
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercergov.org



Notice of Violation & Order to Correct

October 21, 2019

Pursuant to MICC 6.10.050, this Notice of Violation and Order to Correct is issued as follows:

This Notice is being issued to the following Persons Responsible for the violation(s):

MILLER SHANE M

Violation(s) of Mercer Island City Code (MICC) is occurring at the following location:

7709 W Mercer Way, Mercer Island, WA 98040, Tax Parcel # 545130-0045

The persons identified above are responsible for the following violation(s) that are occurring at the location identified above:

MICC 17.14.010(105.2) *Work exempt from permit.*

Exemptions from permit requirements related to the construction codes shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the construction codes or any other laws or ordinances of this jurisdiction. Permit exemptions shall not apply to Areas of Flood Hazard and City Land Use Critical Areas.

MICC 17.14.010(105.2) *Required.*

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the construction codes and the Construction Administrative Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Supporting facts:

- Washington State Department of Ecology received a complaint on February 2, 2018 alleging construction near the bulkhead causing erosion into Lake Washington. The complaint was forwarded to City staff and a stop work order was subsequently posted on the property on February 2, 2018.
- A Courtesy Notice letter dated February 12, 2018 was hand delivered to Mr. Miller on February 14, 2018 advising him of the applicable codes.
- Senior Plans Examiner Gareth Reece emailed Mr. Miller on February 14, 2018 stating regardless of any land use determination, the project was subject to MICC Title 17 construction codes. Gareth encouraged Mr. Miller to proceed with the building permit application to resolve the stop work notice.
- Building Official Don Cole emailed Mr. Miller on February 16, 2018 stating he conducted a review of the facts of the enforcement case and confirmed a permit is required for the work because work within a land use critical area is not exempt from permitting.
- City staff sent a second courtesy notice on August 23, 2019 advising the owner a permit was required to reconstruct the wall within the land use critical area.

- MICC 19.16.010 *Definitions*. Critical Areas: Geologic hazard areas, watercourses, wetlands and wildlife habitat conservation areas; Geologically Hazardous Areas: Areas susceptible to erosion, sliding, earthquake, or other geological events based on a combination of slope (gradient or aspect), soils, geologic material, hydrology, vegetation, or alterations, including landslide hazard areas, erosion hazard areas and seismic hazard areas; Steep Slope: Any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run.
- A site plan from 1983 show the original slope on the property was calculated at 43.8%.
- There are multiple prior landslide locations on the property and the property has been classified as a landslide hazard.

The Persons Responsible are Ordered to Complete the Corrective Actions as Follows:

- Apply for and receive approval for the building permit that is/was required to replace the retaining wall near the bulkhead.
- Once the permits have been approved and issued, all inspections must be completed within 30 days of the permit activation.

The compliance date for completion of the Corrective Action(s) is November 4, 2019.

If the violation(s) have not been corrected on or before November 4, 2019 and this Notice has not been appealed, the determination of this violation is final and monetary penalties shall begin to accrue.

Pursuant to MICC 6.10.050, penalties for noncompliance of this Notice and Order shall be as follows:

- Civil penalty in the amount of One Hundred dollars (\$100) per day for each violation listed herein is hereby imposed and shall begin to accrue if Corrective Actions are not completed and the violations are not abated by the compliance date established above.
- Thirty days after the compliance date, civil penalty will increase to a rate of Two Hundred Fifty dollars (\$250) per day for each unabated violation.
- Sixty days after the compliance date, civil penalty will increase to a rate of Five Hundred dollars (\$500) per day for each unabated violation, up to a maximum total penalty of \$50,000 for each violation.
- Pursuant to MICC 6.10.050(B)(5), you have the right to appeal this Notice of Violation before a hearing examiner. An appeal must be filed within 14 days of the service of this Notice. Failure to appeal within 14 days shall render this Notice a final determination that the conditions described therein existed and constitute a code violation, that assessed and accrued civil penalties are due, and that the named party is liable as a person responsible. An Appeal form can be found at <http://www.mercergov.org/page.asp?navid=2881>.

If you have questions about this letter or the enforcement process, please contact by call me at (206) 275-7712 or by email at Anthony.Myers@mercergov.org. Thank you for your cooperation.

Sincerely,

Anthony Myers
Code Compliance Officer
City of Mercer Island