



# Director's Rule 14-2016

<b>Applicant:</b>  City of Seattle  Seattle Department of Construction and Inspections (SDCI)	<b>Page</b>  1 of 5	<b>Supersedes:</b>  N/A
	<b>Publication:</b>	<b>Effective:</b>
<b>Subject:</b>  Application of Mandatory Housing Affordability for Residential Development (MHA-R) in contract rezones.	<b>Code and Section Reference:</b>  SMC Chapter 23.58C	
	<b>Type of Rule:</b>  Code Interpretation	
	<b>Ordinance Authority:</b>  SMC 3.06.040 & SMC 23.34.004.B	
	<b>Approved</b>	<b>Date</b>
<hr/> <b>Nathan Torgelson, Director, SDCI</b>		
<b>Index:</b>  Land Use Code/Technical and Procedural Requirements		

## BACKGROUND

In August of 2016, the Council passed Ordinance 125108, which creates a new Land Use Code Chapter 23.58C, Mandatory Housing Affordability for Residential Development (MHA-R). The purpose of Chapter 23.58C is to implement an affordable housing incentive program authorized by RCW 36.70A.540. MHA-R specifies a framework for providing affordable housing in new development or an in-lieu payment to support affordable housing. MHA-R is applicable as follows:

- In areas where provisions of the zone refer to Chapter 23.58C, or
- Through the terms of a contract rezone according to Section 23.34.004.

It is the intent of the Mayor and City Council to consider rezones such that the provisions of the zone refer explicitly to Chapter 23.58C. It is expected that these rezones will in some cases establish payment/performance requirements on a zone-by-zone basis (for example, for zones in Downtown and South Lake Union and in parts of the University District). In other cases, tiers of payment/performance requirements are expected to be established with differences based on various factors, along with a map of cost areas. However, Chapter 23.58C will be in place for a period of time before the specific zone requirements are added into Chapter 23.58C in some zones.

This Director's Rule clarifies how SDCI will apply the provisions of Chapter 23.58C in contract rezones, particularly the amounts of performance and payment requirements that shall be applied prior to adoption of pertinent amounts in Chapter 23.58C. The term contract rezone shall also apply to a situation where MHA is applied through a Property Use and Development Agreement (PUDA) in the absence of a specific proposed development project.

## **RULE**

### **Application of Chapter 23.58C (MHA – Residential)**

This Rule applies to areas outside:

- (1) The Downtown Urban Center;
- (2) The South Lake Union Urban Center; and
- (3) Those portions of the University Community Urban Center proposed to be rezoned to SM-U pursuant to Council Bill 118862.

SDCI will require application of Chapter 23.58C as conditions of all contract rezones.

- SDCI will include in the staff rezone recommendation report a condition that Chapter 23.58C be applied. The SDCI rezone recommendation is provided to the Hearing Examiner to inform the Examiner's recommendation on the rezone action to the City Council.
- Following the Hearing Examiner recommendation, City Council reviews the contract rezone proposal and makes a decision whether to approve the contract rezone including any conditions on the proposed or future development. Conditions are documented in a Property Use and Development Agreement (PUDA). SDCI will recommend that the requirement for application of Chapter 23.58C be a condition in a PUDA, and that the PUDA should identify the affordable housing per square foot payment amount or percent of units that must be set aside as affordable housing performance amount to be provided.
- Consistent with the PUDA, SDCI will apply the substantive and procedural provisions of Chapter 23.58C in the permitting process for projects that are associated with contract rezones.

**Amount of Payment or Performance under MHA-R:**

There are three tiers of MHA requirements for development to which MHA-R applies, with affordable housing contributions that rise as the amount of additional development capacity rises. The tiers are indicated by an M, M1, or M2 suffix applied to the zone name. These tiered amounts shall be applied to contract rezones.

The City designates areas that correspond to High, Medium and Low MHA requirements according to the Map adopted in Chapter 23.58.C or in this Rule if no such map is yet adopted in Chapter 23.58.C.

The MHA performance requirement is a percent of units that must be set aside as affordable housing (shown as “%” in the table below), or alternatively, a payment per square foot that must be contributed to the Seattle Office of Housing (shown as “\$” in the table below). The exact methodology for measurements and computations of performance and payment requirements are set forth in Chapter 23.58C and shall govern for purposes of this Rule.

**Requirements for Residential development**

		Low Area		Medium Area		High Area	
		%	\$	%	\$	%	\$
<b>Scale of upzone</b>	<b>Zones with M suffix</b>	5%	\$7.00	6%	\$13.25	7%	\$20.75
	<b>Zones with M1 suffix</b>	8%	\$11.25	9%	\$20.00	10%	\$29.75
	<b>Zones with M2 suffix</b>	9%	\$12.50	10%	\$22.25	11%	\$32.75

Except for projects subject to the phased implementation section of this Director's Rule, the amounts in the preceding table shall apply to contract rezones unless and until other payment and/or performance amounts are adopted in Chapter 23.58C for the area in which a proposed contract rezone is located, in which case the amounts adopted in Chapter 23.58C shall supersede those in this Rule.

**Determining Which Tier Applies:**

The following approach shall be used to determine which tier of requirements shall apply to a contract rezone – e.g., the tier corresponding to M, M1, or M2. When establishing the contract rezone designation, SDCI will also apply the M, M1, or M2 suffix to the zone name.

Zones are grouped into categories based on their relative development capacity, for the purposes of determining the M, M1, or M2 suffix.

Category 1	Single Family zones, and Residential Small Lot
Category 2	Low Rise 1, Low Rise 2
Category 3	Low Rise 3, Neighborhood Commercial 40, Neighborhood Commercial 55
Category 4	Zones with height limits greater than 55 feet and equal to or less than 95 feet
Category 5+	Zones with heights greater than 95 feet (requires some individualized assessment)

If a proposed contract rezone results in no change in category, the property shall receive a standard M suffix, and corresponding MHA payment or performance amounts.

- For example, a Low Rise 3 zone that is rezoned to a Neighborhood Commercial 55 zone would not result in a change in category, so the property would be subject to the M requirements.

If a proposed contract rezone results in a property changing to the next highest category, then the property shall receive an M1 suffix.

- For example, a Low Rise 1 zone that is rezoned to Low Rise 3 would change from Category 2 to Category 3, so the property would be subject to M1 requirements.

If the rezone results in a property changing by two categories or more, the property would receive an M2 suffix.

- For example, a Single Family zone that is rezoned to Low Rise 3 would change from Category 1 to Category 3, so the properties would be subject to M2 requirements.

***Phased Implementation:***

To account for scenarios in which development proposals were substantially advanced through project review prior to this Director's Rule, the Director will allow for phased implementation as follows. For any development proposal for which a complete Master Use Permit (MUP) application was submitted before January 1, 2016 ~~the effective date of this Director's Rule~~, the following amounts shall apply to contract rezones: 6% performance or \$13.25 per square foot payment.

### Mandatory Housing Affordability Geographic Areas

