

MEMORANDUM

To: Councilmembers
From: Aly Pennucci & Lish Whitson
Date: February 17, 2017
Subject: CB 118914 – University District Rezone

At the Full Council meeting on Tuesday, February 21, 2017, [CB 118914](#) is scheduled for a discussion and vote. CB 118914 would change the zoning in the University District (U District), implementing the U District Urban Design Framework, and implementing the mandatory housing affordability (MHA) programs in the rezone area.

At the meeting on February 21, four amendments to CB 118914 may be offered (listed below). Attachments 1 through 4 include specific amendment language.

1. Finding of fact (Johnson)

This amendment would add findings of fact that have been coordinated with the Law Department. The findings document how the City's process has met the requirements of [RCW 36.70A.540](#). The findings generally:

- Recite the background and legislative history and reference the framework legislation that established the MHA programs;
- Describe the City's planning context and policy basis for the U District rezone and the implementation of the MHA-Residential program in the rezone area; and
- Describe the increased residential development capacity within the identified area, that the capacity can be achieved, and the allowances for modifications to the MHA requirements if the capacity cannot be achieved.

2. Intent language (Johnson, O'Brien, Herbold)

This amendment adds a new Section expressing Council's intent to take steps, if the imposition of requirements under MHA are determined to be unlawful, to adopt an alternative program or to prevent the continuance of the new zoning and increased development capacity in the absence of substantial affordable housing requirements.

3. Proposed zoning changes between NE 50th Street and NE 52nd Street (Herbold)

The Mayor's proposal did not recommend changing the zoning in this area, however, the area was considered in the U District EIS and was included in previous draft recommendations shared with the community. At the February 7 PLUZ committee meeting an amendment was adopted to change the proposed zoning in this area from Residential, Multifamily, Lowrise 3 (LR3) to Residential, Multifamily, Midrise (MR), and to implement MHA. This amendment would remove the proposed zoning from the proposal.

4. MHA Requirements in the core area of the U District

The Mayor's proposal includes new requirements to implement the mandatory housing affordability (MHA) program. New development would be required to set aside affordable housing and/or make payment-in-lieu so that new growth contributes to the supply of affordable housing. There are two

potential amendment related to the MHA requirements for the core area of the U District (areas where highrise buildings could be developed). The two amendments are mutually exclusive – if amendment 4A is adopted 4B cannot be.

a. This amendment would:

- Increase the mandatory housing affordability requirements for the core area of the U District (areas where highrise buildings could be developed) from requiring that 9% of units are set aside as affordable housing or a payment-in-lieu of \$20 per square foot to 10% of units or \$22.25 a square foot (Herbold, O'Brien); and
- Add a recital related to applying higher MHA requirements in the core area of the U-District. The recital highlights that this increase is consistent with Council's intent to apply higher MHA requirements when there is a greater increase in development capacity, as expressed in the MHA framework legislation. (Herbold, O'Brien)

b. This amendment would modify the way the MHA-R payment and performance amounts for the SM-U/R 75-240, SM-U 75-240, and SM-U 95-320 zones are represented in the land use code and on the Official Land Use Map. This would not change the requirements for those zones today, but, if in the future the U District becomes a high cost area, the M1 high cost requirements would apply (10% of units or \$29.75 a square foot). (Johnson)

If you have any questions about the proposed amendments or the content of the bill, please let Aly Pennucci or Lish Whitson know.

Attachments:

1. Amendment 1: Findings of Fact
2. Amendment 2: Intent language
3. Amendment 3: Proposed zoning changes between NE 50th Street and NE 52nd Street
4. Amendment 4a: Option 1: MHA Requirements in the core area of the U District
5. Amendment 4b: Option 2: MHA Requirements in the core area of the U District

cc: Kirstan Arestad, Central Staff Director
Ketil Freeman, Supervising Analyst

Councilmember Johnson

Amendment 1 to CB 118914 Full Council 02/21/17

Amend CB 118914 to add a new section adopting Finding of Facts which are adopted as Exhibit B to CB 118914.

Note:

Language proposed to be added by this amendment is shown with a double underline.

Language proposed to be deleted by this amendment is shown with ~~double-strikeout~~

Section 1. ~~Reserved.~~ The City Council hereby makes the Findings of Fact in Exhibit B to this ordinance.

Exhibit B

CITY OF SEATTLE

FINDINGS OF FACT

1. In November, 2015, by Ordinance 124895, the Council adopted SMC Chapter 23.58B.
2. In August, 2016, by Ordinance 125108, the Council adopted SMC Chapter 23.58C.
3. In December, 2016, by Ordinance 125233, the Council amended SMC Chapter 23.58B.
4. Through this ordinance, the Council is rezoning portions of the University Community Urban Center and is implementing Chapter 23.58B and Chapter 23.58C in the areas being rezoned (the “Rezone Area”).
5. The findings of fact adopted by Section 1 of Ordinance 124895 and by Section 1 of Ordinance 125108 are incorporated herein by reference.
6. In addition to the findings referenced in paragraph 5, the Council makes the following findings of fact related to the implementation of Chapter 23.58C, also known as Mandatory Housing Affordability for Residential Development (MHA-R), in the Rezone Area.
7. In addition to the reports referenced in the findings referenced in paragraph 5, the City commissioned various additional reports, including:
 - a. Heartland, U-District Urban Design Framework Support Analysis Memo, June 2013;
 - b. GGLO, Urban Design and Market Feasibility Analysis of Proposed U District Zoning Recommendation, April 17, 2016;
 - c. Community Attributes, Inc., Technical Memorandum Re: Economic Analysis of MHA, November 29, 2016; and
 - d. David Paul Rosen & Associates, Seattle Residential Affordable Housing Impact and Mitigation Study, December 16, 2016.
8. By applying MHA-R in the Rezone Area pursuant to this ordinance, the Council is implementing an affordable housing incentive program under RCW 36.70A.540.
9. The Rezone Area is an area where increased residential development will assist in achieving local growth management and housing policies. The rezones effected by this ordinance are the result of a six-year community planning process. As recognized in that process, there is a need for increased residential development in the Rezone Area. The City’s comprehensive planning efforts identify the University Community Urban Center

as a top priority area for job and housing growth. Increased residential development is essential to enhancing a vibrant mixed use center, to increasing housing choices and housing affordability, and to creating transit-oriented development around the Sound Transit Link Light Rail station that is scheduled to open in the University District in 2021 – all as called for by the City’s planning policies. Moreover, the City’s Comprehensive Plan strongly supports addressing the compelling and increasing need for affordable housing in the University District through a program under RCW 36.70A.540.

10. This ordinance provides substantially increased residential development capacity in the Rezone Area. In particular, this ordinance creates new high-rise zoning in a substantial area in the core of the University District, with height increases of up to 255 feet over existing zoning.
11. The increased residential development capacity provided within the Rezone Area can be achieved, subject to consideration of other regulatory controls on development, with the proviso that staff identified potential cases in which, in a highrise zone, a highrise structure could not be developed due to the minimum lot size requirement, or certain regulatory requirements would preclude a highrise development from being able to achieve a reasonable average floor area. To address this, this ordinance provides that in such cases the applicable payment and performance amounts under Chapter 23.58C shall be reduced to be equal to the amount that applies in the SM-U 85 zone, a non-highrise zone in the Rezone Area.
12. RCW 36.70A.540 provides that affordable housing incentive programs may allow a payment of money or property in lieu of low-income housing units if the jurisdiction determines that the payment achieves a result equal to or better than providing the affordable housing on-site, as long as the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Based on a comprehensive analysis performed by staff, the Council determines that the foregoing standards are met by this ordinance. The staff analysis, contained in Appendix F to the Director’s Report, is hereby incorporated by reference.
13. New market-rate housing is generally not affordable to lower-income households. At the same time, new market-rate housing creates an increased need for affordable housing to house lower-income workers who provide the goods and services purchased by residents of new market-rate housing. MHA-R requirements imposed on residential developments in the Rezone Area mitigate impacts of those developments in creating a need for affordable housing.
14. Implementation of MHA-R in the Rezone Area is reasonably related to the public harms identified in the findings adopted by Section 1 of Ordinance 125108 and to the City’s legitimate public goals to fulfill its planning obligations under State law and to ensure access to affordable housing for all communities and households in Seattle, utilizing the tool of RCW 36.70A.540 provided by the Washington State Legislature.

Councilmembers: Johnson, O'Brien, Herbold

Amendment 2 to CB 118914 Full Council 02/21/17

Amendment to add a new section to CB 118914 expressing Council's intent to take steps, if the imposition of requirements under MHA are determined to be unlawful, to prevent the continuance of the new zoning and increased development capacity in the absence of substantial affordable housing requirements.

NOTE: this amendment will require renumbering Sections 2 through 44 in CB 118914

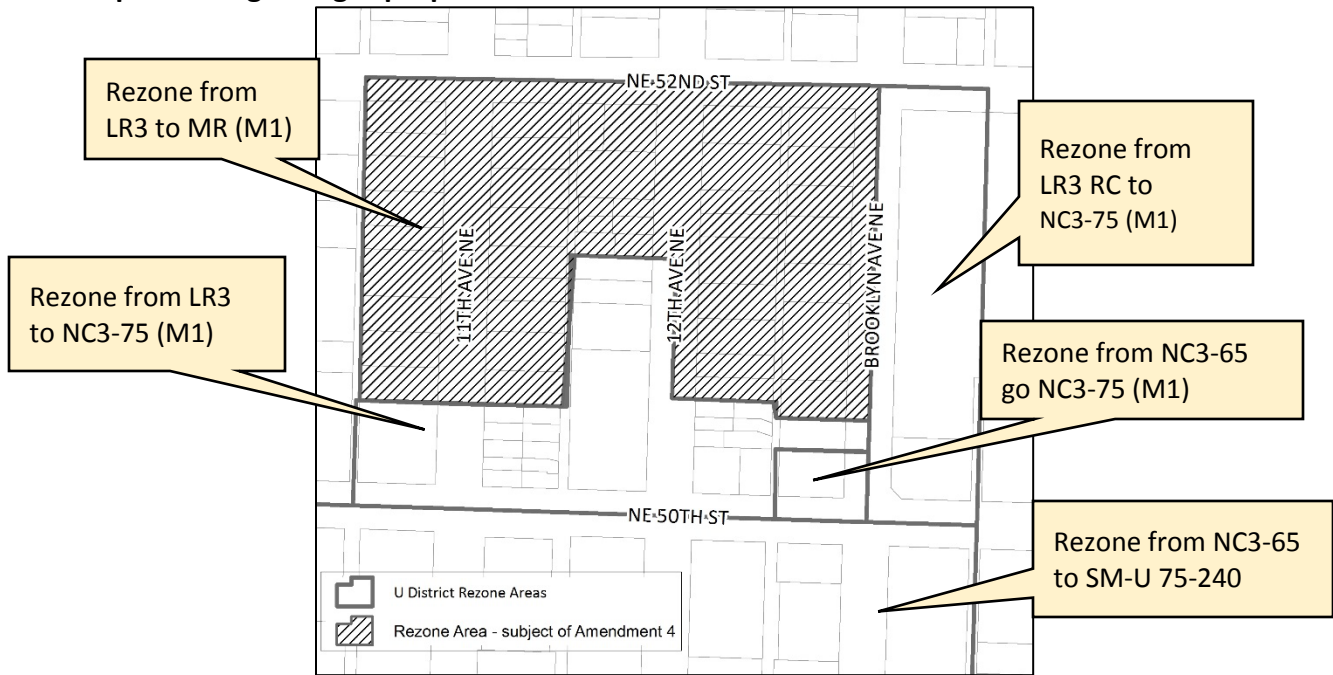
Section 2. The City Council expresses the following intent as to future actions related to this ordinance. The Council is enacting the rezones effected by Section 3 of this ordinance based on an expectation that those rezones are accompanied by requirements to provide a substantial amount of affordable housing. If the imposition of requirements under Chapter 23.58C of the Seattle Municipal Code as contemplated by this ordinance is determined to be unlawful, it is the Council's intent to (1) implement an alternative approach, in connection with some or all of the development capacity provided by the rezones effected by Section 3 of this ordinance, resulting in provision of a substantial amount of affordable housing; (2) take steps to prevent the continuance of the new zoning and increased development capacity in the absence of substantial affordable housing requirements by repealing the rezones effected by Section 3 of this ordinance; and/or (3) take other actions, including a moratorium on some or all development while an alternative approach is implemented.

Councilmember Herbold

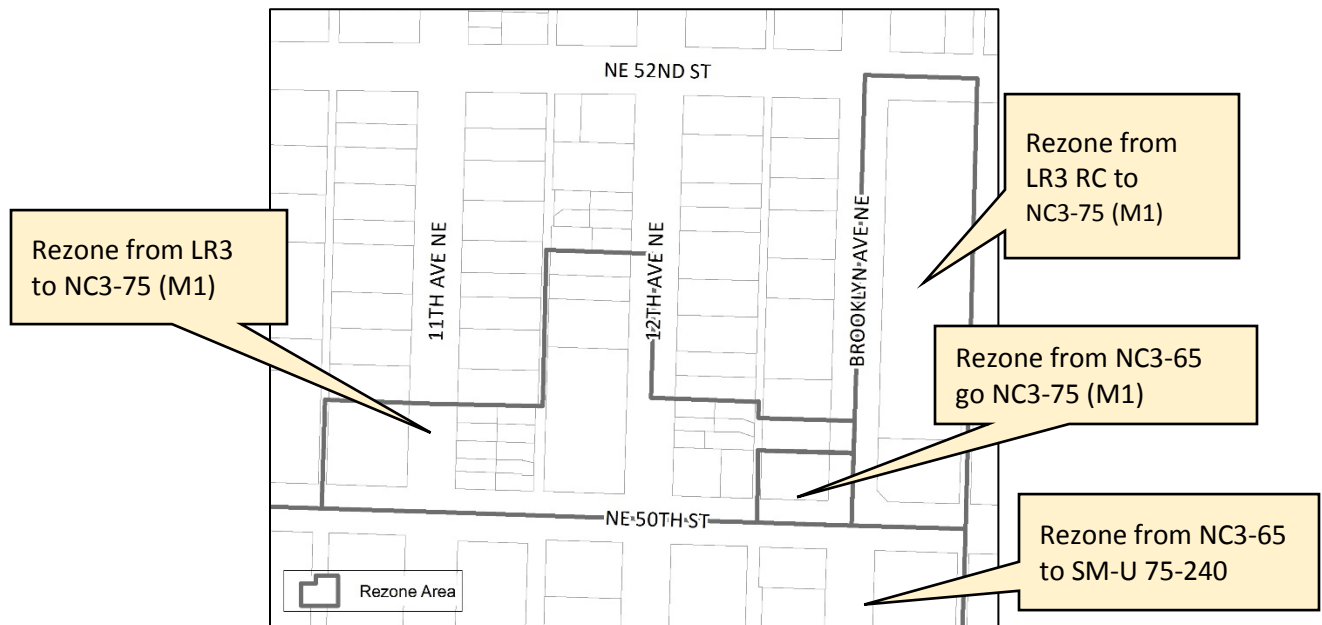
Amendment 3 to CB 118914 Full Council 02/21/17

Amendment to remove the proposed rezone from the multifamily district between NE 50th Street and NE 52nd Street from LR3 to MR. *This amendment will change the Official Land Use Map on Page 60 and amends Exhibit A to CB 118914.*

Map of zoning changes proposed in CB 118914 between NE 50th Street and NE 52nd Street



Map if the proposed zoning changes in CB 118914 between NE 50th Street and NE 52nd are removed



Councilmember Herbold & Councilmember O'Brien

Amendment 4a to CB 118914 Full Council 02/21/17

Amend CB 118914 to:

- Add a recital related to applying higher MHA requirements in the core area of the U-District. The recital highlights that this increase is consistent with Council's intent to apply higher MHA requirements when there is a greater increase in development capacity, as expressed in the MHA framework legislation.
- Increase the mandatory housing affordability requirements for the core area of the U District (areas where highrise buildings could be developed) from requiring that 9% of units are set aside as affordable housing or a payment-in-lieu of \$20 per square foot to 10% of units or \$22.25 a square foot; and

Note:

*Language proposed to be added by this amendment is shown with a double underline.
Language proposed to be deleted by this amendment is shown with ~~double-strikeout~~.*

* * *

WHEREAS, this ordinance provides increased residential development capacity in the form of an increase in the amount of height or floor area allowed by zoning in many areas of the University District; and

WHEREAS, applying higher MHA performance and payment amounts in the core of the U District where the additional development capacity results in a zoning change from midrise zones with height limits of 65-85 feet to highrise zones with height limits of 240-320 is consistent with Ordinance 125233 and Ordinance 125108 that expressed Council's intent to consider higher performance and payment amounts, subject to statutory limits, in areas where the increment of increased development capacity is greater than the standard MHA-implementing zone change; and

WHEREAS, the Council has reviewed and considered the Executive's report and recommendations, public testimony made at the public hearing, and other pertinent material regarding the proposed amendments; and

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23.58B.040 Mitigation of impacts - payment option

* * *

| Table A for 23.58B.040 | |
|--|---|
| Payment calculation amounts: | |
| In Downtown, ((and)) SM-SLU, <u>and SM-U</u> zones | |
| Zone | Payment calculation amount per square foot |
| * * * | |
| <u>SM-U 85</u> | <u>\$7.00</u> |
| <u>SM-U/R 75-240</u> | \$20.00 <u>22.25</u> |
| <u>SM-U 75-240</u> | \$20.00 <u>22.25</u> |
| <u>SM-U 95-320</u> | \$20.00 <u>22.25</u> |

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23.58B.050 Affordable housing impact mitigation - performance option

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| Table A for 23.58B.050 | |
|--|---|
| Performance calculation amounts: | |
| In Downtown, ((and)) SM-SLU, <u>and SM-U</u> zones | |
| Zone | Performance calculation amount per square foot |
| * * * | |
| <u>SM-U 85</u> | <u>5.0%</u> |
| <u>SM-U/R 75-240</u> | 9.0 <u>10.0%</u> |
| <u>SM-U 75-240</u> | 9.0 <u>10.0%</u> |
| <u>SM-U 95-320</u> | 9.0 <u>10.0%</u> |

* * *

Section 31. Subsection 23.58C.040.A of the Seattle Municipal Code, which section was enacted by Ordinance 125108, is amended as follows:

23.58C.040 Affordable housing – ((Payment)) payment option

* * *

| Table A for 23.58C.040 Payment calculation amounts: ((inside)) <u>In Downtown,</u> ((and)) <u>SM-SLU, and SM-U</u> zones | |
|---|---|
| Zone ((category)) | ((Dollars per square foot of gross floor area according to subsection 23.58C.040.A.1)) <u>Payment calculation amount per square foot</u> |
| ((RESERVED)) <u>SM-U 85</u> | ((RESERVED)) <u>\$13.25</u> |
| <u>SM-U/R 75-240</u> | \$20.00 <u>22.25</u> |
| <u>SM-U 75-240</u> | \$20.00 <u>22.25</u> |
| <u>SM-U 95-320</u> | \$20.00 <u>22.25</u> |

* * *

Section 32. Section 23.58C.050 of the Seattle Municipal Code, enacted by Ordinance 125108, is amended as follows:

23.58C.050 Affordable housing – ((Performance)) performance option

* * *

| Table A for 23.58C.050 ((Affordable housing to be provided (performance option))) <u>Performance calculation amounts:</u> ((inside)) <u>In Downtown,</u> ((and)) <u>SM-SLU, and SM-U</u> zones | |
|---|--|
| Zone ((category)) | Percentage <u>set-aside per</u> ((of)) <u>total number of units to be developed in each structure</u> |
| ((RESERVED)) <u>SM-U 85</u> | ((Reserved)) <u>6.0%</u> |
| <u>SM-U/R 75-240</u> | 9.0 <u>10.0%</u> |
| <u>SM-U 75-240</u> | 9.0 <u>10.0%</u> |
| <u>SM-U 95-320</u> | 9.0 <u>10.0%</u> |

Councilmember Johnson

Amendment 4b to CB 118914 - Full Council 02/21/17

Amend CB 118914 to:

- Modify the way the MHA-R payment and performance amounts for the SM-U/R 75-240, SM-U 75-240, and SM-U 95-320 zones are represented in Chapter 23.58C of the SMC and on the Official Land Use Map
- *This amendment will change the Official Land Use Map on Pages 60,78 and 79, and amends Exhibit A to CB 118914.*

Note: In this document, double underlines indicate proposed new language. ~~Double strikeouts~~ indicate language that would be removed from the Council Bill. A dashed underline indicates language previously proposed to be removed from the Seattle Municipal Code that would instead be retained if this amendment is passed

Section 31. Section 23.58C.035 of the Seattle Municipal Code, enacted by Ordinance 125108, is amended as follows:

23.58C.035 Modification of payment/performance amounts

* * *

B. (~~(Reserved)~~) Inability to use certain capacity

1. In a SM-U 75-240 or SM-U 95-320 zone, the performance calculation amount according to Table ~~A~~ B for 23.58C.050 shall be reduced to six percent and the payment calculation amount according to Table ~~A~~ B for 23.58C.040 shall be reduced such that it is equal to the amount that applies in SM-U 85 if the applicant demonstrates that the site does not meet the minimum lot size required for a highrise structure according to subsection 23.48.615.A.2, or that one or more specific requirements of Sections 23.48.635, 23.48.645, and 23.48.646 would prevent a highrise development from being able to achieve an average highrise floor area of at least 7,500 square feet for stories subject to the highrise floor area limit according to subsection 23.48.645. For purposes of this subsection 23.58C.035.B.1, the following shall apply:

* * *

Section 31. Subsection 23.58C.040.A of the Seattle Municipal Code, which section was enacted by Ordinance 125108, is amended as follows:

23.58C.040 Affordable housing – ((Payment)) payment option

* * *

| Table A for 23.58C.040 Payment calculation amounts: ((inside)) <u>In Downtown</u>, ((and)) SM-SLU, and SM-U <u>85</u> zones | |
|--|---|
| Zone ((category)) | ((Dollars per square foot of gross floor area according to subsection 23.58C.040.A.1)) <u>Payment calculation amount per square foot</u> |
| ((RESERVED)) SM-U 85 | ((RESERVED)) \$13.25 |
| SM-U/R 75-240 | \$20.00 |
| SM-U 75-240 | \$20.00 |
| SM-U 95-320 | \$20.00 |

| Table B for 23.58C.040 Payment calculation amounts: ((outside)) <u>Outside Downtown</u>, ((and)) SM-SLU, and SM-U <u>85</u> zones | | | |
|--|---|---------------|-------------|
| Zone ((category)) | ((Dollars per square foot of gross floor area according to subsection 23.58C.040.A.1)) <u>Payment calculation amount per square foot</u>[‡] | | |
| | Low | Medium | High |
| ((RESERVED)) <u>Zones with an (M) suffix</u> | [RESERVED] | [RESERVED] | [RESERVED] |
| <u>Zones with an (M1) suffix</u> | [RESERVED] | \$20.00 | [RESERVED] |
| <u>Zones with an (M2) suffix</u> | [RESERVED] | [RESERVED] | [RESERVED] |
| Footnotes to Table B for 23.58C.040 | | | |
| <i><u>The location of the zone, by low, medium, or high area, is as shown on Map A for 23.58C.050.</u></i> | | | |
| <i><u>[‡]Area within the University Community Urban Center is medium.</u></i> | | | |

* * *

Section 32. Section 23.58C.050 of the Seattle Municipal Code, enacted by Ordinance 125108, is amended as follows:

23.58C.050 Affordable housing – ((Performance)) performance option

* * *

| Table A for 23.58C.050 ((Affordable housing to be provided (performance option))) <u>Performance calculation amounts:</u> ((inside)) <u>In Downtown, ((and)) SM-SLU, and SM-U 85 zones</u> | |
|---|---|
| Zone ((category)) | Percentage <u>set-aside per ((of)) total number of units to be developed in each structure</u> |
| ((RESERVED)) SM-U 85 | ((Reserved)) 6.0% |
| SM-U/R 75-240 | 9.0% |
| SM-U 75-240 | 9.0% |
| SM-U 95-320 | 9.0% |

| Table B for 23.58C.050 ((Affordable housing to be provided (performance option))) <u>Performance calculation amounts</u> ((outside)) <u>Outside Downtown, ((and)) SM-SLU, and SM-U 85 zones</u> | | | |
|--|---|-----------------------|-----------------------|
| Zone ((category)) | Percentage <u>set-aside per ((of)) total number of units to be developed in each structure[±]</u> | | |
| | Low | Medium | High |
| ((RESERVED)) Zones with an (M) suffix | [RESERVED] | [RESERVED] | [RESERVED] |
| Zones with an (M1) suffix | [RESERVED] | 9.0% | [RESERVED] |
| Zones with an (M2) suffix | [RESERVED] | [RESERVED] | [RESERVED] |

Footnotes to Table B for 23.58C.050
[The location of the zone, by low, medium, or high area, is as shown on Map A for 23.58C.050.](#)
~~[±]Area within the University Community Urban Center is medium.~~

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

