

CITY COUNCIL AGENDA TOPIC

Public Hearing and action to modify, or both extend and modify, an Interim Official Control adopted by Ordinance No. 6736 and extended by Ordinance No. 6760. The Interim Official Control increases the residential floor area ratio with the provision of affordable housing, allows development flexibility in exchange for affordable housing, and provides projects flexibility in utilizing floor area in the Downtown perimeter overlay. The Interim Official Control also provides for vesting to this temporary and interim control, reserves the right to adopt permanent regulations, provides for severability, and establishes an effective date. Modifications to be considered relate to the vesting language contained in the Interim Official Control.

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EXECUTIVE SUMMARY

On May 8, 2023, Council adopted Ordinance No. 6736 imposing an Interim Official Control (IOC) to temporarily increase the residential floor area ratio (FAR) in exchange for the provision of affordable housing, allow development flexibility when meeting certain affordable housing thresholds, and provide projects with flexibility in utilizing FAR in the Downtown Perimeter Overlay within a single project limit (Attachment A).

Per the requirements of the Growth Management Act (GMA), specifically RCW 36.70A.390, the City may extend the IOC for an additional six-month period if a subsequent public hearing is held and findings of fact are made prior to each renewal. The City Council previously held a Public Hearing and extended the IOC under Ordinance No. 6760 (Attachment B) on October 23, 2023.

ACTION

The City is currently in the process of developing permanent regulations to implement the provisions in the IOC as part of the Next Right Work action to allow higher FAR for residential uses to incentivize residential over commercial developments. However, the Council requested an option to modify Section 5 of the IOC relating to the vesting language. This IOC addresses Council's request to address the vesting period for Master Development Plans and the associated Design Review approval.

RECOMMENDATION

Move to hold the public hearing and, following the public hearing, adopt Ordinance No. 6785 (Option B)

BACKGROUND/ANALYSIS**Interim Official Control**

On May 8, 2023, Council adopted an IOC under Ordinance No. 6736 as a first phase to incentivize and

increase the production of both residential units and affordable housing in Downtown. The IOC applies to all Downtown Land Use Districts, except within the DT-OB Land Use District and within Perimeter Overlay A-1 (Attachment A). The IOC includes the following:

- For every 1.0 square foot of affordable housing provided, 4.0 square feet is allowed for market rate housing, not to exceed a maximum of 50 percent of the base FAR for residential development in the land use district the building is located.
- No minimum parking required for affordable housing units
- Projects that provide a minimum of 0.5 FAR of exempt floor area are eligible for:
 - 5% increase in lot coverage in Perimeter Overlays A-2, A-3, B-1, and B-2;
 - 25-foot increase in the maximum building height and building height with mechanical screening in Perimeter Overlays (except B-2 overlay);
 - Up to a 15-foot stepback reduction for buildings less than 100 feet in height in the Perimeter Overlays A-2, A-3, B-1, B-2, and B-3.
- For single project limits in the Perimeter Overlay and in DT-MU, unutilized FAR from the Perimeter Overlay may be utilized in the DT-MU within the same project limit.

On October 23, 2023, Council extended the IOC through May 17, 2024, by Ordinance No. 6760 (Attachment B). At the hearing for the extension, there was public comment raising concerns with the vesting language contained in Section 5 of the IOC. The IOC currently allows a Master Development Plan (MDP) and associated Design Review approval to vest to the IOC for a period of no greater than two-years unless an extension is approved by the director. The extended vesting provisions do not apply to the affordable housing provisions of the IOC, and projects would be required to provide either one square foot of affordable housing for every two and a half square feet of exempt floor area as currently required by the Land Use Code (LUC) or whatever amount of affordable housing is determined through the permanent regulations, rather than the four to one ratio provided by the IOC. The vesting language in Section 5 was provided in order to respond to public concerns and clear up any ambiguity regarding the vesting period for Master Development Plans and associated Design Review approvals under the IOC and Part 20.30V LUC.

Commenters noted that the current two-year vesting limit in the IOC may not be sufficient time for projects to submit or complete additional permitting, especially for phased projects which might not be completed for several years. Based on comments, and after discussion at the October 23, 2023 public hearing, Council extended the IOC and directed staff to return with an option to amend the vesting language of the IOC prior to its expiration.

Staff has included two ordinances for consideration by Council with this staff report. Option A extends the IOC for an additional six months and modifies the vesting language in Section 5, consistent with comment and direction from the October 23 Council meeting. Option B modifies the Section 5, vesting language, consistent with Option A, but does not extend the IOC beyond the current May 18 expiration date. Under Option B, projects would need to be submitted by May 17 to take advantage of the modifications under Section 5 of the IOC. Projects that have already been submitted under the IOC will not need to be resubmitted to take advantage of the changes to Section 5 of the IOC. Option A would

give projects an additional six-month period to submit permits to vest to the IOC.

Outreach Following the October 23, 2023 Public Hearing

Four projects have taken advantage of this IOC. It is estimated that these projects will generate approximately 2,235 residential units, including 118 affordable units in the Downtown. The projects are early in the permitting process and still subject to change. Additionally, the projects have utilized either the building form flexibility in the IOC and/or the FAR flexibility.

Staff met with all applicants currently utilizing the IOC to discuss the vesting language and potential changes to accommodate their project needs. All parties support amending the vesting language in the IOC to remove the provision not allowing extended MDP and associated Design Review approval vesting for the affordable housing ratio. Staff is proposing to remove this language from the IOC, allowing an MDP and associated Design Review approval to vest to the IOC in the same manner it would vest under the LUC. This would allow projects under the IOC to vest to the provisions of the IOC for potentially up to 10 years, at the discretion of the Director of the Development Services Department.

Due to the potential changes to the IOC vesting language, staff also contacted stakeholders that were previously engaged with the initial IOC adoption. These stakeholders include the Bellevue Chamber PLUSH (Permitting, Land Use, Sustainability, and Housing) Committee and the Eastside Affordable Housing Coalition.

Process Requirements

Under the terms of RCW 36.70A.390, IOCs remain in effect for a period of six months. An IOC may be renewed for additional six-month periods, but only if the City holds a subsequent public hearing and makes findings of fact prior to each renewal.

On October 23, 2023, Council held a public hearing to consider an extension of the IOC adopted by Ordinance No. 6736. Following the hearing, Council adopted Ordinance No. 6760, which extended the IOC by six months through May 17.

The public hearing scheduled for April 23 will provide Council with an opportunity, consistent with the GMA, to modify, or both extend and modify, the IOC after considering public comment and testimony. This will satisfy the procedural requirements necessary to extend the IOC for a third six-month period, through November 18, 2024, should Council decide to adopt Option A.

Staff will continue to monitor the effectiveness of the IOC while processing the permanent regulations in Phase 2 of the Next Right Work proposal. Phase 2 will utilize the Environmental Impact Statement from the Comprehensive Plan Periodic Update (CPPU) and will respond to Land Use Map designation and policy changes adopted through the CPPU process. This work is expected to be completed after the CPPU adoption, around the second quarter of 2025.

This IOC is not intended to be permanent development regulations for Downtown or permanently replace the regulations in Part 20.25A LUC and is instead designed to be a temporary allowance to

encourage affordable housing and residential development in Downtown. Following expiration of the IOC, any affected regulations in Part 20.25A LUC will again control, unless the Phase 2 permanent LUCA amending those regulations has been developed and adopted by the City.

Notice of the public hearing was placed in the Weekly Permit Bulletin and Seattle Times consistent with state requirements and the provisions of the LUC.

POLICY & FISCAL IMPACTS

Policy Impact

This IOC is consistent with the Comprehensive Plan, including the Downtown Chapter of the Comprehensive Plan, the Affordable Housing Strategy, and stated goals of the City to increase housing and affordable housing.

Per Growth Management Act requirements, RCW 36.70A.390, the City may extend the IOC for an additional six-month period if a subsequent public hearing is held and findings of fact are made prior to each renewal..

The IOC is consistent with the following Comprehensive Plan policies:

1. LU-15: Provide, through land use regulation, the potential for a broad range of housing choices to meet the changing needs of the community.
2. LU-20: Support Downtown's development as a regional growth center, with the density, mix of uses and amenities, and infrastructure that maintain it as the financial, retail, transportation, and business hub of the Eastside.
3. LU-22: Monitor trends in Bellevue's job centers and consider land use changes, if needed, to maintain the vitality of these centers.
4. LU-28.4: Consider a land use incentive system that offers additional floor area in exchange for infrastructure and amenities that contribute to the public good.
5. HO-7 & HO-23: Encourage the development of affordable housing through incentives and other tools consistent with state enabling legislation.
6. HO-11: Encourage housing opportunities in mixed residential/commercial settings throughout the city.
7. HO-12: Provide incentives to encourage residential development for a range of household types and income levels in multifamily and mixed-use commercial zones.
8. HO-24: Develop and implement an effective strategy to ensure affordable housing opportunities are available in Downtown and throughout the city at a range of affordability levels. Monitor quantity, types, and affordability of housing achieved for potential unintended consequences and to determine if the need is being met.
9. S-DT-9: Provide bonus incentives (related to permitted density, height, etc.) for private developments to accomplish the public objectives outlined in this Plan.
10. S-DT-24: Provide density incentives to encourage urban residential development throughout Downtown.
11. S-DT-24.1: Encourage the development of housing within the Downtown including units targeted to workers who are expected to fill jobs created in the Downtown.

Fiscal Impact

There is no fiscal impact associated with this IOC.

OPTIONS

1. Hold the public hearing and, following the public hearing, adopt the Ordinance (Option A).
2. Hold the public hearing and, following the public hearing, adopt the Ordinance (Option B).
3. Provide alternative direction to staff.

ATTACHMENTS

A. Ordinance No. 6736

B. Ordinance No. 6760

Proposed Ordinance No. 6785 (Option A)

Proposed Ordinance No. 6785 (Option B)

AVAILABLE IN COUNCIL LIBRARY

N/A