</p> <p style="text-align: center;">***</p> <p>B. Amendment of payment and performance amounts</p> <p>1. Ongoing review. The Council directs that, during the first six months of 2018 and annually after July 1, 2018, the Director of the Seattle Department of Construction and Inspections (SDCI) and Director of Housing shall report on the performance of the mandatory affordable housing program provided in Chapter 23.58C, including the amount of payments collected under the payment option, the number of units produced with such payments, and the number of units constructed through the performance option. <u>The Council intends that, outside of the Downtown and South Lake Union Urban Centers, approximately half of projects developed under the program will choose the performance option and half will choose the payment option. If program performance is yielding a different result, the July 1, 2018 report shall provide an analysis of why projects developed under the program are favoring one approach over the other and recommend changes to the program to achieve an approximately even split, consistent with statutory requirements.</u> Units produced under the mandatory housing affordability program provided in Chapter 23.58C shall be measured as net new units. Existing rent- and income-restricted affordable units demolished for development subject to the program are subtracted from the target production.</p> <p style="text-align: center;">***</p>
<p>5. Establishes Council's intent to consider, by July 2018, alternative indices for program payment inflationary adjustments if use of the Consumer Price Index lag market changes.</p> <p>Sponsor: O'Brien</p>	<p>Section 1. The Council expresses the following intent as to implementation of Seattle Municipal Code Chapter 23.58C:</p> <p style="text-align: center;">***</p> <p>B. Amendment of payment and performance amounts</p> <p>1. Ongoing review. The Council directs that, during the first six months of 2018 and annually after July 1, 2018, the Director of the Seattle Department of Construction and Inspections (SDCI) and Director of Housing shall report on the performance of the mandatory affordable housing program provided in Chapter 23.58C, including the amount of payments collected under the payment option, the number of units produced with such payments, and the number of units constructed through the performance option. <u>The July 1, 2018 report shall compare changes in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bremerton, WA, All Items (1982-1984 = 100), with changes in multifamily residential rents and per-unit multifamily residential sales prices in Seattle since passage of the Ordinance introduced as Council Bill 118763. If changes in rents and sales prices are greater than changes in the Consumer Price Index, the Director of Housing shall propose an alternative measure or index upon which to base changes in program requirements.</u> Units produced under the mandatory housing affordability program provided in Chapter 23.58C shall be measured as net new units. Existing rent- and income-restricted affordable units demolished for development subject to the program are subtracted from the target production.</p> <p style="text-align: center;">***</p>
C. Program Requirements – Criteria for Use of Payments, Term of Affordability, and Geographic Tiers	
<p>6. Adds an additional decision criterion for investment of cash contributions in affordable housing to include proximity to projects choosing the payment option.</p> <p>Sponsor: Johnson</p>	<p>23.58C.040 Affordable housing – Payment option</p> <p style="text-align: center;">***</p> <p>B. Use of cash contributions</p> <p style="text-align: center;">***</p> <p>3. Location. For purposes of determining the location for use of cash contributions, the City shall consider the extent to which the housing supported by cash contributions advances the following factors:</p> <ul style="list-style-type: none"> 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 streetcar stops; and d. Furthering City policies to promote economic opportunity and community development and addressing the needs of communities vulnerable to displacement <u>and;</u> e. <u>locating near developments that generate cash contributions.</u> <p style="text-align: center;">***</p>
<p>7. Changes the minimum term of affordability for units developed under the program from 50 to 100 years.</p>	<p>23.58C.040 Affordable housing – Payment option</p> <p style="text-align: center;">***</p> <p>B. Use of cash contributions</p> <p style="text-align: center;">***</p> <p>2. Income levels</p>

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<p>Sponsor: Johnson</p>	<p>a. Rental housing supported by cash contributions shall be rent- and income-restricted to serve households with incomes no greater than 60 percent of median income for a minimum period of 50-100 years.</p> <p>b. Ownership housing supported by cash contributions shall be priced to serve and sold to households with incomes no greater than 80 percent of median income for a minimum period of 50-100 years.</p> <p style="text-align: center;">***</p> <p>23.58C.050 Affordable housing – Performance option</p> <p>B. Duration. The obligation, as to a structure that includes units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B, to provide units that meet the requirements according to subsection 23.58C.050.C in the amount required according to subsection 23.58C.050.A, subject to any applicable modifications, shall last:</p> <p>1. If rental units are provided to comply with this Chapter 23.58C:</p> <p>a. For a period of 50-100 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B, or</p> <p>b. Until such earlier time when:</p> <p>1) The structure is demolished, or its use is changed, so as to eliminate all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in that structure, and the requirements according to subsection 23.58C.050.C.6.j are met; or</p> <p>2) All of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in the structure are converted to ownership housing, and the requirements according to subsection 23.58C.050.C.6.i are met; or</p> <p>2. If ownership units are provided to comply with this Chapter 23.58C, for a period of 50-100 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B.</p> <p style="text-align: center;">***</p> <p>C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:</p> <p style="text-align: center;">***</p> <p>6. Additional requirements for rental units provided through the performance option</p> <p style="text-align: center;">***</p> <p>i. Conversion to ownership housing. If all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in a structure are converted to ownership housing, including through a conversion to condominiums, prior to 50-100 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B:</p> <p>1) The owner of the development shall, at the time of such conversion, pay to the City a payment in lieu of continuing affordability. The amount of the payment shall be equal to the amount of the cash contribution according to subsection 23.58C.040.A that would have been required at the time of issuance of the first building permit that includes the structural frame for the structure if the applicant had elected the payment option, adjusted for each calendar year following issuance of that permit in proportion to the annual change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bremerton, WA, All Items (1982-1984 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index, multiplied times the percentage in Table C for 23.58C.050 that corresponds to the number of years that the rental units provided through the performance option satisfied the requirements according to this subsection 23.58C.050.C. The City shall use the payment to support continued housing affordability in The City of Seattle consistent with applicable statutory requirements.</p> <table border="1" data-bbox="1184 1483 2349 1830"> <thead> <tr> <th colspan="2" data-bbox="1184 1483 2349 1594">Table C for 23.58C.050 Payment in lieu of affordability calculation percentages for conversion to ownership housing</th> </tr> <tr> <th data-bbox="1184 1594 2178 1669">Number of years units provided through performance option satisfied the requirements according to subsection 23.58C.050.C</th> <th data-bbox="2178 1594 2349 1669">Percentage</th> </tr> </thead> <tbody> <tr> <td data-bbox="1184 1669 2178 1709">Less than 5<u>10</u></td> <td data-bbox="2178 1669 2349 1709">100%</td> </tr> <tr> <td data-bbox="1184 1709 2178 1749">Between 5-10 and 10<u>20</u></td> <td data-bbox="2178 1709 2349 1749">95%</td> </tr> <tr> <td data-bbox="1184 1749 2178 1790">Between 10-20 and 15<u>30</u></td> <td data-bbox="2178 1749 2349 1790">90%</td> </tr> <tr> <td data-bbox="1184 1790 2178 1830">Between 15-30 and 20<u>40</u></td> <td data-bbox="2178 1790 2349 1830">85%</td> </tr> </tbody> </table>	Table C for 23.58C.050 Payment in lieu of affordability calculation percentages for conversion to ownership housing		Number of years units provided through performance option satisfied the requirements according to subsection 23.58C.050.C	Percentage	Less than 5 <u>10</u>	100%	Between 5-10 and 10 <u>20</u>	95%	Between 10-20 and 15 <u>30</u>	90%	Between 15-30 and 20 <u>40</u>	85%
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		<table border="1"> <tr> <td>Between 20-40 and 2550</td> <td>80%</td> </tr> <tr> <td>Between 25-50 and 3060</td> <td>75%</td> </tr> <tr> <td>Between 30-60 and 3570</td> <td>65%</td> </tr> <tr> <td>Between 35-70 and 4080</td> <td>55%</td> </tr> <tr> <td>Between 40-80 and 4590</td> <td>40%</td> </tr> <tr> <td>Between 45-90 and 50100</td> <td>20%</td> </tr> </table>	Between 20-40 and 2550	80%	Between 25-50 and 3060	75%	Between 30-60 and 3570	65%	Between 35-70 and 4080	55%	Between 40-80 and 4590	40%	Between 45-90 and 50100	20%
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	<p style="text-align: center;">***</p> <p style="text-align: center;">j. Demolition or change of use</p> <p style="text-align: center;">1) If the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B are in a single structure and the structure is demolished, or its use is changed, prior to 50-100 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B, so as to eliminate all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in that structure, the owner of the development shall pay to the City a payment in lieu of continuing affordability for each rental unit provided through the performance option that is eliminated, as follows:</p> <p style="text-align: center;">a) The payment shall be based on the difference between the monthly restricted rent according to subsection 23.58C.050.C.6.a for each rental unit provided through the performance option that is eliminated and the average monthly rent of a comparable unit according to subsection 23.58C.050.C.2 that is not subject to rent and income restrictions and is located in the same payment and performance area as shown on Map A for 23.58C.050, multiplied by the typical number of months between demolition of multifamily housing on a property and completion of redevelopment of a property in the zone in which the eliminated rental unit is located, not to exceed 30 months. The Director shall by rule establish an appropriate methodology and inputs for determining the payment amount in particular zones.</p> <p style="text-align: center;">b) The City shall use the payment to support continued housing affordability in The City of Seattle, including but not limited to providing rental assistance to the tenants of rental units provided through the performance option that were eliminated.</p> <p style="text-align: center;">2) If the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B are in multiple structures and an individual structure is demolished, or its use is changed, prior to 50-100 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B, so as to eliminate all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in the individual structure, the owner of the development shall:</p> <p style="text-align: center;">a) Except as provided according to subsection 23.58C.050.C.6.j.2.b, pay to the City a payment in lieu of continuing affordability according to subsection 23.58C.050.C.6.j.1.a for each rental unit provided through the performance option that is eliminated; or</p> <p style="text-align: center;">b) If a rental unit that is eliminated resulted from the combination of fractions of units according to subsection 23.58C.050.A.4, designate, subject to review by the Director in consultation with the Director of Housing, a comparable substitute rental unit within the other structures to replace each such unit that is eliminated or, if such designation is not possible, pay to the City a payment in lieu of continuing affordability according to subsection 23.58C.050.C.6.j.1.a.</p> <p style="text-align: center;">c) Demolition or change of use of an individual structure shall not be a basis for reducing the number of rental units provided through the performance option in the other structures and any comparable substitute rental units shall be in addition to any existing rental units provided through the performance option in the other structures.</p> <p style="text-align: center;">***</p>													
<p>8. Removes the map of high, medium and low program areas and reserves the section for a map to be inserted when program payment and performance amounts are more firmly established.</p>	<p style="text-align: center;">Map A for 23.58C.050</p> <p style="text-align: center;">Payment and performance areas: high, medium, and low</p> <p style="text-align: center;">[RESERVED]</p>													

Proposed Amendment **Draft Proposed Amendment Language**

Sponsor: O'Brien



D. Program Requirements – Ownership Performance

9. Clarifies that where an affordable rental unit is converted to an ownership unit the existing tenant has a right of first offer.

Sponsor: Herbold

23.58C.050 Affordable housing – Performance option

C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:

6. Additional requirements for rental units provided through the performance option

i. Conversion to ownership housing. If all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in a structure are converted to ownership housing, including through a conversion to condominiums, prior to 50 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B:

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	<p style="text-align: center;">***</p> <p style="text-align: center;">3) If a rental unit provided through the performance option is converted to a condominium, the owner shall comply with the requirements according to Section 22.903.030 and Section 22.903.035, <u>the requirement of RCW Ch. 63.34.440(2) to offer to convey the unit to the tenant who leases the unit, and any other applicable requirements.</u></p> <p style="text-align: center;">***</p>
<p>10. Authorizes the Director of the Office of Housing (OH) to promulgate by rule limitations on homeowners association dues for owners of affordable units.</p> <p>Sponsor: Herbold</p>	<p>23.58C.050 Affordable housing – Performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">7. Additional requirements for ownership units provided through the performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;"><u>f. Homeowner or condominium association dues. The Director of Housing shall establish by rule limitations on homeowner or condominium association dues and special assessments to ensure that total housing costs remain affordable to income-qualified owners.</u></p> <p style="text-align: center;">***</p>
<p>11. Authorizes the OH Director to establish initial monitoring fees. And, establishes that annual fees may be paid monthly.</p> <p>Sponsor: Herbold</p>	<p>23.58C.050 Affordable housing – Performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">7. Additional requirements for ownership units provided through the performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">d. Annual fee. The owner of the ownership unit shall pay the Office of Housing an annual fee of \$600, payable in 12 equal payments, for the purposes of monitoring compliance with the requirements according to this Section 23.58C.050. <u>The initial fee shall be established by the Director of Housing by rule.</u> On March 1, 2017, and on the same day each year thereafter, the annual fee 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 (1982-1984 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index.</p> <p style="text-align: center;">***</p>
<p>12. Requires fees set at full cost recovery for establishing resale prices for ownership units.</p> <p>Sponsor: Herbold</p>	<p>23.58C.050 Affordable housing – Performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">7. Additional requirements for ownership units provided through the performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">c. Other restrictions. An eligible household purchasing an ownership unit provided through the performance option, either at initial sale or resale, shall:</p> <p style="text-align: center;">1) Occupy the unit as its principal residence for the duration of its ownership and shall not lease the unit, unless the Director of Housing approves a limited short-term exception, and</p> <p style="text-align: center;">2) Comply with all other program rules established by the Director of Housing as necessary to maintain the long-term viability of the unit. Such rules may include, but are not limited to, refinancing approvals and debt limits; limits on credit for capital improvements at the time of resale; requirements for basic maintenance, inspections, and compliance procedures; minimum insurance requirements; obligations to provide information regarding compliance when and as requested; and fees to cover a portion of the <u>full</u> costs of calculating the maximum sales price at resale, marketing to eligible households, and screening and selecting eligible households to purchase the unit at resale.</p> <p style="text-align: center;">***</p>
<p>13. Where rental units provided under the performance option are</p>	<p>23.58C.050 Affordable housing – Performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">C. Performance requirements. Units provided to comply with this Chapter 23.58C through the performance option shall meet the following requirements:</p>

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<p>converting to ownership, provides the option for affordable rental units to be converted to affordable ownership units.</p> <p>Sponsor: Herbold</p>	<p style="text-align: center;">***</p> <p style="text-align: center;">7. Additional requirements for <u>ownership-rental</u> units provided through the performance option</p> <p style="text-align: center;">***</p> <p style="text-align: center;">i. Conversion to ownership housing. If all of the units to whose development this Chapter 23.58C applies according to subsection 23.58C.025.B in a structure are converted to ownership housing, including through a conversion to condominiums, prior to 50 years from the date of certificate of occupancy or, if a certificate of occupancy is not required, from the date of the final building permit inspection, for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B:</p> <p style="text-align: center;">1) The owner of the development shall, at the time of such conversion, <u>either</u> pay to the City a payment in lieu of continuing affordability <u>or convert the rental units provided through the performance option to ownership units provided through the performance option, as follows:-</u></p> <p style="text-align: center;"><u>a) Where a payment in lieu of continuing affordability is made, the</u> amount of the payment shall be equal to the amount of the cash contribution according to subsection 23.58C.040.A that would have been required at the time of issuance of the first building permit that includes the structural frame for the structure if the applicant had elected the payment option, adjusted for each calendar year following issuance of that permit in proportion to the annual change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bremerton, WA, All Items (1982-1984 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index, multiplied times the percentage in Table C for 23.58C.050 that corresponds to the number of years that the rental units provided through the performance option satisfied the requirements according to this subsection 23.58C.050.C. The City shall use the payment to support continued housing affordability in The City of Seattle consistent with applicable statutory requirements.</p> <table border="1" data-bbox="1184 741 2349 1318"> <thead> <tr> <th colspan="2" data-bbox="1184 741 2349 858">Table C for 23.58C.050 Payment in lieu of affordability calculation percentages for conversion to ownership housing</th> </tr> <tr> <th data-bbox="1184 858 2178 933">Number of years units provided through performance option satisfied the requirements according to subsection 23.58C.050.C</th> <th data-bbox="2178 858 2349 933">Percentage</th> </tr> </thead> <tbody> <tr><td data-bbox="1184 933 2178 973">Less than 5</td><td data-bbox="2178 933 2349 973">100%</td></tr> <tr><td data-bbox="1184 973 2178 1014">Between 5 and 10</td><td data-bbox="2178 973 2349 1014">95%</td></tr> <tr><td data-bbox="1184 1014 2178 1054">Between 10 and 15</td><td data-bbox="2178 1014 2349 1054">90%</td></tr> <tr><td data-bbox="1184 1054 2178 1094">Between 15 and 20</td><td data-bbox="2178 1054 2349 1094">85%</td></tr> <tr><td data-bbox="1184 1094 2178 1135">Between 20 and 25</td><td data-bbox="2178 1094 2349 1135">80%</td></tr> <tr><td data-bbox="1184 1135 2178 1175">Between 25 and 30</td><td data-bbox="2178 1135 2349 1175">75%</td></tr> <tr><td data-bbox="1184 1175 2178 1215">Between 30 and 35</td><td data-bbox="2178 1175 2349 1215">65%</td></tr> <tr><td data-bbox="1184 1215 2178 1255">Between 35 and 40</td><td data-bbox="2178 1215 2349 1255">55%</td></tr> <tr><td data-bbox="1184 1255 2178 1296">Between 40 and 45</td><td data-bbox="2178 1255 2349 1296">40%</td></tr> <tr><td data-bbox="1184 1296 2178 1318">Between 45 and 50</td><td data-bbox="2178 1296 2349 1318">20%</td></tr> </tbody> </table> <p style="text-align: center;"><u>b) Where rental units provided through the performance option are converted to ownership units provided through the performance option, the converted units shall meet the requirements of subsections 23.58C.050C.1 through 23.58.C.050.C.5 and subsection 23.58C.050.C.7.</u></p> <p style="text-align: center;">***</p>	Table C for 23.58C.050 Payment in lieu of affordability calculation percentages for conversion to ownership housing		Number of years units provided through performance option satisfied the requirements according to subsection 23.58C.050.C	Percentage	Less than 5	100%	Between 5 and 10	95%	Between 10 and 15	90%	Between 15 and 20	85%	Between 20 and 25	80%	Between 25 and 30	75%	Between 30 and 35	65%	Between 35 and 40	55%	Between 40 and 45	40%	Between 45 and 50	20%
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E. Modification of Payment and Performance Amounts – Land Use Decision Type

<p>14. Until modification language is proposed to Council, establishes that modification to development standards to allow program participation would be a Type II (appealable to the Hearing Examiner)</p>	<p>Section 3. A new Chapter 23.58C is added to Division 2, Authorized Uses and Development Standards, within Subtitle III, Land Use Regulations, of Title 23 of the Seattle Municipal Code as follows:</p> <p>23.58C.030 Permit documentation</p> <p>A. General</p> <p style="text-align: center;">***</p> <p>2. The Director shall, as a Type I decision and in consultation with the Director of Housing, determine:</p> <p style="text-align: center;">a. If the applicant elects to comply with this Chapter 23.58C through the payment option according to Section 23.58C.040, the amount of the cash contribution;</p> <p style="text-align: center;">b. If the applicant elects to comply with this Chapter 23.58C through the performance option according to Section 23.58C.050, the number of units that shall meet the requirements according to subsection 23.58C.050.C, the amount of any cash contribution according to subsection 23.58C.050.A.3.b, and the compliance of the proposal required</p>
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land use decision.	<p>according to subsection 23.58C.030.A.1.b with the requirements according to subsection 23.58C.050.C; and c. Any modification according to subsection 23.58C.035.B.</p> <p>3. The Director shall, as a special exception according to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, in consultation with the Director of Housing, determine any modification according to subsections <u>23.58C.035B and</u> 23.58C.035.C. ***</p> <p>Section 5. Subsection 23.76.006.B of the Seattle Municipal Code, which section was last amended by Ordinance 124895, is amended as follows: 23.76.006 Master Use Permits required ***</p> <p>B. The following decisions are Type I:</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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; 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. <u>Determination of requirements according to subsections 23.58C.030.A.2.a and 23.58C.030.A.2.b;</u> 19. Determination of modifications according to subsection 23.58C.035.B; and

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	<p>2019. Other Type I decisions.</p> <p style="text-align: center;">***</p> <p>C. The following are Type II decisions:</p> <p style="text-align: center;">***</p> <p>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):</p> <p>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;</p> <p>b. Short subdivisions;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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):</p> <p>1) Shoreline substantial development permits;</p> <p>2) Shoreline variances; and</p> <p>3) Shoreline conditional uses;</p> <p>h. Major Phased Developments;</p> <p>i. Determination of project consistency with a planned action ordinance, only if the project requires another Type II decision;</p> <p>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;</p> <p>k. Downtown planned community developments;</p> <p>l. Establishment of temporary uses for transitional encampments, except transitional encampment interim uses provided for in subsection 23.76.006.B.2;</p> <p>m. Modification of mitigation amounts under Section 23.58B.040 or Section 23.58B.050 pursuant to subsection 23.58B.025.B.3;</p> <p><u>n. Modification of payment or performance amounts under subsection 23.58C.040.A or subsection 23.58C.050.A pursuant to section 23.58C.035;</u> and</p> <p>m. 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.</p> <p style="text-align: center;">***</p>

cc: Kirstan Arestad, Central Staff Executive Director