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October 20, 2022

Via Submittal by Seaborn

Ryan Harriman, Planning Manager
Community Planning & Development
City of Mercer Island

**Re: File No. SHL 14-031/SEP 14-025, Building Permit 1501-218
Cherberg Dock at 9418 SE 33rd Street
RESPONSE ON MATRIX AND VESTED SMP REGULATIONS**

Dear Mr. Harriman:

This letter provides additional information related to the City's request for completion of a Compliance Matrix to demonstrate consistency with the Shoreline Master Program (SMP) regulations set forth in the City Code at Sections 19.13.010, .020, .030, .040, and .050. As you know, the above applications are vested to the shoreline regulations in effect on March 13, 2015. See the letter from the City to Seaborn Pile Driving Company (3/16/15) attached as Exhibit 1.

As a result of the vesting date, the City will need to customize the review of the applications. I directed the Cherbergs' consultants at Seaborn to answer the City's Compliance Matrix based on the current regulations and I worked with Seaborn to call out issues that are addressed in this letter. Although the current regulations are technically not applicable, the current regulations contain many provisions that are comparable to the vested regulations as set forth in the completed Compliance Matrix. The remainder of this letter seeks to address consistency with the vested SMP regulations.

History of City SMP Regulations

I researched the history of the City's SMP regulations and I believe that the following description is accurate based on available information, but I do not have the same inside access or resources as the City.

As noted in the attached letter dated March 16, 2015, the new SMP regulations went into effect on March 18, 2015. The 2015 SMP regulations were adopted by Ordinance No. 15C-02 which amended the SMP regulations set forth in Ordinance No. 13C-12. The process that led to the 2015 SMP regulations started in about 2009 and was subject to much debate over the next few years. The 2013 Ordinance proposal was subject to time consuming negotiations with the Department of Ecology that

eventually resulted in the approval of the final 2015 SMP regulations. The 2015 SMP regulations were amended effective July 9, 2020, based on Ordinance No. 19C-06 which was reviewed and approved by the Department of Ecology with changes reflected in Ordinance No. 20C-13.

With the recent history summarized, the issue is to identify the SMP regulations effective on March 13, 2015. For that information, the starting point is Ordinance No. 99C-13, copy attached as Exhibit 2. My research indicates that the 1999 SMP regulations were amended by Ordinance Nos. 02C-09, 05C-12, and 08C-01, copies attached as Exhibits 3-5 respectively. Ordinance Nos. 02C-09 at Section 7, page 7, changed the allowed height of fences. Ordinance No. 05C-12 at Section 6, page 17, renumbered the Shoreline Management Master Program from MICC 19.07.080 to 19.07.110. Ordinance No. 08C-01 at Section 3, pages 8-13, made minor changes to the use table and administrative procedures. None of these minor changes affect review of the Cherberg proposal. Hence, with those minor changes, the 1999 SMP regulations in Ordinance 99C-13 remain the source of the applicable vested SMP regulations effective on March 13, 2015.

The Proposed Dock Complies with the Applicable Vested SMP Regulations

In the 1999 SMP regulations, the Use Regulations are set forth at pages 106-114 of Ordinance No. 99C-13—former Section 19.07.110.D.¹ These Use Regulations are provided separately as attached Exhibit 6. The 1999 Use Regulations in former Section 19.07.110.D are the precursor to the current Shoreland Development Standards at 19.13.050, with rules for development landward and waterward of OHWM. The key regulations for a new dock are in Table B, “Requirements for Moorage Facilities and Development Located Waterward From the OHWM” at pages 109-112 of Ordinance No. 99C-13. It must be noted that Table B of the 1999 SMP regulations is clearly the precursor to the current Table D of 19.13.050.D. With that comparison in mind, the following discusses the differences between the applicable 1999 SMP regulations and the current regulations at Section 19.13.050, Table D.

Comment 1: The first box in Table B of the 1999 SMP regulations relates to Setbacks for Docks and had three parts, A, B, and C. The 1999 Table B parts A and C are the same as the current A and B in new Table D—10’ from the lateral line and the 50’ or 50% rule against Urban Park Environment. The Cherberg proposal complies with the 10’ setback from the lateral lines. The applicable 1999 SMP regulations at part B had the following setback requirement: “35’ from adjoining moorage structures: (except where moorage facility is built pursuant to the agreement between adjoining owners

¹ The applicable vested SMP regulations are in former Section 19.07.110 though in Ordinance 99C-13 they were in former Section 19.07.080. The page numbers in this letter refer to the page numbers within Exhibit A attached to Ordinance 99C-13.

as shown on Figure B below).” The proposed dock complies with the 35’ setback from the Graue dock to the east and the Cherbergs and Griffiths entered into a Joint Use Agreement (8/1/22) authorizing the location of the Cherberg dock less than 35’ from the Griffith dock.

Comment 2: The second box in Table B of the 1999 SMP regulations, part D, relates to setbacks for boat ramps and is inapplicable here. The new Table D contains the same requirement at part C.

Comment 3: The third box in Table B of the 1999 SMP regulations, part E, relates to length with a maximum of 100’ plus an exception. The proposed Cherberg dock complies with the 100’ maximum length. The exception was modified slightly in new Table D at part D.

Comment 4: The fourth box in Table B of the 1999 SMP regulations, part F, relates to dock width with a maximum of 8’ in width applicable to all parts of the dock. The new Table D contains more restrictive requirements at boxes 4 and 5, parts E and E. The proposed Cherberg dock complies with the new requirements of maximum 4’ within 30’ of OHWM and 6’ beyond that point, and hence the proposed Cherberg dock also complies with the applicable maximum 8’ width.

Comment 5: The fifth box in Table B of the 1999 SMP regulations, part G, relates to height of docks with a maximum height of 5’ above OHWM. The proposed Cherberg dock complies with the maximum dock height of 5’ above OHWM. The new Table D does not have a similar requirement.

Comment 6: The sixth box in Table B of the 1999 SMP regulations, part H, relates to height of walls, handrails, and storage containers located on piers with a maximum height of 3’ above the decking. The new Table D contains a different requirement at box 6, part F. The proposed Cherberg dock complies with the applicable requirement of no more than 3’ above the decking and so the Cherberg dock also complies with the new requirements of maximum 3.5’ on dock and maximum 4’ on ramps.

Comment 7: The seventh box in Table B of the 1999 SMP regulations, part I, relates to height of mooring piles, diving boards, and diving platforms with a maximum height of 10’ above OHWM. The Cherberg dock does not propose any diving boards, diving platforms, or moorage piles in which the piles would have their tops above the water and be used for tying off mooring lines. The new Table D contains the same requirement at part G.

Comment 8: The eighth box in Table B of the 1999 SMP regulations, at page 111, part J, relates to minimum water frontage of 40'. The Cherberg lot complies with the requirement. The new Table D contains the same requirement at part H.

Comment 9: The ninth box in Table B of the 1999 SMP regulations, at page 112, relates to covered moorage. The new Table D contains a revised requirement. The Cherberg dock does not propose covered moorage.

Comment 10: The proposed dock complies with the 1999 SMP regulations for single-family moorage facilities at former Section 19.07.110.D.3, page 113 of Ordinance No. 99C-13. The proposal is consistent with that provision because the proposed dock is accessory to and serving the Cherberg residence and is on the Cherberg property, and the adjacent Griffith dock is accessory to and serving the Griffith residence and is partly on the Griffith property and partly on the Cherberg property. The existing Exclusive Dock Easement precludes the Cherbergs from using any part of the Griffith dock. The only requirement in the 1999 provision is to meet the 40' lot width which both lots meet. Former Section 19.07.110.D.3 was amended as new Section 19.13.050.D, which does not apply to this application, so the limitation of one dock per upland residential lot is inapplicable here.

Other requirements of the Use Regulations in 1999 SMP regulations—former Section 19.07.110.D attached as Exhibit 6 are mostly inapplicable as answered in the Compliance Matrix, including provisions on development landward of OHWM, bulkheads, utilities, and dredging.

Please contact me if you require any further information or explanation relating to compliance with the applicable vested 1999 SMP regulations.

Sincerely,

STEPHENS & KLINGE LLP

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CITY OF MERCER ISLAND

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March 16, 2015

Seaborn Pile Driving Company
Attn: Ted Burns
9311 SE 36th Street, Suite 204
Mercer Island, WA 98040

RE: 9418 SE 33rd Street
Mercer Island, WA 98040;
King County Tax Parcel # 4139300405

Dear Mr. Burns:

This letter is to acknowledge that the City of Mercer Island received a valid and complete building permit plan resubmittal for the subject property on March 13, 2015. Permit number 1501-218 has been assigned to it. As you may be aware, the City's new Shoreline Master Program's (SMP) effective date is March 18, 2015. Due to your building permit being submitted before the effective date of the new SMP, your request will be reviewed under the regulations in effect at the time of your valid and complete building permit application.

Due to the larger than normal number of requests for shoreline permits during this period of transitioning to the new SMP, processing times may be longer than typical. We appreciate your understanding and patience.

Should you have any questions, please contact me at 206-275-7717 or via e-mail at travis.saunders@mercergov.org.

Sincerely,

A handwritten signature in blue ink, appearing to be "Travis Saunders". The signature is fluid and cursive, with a long horizontal stroke at the end.

Travis Saunders, Senior Planner
City of Mercer Island Development Services Group

CITY OF MERCER ISLAND
ORDINANCE NO. 99C-13

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON
ADOPTING AN UNIFIED LAND DEVELOPMENT CODE AND REPEALING
TITLE 14, TITLE 19, AND CHAPTERS 4, 8, 10, 12, 20, 30, 40, AND 80 OF
TITLE 17 OF THE MERCER ISLAND CITY CODE

WHEREAS, the City of Mercer Island Municipal Code (MICC) contains land use and construction regulations; and

WHEREAS, those provisions are currently located in MICC Title 14 "Streets and Sidewalks," MICC Title 19 "Land Use Code," and Chapters 4, 8, 10, 12, 20, 30, 40, and 80 of MICC Title 17 "Buildings and Construction"; and

WHEREAS, many of the City's land use regulations have been modified or revised, but there has been no comprehensive revision of the Development Code for many years and some regulations may be confusing; and

WHEREAS, the existing regulations are in some instances inconsistent with state law and current City practices; and

WHEREAS, the consolidation and redrafting of all existing land development regulations would increase the public's understanding of those regulations, assist staff in the administration of the regulations, and bring the City's Code into compliance with state law;
NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1: Mercer Island City Code, Title 19 "Unified Land Development Code," is hereby adopted as set forth in the attached document, titled "City of Mercer Island Unified Land Development Code, Title 19, Mercer Island City Code," Exhibit A of this ordinance.

Section 2: Repealer. Mercer Island City Code, Title 14 "Streets and Sidewalks" and any and all amendments thereto; Mercer Island City Code, Title 19 "Land Use Code" and any and all amendments thereto; Mercer Island City Code, Title 17 "Buildings and Construction", Chapters 4, 8, 10, 12, 20, 30, 40, and 80 and any and all amendments thereto are hereby repealed. Such repeal shall not be construed as affecting any action taken pursuant to the Titles and Chapters of the Mercer Island City Code hereby repealed and those Titles and Chapters shall remain in effect until the effective date of this ordinance. All actions taken by the City pursuant to the Titles and Chapters of the Mercer Island City Code hereby repealed and prior to the effective date of this ordinance are hereby ratified, approved and confirmed.

Section 3: Validity. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance


and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases were unconstitutional or invalid.

Section 4: Effective Date. This ordinance shall take effect and be in force 30 days after its passage and publication.

Passed by the City Council of the City of Mercer Island, Washington at its regular meeting on the 15th day of November 1999, and signed in authentication of its passage.


Gordon Edberg, Mayor

Attest:


Christine L. Eggers, City Clerk

Approved as To Form:


David E. Kahn, City Attorney

Published: Nov. 24, 1999

CITY OF MERCER ISLAND
UNIFIED LAND DEVELOPMENT CODE
TITLE 19, MERCER ISLAND CITY CODE





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General Provisions**

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Words appearing in **bold** are defined in Chapter 19.16.



CHAPTER 19.01

GENERAL PROVISIONS

Chapter 19.01 General Provisions

- 19.01.010 PURPOSE
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- 19.01.040 ZONE ESTABLISHMENT
- 19.01.050 NONCONFORMING STRUCTURES AND USES
- 19.01.060 HOLD HARMLESS / INDEMNIFICATION AGREEMENT

19.01.010 PURPOSE

The general purpose of this Code is to protect and promote health, safety, and the general welfare through the regulation of **development** within the City of Mercer Island. To that end, this Code classifies the land within the City into various zones and establishes the use of land and nature of **buildings** within those zones; controls the form of plats and **subdivisions**; regulates the construction of commercial and residential **structures**; and protects critical and sensitive areas within the **City**.

The provisions of this Code are designed to consider light, air and access; to conserve and protect natural beauty and other natural resources; to provide coordinated **development**; to avoid traffic congestion; to prevent overcrowding of land; to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements; and to encourage the use of solar energy practices.

This Code is to be interpreted as a whole, in view of the purpose set out in this section.

If the general purpose of this Development Code conflicts with the specific purpose of any Chapter of this Development Code, the specific purpose shall control.



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19.01.020 VALIDITY

If any section, paragraph, subsection, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Code. The City Council hereby declares that they would have passed this code and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases were unconstitutional or invalid.



CHAPTER 19.01

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19.01.030 REASONABLE ACCOMMODATION

- A. Any **person** claiming to have a **handicap**, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this Development Code under the Fair Housing Amendments Act of 1988, 42 USC 3604(f)(3)(b), or the Washington Law Against Discrimination, RCW Chapter 49.60, shall provide the Director of the Development Services Group with verifiable documentation of **handicap** eligibility and need for accommodation.
- B. The Director shall act promptly on the request for accommodation. If **handicap** eligibility and need for accommodation are demonstrated, the director shall approve an accommodation which may include granting an exception to the provisions of this Code. The Director shall not charge any fee for responding to a request for accommodation. The Director's decision shall constitute final action by the City on a request for accommodation, and review of the decision will be available only in Superior Court. Any appeal must be filed not more than twenty-one (21) days after the Director's decision.



CHAPTER 19.01

GENERAL PROVISIONS

19.01.040 ZONE ESTABLISHMENT

A. ZONE	SYMBOL
SINGLE FAMILY	R-8.4
SINGLE FAMILY	R-9.6
SINGLE FAMILY	R-12
SINGLE FAMILY	R-15
MULTIPLE FAMILY	MF-2L
MULTIPLE FAMILY	MF-2
MULTIPLE FAMILY	MF-3
BUSINESS	B
PLANNED BUSINESS	PBZ
COMMERCIAL OFFICES	C-O
PUBLIC INSTITUTION	P
TOWN CENTER	TC

- B. The location and boundaries of the various zones of the **City** are shown and delineated on the City of Mercer Island Zoning Map which is set out in Appendix D of this Development Code and is incorporated herein by reference.
- C. The location and boundaries of the various zones as hereafter determined by the City Council shall be shown and delineated on zone maps covering portions of the **City**, each of which maps shall be a part of this Code either by adoption as a part hereof or by amendment hereto.
- D. Each zone map and all notations and other information shown thereon shall become part of this Code.
- E. A zone map may be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment of this Code and, as adopted, such zone map, or its parts, shall become a part of this Code.
- F. Changes in the boundaries of a zone shall be made by Ordinance adopting an amended map, or part of said zone map.
- G. When uncertainty exists as to the boundaries of any zones shown on any zone map, the following rules shall apply:
1. Boundaries shown on a map as approximately following **street** lines or **lot** lines shall be construed as actually following such lines.
 2. Where a boundary between zones divides a **lot** into two or more pieces, the entire **lot** shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12, R-9.6, R-8.4, MF-2L, MF-3, MF-2, P, PBZ, C-O, TC, and B. The location of the zone boundary shall be



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determined by use of the scale appearing on the zone map unless the location of the boundary is indicated by dimensions.

3. Where property abuts Lake Washington, the land use classification of the upland property extends **waterward** across the abutting **shorelands** and beds to the Line of Navigability/Inner Harbor Line as established in 1984 by the Board of Natural Resources by Resolution No. 461.
4. In case any uncertainty exists, the Planning Commission shall recommend and the City Council shall determine the location of boundaries.
5. Where a public **street** is officially vacated or abandoned, the land use classification applicable to the abutting property shall apply to such vacated or abandoned **street**. If a vacated **street** forms the boundary between two or more zones, the land use classifications of each abutting zone shall extend to the mid-point of the vacated **street** unless the Planning Commission recommends and the City Council decides otherwise.

I. EXCEPT AS HEREINAFTER PROVIDED

1. No land, **building, structure** or **premises** shall be used for any purpose or in any manner other than a use listed in this Code, or amendments thereto, for the zone in which such land, **building, structure** or **premises** is located.
2. No **building** or **structure** shall be erected nor shall any **building** or **structure** be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any **building** or **structure** be encroached upon or reduced in any manner, except in conformity with the requirements of this Development Code or amendments thereto.
3. No **yard** or other open spaces provided about any **building** or **structure**, for the purpose of complying with the regulations of this Code or amendments thereto shall be considered as providing a **yard** or open space for any other **building** or **structure**.



19.01.050 NONCONFORMING STRUCTURES AND USES

A. APPLICATION OF THIS SECTION

This section shall apply to **structures** and uses that become nonconforming as a result of the passage of this Code, or any subsequent amendments thereto.

B. NONCONFORMING STRUCTURES

1. INTENTIONAL DESTRUCTION OF NONCONFORMING STRUCTURES

If any nonconforming **structure** is intentionally destroyed or abated, it may only be reconstructed so as to be in compliance with the provisions of this Code.

2. CATASTROPHIC LOSS OF A NONCONFORMING STRUCTURE

- a. A **single-family dwelling** which suffers a **catastrophic loss** may be reconstructed in its previous configuration regardless of the extent of damage or reconstruction cost.
- b. **Multiple-family dwellings** in the MF-2L, MF-2, and MF-3 zones that are non-conforming due to the number of **dwelling units**, number of parking spaces, **yard** requirements, site coverage, or height limit that are partially or totally destroyed due to a **catastrophic loss** may be reconstructed subject to Design Commission review and approval. The **structure** may not be reconstructed so as to increase the degree of its non-conformity. Notwithstanding the above, the Design Commission may not impose a condition in its design review of a **catastrophically lost building** which would have the effect of reducing the number of units otherwise permitted.
- c. The reconstruction of a non-conforming structure in the Town Center Zone is governed by MICC 19.04.030(1)(D)(6), Town Center District.
- d. Any other nonconforming **structure** which is damaged or partially destroyed through a **catastrophic loss** may only be reconstructed to be in compliance with Development Code requirements; PROVIDED such a **structure** whose reconstruction cost is not more than fifty (50) percent of its value at the time of the occurrence may be restored and the use of such **structure** which existed at the time of the occurrence may be continued subject to the following conditions:
 - i. Such restoration shall not extend the abatement date, if any, of the original **structure** and/or use.
 - ii. The value of a partially destroyed or damaged nonconforming **structure** shall be its assessed value at the time of its damage or



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destruction unless the owner of the **structure** establishes through evidence acceptable to the **Code Official** that the **structure's** value is higher than its assessed value.

3. STRUCTURAL ALTERATIONS OR ENLARGEMENTS.

- a. Unless otherwise specifically provided in this Code, nonconforming **structures** may not be enlarged or structurally altered unless the enlargement or structural alteration makes the **structure** more closely conform to Code requirements, or is required by law.
- b. Where a **structure** is nonconforming only by reason of **yards** or open spaces, structural alterations or enlargements are allowed if they do not increase the nonconforming intrusion into the setback or **yard**. An alteration that increases the height of that portion of a **structure** that intrudes into a setback or **yard**, except for a change from a flat roof to a pitched roof as allowed by MICC 19.02.020(C)(2), is an increase in the non-conformity and is not allowed.
- c. Normal upkeep, repair and maintenance of **nonconforming structures** are allowed, but **nonconforming structures** that become unsafe as a result of lack of routine maintenance shall be considered abandoned.

4. ABANDONMENT OF NONCONFORMING STRUCTURES

A nonconforming **structure** that has been unoccupied continuously for six (6) months or more shall be deemed to have been abandoned and shall be abated.

C. NONCONFORMING USES

1. Any change from a nonconforming use shall be to a conforming use only.
2. If a nonconforming use is discontinued for a period of six (6) months or more, any subsequent use shall be a conforming use.
3. If the owner of a nonconforming **structure** voluntarily destroys or demolishes such **structure**, any nonconforming uses associated with the **structure** shall be deemed to have been abandoned.
4. While a nonconforming use exists on any lot, no additional use may be established thereon, even though such additional use would be a conforming one, unless an abatement date has been established for the nonconforming use.

D. ESTABLISHMENT OF ABATEMENT DATE

1. When any nonconforming **structure** or use exists in any zone, the City Council, on recommendation of the Planning Commission, is authorized to fix an abatement



date for that **structure** or use. Written notice shall be sent to the owner of record at least six (6) months in advance of the abatement date.

2. The Planning Commission shall make its recommendation to the City Council only after conducting a public hearing. Written notice of the hearing shall be sent to the owner of record of the property by certified mail, return receipt requested.
3. The Planning Commission shall attempt to ensure that all major investment in any **structure** on the property is amortized prior to the date set for abatement of any **structure**.
4. The Planning Commission's recommendation shall be based upon evidence which may include, but is not limited to:
 - a. The assessed value of the property;
 - b. The appraised value of the property;
 - c. The length of time between the last substantial investment in any **structure** on the property for purposes of major structural alterations, enlargements, or installation of major equipment and the subsequent effective date of this Code or amendments thereto;
 - d. The duration of the nonconforming **structure** or use;
 - e. The compatibility of the nonconforming **structure** or use with the character of the surrounding neighborhood;
 - f. The magnitude of nonconformity;
 - g. The environmental impact(s) of the nonconformity; and
 - h. Whether the nonconforming **structure** or use constitutes a public nuisance or adversely impacts the public health, safety, and welfare.
5. If discontinuance of use or abatement of **non-conforming structure** or use does not occur in accordance with the requirements of the City Council, such noncompliance with Council-imposed requirements shall be considered a violation of the provisions of the Code and is subject to the enforcement provisions set forth herein.



CHAPTER 19.01

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19.01.060 HOLD HARMLESS / INDEMNIFICATION AGREEMENT

The owner of property for which a **development** proposal is submitted, except a public right-of-way or the site of a permanent **public facility**, shall file an agreement approved by the **City** and recorded with the King County Records and Elections Division prior to the issuance of any development permit. Said agreement shall be in a form approved by the City Attorney, shall hold harmless and indemnify the **City** and its employees from and against any liability for damages to **persons** or property as the result of construction or other action undertaken by the applicant on the subject property, and shall run with the land for a period of at least three (3) three years from completion of the work and be binding on the applicant and his/her successors and assigns.

**19.01.070 VARIANCE AND DEVIATION PROCEDURES**

An applicant for a permit under this Development Code may request a **variance** or **deviation** from those numeric standards set out in the Code that are applicable to the permit. The applicant shall make such a request to the official or body designated in MICC 19.15.010(E).

A. VARIANCE

1. An applicant may request a **variance** from any numeric standard applicable to the permit or from any other standard that has been specifically designated as being subject to a **variance**.
2. A **variance** may be granted if the applicant demonstrates that the criteria set out in MICC 19.15.020(G)(4), and any additional **variance** criteria set out in the Code section under which the permit would be issued, are satisfied.

B. DEVIATION

1. An applicant may request a **deviation** only from those numeric standards that have been specifically designated as being subject to a **deviation**.
2. A **deviation** may be granted if the applicant demonstrates that the criteria set out in MICC 19.15.020(G)(5), and any additional **deviation** criteria set out in the Code section under which the permit would be issued, are satisfied.



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Chapter 19.02 Residential

- 19.02.010 SINGLE FAMILY — R-8.4, R-9.6, R-12, R-15
- 19.02.020 LOT REQUIREMENTS
- 19.02.030 ACCESSORY DWELLING UNITS
- 19.02.040 GARAGES AND OTHER ACCESSORY BUILDINGS
- 19.02.050 FENCES AND RETAINING WALLS
- 19.02.060 SWIMMING POOLS

19.02.010 SINGLE FAMILY

A. USES PERMITTED IN ZONES R-8.4, R-9.6, R-12, AND R-15

1. **Single family dwelling.**
2. **Accessory buildings** incidental to the main **building**.
3. **Private Recreational Areas.**
4. Public schools accredited or approved by the State for compulsory school attendance, subject to Design Commission review and all of the following conditions:
 - a. All **structures** shall be located at least thirty-five (35) feet from any abutting property and at least forty-five (45) feet from any public right-of-way.
 - b. Off-**street** parking shall be established and maintained at a minimum ratio of one (1) parking space per classroom with high schools providing an additional one (1) parking space per ten (10) students.
 - c. A one-fourth (1/4) acre or larger playfield shall be provided in one (1) ~~usable unit abutting or adjacent to the site.~~
5. Home business as an **accessory use** to the **residential use**, subject to all of the following conditions:
 - a. The home business shall not involve the external alteration of any structure.
 - b. Only those **persons** who reside on the **premises** and one other **person** who does not reside on the **premises** shall be permitted to engage in the business; PROVIDED if this limitation conflicts with the requirements of Chapter 388-150 WAC, Minimum Licensing Requirements for Child Day Care Centers, the number of employees who do not reside on the **premises** may be increased to meet the minimum staff-child ratios set out in WAC 388-150-190.



- c. There shall be no exterior storage or display of materials, and no **sign** advertising the occupation located on the **premises**.
 - d. No offensive noise, vibration, smoke, dust, odor, heat or glare or unusual or excessive traffic to and from the **premises** shall be produced or generated by the business.
 - e. The business shall not involve the use of more than twenty-five (25) percent of the **gross floor area** of the primary residential **building** calculated by excluding any attached **garage** from the **gross floor area**. However, the **garage** area may be used for the home business; PROVIDED such use does not exceed twenty-five (25) percent of the **gross floor area** as calculated above.
 - f. No home business shall be permitted that generates **vehicle** traffic that cannot be accommodated by the lot's pre-existing off-street parking.
 - g. The business shall not provide **healthcare services, personal services, automobile repairs; serve as a restaurant, commercial stable, kennel, or place of instruction of more than three (3) students at a time; or serve as a Bed and Breakfast without a Conditional Use Permit as set out in Part C7 of this Section.**
 - h. **Daycare** services within a **single-family dwelling** shall be limited to twelve (12) children (not including dependents) at a time.
6. Public Park subject to Design Commission review and the following conditions:
 - a. Access to local and/or arterial thoroughfares shall be reasonably provided.
 - b. Outdoor lighting shall be located to minimize glare upon abutting property and **streets**.
 - c. All **structures** and play areas shall be located at least twenty (20) feet from any abutting property.
 - d. A plot, landscape and **building** plan showing compliance with these conditions shall be filed with the Design Commission for its approval. The construction and maintenance of **buildings** and **structures** and the establishment and continuation of uses shall comply with the approved plot, landscape and **building** plan. Alterations to the project are permitted only upon approval by the Design Commission of a new or amended plan.
 7. **Semi-private waterfront recreation areas** for use by ten or fewer families, subject to the conditions set out in MICC 19.07.080.
 8. One (1) **Accessory Dwelling Unit (ADU)** per **single-family dwelling** subject to conditions set out in MICC 19.02.030.



9. **Adult family homes, foster family homes, large foster family homes, and residential care facilities** subject to the following conditions:
- a. The facility shall not display **signs** that would alter the residential character of the **premises**.
 - b. There shall be no structural alterations that change the residential character of the **structure**, except as required by the Uniform Building or Fire Codes.
 - c. The facility shall be landscaped compatibly with surrounding residences.
10. **Housing for persons with handicaps** subject to the following conditions:
- a. Operators of housing for **persons with handicaps** may not accept tenants whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

A determination by the **Code Official** that a tenant is a direct threat to health and safety, or that the tenant's tenancy would result in substantial physical damage to the property of others, may be appealed to the City Council by the operator of the proposed housing for the tenant. The Appeal shall be processed under the appeal procedure as set out in MICC 19.15.020(J).
 - b. The facility shall meet all applicable Washington State licensing requirements.
 - c. The facility shall comply with all Uniform Building and Fire Codes applicable to **single-family dwellings**, including maximum occupancy restrictions.
 - d. There shall be no structural alterations to the facility that change its residential character, except as required by the Uniform Building or Fire Codes.
 - e. **Housing for persons with handicaps** shall not display **signs** that would alter the residential character of the **premises**
 - f. The facility shall be landscaped compatibly with surrounding residences.

B. **ADDITIONAL USE PERMITTED IN ZONES R-9.6, R-12, AND R-15**

One (1) **accessory building** for the housing of domestic animals and fowl, having a floor area not to exceed thirty-six (36) square feet for each lot and located not less than sixty-five (65) feet from any place of habitation other than the owners';
PROVIDED the roaming area shall be fenced and located not less than thirty-five (35) feet from any adjacent place of human habitation.



C. CONDITIONAL USES

The following uses are permitted when authorized by the issuance of a **Conditional Use Permit** when the applicable conditions set forth in this Section and in MICC 19.15.020(G)(3) have been met:

1. **Government Services, Public Facilities, Utilities, and Museums and Art Exhibitions**, subject to the following conditions:
 - a. All **structures** shall be located at least twenty (20) feet from any abutting property;
 - b. **Off-street** parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of **gross floor area**; and
 - c. **Utilities** shall be shielded from abutting properties and **streets** by a sight obscuring protective strip of **trees** or shrubs.
2. Private schools accredited or approved by the State for compulsory school attendance, subject to conditions set out in Part A4 of this Section.
3. **Places of Worship** subject to the following conditions:
 - a. All **structures** shall be located at least thirty-five (35) feet from any abutting property.
 - b. **Off-street** parking shall be established and maintained at a ratio of one (1) parking space for each five (5) seats in the chapel, nave, sanctuary, or similar worship area.
4. **Non-commercial recreational areas**, subject to the conditions contained in Part A6 of this Section.
5. **Semi-private waterfront recreation areas** for use by more than ten (10) families, subject to conditions set out in MICC 19.07.080.
6. **Retirement homes** located on property used primarily for a **place of worship** subject to the following conditions:
 - a. **Retirement home structures** shall not occupy more than twenty (20) percent of the **lot**; PROVIDED the total **lot** coverage for the **retirement home**, the **place of worship**, and all other **structures** shall not exceed the **lot** coverage specified in MICC 19.02.020(D).
 - b. A plot, landscape and **building** plan shall be filed with the Design Commission for its approval, and the construction and maintenance of



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buildings and structures and the establishment and continuation of uses shall comply with the approved plot, landscape and **building** plan. Alterations to the project are permitted only upon approval by the Design Commission of a new or amended plan.

- c. The number of **dwelling units** shall be determined by the Planning Commission upon examination of the following factors:
 1. Demonstrated need;
 2. Location, size, shape and extent of existing **development** on the subject property;
 3. Nature of the surrounding neighborhood; and
 4. Legal assurances that the entire property remains contiguous, and that the **retirement home** is owned and controlled by the applicant religious organization.
 - d. The **retirement home** shall be located at least thirty-five (35) feet from all abutting property.
 - e. Off-**street** parking shall be established and maintained at a ratio of one-half (1/2) parking space for each **dwelling unit**.
7. The use of a **single-family dwelling** as a **bed and breakfast** subject to the following conditions:
- a. The **bed and breakfast** facility shall meet all applicable health, fire, and building codes.
 - b. Not more than four (4) rooms shall be offered to the public for lodging.
 - c. There shall be no external modification of any **structure** that alters the residential nature of the **premises**.
 - d. The **bed and breakfast** shall be the primary residence of the operator.
 - e. In addition to the parking required set out in MICC 19.02.020(E), one off-**street** parking space, not located in the lot setbacks, shall be provided for each rental room.
 - f. Meals shall be made available only to guests, and not to the general public.
8. Non-School Uses of School Buildings, subject to the following conditions:



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- a. No use or proposed use shall be more intensive than the school activity it replaced. Consideration shall be given to quantifiable data, such as, but not limited to, traffic generation, parking demand, noise, hours of operation;
- b. All activities, with the exception of outdoor recreation shall be confined to the interior of the **building(s)**;
- c. Exterior modification of the building(s) shall not be permitted if such a modification would result in an increase in the usable area of the building(s);
- d. Minor changes in the building exterior, landscaping, signs, and parking may be permitted subject to the review and approval of the Design Commission; and
- e. **Off-street** parking for all activities at the site shall be provided in existing school parking lots.
- f. **TERMINATION**

Conditional use permits for non-school uses shall terminate and the use of the site shall conform to the requirements of the zone in which the school building is located on the day of the termination under the following conditions:

1. The school building is demolished or sold by the Mercer Island School District.
2. The City Council revokes the permit on the recommendation of the Planning Commission. Revocation shall be based on a finding that the authorized use constitutes a nuisance or is harmful to the public welfare, or the applicant has failed to meet the conditions imposed by the **City**.



g. REVISION

Any modification to a non-school **Conditional Use Permit** shall be approved by the Planning Commission; HOWEVER, the **Code Official** may approve minor modifications that are consistent with the above stated conditions.

C. BUILDING HEIGHT LIMIT

No **building** shall exceed thirty (30) feet in height above the **base elevation** except that on the downhill side of a sloping **lot** the **building** may extend to a height of thirty-five (35) feet above **existing grade**; PROVIDED it does not exceed thirty (30) feet in height above the **base elevation**. **Antennas**, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar **appurtenances** may extend to a maximum of five (5) feet above the height allowed for the main **structure**.

D. GROSS FLOOR AREA

1. The **gross floor area** of a single-family **structure** shall not exceed forty-five (45) percent of the **lot** area.
2. **Lots** created in a **subdivision** through MICC 19.08.030(G), Optional Standards for Development, may apply the square footage from the open space **tract** to the **lot** area not to exceed the minimum square footage of the zone in which the **lot** is located.



19.02.020 LOT REQUIREMENTS

A. MINIMUM LOT AREA

R-8.4: The **lot** area shall be at least eight thousand four hundred (8,400) square feet. **Lot** width shall be at least sixty (60) feet and **lot** depth shall be at least eighty (80) feet.

R-9.6: The **lot** area shall be at least nine thousand six hundred (9,600) square feet. **Lot** width shall be at least seventy-five (75) feet and **lot** depth shall be at least eighty (80) feet.

R-12: The **lot** area shall be at least twelve thousand (12,000) square feet. **Lot** width shall be at least seventy-five (75) feet and **lot** depth shall be at least eighty (80) feet.

R-15: The **lot** area shall be at least fifteen thousand (15,000) square feet. **Lot** width shall be at least ninety (90) feet and **lot** depth shall be at least eighty (80) feet.

1. Minimum **lot** area requirements do not apply to any **lot** that came into existence before September 28, 1960; **HOWEVER structures** may be erected on the **lot** only if those **structures** comply with all other restrictions governing the zone in which the **lot** is located.
2. In determining whether a **lot** complies with the **lot** area requirements, the following shall be excluded: the **shorelands** part of any such **lot** and any part of such **lot** which is part of a **street**.

B. STREET FRONTAGE

No **building** will be permitted on a **lot** that does not front onto a **street** acceptable to the **City** as substantially complying with the standards established for **streets**.

C. YARD REQUIREMENTS

1. Except as otherwise provided in this Section, each **lot** shall have **front, rear, and side yards** not less than the depths or widths following:

Front yard depth	Twenty (20) feet or more
Rear yard depth	Twenty-five (25) feet or more
Side yard depth	The sum of the side yards shall be at least fifteen (15) feet, PROVIDED no side yard abutting an interior lot line shall be less than five (5) feet, and no side yard abutting a street shall be less than ten (10) feet.



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2. Porches, chimney(s) and fireplace extensions, and unroofed, unenclosed outside stairways and decks shall not project more than three (3) feet into any required **yard**. Eaves shall not protrude more than eighteen (18) inches into any required **yard**; PROVIDED no penetration shall be allowed into the minimum five (5) foot setback abutting an interior **lot** line except where an existing flat roofed house ~~has been built to the interior side yard setback line~~ and the roof is changed to a pitched roof with a minimum pitch of 4:12, the eaves may penetrate up to eighteen (18) inches into the **side yard** setback. Platforms, walks, and driveways not more than thirty (30) inches above finished grade may be located within any required yard.
3. The **front yard** shall extend across the full width of the front of the **lot**.

On **corner lots** the **front yard** shall be measured from the narrowest dimension of the **lot** abutting a **street**. The **yard** adjacent to the widest dimension of the **lot** abutting a **street** shall be a **side yard**. If a setback equivalent to or greater than required for a **front yard** is provided along the property lines abutting both **streets**, then only one of the remaining setbacks must be a **rear yard**.
4. The **rear yard** shall extend across the full width of the rear of the **lot**, and shall be measured between the rear line of the **lot** and the nearest point of the main **building** including an enclosed or covered porch.
5. On a **waterfront lot**, regardless of the location of access to the **lot**, the **front yard** may be measured from the property line opposite and generally parallel to the **ordinary high water line**.

D. LOT COVERAGE

The total percentage of a **lot** that may be covered by **buildings, structures, and other impervious surfaces** is governed by MICC 19.07.010. The basic coverage limits under that Section are:

<u>Lot Slope</u>	<u>Lot Coverage</u>
Less than 15%	40%
15% to less than 30%	35%
30% to 50%	30%
Greater than 50%	20%

E. PARKING

1. Each **single-family dwelling** shall have at least three (3) parking spaces sufficient in size to park a passenger automobile; PROVIDED at least two (2) of the stalls shall be covered stalls. This provision shall apply to all new construction and remodels in excess of fifty (50) percent of the assessed value; HOWEVER no construction or remodel shall reduce the number of parking spaces on the **lot** below the number existing prior to the project unless the reduced parking still satisfies the requirements set out above.



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2. Except as otherwise provided in this Chapter, each lot shall provide parking deemed sufficient by the **Code Official** for the use occurring on the lot; **PROVIDED** any lot that contains ten (10) or more parking spaces shall also meet the parking lot requirements set out in Appendix A of this Development Code.



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19.02.030 ACCESSORY DWELLING UNITS

A. PURPOSE

It is the purpose of this legislation to implement the policy provisions of the Housing Element of the City's Comprehensive Plan by eliminating barriers to **accessory dwelling units** in single family residential neighborhoods and provide for affordable housing. Also, to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the **accessory dwelling unit** or principle unit of the **single-family dwelling**.

B. REQUIREMENTS FOR ACCESSORY DWELLING UNITS

One **accessory dwelling unit** is permitted as subordinate to an existing **single-family dwelling**; PROVIDED the following requirements are met:

1. OWNER OCCUPANCY

Either the principal **dwelling unit** or the **accessory dwelling unit** must be occupied by an owner of the property or an immediate **family** member of the property owner. Owner occupancy is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, **vehicle** registration, or similar means, and actually resides at the site more than six (6) months out of any given year.

2. NUMBER OF OCCUPANTS

The total number of occupants in both the principal **dwelling unit** and **accessory dwelling unit** combined shall not exceed the maximum number established for a **family** as defined in MICC 19.16.010 plus any live-in household employees of such **family**.

3. SUBDIVISION

Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal **dwelling unit**.

4. SIZE AND SCALE

The square footage of the **accessory dwelling unit** shall be a minimum of two hundred twenty (220) square feet and a maximum of nine hundred (900) square feet, excluding any **garage** area; PROVIDED the square footage of the **accessory dwelling unit** shall not exceed forty (40) percent of the total square footage of the primary **dwelling unit**, excluding the **garage** area, as it exists or as it may be modified.

5. LOCATION

The **accessory dwelling unit** may be added to or included within the principal unit, or located in a detached **structure**.



6. ENTRANCES

The **single-family dwelling** containing the **accessory dwelling unit** shall have only one entrance on each front or **street** side of the residence except where more than one entrance existed on or before January 17, 1995.

7. ADDITIONS

Additions to an existing **structure** or newly constructed detached **structures** created for the purpose of developing an **accessory dwelling unit**, shall be designed consistent with the existing roof pitch, siding, and windows of the principal **dwelling unit**.

8. DETACHED STRUCTURES

Accessory dwelling units shall be permitted in a detached **structure**.

9. PARKING

All **single-family dwellings** with an **accessory dwelling unit** shall meet the parking requirements applicable to the **dwelling** if it did not have such an **accessory dwelling unit**.

C. EXCEPTIONS - CEILING HEIGHT

All existing **accessory dwelling units** that are located within a **single-family dwelling** which was legally constructed but does not now comply with current ceiling height requirements of the Uniform Building Code, shall be allowed to continue in their present form.

D. PERMITTING AND ENFORCEMENT

1. APPLICATION

The property owner shall apply for an **Accessory Dwelling Unit** Permit with the Development Services Group. The application shall include an affidavit signed by the property owner affirming that the owner or an immediate **family** member will occupy the principal **dwelling unit** or **accessory dwelling unit** for more than six (6) months per year.

2. NOTICE

The **City** shall provide notice of the intent to issue a permit for an **accessory dwelling unit** as required by MICC 19.15.020(D),(E).

3. APPLICABLE CODES

The **accessory dwelling unit** shall comply with all standards for health and safety in the Uniform Building Code, Uniform Plumbing Code, Uniform Electrical Code, Uniform Mechanical Code, Uniform Fire Code and any other applicable codes, except as provided in this Chapter. The ADU shall comply with all Development Code provisions for **single-family dwellings** including

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height and setbacks, and the ADU shall be included as part of the **impervious surface** and floor area limitations for a **building site**.

4. INSPECTION

After receipt of a complete application and prior to approval of an **accessory dwelling unit**, the **City** shall inspect the property to confirm that all applicable requirements of this Code and other codes are met.

5. RECORDING REQUIREMENTS - PERMITS

Approval of the **accessory dwelling unit** shall be subject to the applicant recording a document with the King County Department of Records and Elections which runs with the land and identifies the address of the property, states that the owner(s) resides in either the principle **dwelling unit** or the **accessory dwelling unit**, includes a statement that the owner(s) will notify any prospective purchasers of the limitations of this Section, and provides for the removal of the **accessory dwelling unit** if any of the requirements of this Chapter are violated.

6. PERMIT

Upon compliance with the provisions of this Section, a permit for an **accessory dwelling unit** will be issued.

7. ENFORCEMENT

The **City** retains the right with reasonable notice to inspect the ADU for compliance with the provisions of this Section.

E. ELIMINATION/EXPIRATION

Elimination of an **accessory dwelling unit** may be accomplished by the owner recording a certificate with the King County Department of Records and Elections and Development Services stating that the **accessory dwelling unit** no longer exists on the property.

F. VARIANCE

Variances to this Chapter shall require **variance** approval as outlined in MICC 19.15.020(G)(4).

G. VIOLATIONS

Any violation of any provision hereof is a criminal violation under MICC 19.15.030.

**19.02.040 GARAGES AND OTHER ACCESSORY BUILDINGS**

A. **Accessory buildings**, including **garages**, are not allowed in required **yards** except as herein provided.

B. **ATTACHED ACCESSORY BUILDING**

An **attached accessory building** shall comply with the requirements of this Code applicable to the main **building**.

C. **DETACHED ACCESSORY BUILDING**

Accessory buildings are not allowed required **yard** setbacks; PROVIDED one (1) **detached accessory building** with a **gross floor area** of one hundred twenty (120) square feet or less and a height of twelve (12) feet or less may be erected in the rear **yard** setback. If such an **accessory building** is to be located less than five (5) feet from any property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the King County Department of Records and thereafter filed with the **City**.

D. **GARAGES**

Garages may be built to within ten (10) feet of the front property line if the **front yard** of the **lot**, measured at the midpoint of the front of the **garage**, is more than four (4) feet above or below the **existing grade** at the point on the front property line closest to the midpoint of the front of the **garage**. The height of such **garage** shall not exceed twelve (12) feet from **existing grade** for that portion built within the **front yard**.

**19.02.050 FENCES AND RETAINING WALLS**

- A. The height of a **fence** is measured from the top of the **fence**, including posts, to the ground level directly below the section of the **fence** being measured.
- B. The height of a **retaining wall** or **rockery** is measured from the top of the **retaining wall** or **rockery** to the **existing grade** directly below the **retaining wall** or **rockery**.
- C. No **fence** shall be located in the right-of-way of any **street**.
- D. **Retaining walls** and **rockeries** may be allowed in **street** rights-of-way subject to the approval of the City Engineer and the granting of an Encroachment Agreement as set out in MICC 19.06.060.
- E. Where a **retaining wall** protects a cut below the natural grade, and is located on the line separating **lots** or parcels, such **retaining wall** may be topped by a **fence** or wall of the same height that would otherwise be permitted at the location if no cut and **retaining wall** existed.
- F. Where a **retaining wall** contains a **fill**, the height of the **retaining wall** shall be considered as subtracting from the normally permitted height of a **fence** constructed on the wall or on the **fill** within twenty (20) feet of the wall, provided that, in any event, a protective **fence** not more than forty-two (42) inches in height may be erected in that area. Any portion of such **fence** more than seventy-two (72) inches above the foot of the wall shall be of an open work design with at least fifty (50) percent of its total surface area consisting of evenly distributed open spaces.
- G. **Fences** are allowed to a maximum height of seventy-two (72) inches within the required **yards**; except, **fences** are limited to a maximum height of forty-two (42) inches within that portion of any required **yard** which lies within twenty (20) feet of the right-of-way of any **street** or other motor **vehicle** easement appurtenant to the **lot** upon which the **fence** is located.

H. FENCE HEIGHT DEVIATIONS

Deviations from the forty-two (42) inch height limitation set out in Part G of this Section shall be reviewed in the manner set out below:

1. For non-regulated improvements, deviations shall be reviewed by the **Code Official** under the following procedure:
 - a. The applicant shall submit to the **Code Official** two (2) copies of plot plans and elevations, drawn to scale, showing size and construction of the proposed **fence**, the location of all existing **structures**, **streets**, **driveways**, and landscaping.



- b. The **Code Official** shall review the submitted plans with the City Engineer and shall base the decision to approve or disapprove the requested **deviation** on factors of traffic visibility and other public and private safety considerations, **lot** shape, location and topography, and the nature, location and extent of adjoining public and private **structures**.
- 2. For **regulated improvements, deviations** shall be reviewed by the Design Commission under the procedures and criteria set forth in MICC 19.15.040.
- J. Electric **fences** and barbed wire **fences** are not allowed.
- K. These provisions do not apply to **fences** required by State law to enclose public **utilities**, or to chain link **fences** enclosing school grounds or public playgrounds.



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19.02.060 SWIMMING POOLS

- A. A swimming pool is not allowed in any **front yard**.
- B. A swimming pool is not allowed closer than five (5) feet from any adjacent property measured from the edge of the water to the property line.
- C. A swimming pool located in a public park or **non-commercial recreation area** shall conform to the setback regulations governing such areas.
- D. All fences surrounding outdoor swimming pools shall conform to the requirements of the Uniform Swimming Pool, Spa and Hot Tub Code as adopted by the City of Mercer Island in MICC 19.09.010, as amended by MICC 19.09.020(U).



CHAPTER 19.03

MULTIPLE-FAMILY

Chapter 19.03 Multiple-Family

- 19.03.010 MULTIPLE-FAMILY
- 19.03.020 PARKING REQUIREMENTS

19.03.010 MULTIPLE-FAMILY

A. DESIGN REQUIREMENTS

1. Any development within the MF-2L or MF-2 zones shall comply with the applicable sections of the TOWN CENTER Design Requirements, Parts 2 and 3.
2. Plans for any **development** on property located in an MF zone shall be submitted to the DESIGN COMMISSION for its approval as set out in MICC 19.15.040. This requirement does not apply to property owned by or under the control of the **City** or to **single family dwellings**.

B. USES PERMITTED IN ZONE MF-2L

1. Any use permitted in zones R-8.4, R-9.6, R-12, and R-15.
2. **Multiple-family dwellings**, consisting of no more than eight (8) **dwelling units per building**; PROVIDED each **buildings** shall comply with the following conditions:
 - a. Each **dwelling unit** shall have one (1) or more bedrooms.
 - b. The finished grade shall conceal at least one-half (1/2) of the total foundation area of any daylight basement.

C. USES PERMITTED IN ZONE MF-2

1. Any use permitted in zones R-8.4, R-9.6, R-12, and R-15.
2. **Multiple-family dwellings**.
3. **Care Services** subject to the following conditions:
 - a. The facility shall meet all licensing requirements prescribed by applicable Federal, State, County and local law.
 - b. **Retirement homes** shall provide one (1) **off-street** parking space for every two (2) **dwelling unit**.
 - c. **Nursing homes** shall provide one (1) **off-street** parking space for every four (4) beds.
 - d. **Daycare** facilities shall provide one (1) **off-street** parking space for each employee, with a minimum of two (2) parking spaces.



D. USES PERMITTED IN ZONE MF-3

1. Any use permitted in zones R-8.4, R-9.6, R-12, and R-15.
2. **Multiple-Family Dwellings.**
3. **Care Services** subject to the following conditions:
 - a. The facility shall meet all licensing requirements prescribed by applicable Federal, State, County and local law.
 - b. **Retirement homes** shall provide one (1) off-street parking space for every two (2) dwelling unit.
 - c. **Nursing homes** shall provide one (1) off-street parking space for every four (4) beds.
 - d. **Daycare** facilities shall provide one (1) off-street parking space for each employee, with a minimum of two (2) parking spaces.
4. **Civic and Social Organizations** whose chief activity is not a service customarily carried on as business; PROVIDED off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of **gross floor area**.
5. **Hotels/Motels** with stores therein subject to the following conditions:
 - i. Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit, plus the required parking spaces for the businesses contained therein, plus one (1) space for each full time employee that shall be working on any single shift.
 - ii. Business uses must be conducted and entered entirely from within the building.
6. **Office Uses** subject to the following conditions:
 - i. Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each three hundred (300) square feet of **gross floor area**.
 - ii. Business uses must be conducted and entered entirely from within the building.
 - iii. Not more than forty-five (45) percent of the lot area shall be covered with structures.
 - iv. Yard depths shall be:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Twenty (20) feet or more.
Side yard abutting interior lot lines:	Five (5) feet or more.
Rear yard depth:	Twenty-five (25) feet or more.



7. ACCESSORY USES PERMITTED OUTRIGHT:

- i. Single-family residential accessory uses are permitted outright.
- ii. Barber shops; beauty shops; coin-operated laundries; dry cleaning pickup stations; magazine stands; business or professional offices; and other accessory services when conducted and entered entirely from within the building with no visible evidence from the outside and no exterior display or advertising except for one sign not exceeding four (4) square feet installed flat against the principal building.
- iii. Accessory uses customarily incidental to a principal use permitted outright in this section.

E. BUILDING HEIGHT LIMIT

- 1. MF-2L: No **building** shall exceed twenty-four (24) feet or two (2) stories in height (excluding daylight basements), whichever is less.
- 2. MF-2, MF-3: No **building** shall exceed thirty-six (36) feet or three (3) stories in height, whichever is less.

F. LOT AREA REQUIREMENTS

- 1. The **lot** area shall be at least six thousand (6,000) square feet; PROVIDED there shall be at least an additional one thousand five hundred (1,500) square feet of **lot** area for each **dwelling unit** in excess of one (1).
- 2. **Lot** width shall be at least sixty (60) feet, and **lot** depth shall be at least eighty (80) feet.

G. YARD REQUIREMENTS

Except as provided elsewhere in this Section, each **lot** shall have **front, side and rear yards** not less than the depths or widths following or as approved by the Design Commission:

Front yard depth	Twenty (20) feet or more
Rear yard depth	Twenty-five (25) feet or more
Side yard depth	Twenty (20) feet or more

H. LOT COVERAGE

Except as otherwise provided in this Section, not more than thirty-five (35) percent of any **lot** shall be covered with **structures**.



CHAPTER 19.03

MULTIPLE-FAMILY

19.03.020 PARKING REQUIREMENTS

A. PARKING LOT DIMENSION

All parking areas shall conform to the design standards set out in Appendix A of this Development Code unless alternative design standards are approved by the Design Commission and City Engineer.

B. Except as otherwise provided in this Chapter, each lot shall also meet the following parking requirements.

1. Off-street parking shall be established and maintained at a minimum ratio of two (2) parking spaces for each **unit** in a **multiple-family dwelling**.
2. Parking shall not be allowed in **front yard** setbacks.
3. Group parking areas shall be screened from view from **streets** and adjoining properties. If screening consists of solid planting, it shall be of evergreen variety and shall constitute a solid planting within two (2) years.
4. Notwithstanding any of the Minimum Parking Requirements set out in Part C of this Section, the **Code Official** may grant **variances** from the minimum parking requirements with the approval of the City Engineer and the Design Commission for projects reviewable by the Design Commission.
5. All off-street parking areas shall be graded and surfaced to a standard comparable to the **street** which serves the parking area. The parking area shall be developed and completed to the required standards before an Occupancy Permit for the **building** to be served is issued. All traffic control devices such as parking strips designating car stalls, directional arrows or **signs**, bull rails, curbs and other **structures** shall be installed and completed as shown on the approved plans. Hard surfaced parking area shall use paint or similar devices to delineate parking stalls and directional arrows.
6. Off-street parking shall be located on the same **lot** or on an adjoining **lot** or **lots** to the **building** to be served, EXCEPT that off-street parking may be located in an area beginning within five hundred (500) feet of the front entrance of the **building** to be served; PROVIDED there are no intersecting **streets** between the parking area and **building** to be served.
7. The City Engineer shall have the authority to fix the location and width of vehicular entrances and exits to and from property, and to alter existing entrances and exits as may be required to control **street** traffic in the interest of public safety and general welfare.
8. Off-street parking shall meet the relevant State design standards for the physically handicapped.



9. Up to fifty (50) percent of the required off-street parking spaces may be designed for accommodating compact vehicles. Such parking spaces shall be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.



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Chapter 19.04 Commercial

- 19.04.010 PLANNED BUSINESS ZONE — PBZ
- 19.04.020 COMMERCIAL OFFICES — C-O
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- 19.04.040 PARKING REQUIREMENTS
- 19.04.050 BUSINESS — B

19.04.010 PLANNED BUSINESS ZONE — PBZ

- A. The purpose of the Planned Business Zone (PBZ) is to provide a location for a mix of small scale, neighborhood oriented business, office, **service**, public and residential uses in high quality, coordinated **developments** which are compatible with adjacent residential areas. **Development** in the PBZ will be subject to requirements and design standards as further set forth herein.

Provided that transit service is available, a sheltered transit stop and associated parking (transit center) shall be a public benefit feature encouraged in the PBZ. Appropriate incentives for the inclusion of a transit center in the PBZ shall be established by the Design Commission in conjunction with review and approval of a PBZ Site Plan and **Major New Construction**.

B. USES PERMITTED:

1. **Government Services, Utilities, and Museums and Art Exhibitions.**
2. **Day Care.**
3. **Healthcare Services.**
4. **Personal Services.**
5. **Professional, Scientific, and Technical Services.**
6. **Office Uses.**
7. **Service Stations; PROVIDED** open spaces in this zone may not be used for storage, display, or sale of used **vehicles** or equipment.
8. **Repair Services.**
9. **Theaters.**
10. **Restaurants, cafeterias, catering.**
11. **Retail stores.**



12. **Financial and Insurance Services.**
13. **Commercial Recreational Areas; PROVIDED teen dances and teen dance halls as defined herein are not permitted uses.**
14. **Single-family dwellings limited to single family detached, single family semi-detached, townhouses, and patio homes.**
15. Commercial public storage facilities, including screened outdoor storage and indoor storage and accessory caretaker office/residence; PROVIDED such use shall not abut 84th Avenue SE or SE 68th Street.
16. **Housing for persons with handicaps** subject to the following conditions:
 - a. Operators of **housing for persons with handicaps** may not accept tenants whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

A determination by the **Code Official** that a tenant is a direct threat to health and safety, or that the tenant's tenancy would result in substantial physical damage to the property of others, may be appealed to the City Council by the operator of the proposed housing for the tenant. The Appeal shall be processed under the appeal procedure in MICC Section 19.04.140(J).
 - b. The facility shall meet the applicable Washington State licensing requirements.
 - c. The facility shall comply with all Uniform Building and Fire Codes applicable to **single-family dwellings**, including maximum occupancy restrictions.
17. **Wireless Communications Facilities** subject to the conditions set out in MICC 19.06.040.

C. LOCATION CRITERIA AND SIZE OF ZONE

1. Location of Planned Business Zone. A PBZ may be established and shown on the map portion of this Code only if authorized by the Comprehensive Plan, and only within the general area of authority shown on the map portion of the Comprehensive Plan. The zone shall abut upon at least one **major arterial street**.
2. Size of PBZ. A PBZ district shall be at least five (5) acres in area; PROVIDED this does not restrict the size of individual **lots** in the PBZ.



D. DEVELOPMENT STANDARDS - GENERAL

1. BUFFER REQUIREMENTS

All **structures** and **off-street** parking shall be set back from the perimeter property line of the PBZ as follows:

a.	Adjacent and parallel to 84th Ave. SE	Seventy-five (75) feet.
b.	Adjacent and parallel to SE 68th St. for two hundred (200) feet east of the intersection of SE 68th Street and 84th Avenue SE	Thirty-five (35) feet.
c.	Beginning from a point seventy-five (75) feet east of the southwest corner of the zone east to a point three hundred forty-five (345) feet from the southwest corner	Seventy-five (75) feet for nonresidential uses. Twenty-five (25) feet for residential uses.
d.	The remainder of the zone	twenty-five (25) feet. zero (0) feet where the boundary is adjacent to the Fire Station and utilities substation.

- e. The buffers may be modified to allow expansion or modification of the **service station** use at the corner of 84th Avenue SE and SE 68th Street through the PBZ Site Plan review process. This review shall provide conditions that assure compatibility with adjacent uses including, but not limited to, landscaping which screens objectionable views, light, glare and noise, as required by the Design Commission.

2. LANDSCAPING REQUIREMENTS

Required **yards** shall be landscaped, the landscaping to include incorporation of existing landscaping along with new shrubs and **trees** making the planned business zone compatible with surrounding uses and controlling objectionable views, glares or noise as further specified in the design standards. The installation and maintenance of such landscaping may be secured by a bond to the **City** in a reasonable amount if required by the Design Commission.

3. MINIMUM OPEN SPACE REQUIREMENTS

Subject to review by the Design Commission, a minimum of fifteen (15) percent of the PBZ shall be maintained in open space, including buffers and setbacks.

4. SIGN REQUIREMENTS

Signs shall conform to the requirements as established in MICC 19.06.020.



5. OUTDOOR STORAGE AND MERCHANDISE DISPLAY

Outdoor storage and/or display of merchandise is allowed as an **accessory use** to a permitted use in this zone, other than public storage facilities, **housing for persons with handicaps**, and **single-family dwellings**; PROVIDED the storage or display area meets the following conditions:

- a. The total area allowed for outdoor storage and/or merchandise display shall be no more than five (5) percent of the total gross square footage of the subject use; PROVIDED such area may exceed five (5) percent if it is **fenced** or screened in a manner acceptable to the Design Commission.
- b. Stored and/or displayed materials shall not obstruct fire lanes;
- c. The stored and/or displayed materials shall be attractively and safely displayed, and remain within the area specified for such display;
- d. Bulk (uncontained) materials shall be stored less than twenty-four (24) hours;
- e. Items stored on a site during construction and temporary uses approved by the **Code Official** (e.g. Christmas trees sale lots) shall be exempt from the requirements of this Part of this Section.

6. DIVISION OF LAND

The approval of a PBZ Site Plan as set forth in Part H of this Section showing the proposed parcel **development** and specific **building** locations is intended to satisfy the criteria for a **variance** in MICC 19.08.020(B) and division of parcels greater than four (4) acres into four (4) or fewer **lots** is permissible through a **short subdivision**.

7. MODIFICATION OF DEVELOPMENT STANDARDS

It is the intention of this PBZ to encourage superior **development** proposals and toward that end, **deviation** from the **development** standards set forth in this Section may be authorized when the Design Commission or the **Code Official** (whichever is appropriate to review the **deviation**) finds that, compared to such **development** standards, the **deviation** would advance the achievement of the stated purposes of the PBZ district and the spirit and intent of the design standards.

8. RELATIONSHIP TO OTHER CODE PROVISIONS

To the extent that other **development** standards are in conflict with those herein, the PBZ standards shall control.

E. DEVELOPMENT STANDARDS - NONRESIDENTIAL

1. BUILDING HEIGHT LIMIT

No non-residential **structure** shall exceed thirty-six (36) feet in height.



2. MINIMUM PARCEL AREA REQUIREMENTS

There shall be no minimum parcel size for nonresidential uses.

3. PARKING REQUIREMENTS

All nonresidential uses permitted in this zone shall comply with the parking requirements set out in MICC 19.04.040.

F. DEVELOPMENT STANDARDS - RESIDENTIAL

1. CRITERIA FOR RESIDENTIAL UNITS

The intent for residential **development** in the PBZ is for a variety of housing units smaller in size than the surrounding neighborhood, developed in a planned and coordinated manner. Except as otherwise provided in this section, no residential units shall be located under or over another unit or within a commercial **structure**.

2. BUILDING HEIGHT LIMIT

No residential **building** shall exceed thirty (30) feet in height. **Antennas**, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar **appurtenances** may extend to a maximum of five (5) feet above the height allowed for the main **structure**.

3. PARCEL AREA REQUIREMENTS

For all residential parcels, the average parcel size shall be seven thousand, two hundred (7,200) square feet, including access driveways and other amenities included in residential parcels. Dedicated open space may be counted toward the average parcel size.

4. GROSS FLOOR AREA AND LOT COVERAGE

For all residential parcels, the **gross floor area** ratio shall not exceed forty-five (45) percent of the **lot area** and the **lot coverage** shall not exceed thirty-five (35) percent of the **lot area**; PROVIDED no residential **buildings** shall exceed two thousand, eight hundred (2,800) square feet, including **garage**. Exceptions to the **lot coverage** shall be allowed as established in MICC 19.15.020.

5. YARD REQUIREMENTS

- a. For residential parcels fronting on 68th Street SE, each **building site** shall have **front, side and rear yards** not less than the following:

Front yard depth: Twenty (20) feet

Rear yard depth: Twenty-five (25) feet

Side yard depth: The sum of the **side yards** shall not be less than fifteen (15) feet, PROVIDED no **side yard** abutting an interior **lot** shall be less than



five (5) feet and no **side yard** abutting a **street** shall be less than ten (10) feet.

- b. For all other residential parcels, there shall be no minimum standards for **yards**, except for the perimeter buffer requirements as established in Part D1 of this Section.
- c. Where the perimeter buffer and the parcel setback overlap, the setback will be determined by either the buffer or the setback requirements, whichever one is greater.

6. MAXIMUM NUMBER OF RESIDENTIAL UNITS

- a. The maximum number of residential units allowed in the PBZ shall be thirty (30).
- b. The maximum number of attached units in any single **building** shall be four (4).

G. DESIGN REQUIREMENTS

1. DESIGN REVIEW FOR MAJOR NEW CONSTRUCTION

- a. **Site Plan Design Review.** All proposals for **Major New Construction** in the PBZ shall conform to a site plan (PBZ Site Plan) filed with the Development Services Group and approved by the Design Commission in accordance with the PBZ **development** standards set forth in Parts D, E, and F of this Section and the design standards. In approving the PBZ Site Plan, the Design Commission shall utilize the procedures specified in MICC 19.15.040.
- b. **Development Proposal Design Review.** In addition to the PBZ Site Plan approval, specific **development** proposals for **Major New Construction** shall be reviewed by the Design Commission for compliance with the PBZ Site Plan, the PBZ **development** standards set forth in Parts D, E, and F of this Section, and the design standards.

In approving a **development** proposal for **Major New Construction**, the Design Commission shall utilize the procedures specified in MICC 19.15.040. At the option of the applicant, the PBZ Site Plan approval may proceed in advance of or concurrently with the review of specific **development** proposals.

2. DESIGN REVIEW FOR MINOR MODIFICATIONS

The Development Services Group shall review **minor exterior modifications** to **buildings** or **structures** in the PBZ and minor modifications to the PBZ Site Plan for compliance with the **development** standards and the design standards. If the Development Services Group determines that the modification is of great significance it may refer the modification to the Design Commission.



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3. DESIGN REVIEW PROCESS

Review and approval of Site Plan Review and **Major New Construction** shall conform to the Public Notice and Hearing requirements as established in MICC 19.15.020.

H. DIVISION OF LAND THROUGH BINDING SITE PLAN

1. APPLICATION

Property that contains the following types of **development** in the PBZ may be divided through a **Binding Site Plan** process as set out in RCW 58.17.035:

- a. A division of **lots** or parcels when the use is a permitted light industrial or commercial use in the PBZ; and/or
- b. A division of land made by subjecting a portion of a parcel of land to RCW Chapter 64.34 (Condominium Act) for the purpose of creating **condominiums** parcels.

2. BINDING SITE PLAN REQUIREMENTS

- a. If **major new construction** is proposed concurrent with the **Binding Site Plan**, approval of a PBZ Site Plan is required. If no new construction is proposed, a **Binding Site Plan** may be approved solely by the Planning Commission. Where a PBZ Site Plan has been approved by the Design Commission, the Planning Commission shall use such approved PBZ Site Plan as the basis for the approval of the **Binding Site Plan**.
- b. Submittal of an application for a **Binding Site Plan** shall be in compliance with application requirements established by the Development Services Group. **Binding Site Plans** shall be drawn to a scale of one (1) inch equals twenty (20) feet and shall include the design of any **lots** or **building** envelopes and the areas designated for landscaping and parking. The application shall contain all conditions, covenants, easements and restrictions for use of the land. Setbacks shall not be applied to internal **lot** lines; PROVIDED residential **yard** requirements shall be maintained in accordance with Part F5 of this Section.
- c. The **Binding Site Plan** is subject to review and approval by the Planning Commission and subject to the public notice and hearing processes as established in MICC 19.15.020.
- d. A copy of an approved **Binding Site Plan** shall be filed for record with the County Auditor. Prior to recording, the applicant shall submit the original **Binding Site Plan** mylar to the Development Services Group for signatures. One reproducible copy shall be furnished to the Development Services Group after recording.
- e. Approved **Binding Site Plans** shall be binding and all provisions, conditions, and requirements of the **Binding Site Plan** shall be legally enforceable on the purchaser or any **person** acquiring a lease or



ownership interest of any lot or parcel created pursuant to the **Binding Site Plan**. A sale, transfer, or lease of any lot or parcel created pursuant to the **Binding Site Plan** that does not conform to the requirements of the **Binding Site Plan** approval shall be considered a violation of this Code and shall be restrained by injunctive action and shall be illegal as provided in Chapter 58.17 RCW, Plats, Subdivisions Dedications.

- f. Amendments to or vacations of an approved **Binding Site Plan** shall be made through the process outlined in this section for the original **Binding Site Plan**.



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19.04.020 COMMERCIAL OFFICES — C-O

A. USES PERMITTED

1. **Government Services.**
2. **Professional, Scientific, and Technical Services.**
3. **Office Uses.**
3. **Places of Worship.**
4. **Civic and Social Organizations.**
5. **Mortuary Services.**
6. **Healthcare Services.**
7. Auxiliary uses directly related to the principal use, such as residences of watchmen or employees in training, special employee dormitories, employee cafeterias, auditoriums, **service station** in connection with authorized motor-pool facilities and similar uses.
8. **Wireless Communications Facilities** subject to the conditions set out in MICC 19.06.040.
9. **Housing for persons with handicaps** subject to the following conditions:
 - a. Operators of **housing for persons with handicaps** may not accept tenants whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

A determination by the **Code Official** that a tenant is a direct threat to health and safety, or that the tenant's tenancy would result in substantial physical damage to the property of others, may be appealed to the City Council by the operator of the proposed housing for the tenant. The Appeal shall be processed under the appeal procedure in MICC Section 19.15.020(J).

- b. The facility shall meet the applicable Washington State licensing requirements.
- c. The facility shall comply with all Uniform Building and Fire Codes applicable to **single-family dwellings**, including maximum occupancy restrictions.



B. REQUIRED CONDITIONS

1. Uses shall be limited to those that do not produce offensive noise, vibration, smoke, dust, odor, heat or glare.
2. Necessary public rights-of-way shall be dedicated to the public either as a portion of a plat or upon acceptance of **street** dedication by the City Council and each **lot** shall front on or have access to such public rights-of-way.
3. A strip of land adjacent to all external boundaries of the site, including any frontage on public rights-of-way, shall be devoted exclusively to the planting, cultivation, growing and maintenance of sight-obscuring **trees**, shrubs and plant life.

If required by the Design Commission, the maintenance of such protective strips and landscaping shall be guaranteed through a bond or set-aside account as set out in MICC 19.06.070(A). In lieu of such protective strips, under appropriate circumstances, there may be substituted a use classification of the outer margin of this zone consistent with the use classification of the surrounding area.

4. Not more than thirty-five (35) percent of a **lot** may be covered by **buildings**, **structures**, and other **impervious surfaces**, including outdoor storage areas.
5. Outdoor storage facilities, including storage areas for official **vehicles**, shall be obscured by an approved architectural screen specified on the plot plan and approved by the Design Commission.
6. A plot, landscape, and **building** plan showing compliance with these conditions shall be filed with the Design Commission for its approval, and the construction and maintenance of **building** and **structures** and the establishment and continuation of uses shall comply with the approved plot landscape, and **building** plan.
7. On-site **hazardous waste treatment** and **storage** facilities as defined in MICC 19.16.010 are allowed as **accessory uses** to a permitted use in this zone. These facilities shall comply with the State Siting Criteria as set forth in Chapter 173-303 WAC.

C. BUILDING HEIGHT LIMIT

1. **Structures**, excluding stacks, shall not exceed thirty-six (36) feet or three (3) stories in height, whichever is less; PROVIDED the height of **buildings** located on sites exceeding five (5) acres may be increased by twelve (12) feet or one (1) story, whichever is less, for each additional two and one-half (2-1/2) acres of area when specifically approved by the City Council upon recommendation of the Design Commission in accordance with the following conditions:
 - a. Approval by the Civil Aeronautical Administration.
 - b. Adequate provision for ultimate off-street parking needs.
2. Outdoor storage facilities shall not exceed twenty (20) feet in height.



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D. LOT AREA REQUIREMENTS

There are no requirements for minimum or maximum **lot** areas in this zone except that **lots** shall conform to plot and **building** plans approved by the Design Commission and kept on file with the Development Services Group.

E. YARD REQUIREMENTS:

The minimum setback from all rights-of-way shall be seventy-five (75) feet. All other setbacks, including **side** and **rear yard** shall be a minimum of fifty (50) feet each. The setbacks shall be clearly set out in the plot and **building** plans and upon the **Building** Permit application.

F. PARKING REQUIREMENTS

All uses permitted in this zone shall comply with the parking requirements set out in MICC 19.04.040.



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19.04.030 TOWN CENTER DISTRICT — TC

DEVELOPMENT AND DESIGN REQUIREMENTS ADOPTED
DECEMBER 4, 1995 UNDER SEPARATE COVER.



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19.04.040 PARKING REQUIREMENTS

A. The following parking requirements apply to all uses in the C-O and B zones and to all nonresidential uses in the PBZ zone.

B. GENERAL REQUIREMENTS

1. SURFACING AND GRADING

All off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an Occupancy Permit for the building to be served is issued.

2. TRAFFIC CONTROL DEVICES

All traffic control devices such as parking strips designating car stalls, directional arrows or signs, bull rails, curbs and other structures shall be installed and completed as shown on the approved plans. Hard surfaced parking area shall use paint or similar devices to delineate parking stalls and directional arrows.

3. DESIGN

Parking lot design should conform to the diagrams set out in Appendix A of this Development Code, unless alternative design standards are approved by the Design Commission and City Engineer.

4. LOCATION

Off-street parking shall be located on the same lot or on an adjoining lot or lots to the building to be served, EXCEPT that off-street parking may be located in an area beginning within five hundred (500) feet of the front entrance of the building to be served, PROVIDED there are no intersecting streets between the parking area and building to be served.

5. INGRESS AND EGRESS

The City Engineer shall have the authority to fix the location and width of vehicular ingress or egress to and from property, and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare.



6. HANDICAPPED STANDARDS

Off-street parking shall meet the relevant State design standards for the physically disabled.

7. COMPACT VEHICLES

Up to fifty (50) percent of the required off-street parking spaces may be designed for accommodating compact **vehicles**. Such parking spaces must be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.

8. LOADING SPACE

An off-street loading space, having access to a public **street**, shall be required adjacent to each **building**, hereafter erected or enlarged. Such loading space shall be of adequate size to accommodate the maximum number and size of **vehicles** simultaneously loaded or unloaded, in connection with the business or businesses conducted in such **building**. No part of the truck or van using the loading space may project into the public right-of-way.

9. VARIANCES

Notwithstanding any of the Minimum Parking Requirements set out in Part C of this Section, the **Code Official** may grant **variances** from the minimum parking requirements with the approval of the City Engineer and the Design Commission for projects reviewable by the Design Commission.

C. MINIMUM PARKING REQUIREMENTS FOR SPECIFIC USES

A use which is similar to any of the below-referenced uses shall adhere to the minimum parking requirements for the referenced use or uses. The Design Commission shall determine the minimum parking requirements for a use in a commercial zone that is not referenced in this section.

1. **Bars and Restaurants** shall provide one (1) parking space for every one hundred (100) square feet of **gross floor area** of the **building**, exclusive of **kitchen** and storage areas.
2. **Civic and Social Organizations, Public Facilities, and Theaters** with fixed seats shall provide one (1) parking space for each four (4) seats. Facilities without fixed seats shall provide one (1) parking space for every seventy-five (75) square feet of **gross floor area** of the **building**.
3. **Day Care** facilities shall provide two (2) parking spaces, plus one (1) parking space for each employee and shall provide adequate off-street loading and unloading



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- facilities taking into consideration the expected number of children or adults being cared for, the location of the facility, and the traffic on adjacent streets.
4. **Financial and Insurance Services, Healthcare Services, Office Uses and Professional, Scientific, and Technical Services** shall provide one (1) parking space for every three hundred (300) square feet of **gross floor area** of the **building**.
 5. **Government Services and Museums and Art Exhibitions** shall provide one (1) parking space for every two hundred (200) square feet of **gross floor area**.
 6. **Hotels and Motels** shall provide one (1) parking space per each sleeping unit, plus one (1) space for each full time employee on duty on any given shift.
 7. **Manufacturing** shall provide one (1) parking space for every three (3) employees with a minimum of six (6) spaces.
 8. **Mortuary Services** shall provide one (1) parking space for every three (3) employee, and if funerals are held on the premises, one (1) parking space for every four (4) seats in the chapel.
 9. **Nursing Home and Residential Care Facility** shall provide one (1) parking space for every four (4) beds.
 10. **Personal Services and Repair Services** shall provide (1) parking space for every four hundred (400) square feet of **gross floor area** of the **building** exclusive of storage areas, with a minimum of two (2) spaces.
 11. **Places of Worship** shall provide one (1) parking space for every five (5) seats in the chapel, nave, sanctuary, or similar worship area.
 12. **Recreational Areas** shall provide one (1) parking space for every one hundred (100) square feet of **gross floor area** of the **building**.
 13. **Retail Use** shall provide (1) parking space for every four hundred (400) square feet of **gross floor area** of the **building**, exclusive of storage areas, with a minimum of two (2) spaces; PROVIDED food stores and markets shall provide one (1) parking space per two hundred (200) square feet of **gross floor area**, exclusive of storage areas.
 14. **Retirement Homes** shall provide one (1) off-street parking space for every two (2) **dwelling unit**.
 15. **Service Stations** with convenience stores shall provide (1) parking space for every four hundred (400) square feet of gross floor area of the **building**, exclusive of storage areas, with a minimum of two (2) spaces. Service stations without convenience stores shall provide one (1) space for each full time employee on duty on any given shift plus two (2) parking spaces for each repair stall.



D. MIXED USE PARKING

In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.

E. COOPERATIVE PARKING

Cooperative parking between two or more adjoining property owners is allowed; PROVIDED the Code Official, with approval from the Design Commission and City Engineer, may reduce the total required spaces by twenty-five (25) percent of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

F. PARKING LOT DIMENSION

All parking areas shall conform to the design standards set out in Appendix A of this Development Code unless alternative design standards are approved by the Design Commission and City Engineer.



19.04.050 BUSINESS — B

A. REQUIRED CONDITIONS: All uses permitted in this zone shall be subject to the following conditions:

1. All goods produced on the **premises** shall be sold at retail on the **premises**, except as provided herein.
2. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water carried waste.
3. No **service station** or other establishment where motor fuel or lubricating oils are stored or motor services are rendered, may be located within three hundred (300) feet of any property upon which a **place of worship**, school, hospital, institution, theater, or public assembly seating over fifty (50) **persons**, is located, and said distances shall be measured on a straight line or air line from the outer boundary or property line in the one instance to the nearest property or boundary line.
4. Outdoor Storage and Merchandise Display Requirements
 - a. The total area allowed for outdoor storage and/or merchandise display shall be less than five (5) percent of the total gross square footage of the subject store; PROVIDED, however that such area may exceed five (5) percent if it is **fenced** or screened in a manner acceptable to the Design Commission;
 - b. Stored and/or displayed materials shall not obstruct fire lanes;
 - c. The stored and/or displayed materials shall be attractively and safely displayed, and remain on the area specified for such display;
 - d. Bulk (uncontained) materials shall be stored less than twenty-four (24) hours;
 - e. Items stored on a site during construction and temporary uses approved by the **Code Official** (e.g., Christmas tree sales lots) shall be exempt from the requirements for this Section.
5. On-site **hazardous waste treatment** and **storage** facilities as defined in MICC 19.16.010 are permitted as an **accessory use** to a permitted use in this zone. These facilities must comply with the State Siting Criteria as adopted in accordance with Chapter 70.105 RCW.

B. USES PERMITTED

1. **Government Services, Utilities, and Museums and Art Exhibitions.**
2. **Day Care.**
3. **Healthcare Services.**
4. **Personal Services.**



5. **Professional, Scientific, and Technical Services**; PROVIDED animal hospitals and clinics shall be structurally enclosed.
6. **Office Uses.**
7. **Service Stations.**
8. **Repair Services.**
9. **Theaters.**
10. **Restaurants, cafeterias, catering.**
11. **Retail stores.**
12. **Financial and Insurance Services.**
13. **Commercial Recreational Areas**; PROVIDED teen dances and teen dance halls as defined herein are not permitted uses.
14. **Housing for persons with handicaps** subject to the following conditions:
 - a. Operators of **housing for persons with handicaps** may not accept tenants whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

A determination by the **Code Official** that a tenant is a direct threat to health and safety, or that the tenant's tenancy would result in substantial physical damage to the property of others, may be appealed to the City Council by the operator of the proposed housing for the tenant. The Appeal shall be processed under the appeal procedure in MICC Section 19.04.140(J).
 - b. The facility shall meet the applicable Washington State licensing requirements.
 - c. The facility shall comply with all Uniform Building and Fire Codes applicable to **single-family dwellings**, including maximum occupancy restrictions.
15. **Wireless Communications Facilities** subject to the conditions set out in MICC 19.06.040.
16. **Accessory uses** customarily incidental to a principal use permitted outright in this Section.
17. **Hotels/motels and multiple-family dwellings.**
18. **Decorating shops.**



CHAPTER 19.04

COMMERCIAL

19. Employment agencies.
 20. Printing establishments and newspaper printing presses.
 21. Public garages and auto repair shops.
 22. ~~Sales rooms or storerooms~~ for motor vehicles and other articles of merchandise.
 23. Telephone exchanges or telegraph offices.
 24. Pre-schools, nursery schools and day care centers, subject to the following conditions:
 - a. Such facilities shall meet all applicable safety and licensing laws and requirements.
 - b. All outdoor play areas shall be adequately fenced.
 25. **Adult Entertainment**, subject to the following conditions:
 - a. The point of public entry into the **structure** housing the business shall be at least eight hundred (800) feet from the property line of any R or MF zoned property; from the boundary of the area designated as 'proposed landscaping' on Figure 6 of the Final E.I.S. (Volume I) for 1-90; or from the property line of any property containing one or more of the following uses: **single or multiple family dwelling**, retirement home, pre-school, nursery school or **day care center**, publicly-owned park or open space, **recreational area** (commercial, non-commercial or private), public or private primary or secondary school, religious institution, governmental building, or an establishment which caters primarily to minors.
 - b. No adult business shall be located closer than four hundred (400) feet to another adult business. Such distance shall be measured by following a straight line from the nearest point of public entry into the proposed adult business to the nearest point of entry into another adult business.
 - c. Point of public entry into adult businesses shall not be located along 78th Ave. S.E. or along primary pedestrian corridors.
 - d. Window or exterior displays of goods or services which depict, stimulate, or are intended for use in connection with specified sexual activities as defined by this title are prohibited.
- C. **STRUCTURE SETBACK REQUIREMENTS:** All **structures** shall have a minimum setback from any public right-of-way of ten (10) feet, except **service station pump islands** which shall have a setback from the **street line** of at least fifteen (15) feet to provide for safe access or egress to or from such **street**.
- D. **BUILDING HEIGHT LIMIT:** Maximum allowable **building height** shall be three (3) stories or thirty-six (36) feet, whichever is less.

CHAPTER 19.05

SPECIAL PURPOSE



Chapter 19.05
Special Purpose

- 19.05.010 PUBLIC INSTITUTION — P
- 19.05.020 PARKING REQUIREMENTS

19.05.010 PUBLIC INSTITUTION — P

A. USES PERMITTED

1. **Government Services.**
2. Public Schools under the administration of Mercer Island School District No. 400.
3. Public Park.
4. Transit Facilities including transit stops and associated parking lots.
5. On-site **hazardous waste treatment and storage** facilities are allowed as **accessory uses** to a use permitted in this zone. These facilities shall comply with the State Siting Criteria as set forth in Chapter 173-303 WAC.
6. Wireless Communications Facilities subject to the conditions set out in MICC 19.06.040.

B. MERCER ISLAND I-90 RIGHT-OF-WAY ADDED TO PUBLIC INSTITUTION ZONE

The entire area within the Mercer Island I-90 right-of-way, including but not limited to, the roadway, **street over-crossings**, lids, open space, **recreation areas**, linear green-belts and the park and ride lot area as approved by the **City** on November 14, 1983 and incorporated in the right-of-way plan approved by WSDOT on May 1, 1987 shall be part of the Public Institution Zone. All uses within the I-90 right-of-way shall be maintained as set forth in **City** approved I-90 related documents.

C. DESIGN REQUIREMENTS

Any **development** within the Public Institution zone shall comply with the applicable sections of the Town Center Design Requirements, Parts 2 and 3.

D. PARKING REQUIREMENTS

All uses permitted in this zone shall comply with the parking requirements set out in MICC 19.05.020.

E. Structures, excluding stacks, shall not exceed thirty-six (36) feet or three (3) stories in height, whichever is less; PROVIDED the height of buildings located on sites exceeding five (5) acres may be increased by twelve (12) feet or one (1) story, whichever is less, for each additional two and one-half (2-1/2) acres of area when specifically approved by the City Council upon recommendation of the Design Commission in accordance with the following conditions:

1. Approval by the Civil Aeronautical Administration.
2. Adequate provision for ultimate off-street parking needs.



CHAPTER 19.05

SPECIAL PURPOSE

19.05.020 PARKING REQUIREMENTS

A. The following parking requirements apply to all uses in the P zone.

B. GENERAL REQUIREMENTS

1. SURFACING AND GRADING

All off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an Occupancy Permit for the building to be served is issued.

2. TRAFFIC CONTROL DEVICES

All traffic control devices such as parking strips designating car stalls, directional arrows or signs, bull rails, curbs and other structures shall be installed and completed as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate parking stalls and directional arrows.

3. DESIGN

Parking lot design should conform to the diagrams set out in Appendix A of this Development Code, unless alternative design standards are approved by the Design Commission and City Engineer.

4. LOCATION

Off-street parking shall be located on the same lot or on an adjoining lot or lots to the building to be served, EXCEPT that off-street parking may be located in an area beginning within five hundred (500) feet of the front entrance of the building to be served, PROVIDED that there are no intersecting streets between the parking area and building to be served. This requirement does not apply to Transit Facilities.

5. INGRESS AND EGRESS

The City Engineer shall have the authority to fix the location and width of vehicular ingress or egress to and from property, and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare.



6. HANDICAPPED STANDARDS

Off-street parking shall meet the relevant State design standards for the physically disabled.

7. COMPACT VEHICLES

Up to fifty (50) percent of the required off-street parking spaces may be designed for accommodating compact **vehicles**. Such parking spaces must be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.

8. LOADING SPACE

An off-street loading space, having access to a public **street**, shall be required adjacent to each **building**, hereafter erected or enlarged. Such loading space shall be of adequate size to accommodate the maximum number and size of **vehicles** simultaneously loaded or unloaded, in connection with the business or businesses conducted in such **building**. No part of the truck or van using the loading space may project into the public right-of-way.

9. VARIANCES

Notwithstanding any of the Minimum Parking Requirements set out in Part C of this Section, the **Code Official** may grant **variances** from the minimum parking requirements with the approval of the Design Commission and the City Engineer for projects reviewable by the Design Commission.

C. MINIMUM PARKING REQUIREMENTS FOR SPECIFIC USES

1. Government **buildings** shall provide one (1) parking space per two hundred (200) square feet of **gross floor area**.
2. Public Schools shall provide one (1) parking space per classroom with high schools providing an additional one (1) parking space per ten (10) students.

D. MIXED USE PARKING

In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.



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SPECIAL PURPOSE

E. COOPERATIVE PARKING

Cooperative parking between two or more adjoining property owners is allowed; PROVIDED the **Code Official**, with approval from the Design Commission and City Engineer, may reduce the total required spaces by twenty-five (25) percent of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

F. PARKING LOT DIMENSION

All parking areas shall conform to the design standards set out in Appendix A of this Development Code unless alternative design standards are approved by the Design Commission and City Engineer.



CHAPTER 19.06

GENERAL REGULATIONS

Chapter 19.06 General Regulations

- 19.06.010 PROHIBITED USES
- 19.06.020 TEMPORARY SIGNS
- 19.06.030 ANTENNAS
- 19.06.040 WIRELESS COMMUNICATIONS
- 19.06.050 COMMERCE ON PUBLIC PROPERTY
- 19.06.060 ENCROACHMENT INTO PUBLIC RIGHT-OF-WAY
- 19.06.070 BONDING AND INSURANCE

19.06.010 PROHIBITED USES

The following uses are prohibited in all zones except as specifically allowed below.

- A. Portable toilets except for emergency or construction use.
- B. Electric fences or any device designed to give an electric shock to any person coming in contact therewith.
- C. Houseboats and watercraft used for habitation or commercial purposes.
- D. Excavation and removal from the lot, as distinguished from grading on the lot, of black soil, peat, sand, gravel or other natural deposits.
- E. The use of any vehicle or trailer as a dwelling.
- F. Any signs, except as permitted by this Code, or other City or State regulation.
- G. The lease of any dwelling or dwelling unit for a period of less than thirty (30) days; PROVIDED rooms in a Bed and Breakfast, Hotel, or Motel may be leased for periods of less than thirty (30) days.

**19.06.020 TEMPORARY SIGNS****A. GENERAL PROVISIONS**

All temporary **signs** in the **City** are subject to the following conditions:

1. **Signs** may not be placed on private property without permission of the owner.
2. All **signs** shall be unlit.
3. **Signs** shall not obstruct vehicular or pedestrian traffic.
4. It is the responsibility of the **person** posting a temporary **sign** to remove it.
5. Except as specified elsewhere in this Section, temporary **signs** shall not exceed sixty (60) inches above the ground and shall not exceed six (6) square feet in area; **PROVIDED** **signs** up to sixteen (16) square feet in area may be allowed subject to the issuance of a permit from the **Code Official**; **FURTHER PROVIDED** both sides of an A-frame **sign** shall be counted in calculating the **sign's** area.
6. **SIGNS IN PUBLIC RIGHTS-OF-WAY**

Signs may not be placed on public property except for publicly owned rights-of-way. In addition to all other applicable conditions, **signs** placed in rights-of-way shall be subject to the following conditions:

- a. **Signs** may be placed on rights-of-way adjacent to a **single-family dwelling** only with permission of the adjoining property owner.
- b. **Signs** shall not create a traffic safety or maintenance problem, and the **City** may remove and dispose of any **signs** that do constitute a problem.
- c. **Signs** placed on public property shall be free-standing and shall not be attached to any **structure** or vegetation. **Signs** attached to **utility poles, traffic signs, street signs, or trees** are specifically forbidden.
- d. **Signs** shall be either an A-frame design or shall be attached to a stake driven into the ground well clear of **tree roots, irrigation lines** and any other underground vegetation or **structures** that could be damaged by such a stake.

B. TEMPORARY SIGNS ALLOWED IN ALL ZONES

Temporary, non-commercial **signs** are allowed in all zones, subject to the conditions set out in Part A of this Section and the following conditions:

1. Except as allowed in Part C of this Section, banners, pennants, and other similar attention getting devices are not allowed; **PROVIDED** such **signs** may be allowed for community-wide civic activities subject to the issuance of a permit from the **Code Official**.



2. TEMPORARY COMMERCIAL SIGNS

Temporary commercial **signs** are not allowed outside of the TC, B and PBZ zones except for real estate **signs** and garage sale **signs**.

a. REAL ESTATE SIGNS

Signs advertising the sale, rental, or lease of property are allowed in all zones, subject to the following conditions.

- i. One (1) real estate **sign** per **street** frontage is allowed on property being offered for sale, rent, or lease.
- ii. Three (3) real estate A-frame **signs** may be posted in the public right-of-way, subject to the conditions set out in Part A6 of this Section, for the following purposes:
 - (a) Advertising a real estate open house at a **single-family dwelling**; PROVIDED no more than four (4) **signs** total may be posted for property being sold by the same owner.
 - (b) Directing the public to a **multiple-family dwelling** in which there is a **dwelling unit** available for rental or sale.
- iii. Real estate sales and rental **signs** shall be removed within seven (7) days after the sale or rental of the property being advertised.
- iv. Real estate **signs** in public rights-of-way may be posted only during those hours that a real estate or rental agent is actually present at the property and shall be removed at the end of the open house or when the sales or rental office closes each day.

b. GARAGE SALES

- i. Three (3) **signs** directing the public to a garage sale may be posted in a public right-of-way subject to the conditions set out in Part A6 of this Section.
- ii. Garage sale **signs** may be posted no more than twenty-four (24) hours before the beginning of the sale and shall be removed at the end of the sale.

3. POLITICAL SIGNS

Political **signs** may be posted in the public right-of-way, subject to the conditions set out in Part A6 of this Section.

C. TEMPORARY COMMERCIAL SIGNS IN THE TC, B, AND PBZ ZONES

Temporary commercial **signs** in the form of banners, A-frame sandwich boards and streamers are allowed in the TC, B, and PBZ zones; PROVIDED temporary **signs** shall not be permanently attached to any **structure** on the site, and FURTHER PROVIDED the temporary **signs** conform to the following conditions:



CHAPTER 19.06

GENERAL REGULATIONS

1. BANNERS

- a. Shall be no larger than forty-eight (48) square feet; HOWEVER no business may display more than ten (10) square feet of banner per ten (10) feet of business facade as measured by that portion of the **building facing the access street**, up to a maximum of forty-eight (48) square feet, but always in proportion to the business **building**.
- b. Shall be limited to one banner per side of the business as it faces and is accessible to the public.
- c. Shall be attached to the **building** housing the business.
- d. May hang for up to thirty (30) days at one time, but no more than a total of one hundred twenty (120) days per calendar year on a side of the business designated for display. Any side of a business must be free of any banner for a period of no less than fourteen (14) days before the next banner is hung.
- e. Shall be professionally produced by a **person** skilled in the art of graphic design.
- f. Shall be hung in a manner which does not obstruct traffic or a view of any other business.
- g. Shall be well maintained.

2. A-FRAMES

Each licensed business may post one (1) A-frame **sign** either on property owned or controlled by the business or in the public right-of-way, subject to the conditions set out in Part A6 of this Section; PROVIDED the **sign**:

- a. Shall not exceed sixty (60) inches above the ground and shall not exceed twenty-four (24) square feet in area; PROVIDED both sides of the A-frame shall be counted in calculating the **sign's** area.
- b. May be used on a daily basis, but only during business hours.
- c. Shall be located within one hundred (100) feet of the business displaying the **sign**.
- d. Shall be professionally produced by a **person** skilled in the art of graphic design.
- e. Shall be well maintained.



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GENERAL REGULATIONS

3. STREAMERS, FLAGS, OR PENNANTS ATTACHED TO A STRING OR WIRE
 - a. May be used a maximum of two (2) times per year for a maximum of seven (7) days each time.
 - b. Shall be attached to the **building** housing the business displaying the streamer.
 - c. Shall not obstruct vehicular or pedestrian traffic or obstruct a view of any other business.
 - d. Shall be well maintained.

4. OTHER TEMPORARY SIGNAGE

Other forms of portable **signs**, such as hand-held **signs**, pole banners, spinners, flashers and pennants are expressly prohibited; EXCEPT that such **signs** may be used at a new commercial establishment as a part of a grand opening for a single period not to exceed fourteen (14) consecutive days occurring within the first three (3) months of the business' first opening.



CHAPTER 19.06

GENERAL REGULATIONS

19.06.030 ANTENNAS

- A. **Antennas** are not permitted within required **yards** or setbacks.
- B. **Dish antennas** are not permitted between a **building** and a **street**.
- C. No part of a **dish antennas** shall exceed fifteen (15) feet above **base elevation**. **Dish antennas** shall not be permitted on rooftops of **buildings**.
- D. The **Code Official** shall review the proposed location of a **dish antenna** to determine that the **antenna** is located and designed so as to minimize the visual impact on surrounding properties and **streets** and is reasonably and adequately screened from view from abutting properties.
- E. **Dish antennas** shall not be installed on a portable, or movable device, such as a **trailer**.
- F. **Dish antennas** shall not exceed twelve (12) feet in diameter.
- G. **Dish antennas** shall be constructed of transparent material such as wire mesh and shall be finished in a dark color and a non-light-reflective surface.
- H. Only one **dish antenna** shall be permitted on any residential lot.
- I. A **deviation** from any of the above standards may be granted by the **Code Official** or the Design Commission for projects which require Design Commission approval.
- J. **Dish antennas** shall be installed and maintained in compliance with the applicable requirements of the Uniform Building and National Electrical Codes, as amended.

**19.06.040 WIRELESS COMMUNICATIONS****A. TOWN CENTER, COMMERCIAL/OFFICE AND PLANNED BUSINESS ZONES****1. PERMITTED USE**

Attached WCFs are permitted in the Town Center, Commercial/Office and Planned Business Zones. **WCFs with Support Structures** are permitted in the Commercial/Office and Planned Business Zone Districts, and are not permitted in the Town Center District.

a. TOWN CENTER ZONE (TC)

The height of **Attached WCFs** shall not exceed the height of the **structure** it is attached to by more than fifteen (15) feet. **Wireless Support Structures** are not allowed in the TC zone.

b. COMMERCIAL/OFFICE ZONE (C-O)

The height of **Attached WCFs** shall not exceed the height of the **structure** it is attached to by more than ten (10) feet. **Structures** shall not be located within **front yard setbacks**. **Structures** in the **side and rear yards** must be set back from adjacent property a distance equal to the height of the pole. New WCFs may be located on a monopole and shall not exceed sixty (60) feet in height.

c. PLANNED BUSINESS ZONE (PBZ)

The height of **Attached WCFs** shall not exceed the height of the **structure** it is attached to by more than ten (10) feet. **Structures** shall not be located within the setbacks. New WCFs may be located on a monopole and shall not exceed sixty (60) feet in height.

2. APPROVAL PROCESS/DESIGN REVIEW

The approval process for **WCFs** in the Town Center, Commercial/Office and Planned Business Zones shall be as follows:

a. MINOR EXTERIOR MODIFICATIONS

An attached WCF shall be processed as a **Minor Exterior Modification** with administrative review. The **Code Official** has discretion to send applications to the Design Commission for issues deemed significant.

b. MAJOR NEW CONSTRUCTION

A WCF which requires a Support Structure shall be considered **Major New Construction** with review by the Design Commission.



CHAPTER 19.06

GENERAL REGULATIONS

B. PUBLIC INSTITUTION ZONE (I-90 CORRIDOR)

1. PERMITTED USE

Wireless communication facilities, including antenna support structures and equipment cabinets, are permitted. Facilities must meet all of the following criteria:

- a. **Antennas** shall not project more than two (2) feet in height over the nearest I-90 retaining wall, unless they are located on an existing **structure**, and must be screened as much as possible from public views;
- b. Equipment cabinet dimensions shall not exceed four hundred eighty (480) cubic feet, should be placed underground if feasible and shall be completely screened from pedestrian and park activities with landscaping;
- c. Facilities shall be within fifteen (15) feet of the pedestrian side of the I-90 retaining wall, unless they are located on an existing **structure**. Facilities may be located between the retaining walls in the traffic corridor;
- d. Facilities shall be at least three hundred (300) feet from any **single-family dwelling**, unless located between and below the top of the retaining walls in the traffic corridor;
- e. Applicants shall demonstrate that they have attempted to collocate on existing **structures** such as other **wireless support structures**, rooftops, light poles, **utility poles**, walls, etc.

2. APPROVAL PROCESS/DESIGN REVIEW

- a. Facilities are to be considered a **regulated improvement** and subject to Design Commission Review as outlined in MICC 19.15.040. The Design Commission shall address the relationship of the facility to the proposed site and assure compatibility with adjacent public areas and usage. When there are more than six (6) **antennas** at one site, the Design Commission may deem that site full and deny additional **antennas**.
- b. No **wireless communication facilities** are allowed along the Mercer Island Artway, defined as the south side of I-90 between 76th Avenue SE and 80th Avenue SE.



C. ISLAND CREST WAY CORRIDOR

1. PERMITTED USE

- a. **WCFs** are permitted within the right of way boundary along Island Crest Way from SE 40th St. to SE 68th St. **WCFs** must meet the definition of **microcells** and be attached directly to and incline with existing **utility** poles, with minimal overhang. The **WCF** must not project over the height of the pole, but a pole with a height of up to one hundred ten (110) feet may replace an existing pole.
- b. Equipment cabinets shall be placed in the right of way, at the greatest possible distance from the **street edge**, and, if physically feasible, underground. Placement is subject to approval by the City Engineer.

2. APPROVAL PROCESS/DESIGN REVIEW

WCFs in the Island Crest right of way must be reviewed by the Design Commission and approved by the City Engineer. Proponents must provide an agreement with the **utility** pole owner granting access to the pole.

D. RESIDENTIAL DISTRICTS

1. PERMITTED USE

WCFs are prohibited in single family and multifamily residential zones. The following public properties are exempted from this restriction:

- a. South Mercer Island Fire Station, 8473 SE 68th St.
- b. Puget Power Substation, 8477 SE 68th St.
- c. Mercer Island Water Reservoir, 4300 88th Ave SE

WCFs are permitted on these public properties. They may be attached, or have a monopole **structure** not to exceed sixty (60) feet in height. The setback from adjacent residential property shall be equal to the height of the pole.

2. APPROVAL PROCESS/DESIGN REVIEW

The approval process for **WCFs** in Residential Zones shall be as follows:

a. MINOR EXTERIOR MODIFICATIONS

An **attached WCF** shall be processed as a **Minor Exterior Modification** with administrative review. The **Code Official** shall have discretion to send applications to the Design Commission for issues deemed significant.



CHAPTER 19.06

GENERAL REGULATIONS

b. MAJOR NEW CONSTRUCTION

A **WCF** which requires a Support Structure shall be considered **Major New Construction** with review by the Design Commission.

E. PERFORMANCE STANDARDS FOR DESIGN COMMISSION REVIEW

1. ATTACHED WCFs

Attached WCFs which are visible to the traveling public and/or neighboring residences shall be designed to blend in with the existing **structure** and be placed in a location which is as unobtrusive as possible consistent with the proper functioning of the **WCF**, and use compatible or neutral colors. If the aesthetic impacts cannot be mitigated by placement and color solutions, the **WCF** can be required to be screened.

2. WCFs WITH SUPPORT STRUCTURES

WCFs with support structures shall be designed to blend into the existing site and be placed in a location which is as unobtrusive as possible consistent with the proper functioning of the **WCF**, and use compatible or neutral colors. If the aesthetic impacts cannot be mitigated by placement and color solutions, the **WCF** can be required to be screened with landscaping and/or fencing.

3. EQUIPMENT CABINETS

Equipment cabinets that are visible to the traveling public and/or neighboring residences shall be designed to blend in with existing surroundings, be placed underground if feasible, or placed in a location as unobtrusive as possible consistent with proper functioning of the **WCF**, and use compatible or neutral colors. Screening may be required using landscaping or fencing.

F. SHARED FACILITIES AND COLLOCATION

The **City** encourages the proponents of **WCFs** to construct and site facilities with a view toward sharing sites and **structures** with other **utilities**, collocating with other existing **WCFs**, and to accommodating the future collocation of other future **WCFs** where feasible.

G. ELECTROMAGNETIC RADIOFREQUENCY EMISSIONS

The **City** recognizes that the Federal Telecommunications Act of 1996 gives the Federal Communications Commission sole jurisdiction in the field of regulation of radiofrequency (RF) emissions and **WCFs** which meet FCC standards shall not be conditioned or denied on the basis of RF impacts. In order to provide information to its citizens, the **City** shall maintain file copies of ongoing FCC information concerning **WCFs** and radiofrequency standards. Applicants for **WCFs** shall be required to



provide the **City** information on the projected power density of the facility and compliance with the FCC requirements.

H. HEIGHT VARIANCE

If strict application of these provisions would preclude an **antenna** from receiving or transmitting a **usable signal**, or, if the property owner believes that an alternative exists which is less burdensome to adjacent property owners, an application for a **variance** may be filed under the provisions of MICC 19.15.020. The **Code Official** may grant a height **variance** upon finding that the criteria in MICC 19.15.020(G)(4) are met, and that either of the following criteria are also met:

1. Compliance with the above provisions would prevent the **antenna** from receiving or transmitting a **usable signal**; and the alternative proposed constitutes the minimum necessary to permit acquisition or transmission of a **usable signal**; or
2. The alternative proposed has less impact on adjacent property owners than strict application of the above provisions.

I. REMOVAL OF WCFs

If a **WCF** becomes obsolete or unused, it must be removed within six (6) months of cessation of operation at the site.

J. ADMINISTRATION AND APPEALS

Applications to construct WCFs shall follow the permit review procedures in MICC 19.15.020. Appeals shall follow the appeal process outlined in MICC 19.15.020(J).

**19.06.050 COMMERCE ON PUBLIC PROPERTY**

- A. The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property for the benefit of private commerce.
- B. The provisions of this Section shall apply only to public sidewalks, **streets** and rights-of-way within the Town Center zone.
- C. Any **person(s)** who wishes to use the public right-of-way for the exchange of goods or services shall apply for a Private Commerce on Public Property Permit. Such permit shall be in the form specified by the **Code Official** and shall contain such information as deemed necessary by the **Code Official**.

D. CRITERIA FOR PERMIT

A Private Commerce on Public Property Permit shall be reviewed based on the following criteria:

1. The applicant business has an active business license for a location immediately adjacent to the public property location where the request has been made.
2. The location of the business activity does not create a safety hazard for motorists, bicyclists or pedestrians.
 - a. The business location maintains sufficient area for the free passage of pedestrians along sidewalk and access to other adjacent businesses.
 - b. The business location does not obstruct the views of motorist turning into or out of a **street** or parking lot.
3. ~~The business operation does not generate~~ litter, noise or other nuisances that would be objectionable to the public or other businesses in the immediate area.
 - a. Adequate refuse containers shall be provided.
 - b. Hours of operations are sensitive to the surrounding neighborhood.
 - c. No music or sound is amplified.
 - d. The area can be maintained in a clean condition.
 - e. Physical improvements can be removed or secured when not in operation.
4. The design for any improvements are consistent with the design requirements for the Town Center Plan.



5. The location and design do not unreasonably obstruct the visibility of any adjacent businesses.
 6. The location of a business engaged in the sale of alcoholic beverages is separated from the public space with a barrier, **fence**, landscaping or other demarcation.
- E. A permit to operate a private business on public property shall be reviewed and approved by the Design Commission.
 - F. All permittees must comply with all applicable **City**, county, state and federal laws, including the Uniform Fire Code.
 - G. Permits shall be renewed annually on the date of the original permit approval. Failure to submit a renewal request shall result in the suspension of the permit within thirty (30) days of the annual renewal date.
 - H. The revocation of a permit shall be governed by MICC 19.15.030.
 - I. The provisions of this Section shall not apply to the annual **City**-sponsored event known as "Summer Celebration".



CHAPTER 19.06

GENERAL REGULATIONS

19.06.060 ENCROACHMENT INTO PUBLIC RIGHT-OF-WAY

- A. An encroachment is any intrusion, irrespective of height or size, into a sidewalk, **street**, or other public right-of-way and includes, but is not limited to, **fill material, retaining walls, rockeries**, plants either deliberately planted or growing from adjacent property, ~~or any other material or structures~~.
- B. An encroachment into a public right-of-way is not allowed without an Encroachment Agreement.
- C. A land owner seeking an Encroachment Agreement shall submit an application to the City Engineer along with the applicable fee, and shall show the special topographical conditions which warrant an encroachment into the public right-of-way and show that there will be no interference with public use and enjoyment or access from such encroachment.
- D. An Encroachment Agreement shall:
1. Specify the type and location of materials, plants, or **structures** allowed in the right-of-way;
 2. Specify the rights and responsibilities of the **City** and the adjacent land owner for maintenance and eventual removal of the encroachment.
 3. Make provisions for reasonable **public access**, including view, to the right-of-way and to any adjacent public property;
 4. Make provisions for future access to the right-of-way for utilities, drainage, vehicles, and pedestrians;
 5. Protect the public health and safety; and
 6. Contain any other criteria deemed necessary by the City Engineer.
- E. An Encroachment Agreement does not constitute a surrender by the **City** of any property rights to the right-of-way.
- F. An Encroachment Agreement runs with the land adjacent to and benefited from the encroachment and is not valid until recorded with the King County Assessors Office.
- G. Before a land owner may begin construction of the encroachments allowed under an Encroachment Agreement, that person shall obtain a Right-of-way Permit (formerly a Street Use Permit) after submitting an application to the City Engineer along with the applicable fee.

**19.06.070 BONDING AND INSURANCE****A. BONDING AND SET-ASIDE ACCOUNTS**

1. The **City** may require an applicant to guarantee that actions allowed through the issuance of a permit or through approval of an application will be undertaken and completed to the **City's** satisfaction. This includes, but is not limited to, guarantees that improvements will be constructed; that they shall remain free from defects of materials, workmanship, and installation for a set period of time; and that landscaping shall survive for a set period of time.
2. The **City** may also require an applicant to indemnify the **City** against potential damage or injury to public property caused by an action allowed by the issuance of a permit or approval of an application.
3. The amount of such guarantees or indemnifications, and the length of time for which they shall be required, shall be determined by the City Official charged with issuing the permit or approving the application for which the guarantee or indemnification is made.
4. The **City** may choose to accept such guarantees or indemnifications in the form of either a bond posted with the **City**, or through money deposited with the **City** to be held in an interest bearing set-aside account.
5. If the event against which the **City** had been indemnified occurs, or the responsible City Official determines that the guaranteed action or improvement fails to meet the criteria under which it was allowed, the **City** shall give written notice to the applicant. If the condition is not corrected in the time set by the City Official, all rights to the bond or to the funds are forfeited and any cash plus interest accrued shall remain the sole property of the **City**. Otherwise, at the expiration of the specified period, the responsible City Official shall release the applicant from the set-aside agreement or bond and the applicant may request that said bond or said funds and any interest accrued be returned to the applicant.
6. Any rights granted to the **City** by this Section are in addition to any other rights granted by law.

B. INSURANCE

Prior to issuing a permit or approving an application, the **City** may require the applicant to obtain liability insurance in a reasonable amount from an insurance company authorized to do business in Washington insuring against injury to **persons** and property. Such insurance policy shall hold the **City** harmless from all claims arising from the applicant's actions.



CHAPTER 19.07

CRITICAL LANDS

Chapter 19.07 Critical Lands

- 19.07.010 PERFORMANCE STANDARDS FOR ALL DEVELOPMENT
- 19.07.020 GEOLOGIC HAZARD AREAS
- 19.07.030 WATERCOURSE CORRIDORS
- 19.07.040 WETLANDS
- 19.07.050 SHORELINE AREAS
- 19.07.060 REPORTS AND SURVEYS
- 19.07.070 GENERAL PROVISIONS
- 19.07.080 SHORELINE MANAGEMENT MASTER PROGRAM
- 19.07.090 TREES AND VEGETATION
- 19.07.100 ENVIRONMENTAL PROCEDURES

19.07.010 PERFORMANCE STANDARDS FOR ALL DEVELOPMENT

The Performance Standards below apply to any development greater than one hundred twenty (120) square feet and to all **short subdivisions, long subdivisions, and lot-line revisions** proposed on Mercer Island. These standards are general **development practices**, which have been adopted by the City Council to minimize problems related to water quality, stormwater and erosion control, and the placement and construction of **development** on the Island. If the site contains any of the four defined **Critical Areas**, the applicable set(s) of regulations outlined there will also apply. The four defined **Critical Areas** are **Geologic Hazard Areas, Watercourse Corridors, Wetlands, and Shorelines**.

A. GENERAL REQUIREMENTS AND DELINEATIONS

These requirements serve to identify and document **Critical Areas** on a site. The requirements include technical reports and surveys (see MICC 19.07.060, Reports and Surveys), temporary field marking, and depicting **Critical Areas** on a single lot.

The following is an outline of the steps required by the applicant in the site **development** process for a **Building Permit, long subdivision, short subdivision, or lot-line revision**:

1. PREAPPLICATION MEETING

- a. Required for all **long subdivisions, short subdivisions or lot-line revisions** and for **building permits** for projects at least five hundred (500) square feet in area or which the **Code Official** determines to pose a **substantial risk** due to the presence of **Critical Areas** on the lot or other factors.
- b. The meeting may be attended by the applicant, architect, **Geotechnical Engineer**, landscape designer, contractor, and **City staff**, as appropriate for the specific project.



- c. Will include a preliminary examination of the proposed project and a review of the intent and specifics of **City**-related policies.
- d. No discussion during a preapplication meeting between the **City** and an applicant or applicant's agent shall constitute **City** approval of any plan or design offered by the applicant or agent.

2. DELINEATION OF NATURAL AND PROJECT FEATURES

- a. Prepare a Site Survey (see MICC 19.07.060, Reports and Surveys) with two (2) foot contours, showing all existing natural and built features. The site survey is to be used as a base for the Site Construction Plan unless waived or modified by the **City**.
- b. Provide a Site Construction Plan (see MICC 19.07.060, Reports and Surveys) depicting all **geologic hazardous areas, critical slopes, watercourses and watercourse corridors, wetlands**, shorelines, and significant vegetation (i.e., large conifers, Madrona, and evergreens). **Proposed structures, setbacks, road/driveway surfaces, easements, cuts/fills, and rockeries** are also required to be identified.
- c. Provide a Geotechnical Report prepared by a **Geotechnical Engineer**.
 - i. May be waived in part or total for projects on sites with less than twenty (20) percent **slope**, based on preliminary soils information provided by the applicant and the degree of **alteration**.
 - ii. See MICC 19.07.020, Geologic Hazard Areas, for regulations guiding sites containing geologic hazards.

3. FIELD MARKING

- a. Prior to the Preconstruction Meeting, mark the following on the site to reflect the proposed Site Construction Plan; the location of the **building footprint, Critical Area(s) boundaries, the outer extent of setbacks, areas to remain undisturbed, and trees and vegetation to be removed**.
- b. Obtain **City** approval on the field markings before any permitted activities.
- c. Maintain the field markings for **Critical Area(s)** and areas to remain undisturbed throughout the duration of the Construction Permit.



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CRITICAL LANDS

4. PRE-CONSTRUCTION MEETING

Required for all projects and attended by the applicant (or applicant's agent), **Geotechnical Engineer**, contractor, **City** staff, and others, as appropriate for the specific project.

B. SITE DEVELOPMENT-BUILDING PADS

These requirements ensure that **development** or **alterations** are properly placed on a site with regard to **Critical Areas** and that the best available **building** practices are used in order to avoid an adverse impact on these areas.

1. SETBACK EXCEPTION - AGGREGATE SETBACKS

Aggregate setbacks for the **front**, **rear**, and **side-yard** setbacks totaling sixty (60) feet are permitted for **development** proposals for single **lots**, **long subdivisions**, **lot-line revisions** and **short subdivisions** if:

- a. The total **Critical Areas** on a **lot** exceeds fifty (50) percent of the minimum **lot** size required for that zone; and
- b. No setback is less than five (5) feet, except for a **front-yard** setback or a setback adjacent to a **street**, which cannot be less than ten (10) feet; and
- c. Significant vegetation is preserved; and
- d. The applicant shall demonstrate to the **City** through submittal of an application and supporting documentation that the use of aggregate setbacks will not:
 - i. Be materially detrimental to the public welfare or injurious to adjacent property or **development** or **alterations**; and
 - ii. Alter the neighborhood character or the appropriate use or **development** of adjacent property; and
 - iii. Conflict with the general purposes and objectives of the Comprehensive Plan.
- e. The **City** shall provide notice of the proposed action as required by MICC 19.15.020(D),(E).
- f. Decision to grant the request for aggregate setbacks will be made by the **Code Official**.
- g. Aggregate setbacks for new **short subdivisions**, **long subdivisions**, and **lot-line revisions** shall be recorded on final mylars.



2. CONSTRUCTION - PREFERRED PRACTICES

- a. Use common access drives and **utility** corridors.
- b. Design roads, walkways, and parking areas to parallel natural hillside contours while maintaining consolidated areas of natural topography and vegetation; locate access in the least sensitive area.
- c. Use **retaining walls** that maintain existing natural **slopes** in place of graded artificial **slopes**.
- d. Obtain **City** approval for emergency **vehicle** access.

3. NEW SUBDIVISIONS AND LOT-LINE REVISIONS - BUILDING PAD

- a. Identify for each **lot** a **building pad**.
- b. Determine the location of a **building pad** by considering vegetation, topography, **Critical Areas**, and the relationship of the proposed **building pad** to existing/proposed homes. Access to the pad must be consistent with the standards for driveway access contained in MICC 19.09.040.
 - i. **Building pads** shall be exclusive of setbacks, rights-of-way and **Critical Areas**; and
 - ii. No cross-section dimension shall be less than twenty (20) feet; and
 - iii. Old growth or specimen **trees** shall be preserved.
- c. Identify approved **building pads** and **Critical Areas** on final mylars.
- d. **Building** construction is required on, and limited to, the identified **building pad**.
- e. Site coverage on the **lot** is controlled by Part C1 of this Section.
- f. The above requirements pertain to **short subdivisions**, **long subdivisions**, and **lot-line revisions** only. These requirements apply unless a **variance** is granted by the Planning Commission.
- g. If the **lot-line revision** is eliminating a lot-line, resulting in a reduction of the total number of **lots** (**lot consolidation**), no **building pad** need be defined.



4. VARIANCES AND VARIANCE CRITERIA

- a. **Variations** to the strict requirements of MICC 19.07.010, .020 and .040 through .070 may be granted by the Planning Commission pursuant to the procedures outlined in MICC 19.15.020(G)(4).
- b. Such **variances** may include a request to:
 - i. Construct in an area other than within the **building pad** as shown in the preliminary approved plat documents; or
 - ii. Expand the area of construction beyond the boundaries of the **building pad** as shown in the preliminary approved plat documents.
- c. In considering requests for **variances** of designated **building pads** there shall be compelling justification and exceptional circumstances present and the Planning Commission shall utilize the following principles:
 - i. **Development** that accomplished multiple, rather than limited objectives of the Critical Areas Chapter is preferred;
 - ii. **Development** that requires the least amount of **variance** from **Critical Areas** standards (for example, construction on sixteen (16) percent rather than twenty (20) percent **slopes**) is preferred;
 - iii. **Development** that requires the fewest numbers of factors to be varied is preferred;
 - iv. **Development** that occurs outside the designated **building pad** may be considered only in the exceptional circumstance that strict application of the Critical Areas Chapter provisions would deprive a property owner of the rights and privileges enjoyed by other properties in the vicinity under the same zoning classification.
- d. In order to approve a **variance** request to amend the designated **building pad**, the applicant shall demonstrate to the Planning Commission that the following have been satisfied:
 - i. The principles set out in i-iv above;
 - ii. The general criteria for a **variance**, MICC 19.15.020(G)(4);
 - iii. The applicable **alteration** requirements for the specific type of **Critical Area**;



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- e. The applicant shall also demonstrate that the amended **building pad** will satisfy one or more of the following special circumstances:
 - i. Increase the area protected as **wetland** or **watercourse corridors**;
 - ii. Increase the number of old growth or specimen **trees** preserved on the property;
 - iii. Enlarge the area protected as priority plant habitat or protected as endangered, threatened, priority or sensitive species;
 - iv. Enlarge or enhance a shoreline management area;
 - v. Allow a reduction in **impervious surface** coverage or result in a smaller disturbance of **slopes** greater than thirty (30) percent;
 - vi. Accommodate **public access** to a public trail or bike path;
 - vii. Allow a gravity sewer or storm drainage system rather than a pumped flow;
 - viii. Allow for reduced access gradients to meet the maximum twenty (20) percent grade requirement of the Fire Marshal;
 - ix. Reduces access points.

5. Requests for a **variance** to amend the established **building pad** shall be accompanied by:

- a. A report and statement from a licensed specialist, practicing in the State of Washington, in an area such as Geotechnical Engineering, hydrology, or biology, as appropriate and necessary to document the necessity of the request: and
- b. A completed State Environmental Policy Act checklist; and
- c. A detailed site plan showing two (2) foot contour intervals, vegetation on site restoration plans, and the designated and proposed **building pad**.

C. LOT COVERAGE

These requirements recognize the importance of pervious surfaces on a site and undisturbed vegetation in stabilizing soils, reducing stormwater flows, and increasing water quality through surface and groundwater filtration.



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1. IMPERVIOUS SURFACE LIMITS FOR LOTS

- a. The total percentage of a lot that can be covered by **impervious surfaces** (including **buildings**) is limited by the **slope** of the lot for all detached single-family **developments** as follows:

Lot slope	Lot Coverage (limit for impervious surfaces)
Less than 15%	40%
15 – less than 30%	35%
30–50%	30%
Greater than 50% slope	20%

- b. The **Code Official** may grant a **deviation**, allowing an additional five (5) percent of lot coverage over the maximum requirements; **PROVIDED** the applicant demonstrates through the submittal of an application and supporting documentation that the proposal meets one of the following criteria:

- i. The proposal uses Preferred Practices, outlined in Part B2 of this Section, which are appropriate for the lot; or
- ii. The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway corridor); or
- iii. The proposal minimizes impacts to **Critical Areas** and is the minimum extent possible for the additional **impervious surfaces**.

The **City** shall provide notice of the proposed action as required by MICC 19.15.020(D), (E), Administration.

D. STORMWATER AND EROSION CONTROL

These requirements recognize that each on-site stormwater control plan contributes to the overall performance of the Island's stormwater management system. The requirements further recognize that a relationship exists between stormwater retention systems and natural surface and subsurface water.

1. STORMWATER CONTROL

- a. If the **City** determines that runoff or erosion from a proposed **development** poses a significant risk to downstream receiving waters - based on the size of the project or the proximity to, or sensitivity of the receiving water - the applicant shall prepare a Stormwater Control Management Plan (see MICC 19.07.060, Reports and Surveys) to demonstrate that the proposed **development** will not aggravate an existing problem or create a new problem.



- b. The Stormwater Control Management Plan shall be developed on a site-specific basis and shall contain a technical report that identifies existing or predicted problems and sets forth solutions to each. Off-site measures may be required to correct existing on-site problems or to prevent new problems from occurring. Monitoring surface-water discharge from the site during construction may be required.
- c. If the **development** does not meet water-quality standards established by law or administrative rules, the **City** may suspend further **development** work on the site until such standards are met.

2. EROSION CONTROL

- a. Refer to Mercer Island standards for siltation/filtration devices to control surface runoff during construction.
- b. Indicate erosion control measures on the Site Construction Plan or Stormwater Control Management Plan (see MICC 19.07.060, Reports and Surveys), as appropriate for the project.
- c. These requirements will be in place following the Pre-construction Meeting outlined in Part A4 of this Section and approved prior to **clearing** and grading.

E. ALTERATIONS

These requirements state the criteria to be met for **development** permitted in **Critical Areas**. Protection and mitigation measures that **alterations** shall comply with are also identified.

1. SITE RESTORATION PLAN

- a. A Site Restoration Plan (see MICC 19.07.060, Reports and Surveys) will be required by **City** staff as an additional report submitted prior to issuance of a **Development** Permit if **Critical Areas** or **critical slopes** are identified on the site.
- b. The intent of the Site Restoration Plan is to:
 - i. Detail measures which restore the site to a re-vegetated condition after substantial foundation work and after project completion.
 - ii. Specify terrain, vegetation, and **trees**, in concert with the Stormwater Control and Management Plan (see MICC 19.07.060, Reports and Surveys), which restore surface and groundwater filtration characteristics to existing conditions.



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- iii. Retain characteristics compatible with the natural neighborhood environment.
- c. The requirements of the Site Restoration Plan may be included on the Site Construction Plan, if properly specified.

2. VEGETATION

- a. Areas of natural vegetation in a **Critical Area** that will be **altered** or **damaged by development** shall be replaced with compatible species in accordance with a **City-approved Site Restoration Plan** (see MICC 19.07.060, Reports and Surveys).
- b. Areas infested with noxious weeds as listed in Chapter 16-750 WAC should be replanted if this activity is documented in the **City-approved Site Restoration Plan**.

3. PROTECTION MEASURES

- a. To protect **Critical Areas**, critical habitats, and significant vegetation; **City-determined maintenance, mitigation, and/or monitoring measures** shall be in place prior to **development**.
- b. Where monitoring reveals a significant deviation from predicted impacts or a failure of protection measures, the applicant shall be responsible for appropriate corrective action which, when approved, will be subject to further monitoring.

4. PRIORITY SPECIES

- a. Pileated woodpeckers, bald eagles, and maidenhair ferns are the only **priority species known to inhabit Mercer Island**.
- b. If other species are identified that are classified as "priority" by the applicant, the **City**, or the **State of Washington Wildlife Department** (including endangered, threatened, or sensitive species):
 - i. These species will be added to the list of Mercer Island Priority Species; and
 - ii. The applicant shall provide a Priority Species and Habitat Study (see MICC 19.07.060, Reports and Surveys) recommending appropriate protections based on the State Department of Wildlife priority habitat and species management recommendations, as well as any other proposed mitigation measures that are considered appropriate for the protection of the species identified.

**19.07.020 GEOLOGIC HAZARD AREAS**

These **Critical Areas** are characterized by **lot slope**, soil type, geologic material, and groundwater which may combine to create problems with **slope stability**, erosion, and water quality *during and after construction or during natural events such as earthquakes or excessive rain storms*. The following regulations, in combination with MICC 19.07.010, Performance Standards for All Development, will guide **development** in these **Critical Areas**.

A. CRITICAL AREAS DELINEATION

1. Geotechnical Requirements shall be based on the following standards and the Geotechnical Report (see MICC 19.07.060, Reports and Surveys). The project **Geotechnical Engineer** shall determine if:
 - a. Adequate information indicates that a geologic hazard is either present or highly likely, or
 - b. Adequate information indicates either that no geologic hazard is present or that it is highly unlikely, or
 - c. Available information to evaluate a geologic hazard is inadequate.
2. If the **City** is not satisfied that the Geotechnical Report demonstrates that the above criteria have been met, the **City** will require peer review of the Geotechnical Report by a second practicing, licensed **Geotechnical Engineer** not associated with the original submittal to verify the adequacy of the information and analysis, and the completeness of the original checklist. The applicant will bear the cost of the peer review.
3. **Critical slopes and geologic hazards areas** will be marked in the field prior to the pre-construction meeting and approved prior to **clearing** and grading.

B. SITE DEVELOPMENT**1. DEVELOPMENT LIMITATIONS**

- a. Land **clearing**, grading, **filling**, and foundation work are not permitted between October 1 and April 1 on **lots with critical slopes or geologic hazard areas**. Tree cutting and pruning is prohibited on **slopes** over twenty (20) percent during this same period. Construction on **lots with a slope** of from fifteen (15) percent but less than thirty (30) percent may proceed during this time, following Part E1a of this Section, below.
- b. The use of artificial groundcover is prohibited within a **geologic hazard area**.
- c. Land **alteration** and **clearing** are limited to the maximum extent practical within **geologic hazard areas** in order to avoid unnecessary



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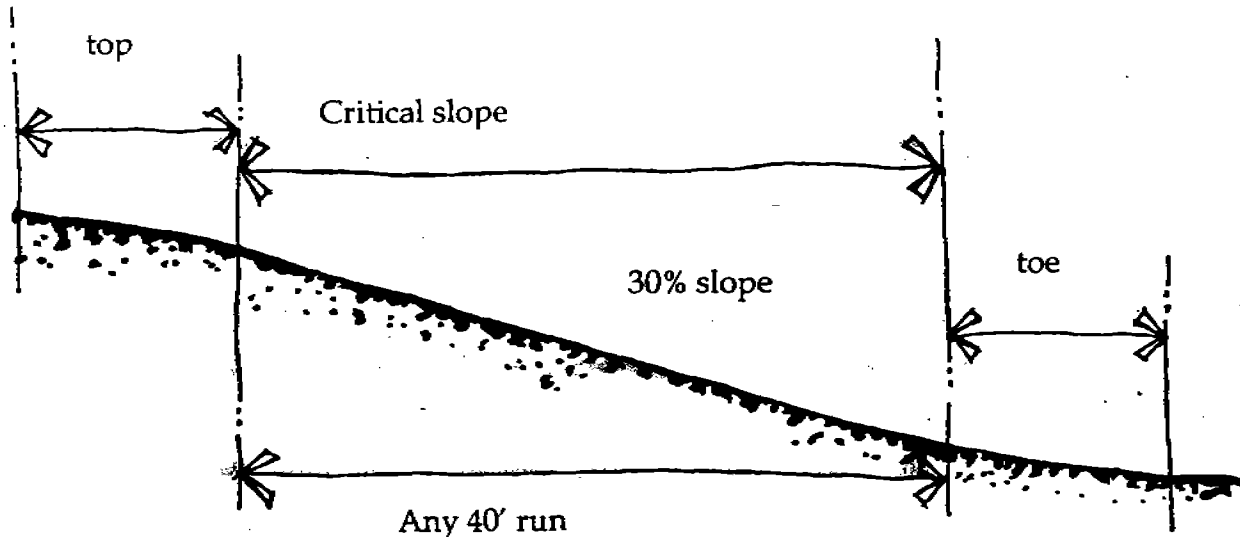
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site disturbance, and shall conform to the specific recommendations in the Geotechnical Report.

- d. **Alterations to the toe of critical slopes** shall conform to specific recommendations in the Geotechnical Report (see MICC 19.07.060, Reports and Surveys).
- e. Where **critical slopes** are greater than fifty (50) percent, no **development** is allowed and no **impervious surfaces** permitted, unless the applicant can demonstrate through professional reports that the public's health, safety and welfare will not be compromised.
- f. If the above reports fulfill the requirements of Parts A and E1 of this Section, **development** may proceed following Part C of this Section.

2. CONSTRUCTION - DEVELOPMENT DESIGN

Locate **structures** and other **development** to conform with existing **slopes** (i.e., away from the **slope** or set into the natural topography of the site) or avoid them in order that **critical slopes** or geologic hazards are not aggravated.



C. SITE COVERAGE

On lots without a designated **building pad**, **impervious surfaces** on **critical slopes** shall be limited. **Development** on **critical slopes** shall be limited to the following:

Critical slope	Impervious surfaces
30-50%	30%
Greater than 50%	20%

**D. STORMWATER AND EROSION CONTROL****1. STORMWATER CONTROL**

On **slopes** exceeding fifteen (15) percent and in all **geologic hazard areas**, the applicant shall demonstrate that the temporary and final **development or alterations** to control runoff, water quality, erosion, and sedimentation incorporate source controls, Best Management Practices, and treatment and degradation controls that will not aggravate an existing problem or cause a new problem.

2. EROSION CONTROL

Development within **critical slopes** and **geologic hazard areas** will require the Geotechnical Report (see MICC 19.07.060, Reports and Surveys) to detail erosion control measures which shall be in place following the Pre-construction Meeting and approved prior to **clearing** and grading.

E. ALTERATIONS**1. CRITERIA/PERFORMANCE STANDARDS**

On **lots** without a designated **building pad**, **development** within **geologic hazard areas** and **critical slopes** may occur if the following conditions can be demonstrated by the applicant:

- a. A Site Restoration Plan (see MICC 19.07.060, Reports and Surveys) shall be submitted prior to permit approval consistent with the Geotechnical Report regarding the stability of the site and adjacent properties, and demonstrating no increase in surface water discharge or sedimentation to adjacent properties; and
- b. The **geologic hazard area** will be modified, or the **development** has been designed so that the risk to the **lot** and adjacent property is eliminated or mitigated such that the site is determined to be safe; or
- c. An evaluation of site specific subsurface conditions demonstrates that the proposed **development** is not located in a **geologic hazard area**; or
- d. **Development** practices are proposed for the **alteration** that would render the **development** as safe as if it were not located in a **geologic hazard area**; or
- e. The **alteration** is so minor as not to pose a threat to the public health, safety, and welfare.

2. All landscaping shall be completed in erosion areas and **critical slopes** before **development** will receive a final inspection.



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19.07.030 WATERCOURSE CORRIDORS

Watercourse corridors are areas of natural or partially altered streams which contribute to water quality and stormwater and erosion control and which provide wildlife habitats. They are characterized by year-round or seasonal flows within stream corridors that exist in an entirely native state or may exhibit a range of **alteration**. These regulations outline requirements for **development** adjacent to or within the corridor.

A. INTENT AND PURPOSE

These regulations are intended to implement and further the Comprehensive Plans of the City and are adopted for the following purposes:

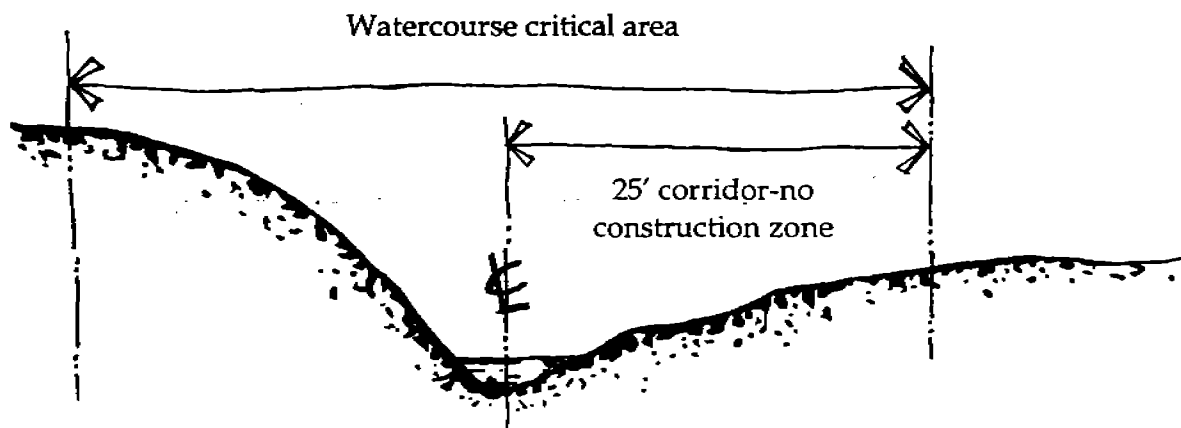
1. To prevent undue hazards to public health, safety, and welfare;
2. To conserve and protect the natural **watercourses** on Mercer Island by minimizing the disturbance to the **watercourses**;
3. To enhance and preserve the water quality in Lake Washington;
4. To minimize public expenditures for storm drainage improvements;
5. To preserve and enhance the Island's natural amenities;
6. To reassert and facilitate the preservation of the rights of the public and other property owners to utilize the natural receivers of surface waters for disposal thereof and to protect and defend their properties from damages from such surface waters;
7. To provide for orderly **development of undeveloped or partially developed lots** that contain or are adjacent to **watercourses**;
8. To provide for **alternate building line setback** requirements where appropriate for individual land parcels that contain a **watercourse**;
9. To further the Island's comprehensive storm drainage plans; and
10. To implement the goals and objectives of the Washington State Environmental Policy Act and Shoreline Management Act.

B. CRITICAL AREAS DELINEATIONS

1. The map which is attached to this Code as Appendix E and incorporated herein by reference, generally describes the location of **watercourses** within the City. Notwithstanding the fact that a **watercourse** is shown on the map, it is intended that actual conditions existing on the property, as found by the **Code Official**, shall control the determination as to whether a **watercourse** exists. If a **watercourse** is found to exist, the **Code Official** shall determine its actual location on the property.



2. Surveys of the centerline and corridor of a **watercourse** shall be current to within one (1) year of the application for **development, lot-line revision, short subdivision or long subdivision**.
3. The **watercourse corridor** and centerline shall be indicated on the Site Construction Plan (see MICC 19.07.060, Reports and Surveys) and marked in the field prior to the pre-construction meeting.



C. SITE DEVELOPMENT

1. DEVELOPMENT LIMITATIONS

- a. Except in the case of a **variance** approved by the Planning Commission under the provisions of Part F2 of this Section, below, or in the case of emergency situations involving immediate danger to life or property, no **development or alterations** shall be erected, installed, constructed or otherwise placed or located within, and no existing **development** shall be moved, altered, added to or enlarged so as to encroach upon the **Watercourse Corridor**.
- b. In the case of **development or alteration** made in emergency situations, a report of such action shall forthwith be made to the **Code Official** and an application for a **variance** under Part F2 of this Section shall be made within thirty (30) days of the execution, installation or construction of the emergency **development or alteration**.
- c. The outer ten (10) feet of the **Watercourse Corridor** may be utilized for access if necessary during construction, provided that plans for restoration within six (6) months of the project completion are approved by the **Code Official**.



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- d. No power equipment shall be used within a **Watercourse Corridor** without the explicit approval of the **Code Official**.
 - e. On any lot with a **Watercourse Corridor** that makes it impractical to locate a **building pad** on the lot except by intruding into required **yards**, the **Code Official** shall have discretion to grant a **deviation** from the **front and rear yard setbacks** required by this Code to within ten (10) feet of the **front and rear yard lot lines**, respectively.
 - i. In granting any such **deviation**, the **Code Official** may require the submission of any reasonably necessary information.
 - ii. The decision to grant a **deviation** shall be based on the criteria set forth in Part F2c of this Section, below.
2. **Building pads** shall not be permitted within a **Watercourse Corridor**.

D. SITE COVERAGE

Impervious surface shall not be permitted within a **Watercourse Corridor** except as outlined in Part F1c of this Section.

E. STORMWATER AND EROSION CONTROL

1. STORMWATER CONTROL

- a. The **City** shall approve a **Critical Areas Restoration Plan** and a **Stormwater Control Management Plan** (see MICC 19.07.060, Reports and Surveys) for any downstream **development** or **alterations** associated with the project or within the **Watercourse Corridor**. See MICC 19.07.010(D)(1), (E)(1), Performance Standards for All Development.
- b. In no case shall **development** create or worsen existing erosion or water quality conditions.

2. EROSION CONTROL

Erosion devices shall be installed along the boundaries of the **Watercourse Corridor** following the **Pre-construction Meeting** and approved prior to **clearing** and **grading**.

F. ALTERATIONS

1. CRITERIA/PERFORMANCE STANDARDS FOR DEVELOPMENT

- a. The **City** encourages the opening of previously channelized/culverted **watercourses** and the **rehabilitation** and **restoration** of **watercourses**.



- b. The applicant shall utilize the best available construction, design, and **development** techniques which result in the least adverse impact on the **Watercourse Corridor**.
- c. The Planning Commission shall approve or deny all **variance** requests for physical **alterations** to the location of a **watercourse** or encroachments into the **Watercourse Corridor**; PROVIDED staff shall review the Critical Areas Restoration Plan (see MICC 19.07.060, Reports and Surveys) for non-structural **development** or **alterations** proposed within the **Watercourse Corridor** if:
 - i. The request is not part of a proposal that includes structural **development** or **alterations**; and
 - ii. The **fair market value** of the **development** or **alterations** does not exceed ten thousand (10,000) dollars; and
 - iii. No more than one hundred twenty (120) square feet or two (2) percent of the **Watercourse Corridor**, whichever is less, is being proposed as **impervious surfaces**.

2. VARIANCES

- a. The **City Planning Commission** shall have the authority to grant **variances** from the twenty-five (25) foot **watercourse** setback requirements of this Code.
- b. An application for a **watercourse variance** shall be made in writing on forms provided by the **City** and the applicant shall furnish a Site Survey (see MICC 19.07.060, Reports and Surveys) showing all existing natural and built features and all proposed **structures** and **alterations**. The applicant shall also provide any other information deemed reasonably necessary by the **Code Official**.
- c. The Planning Commission's decision shall be made from an analysis of the information submitted under Sub-part (b) above, and shall be based on the following criteria:
 - i. Relationship of the proposed **development** to the site (for example, degree of land excavation or **fill**, type of foundation, construction, etc.);
 - ii. Access and parking; traffic visibility; turning radii;
 - iii. History and recent inventories of soil, geology and hydrology conditions;



- iv. Consequence of proposed action or **development** on upstream and downstream properties;
 - v. Relationship of the proposed **development** to the adjacent properties;
 - vi. The method of handling surface or storm drainage waters;
 - vii. Relationship of the proposed **structures** or **alterations** to the current comprehensive storm drainage plans; and
 - viii. Any other relevant physical or environmental factors.
- d. Before any **variance** shall be granted, it shall be shown that the proposed **variance**:
- i. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected property and **watercourses** in the vicinity; and
 - ii. Is necessary to the reasonable enjoyment of property rights of the applicant; and
 - iii. Is not in conflict with the general intent and purpose of this Section as set forth in Part A of this Section.

3. PROTECTION MEASURES

- a. All approved **alterations** shall follow a **City**-approved Critical Areas Restoration Plan, developed on a site-by-site basis by a landscape architect, hydrologist, biologist, civil engineer and/or other qualified professional as appropriate. Minimum requirements shall include the following:
- i. Baseline information about the impacted area and/or proposed **mitigation** site including the information required by Part F2b of this Section, above.
 - ii. Proposed **alterations** that maintain or improve the **watercourse** channel, including depth, width, length, gradient, and hydrologic conditions; create an equivalent or improved channel bed; and restore or improve native vegetation and fish or wildlife habitat and/or
 - iii. Proposed **alterations** that maintain or improve the **watercourse**, including its functions and value; and
 - iv. Detailed construction plans; and



- v. A monitoring program for assessing the completed project.
- b. The **City** may postpone or limit **development**, or use other appropriate techniques to ensure the success of the Critical Areas Restoration Plan (see MICC 19.07.060, Reports and Surveys).
- c. The Planning Commission, as a condition to the granting of a **variance**, shall require a performance bond or set-aside account as set out in MICC 19.06.070, Bonding and Insurance, in a reasonable amount to secure proper installation of **alterations** within the **Watercourse Corridor** as set forth on the approved plans.
- d. Implementation of a **variance** approved by the Planning Commission shall be completed within one (1) year from the approval date. Upon showing of good cause, the Planning Commission may extend the completion period an additional one (1) year period.
- e. All **development** or **alterations** shall be fully completed in accordance with the Plan prior to the final inspection of a project.

4. MITIGATION

See 19.07.040(E)(3), Wetlands.

**19.07.040 WETLANDS**

Wetlands on Mercer Island are characterized by **hydric soils**, water tolerant plants (hydrophytes), and surfaces which are either saturated or inundated with water for a minimum period of time. A **wetland** directly impacts water quality and stormwater control by trapping and filtering surface and ground water. Because of the difficulty in replacing these rare and valuable areas, the regulations control adjacent **development** and limit the amount of **wetlands**, which may be altered.

A. CRITICAL AREAS DELINEATIONS

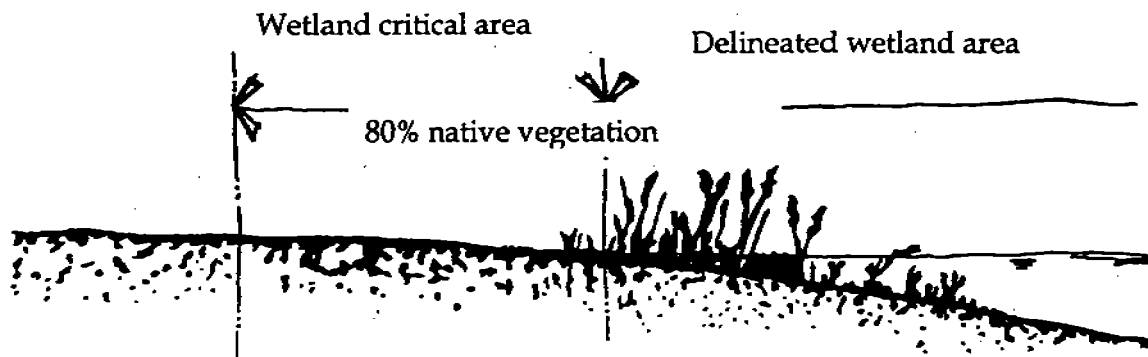
1. If a **wetland** delineation is required, it shall be conducted by a biologist or other qualified professional in accordance with the "1987 Federal Manual for Identification & Delineating Jurisdictional Wetlands"
2. Mark the edges of the **wetland** on the site prior to the Pre-construction Meeting. See 19.07.010(A)(3), Performance Standards for All Development.
3. **Wetlands** of less than two thousand five hundred (2,500) square feet are exempt from **City** regulation. However, this exemption does not cover applicable state and/or federal permit requirements. Applicants with identified probable **wetlands** should contact the Army Corps of Engineers.

B. SITE DEVELOPMENT

1. Dredging and **filling shoreline** and **watercourse** associated **wetlands** are limited to that necessary for the installation of pilings associated with water access for a pier.
2. The **clearing of wetland** vegetation is limited to that necessary to provide a corridor for a single or **shared pier**.
3. Projects requiring more than one hundred (100) cubic yards of **fill** in a **wetland** area shall be reviewed under the State Environmental Policy Act.
4. A **building pad** will not be permitted within a **wetland critical area**.

C. SITE COVERAGE

1. **Impervious surfaces** shall not be permitted within a **wetland** area.



2. Retain at least eighty (80) percent of the native vegetation in the area within twenty-five (25) feet of the **wetland** edge.

D. STORMWATER AND EROSION CONTROL

1. STORMWATER

Existing **wetlands** cannot be used for water treatment and shall be protected by upstream facilities that demonstrate runoff, erosion, water quality, and sedimentation control.

2. EROSION CONTROL

Erosion control devices conforming to the recommendations of the **wetlands** delineation shall be in place outside **wetlands** boundaries following the Pre-construction Meeting and shall be approved prior to **clearing** and grading.

E. ALTERATIONS

1. CRITERIA/PERFORMANCE STANDARDS FOR DEVELOPMENT

- a. **Wetlands** of less than one (1) acre, unless specifically exempted, may be altered if the applicant can demonstrate that:
 - i. A Site Restoration Plan (see MICC 19.07.060, Reports and Surveys), based on the **wetlands** delineation, is approved by the **City** staff; and
 - ii. The **wetland** does not serve any of the valuable functions of **wetlands** as established in the **wetlands** delineation conducted by a biologist or other qualified professional. These functions



include but are not limited to biologic and hydrologic functions, water quality, and storage capacity; and

- iii. The **wetland** will be restored, enhanced, or replaced with a **wetland** area of equivalent or greater size, biologic functions, hydrologic functions, and value.

2. PROTECTION MEASURES

See MICC 19.07.030(F)(3), Watercourse Corridors.

3. MITIGATION

- a. In cases where the applicant demonstrates to the satisfaction of the **City** that a suitable on-site solution does not exist to enhance, restore, or maintain a **watercourse** or **wetland** in its existing condition if **alterations** are permitted, the **City** may permit the applicant to provide off-site **development** or **alterations** or to make a financial contribution to an established water-quality project or program if the applicant's **development** proposal is approved by the **City**.
- b. Replacement or enhancement off the site may be allowed if the applicant demonstrates to the satisfaction of the **City** that the off-site location is in the same drainage sub-basin as the original **wetland** and that greater biologic and hydrologic functions will be achieved.
- c. **Wetlands mitigation** should take place within proposed **short subdivisions** or **long subdivisions**.



19.07.050 SHORELINE AREAS

Shorelands directly impact water quality as surface and subsurface waters are filtered back into the lake. Additionally, shorelines are a valuable fish habitat area characterized by lake bottom conditions, erosion tendencies, and the proximity to **watercourse** outfalls. These may combine to provide a suitable environment for spawning fish.

A. CRITICAL AREAS DELINEATIONS

1. A survey to determine the line of **Ordinary High Water (OHW)** shall be current to within one (1) year of the application for single lots, short subdivisions, long subdivisions, or lot-line revisions.
2. The survey may be included in the Site Construction Plan (see MICC 19.07.060, Reports and Surveys) or waived by City Staff if the OHW has been delineated by an existing **bulkhead**.
3. Mark the shoreline setback on the site prior to the Pre-construction Meeting. See MICC 19.07.010(A)(3), Performance for All Development.

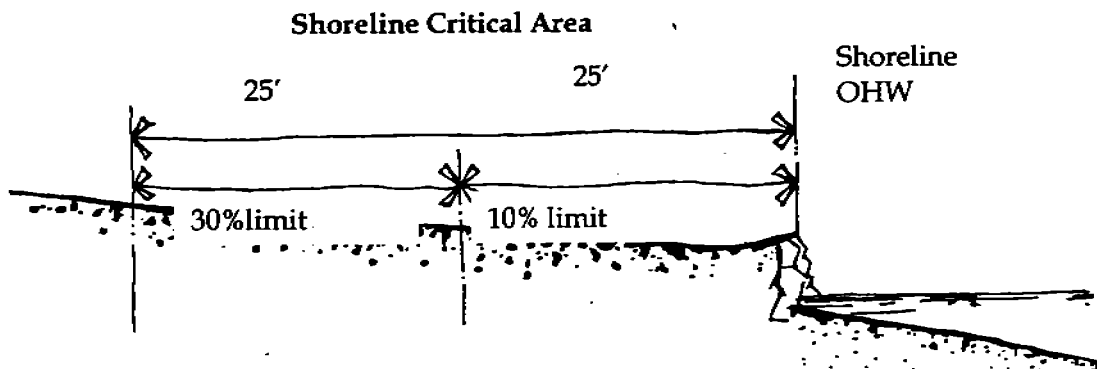
B. SITE DEVELOPMENT

1. A twenty-five (25) foot setback from OHW is required.
2. If a **wetland** is adjacent to the shoreline, measure the shoreline setback from the **wetland's** boundary.

C. SITE COVERAGE

The amount of **impervious surfaces** which will be permitted is as follows:

<u>Distance from OHW</u>	<u>Impervious Surface limitations</u>
0-25 feet	10% No structure(s) allowed
26-50 feet	30% Structure(s) allowed





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CRITICAL LANDS

D. STORMWATER AND EROSION CONTROL

Erosion control devices shall be installed along the boundaries of the **shoreland** setback following the Pre-construction Meeting and prior to **clearing** or grading.

E. ALTERATION

Any **alteration** in this area requires either (a) a Shoreline Exemption or (b) a **Substantial Development** Permit, a **Building/Grading** Permit, and Stormwater Permit. Some **development** or **alteration** may also require a **Conditional Use** Permit.

**19.07.060 REPORTS AND SURVEYS**

The following documents are required for all **development** and shall be prepared by a professional to delineate areas and make recommendations for this and related regulations:

- A. Site Survey
- B. Cover Sheet and Site Construction Plan
- C. Geotechnical Report
- D. Site Restoration Plan
 1. To be developed based on a Site Survey by a landscape architect, biologist, civil engineer and/or other qualified professional, as appropriate, and shall include the following:
 - a. Existing **trees** and vegetation;
 - b. Proposed grading, **tree** and vegetation **clearing**, and the limits of work; and
 - c. Location, type, and number of replacement vegetation.
 2. All landscaping shall be completed in accordance with the plan before final inspections are performed.
 3. A Site Restoration Plan may be incorporated with a Stormwater Control Management Plan provided this intent is clearly articulated in an introduction.
 4. Additional requirements that apply to Critical Areas Restoration Plans for specific **critical areas** are located in MICC 19.07.020(E), Geologic Hazard Areas; MICC 19.07.030(F), Watercourse Corridors; MICC 19.07.040(E), Wetlands; and MICC 19.07.050(E), Shoreline Areas.
- E. Critical Areas Restoration Plan
- F. Stormwater Control Management Plan
- G. Priority Species and Habitat Plan



CHAPTER 19.07

CRITICAL LANDS

19.07.070 GENERAL PROVISIONS

A. APPLICABILITY

1. All **development** proposals greater than one hundred twenty (120) square feet, **long subdivisions, short subdivisions, or lot-line revisions**, whether public or private, shall comply with the requirements and purposes of MICC 19.07.010 through .070.
2. For the purposes of MICC 19.07.010 through .070, **development** proposals include proposals that require any of the following: a **Building Permit, Clearing and Grading Permit, Shoreline and Substantial Development Permit, Conditional Use Permit, deviation or variance, lot-line revision and short and long subdivisions.**
3. No permit granted pursuant to MICC 19.07.010 through .070 shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other Federal, State, or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

B. APPEALS

Appeals of decisions made under the provisions of MICC 19.07.010 through .070 shall be follow the procedures outlined in MICC 19.15.020(J).

C. FEES

Fees shall be set forth in a schedule adopted by the City Council by resolution with any modifications which will be made through time by the Council. The fee should be based on a submittal fee and the time required to review **development** applications for **lots** that contain **Critical Areas** on a site-by-site basis.

**19.07.080 SHORELINE MANAGEMENT MASTER PROGRAM****A. GENERAL INFORMATION****1. INTRODUCTION AND PURPOSE**

The Washington State Legislature enacted the Shoreline Management Act (SMA) of 1971 (Chapter 90.58 RCW) to provide a uniform set of rules governing the **development** and management of shoreline areas. As a basis for the policies of the SMA, the Legislature incorporated findings that "the shorelines are among the most valuable and fragile " of the state's resources, that they are under "ever increasing pressure of additional uses" and that "unrestricted construction on the privately or publicly owned shorelines of the state is not in the best public interest." The Legislature further finds that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state, while, at the same time, recognizing and protecting private property rights consistent with the public interest."

The SMA sets up a process for managing **development** of the state's shorelines through state-monitored, locally-administered permitting program. Local governments are required to prepare Shoreline Master Programs to manage shoreline **development** within their jurisdiction. The SMA specifies that each local Shoreline Master Program includes goals and policies that take into account the specific local conditions influencing the shoreline jurisdiction.

The purpose of the Shoreline Master Program is to implement the Shoreline Management Act of 1971 and to establish regulations for **development** based on the local shoreline goals and policies.

- a. The Shoreline Master Program specifies boundaries of a shoreline jurisdiction and shoreline designated environments;
- b. The Shoreline Master Program establishes regulations for **development** within the shoreline jurisdiction;
- c. The Shoreline Master Program specifies requirements for public participation in decisions about shoreline **development**.

2. SHORELINE JURISDICTION

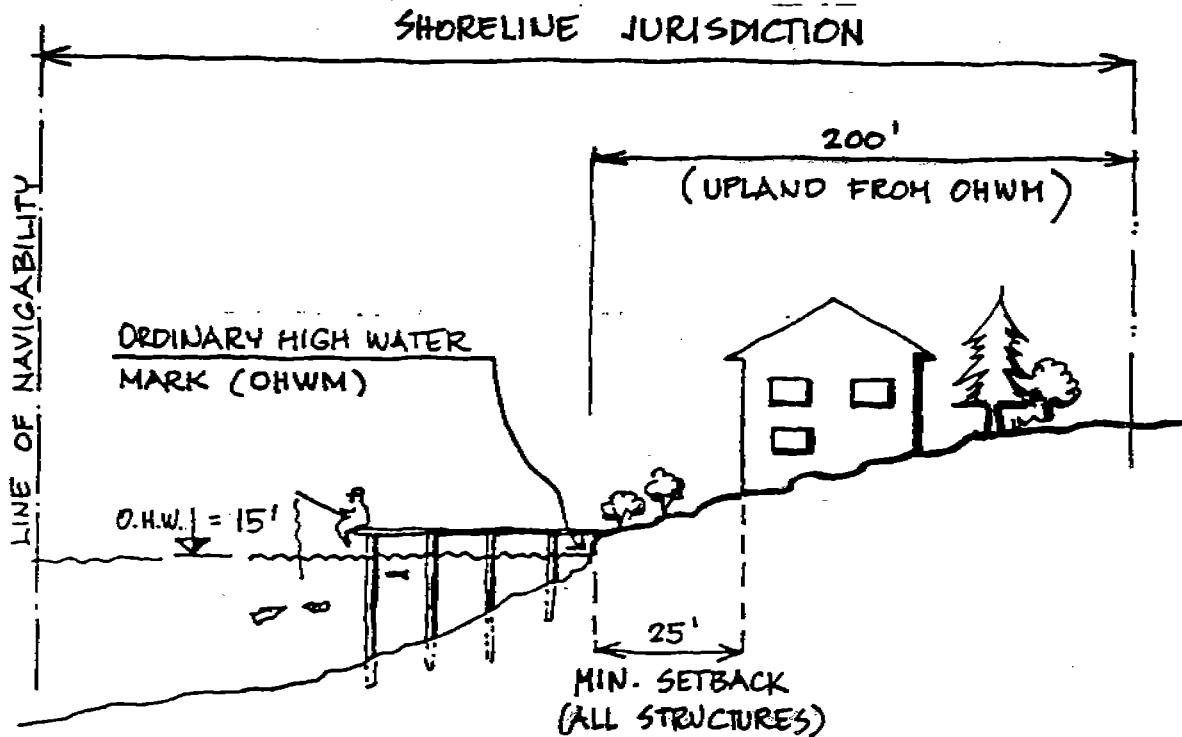
The shoreline jurisdiction is geographically defined as:

- a. All lands extending **landward** two hundred (200) feet in all directions as measured on a horizontal plane from the **ordinary high water mark** and all associated **shorelands** (RCW 90.58.030).



- b. All lands under the Lake Washington extending **waterward** to the Line of Navigability/Inner Harbor Line as established in 1984 by the Board of Natural Resources by Resolution No. 461.

The following illustration shows the applicability of the Shoreline Master Program jurisdiction.



3. APPLICABILITY

The regulations and procedures of the Shoreline Master Program apply to all **development** within the shoreline jurisdiction of the **City** including the waters and underlying land of Lake Washington and to the shoreline uses established within the shoreline designated environments.

4. ADOPTION AUTHORITY

The regulations contained in MICC 19.07.080 are hereby adopted as the Shoreline Master Program for the City of Mercer Island. These regulations are adopted under the authority of the Chapter 90.58 RCW and Chapter 173-16 WAC.

5. RELATIONSHIP TO LAND USE CODE AND OTHER ORDINANCES

- a. The Shoreline Master Program regulations are supplemental to the City of Mercer Island Comprehensive Plan, the Mercer Island Development Code and various other provisions of City, State and Federal laws.



Applicants must comply with all applicable laws prior to commencing any use, activity, or **development**.

- b. The shoreline jurisdiction and the shoreline designated environments are superimposed upon the existing zoning classifications. The zoning regulations specified in the Development Code and this Section are intended to operate together to produce coherent and thorough regulations. All uses, activities and **developments** must comply with both the Mercer Island Development Code and Shoreline Master Program. If there is a conflict between the two, the more restrictive regulation applies.

6. GOALS AND POLICIES

In 1974 the City of Mercer Island adopted Shoreline Goals and Policies. These goals and polices are consistent with the City's Comprehensive Plan adopted in 1993.

B. SHORELINE DESIGNATED ENVIRONMENTS

1. DESIGNATED ENVIRONMENTS

Different areas of the **City's** shoreline have different natural characteristics and **development** patterns. As a result, three (3) Shoreline Designated Environments are established to regulate **developments** and uses consistent with the specific conditions of the designated environments and to protect resources of the Mercer Island shoreline jurisdiction. They are:

a. CONSERVANCY ENVIRONMENT

This environment constitutes large undeveloped areas with some natural constraints such as **wetland** conditions, containing a variety of flora and fauna. The purpose of this environment is to protect and manage the existing natural resources in order to achieve sustained resource utilization and provide recreational opportunities.

b. URBAN PARK

This environment consists of shoreline areas designated for **public access** and active and passive public recreation. It includes, but is not limited to **street ends**, public **utilities** and other publicly owned rights-of-way. The uses located in this environment should be **water-dependent** and designed to maintain the natural character of the shorelines.



c. URBAN RESIDENTIAL

The purpose of this environment is to provide for residential and recreational utilization of the shorelines, compatible with the existing residential character in terms of bulk, scale and type of **development**.

2. SHORELINE ENVIRONMENT MAP

The map in Appendix F of this Development Code is the official map of the **City** designating the various shoreline environments and the shoreline jurisdiction within the **City**.

3. PERMIT REQUIREMENTS FOR SHORELINE USES AND DEVELOPMENT WITHIN THE DESIGNATED ENVIRONMENTS

All proposed **development** within the shoreline jurisdiction shall be consistent with the regulations of this Shoreline Master Program, the Shoreline Management Act of 1971 and the Mercer Island Development Code. In addition all **development** shall conform to permit requirements of all other agencies having jurisdiction within the designated environments.

The following table specifies the shoreline uses and **developments** which may take place or be conducted within the designated environments. It also specifies the type of Shoreline Permit required and further states the necessary reviews under the State Environmental Policy Act (SEPA). The uses and **developments** listed in the matrix are allowed only if they are not in conflict with more restrictive regulations of the Mercer Island Development Code and are in compliance with the regulations specified in Part D of this Section.

Key: CE: Categorically Exempt
SEP: Shoreline Exemption Permit
SDP: Substantial Development Permit
SEPA: Required review under the State Environmental Policy Act
NP: Not Permitted Use.

The regulations of the Shoreline Master Program apply to all shoreline uses and **development**, whether or not that **development** is exempt from the permit requirements (CE, SEP, or SDP).



Shoreline Use:	Designated Environments:		
	Conservancy Environment	Urban Park Environment	Urban Residential Environment
Single-Family Residential and associated Appurtenances	NP	NP	CE or SDP if the construction is not by an owner, lessee or contract purchaser for his/her own use or if alteration applies.
Multi-Family Residential	NP	NP	SDP, SEPA
Public and Private Recreational Facilities and Parks	SDP, SEPA	SDP, SEPA	SDP, SEPA
Moorage Facilities	SDP, SEPA	SDP, SEPA	SDP, SEPA
Commercial Marinas, Moorage and Storage of commercial boats and ships.	NP	NP	NP
Bulkheads and Shoreline Protective Structures	SDP, SEPA	SDP, SEPA	SEP, SEPA
Breakwaters and Jetties.	NP	NP	NP
Utilities	SDP, SEPA	SDP, SEPA	CE, SEP or SDP, SEPA
Dredging	SDP, SEPA	SDP, SEPA	SDP, SEPA
Alterations over 250 cubic yards – outside the building footprint	SDP, SEPA	SDP, SEPA	SDP, SEPA
If a use is not listed in this matrix, it is not permitted.			

C. ADMINISTRATION AND PROCEDURES

1. ADMINISTRATIVE RESPONSIBILITY

Except as otherwise stated in this Section, the **Code Official** is responsible for:

- a. Administering the Shoreline Master Program.
- b. Approving, approving with conditions or denying Shoreline Exemption Permit, **Substantial Development Permits, Variances** and permit revisions in accordance with the provisions of this Shoreline Master Program.
- c. Determining compliance with RCW 43.21C, State Environmental Policy Act.

2. PERMITS AND DECISIONS

No **development** shall be undertaken within the shoreline jurisdiction without first obtaining a permit in accordance with the procedures established in the Shoreline Master Program. In addition such permit shall be in compliance with permit requirements of all other agencies having jurisdiction within the shoreline designated environment.



a. CATEGORICAL EXEMPTIONS

Construction and normal maintenance of a **single-family dwellings** by the owner, lessee or contract purchaser, for his/her own use, which ~~complies with all requirements~~ of this Shoreline Master Program and the City of Mercer Island Development Code, including **appurtenances**, is categorically exempt (CE) from the Substantial Development Permit. Construction authorized under this exemption shall be located **landward** of the **ordinary high water mark**.

b. SHORELINE EXEMPTION PERMIT

A Shoreline Exemption Permit (SEP) may be granted to the following **development** as long as such **development** is in compliance with all applicable requirements of this Shoreline Master Program, the City of Mercer Island Development Code and WAC 173-27-040:

- i. Any **development** of which the total cost or **fair market value**, whichever is higher, does not exceed two thousand five hundred (2,500) dollars, if such **development** does not materially interfere with the normal public use of the water or shorelines of the state.
- ii. Normal maintenance or repair of existing **structures or developments**, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts established to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a **development** to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Normal maintenance of **single-family dwellings** is categorically exempt as stated above;
- iii. Construction of the normal protective **bulkhead** common to **single-family dwellings**. A "normal protective" **bulkhead** is constructed at or near the **ordinary high water mark** to protect a **single-family dwelling** and is for protecting land from erosion, not for the purpose of creating land. Where an existing **bulkhead** is being replaced, it shall be constructed no further **waterward** of the existing **bulkhead** than is necessary for construction of new footings;
- iv. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this Section;



- v. Construction or modification of navigational aids such as channel markers and anchor buoys;
- vi. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a **single-family dwelling**, for which the cost or **fair market value**, whichever is higher, does not exceed ten thousand (10,000) dollars.
- vii. Any project with a certification from the governor pursuant to chapter 80.50 RCW.

If a **development** is exempt from the requirements of the **Substantial Development Permit**, but a **deviation** or **variance** from the provisions of the Shoreline Master Program is required, the applicant must request said **deviation** or **variance** through the procedures established in this Section.

c. **SUBSTANTIAL DEVELOPMENT PERMIT**

A **Substantial Development Permit (SDP)** is required for any **development** within a shoreline jurisdiction not covered under a Categorical Exemption or Shoreline Exemption Permit. Requirements and procedures for securing a **Substantial Development Permit** are established below. Compliance with all applicable federal and state regulations is also required.

d. **DEVIATIONS AND DEVIATION CRITERIA**

The **City Planning Commission** shall have the authority to grant **deviations** from the regulations specified in Part D, Table B of this Section; PROVIDED the proposed **deviation**:

- i. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;
- ii. Will not compromise a reasonable interest of the adjacent property owners;
- iii. Is necessary to the reasonable enjoyment of property rights of the applicant; and
- iv. Is not in conflict with the general intent and purpose of the SMA, the Shoreline Master Program and the Development Code.



e. VARIANCES AND VARIANCE CRITERIA

Variations to the Shoreline Master Program requirements are only granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In addition, in all instances the applicant for a **variance** shall demonstrate strict compliance with all **variance** criteria set out in MICC 19.15.020(G)(4) and the following additional criteria:

- i. In the granting of all **variance** permits, consideration shall be given to the cumulative impact of additional request for like actions in the area. For example if **variances** were granted to other **developments** in the area where similar circumstances exist the total of the **variances** shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- ii. **Variance** permits for **development** that will be located **landward** of the **ordinary high water** mark may be authorized provided the applicant can demonstrate all of the following:
 - (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with reasonable use of the property not otherwise prohibited by the master program;
 - (b) That the hardship in (a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - (c) That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;
 - (d) That the requested **variance** does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and
 - (e) That the public interest will suffer no substantial detrimental effect.
- iii. **Variance** permits for **development** that will be located **waterward** of the **ordinary high water** mark may be authorized provided the applicant can demonstrate all of the following:



- (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes reasonable use of the property not otherwise prohibited by the master program;
- (b) That the proposal is consistent with the criteria established under (ii)(b) through (e) of this Section; and
- (c) That the public rights of navigation and use of the shorelines will not be adversely affected.

3. PERMIT REVIEW PROCEDURES

STEP 1. APPLICATION

A complete application for the Shoreline Exemption Permit (SEP), **Substantial Development Permit (SDP)**, or **Variance** and SEPA Checklist, if applicable, shall be filed with the **City** on required forms.

SEP review process: The **City** shall issue or deny the SEP within (10) calendar days of receiving the request, or after SEPA review. The **City** shall then send the SEP to the applicant and the Department of Ecology, pursuant to WAC 173-27-130, and to all other applicable local, state, or federal agencies.

STEP 2. PUBLIC NOTICE

Public notice of an application for a **Substantial Development Permit** shall be made in accordance with the procedures set forth in MICC 19.15.020; PROVIDED such notice shall be given at least thirty (30) days before the date of final local action.

If an application is not exempt from SEPA and no prior SEPA notice has been given, the **City** shall publish the SEPA determination and a notice that comments on the SEPA documents may be made during the review of the SDP, **Deviation** and **Variance** application.

Within thirty (30) days of the final publication, posting or mailing of the notice, whichever comes last, any interested **person** may submit written comments on the proposed application. The **City** will not make a decision on the permit until after the end of the comment period.

STEP 3. REVIEW

The Shoreline Management Act does not require that public hearing be held on SDP and/or **variance** application. The technical review of SDP and/or **variance** must insure that the proposal complies with the criteria of the Shoreline Master



Program, Shoreline Management Act policies and all requirements of the City of Mercer Island Development Code.

An **open record hearing** before the Planning Commission, as set out in MICC 19.15.020(F), shall be conducted on all **deviation** applications and may be conducted on the SDP or **variance** application when the following factors exist:

- (a) The proposed **development** has broad public significance; or
- (b) Within the thirty-day (30) comment period, ten (10) or more interested citizens file a written request for a public hearing; or
- (c) The cost of the proposed **development**, exclusive of land, will exceed one hundred thousand (100,000) dollars.

STEP 4. DECISION

After the thirty (30) day comment period has ended, the **City** shall within fifteen (15) days decide whether to approve or deny any SDP, **deviation** and/or **variance** application, unless the applicant and any adverse parties agree in writing to an extension of time with a certain date.

The **City's** action in approving, approving with conditions, or denying SDP, **Deviation** and/or **Variance** shall be given in writing in the form required by WAC 173-27-120 (or its successor) and mailed to the applicant, all **persons** who submitted written comments, the Department of Ecology, the Washington State Attorney General, and all other applicable local, state, or federal agencies.

The **City's** action in approving, approving with conditions, or denying any SDP and/or **Deviation** is final unless an appeal is filed in accordance with applicable law.

The final decision in approving, approving with conditions, or denying **Variance** is rendered by the Department of Ecology in accordance with WAC 173-27-200, and to all other applicable local, state, or federal agencies.

STEP 5. FILING

The **City's** final action in approving, approving with conditions, or denying SDP, **Deviation** and/or **Variance** shall be filed with the Department of Ecology and Washington State Attorney General.

STEP 6. AUTHORIZATION TO COMMENCE CONSTRUCTION

If the SDP and/or **variance** is approved, the applicant shall not begin construction until after the twenty-one (21) day review



period by the Department of Ecology is over and/or any appeals concluded. The applicant shall also comply with all applicable federal, state and **City** standards for construction.

4. TIME LIMITS OF PERMITS

The following time limits shall apply to all Shoreline Exemption, **Substantial Development, Deviation and Variance Permits**:

- a. Construction or substantial progress toward construction of a **development** for which a permit has been granted must be undertaken within two (2) years after the approval of the permit or the permit shall terminate.
- b. A single extension before the end of the time limit, with prior notice to parties of record, for up to one (1) year, based on reasonable factors may be granted.

5. SUSPENSION OF PERMITS

The **City** may suspend any Shoreline Exemption, **Substantial Development, Deviation and Variance Permit** when the permittee has not complied with the conditions of the permit. Such non-compliance may be considered a public nuisance. The enforcement shall be in conformance with the procedures set forth in MICC 19.15.030, Enforcement.

6. REVISIONS

When an applicant seeks to revise a SDP, **Deviation and/or Variance Permit** the requirement of WAC 173-27-100, as amended, shall be met.

D. USE REGULATIONS

All **development** within the shoreline jurisdiction shall be in compliance with all **development** requirements specified in this section.



CHAPTER 19.07

CRITICAL LANDS

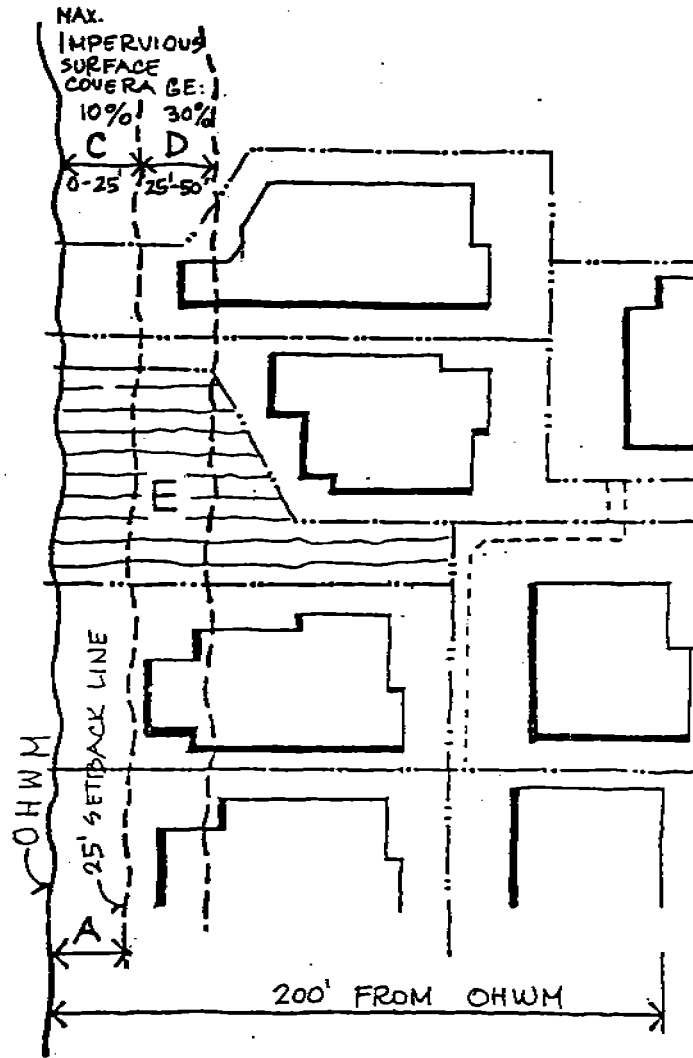
TABLE A. REQUIREMENTS FOR DEVELOPMENT LOCATED LANDWARD FROM THE OHWM

SETBACKS FOR ALL STRUCTURES (INCLUDING FENCES OVER 30" HIGH) AND PARKING	* A	25' from the OHWM and all required setbacks of the Development Code
HEIGHT LIMITS FOR ALL STRUCTURES	B	Shall be the same as height limits specified in the Development Code but shall not exceed a height of thirty-five feet above average grade level (WAC 173-27-040)
MAXIMUM IMPERVIOUS SURFACE COVERAGE	C	10%: between 0-25' from OHWM
	D	30%: between 25'-50' from OHWM
MINIMUM LAND AREA REQUIREMENTS	E	All Semi-Private, Commercial and Non-Commercial Recreational Tracts and Areas shall have min. land area: 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties and a Planning Commission approval of a site plan is required

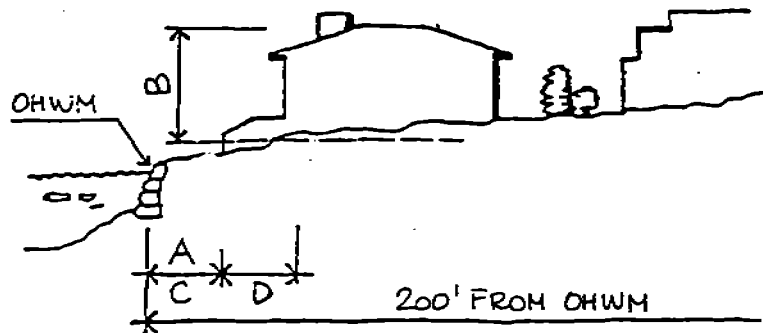
* The letters in this column refer to the Plan View and Section diagram.



PLAN VIEW



SECTION





CHAPTER 19.07

CRITICAL LANDS

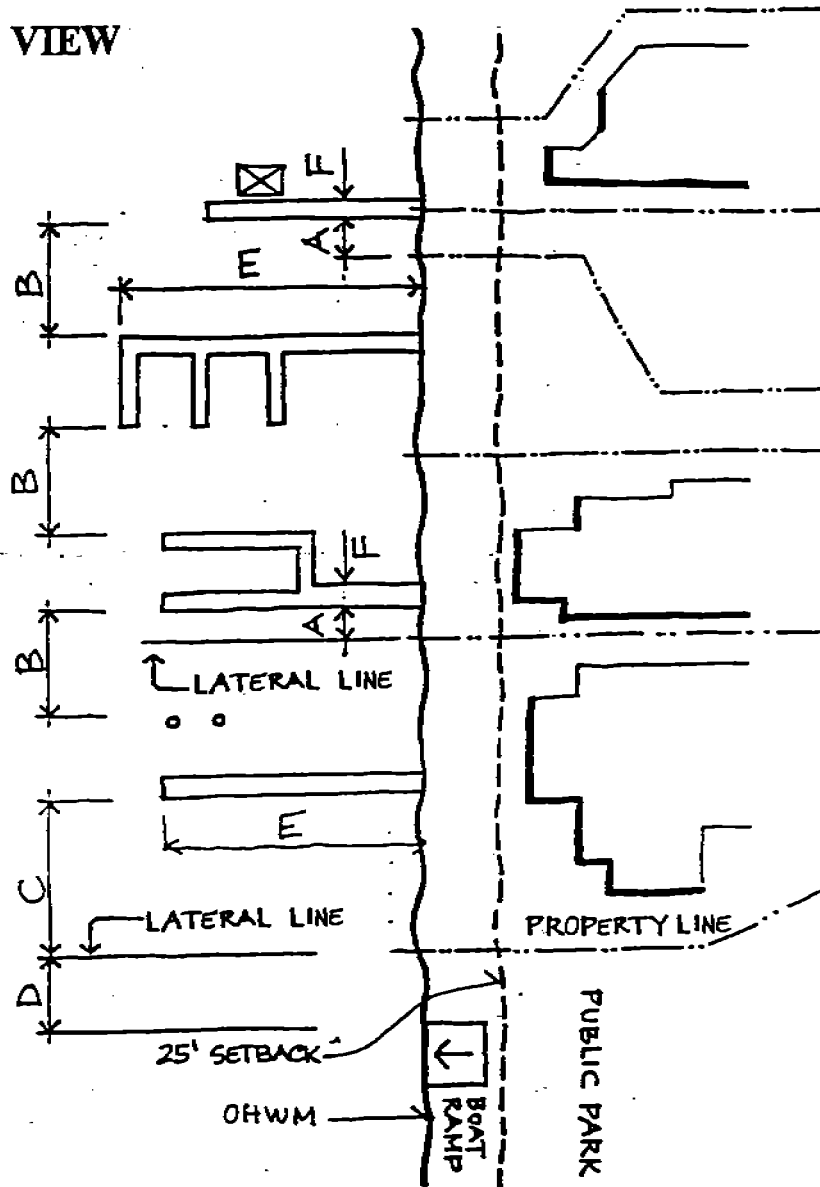
TABLE B. REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM

SETBACKS FOR ALL MOORAGE FACILITIES, COVERED MOORAGE, LIFT STATIONS AND FLOATING PLATFORMS	*	
	A	10' from the lateral line;
	B	35' from adjoining moorage structures: (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below);
	C	50' or 50% of the water frontage of the property, whichever is less, from the common boundary of the subject property Urban Park of Conservation Environment.
SETBACKS FOR BOAT RAMPS AND OTHER FACILITIES FOR LAUNCHING BOATS BY AUTO OR HAND, INCLUDING PARKING AND MANEUVERING SPACE.	D	25' from any adjacent private property line
LENGTH OR MAX. DISTANCE WATERWARD FROM THE "OHWM" FOR MOORAGE FACILITIES, COVERED MOORAGE, LIFT STATIONS AND FLOATING PLATFORMS	E	Max. 100', but in cases where water depth is less than 10' from the mean low water, length may extend up to 150' or to the point where water depth is 10' at mean low water, whichever is less
WIDTH	F	Max. 8'; does not apply to boat ramps, lift stations, or floating platforms
HEIGHT LIMITS FOR PIERS AND DOCKS	G	5' above the elevation of the OHWM
HEIGHT LIMITS FOR WALLS, HANDRAILS AND STORAGE CONTAINERS LOCATED ON PIERS	H	3' above the decking of the moorage facility
HEIGHT LIMITS FOR MOORING PILES, DIVING BOARDS AND DIVING PLATFORMS	I	10' above the elevation of the OHWM

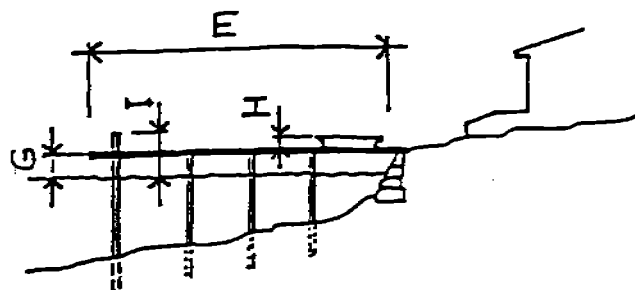
* The letters in this column refer to the Plan View and Section diagram.



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TABLE B (CONT.). REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM

MINIMUM WATER FRONTAGE FOR MOORAGE FACILITY	J	Single Family lots: 40'
	K	Shared - two adjoining lots: 40' combined.
	L	Semi-private recreational tracts: 2 families: 40'; 3-5 families: 40' plus 10' for each family more than 2; 6-10 families: 70' plus 5' for each family more than 5; 11-100 families: 95' plus 2' for each family more than 10; 101+ families: 275' plus 1' for each family more than 100

* The letters in this column refer to the Plan View.

PLAN VIEW

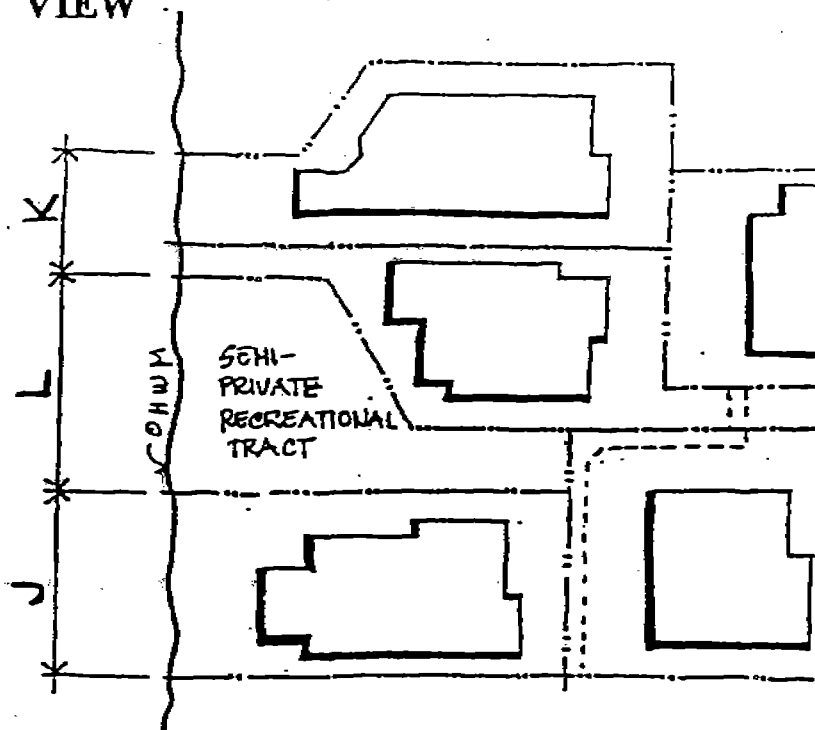
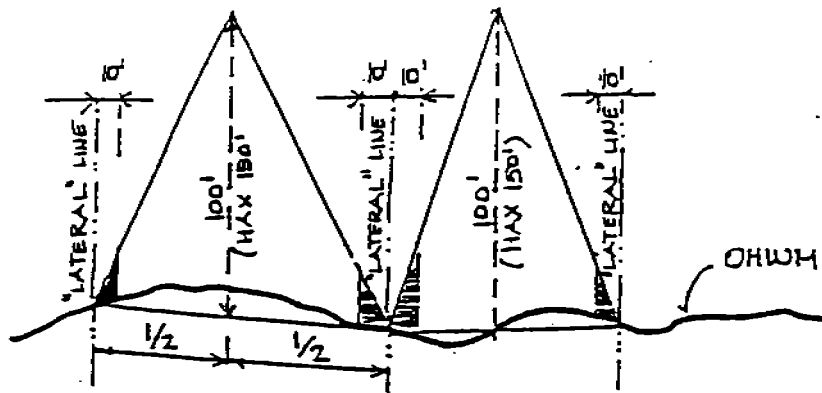




TABLE B (CONT.). REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM (CONT.)

<p>COVERED MOORAGE</p>	<p>Permitted on single-family residential lots subject to the following:</p> <ul style="list-style-type: none"> (a) Max. height above the OHWM: 20'; 20' to 25' subject to deviation process (Part C2.) (b) Location/Area Requirements: See Figure A for single-family lots Figure B for shared moorage. Outside the triangle subject to deviation process (Part C2.) (c) Building Area: 600 square feet. 50% of the permitted covered Building areas larger than 600 square feet are subject to conditional use permit within the triangle or variance outside the triangle (d) Covered Moorage shall have open sides. <p>Prohibited in semi-private recreational tracts, commercial and non-commercial recreational areas.</p>
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FIGURE A: AREA OF PERMITTED COVERED MOORAGE, INDIVIDUAL LOTS:



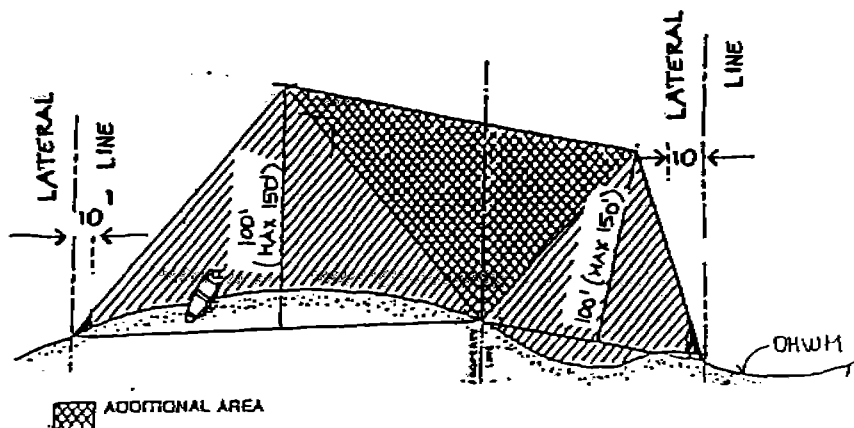
The covered portion of a moorage shall be restricted to the area lying within a triangle. The base of the triangle shall be a line drawn between the points of intersection of the property sidelines with the **ordinary high water mark**. The location of the **covered moorage** shall not extend more than 100' from the center of the base line of such triangle. In cases where water depth is less than ten (10) feet from the **mean low water**, the location of the **covered moorage** may extend up to one hundred fifty (150) from the center of the base line or to the point where water depth is ten (10) feet at **mean low water**, whichever is less. The required ten (10) foot setbacks from the side property lines shall be deducted from the triangle area.



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FIGURE B: AREA OF PERMITTED COVERED MOORAGE AND MOORAGE FACILITIES, TWO ADJOINING SINGLE-FAMILY LOTS:



Where a **covered moorage** is built pursuant to the agreement of adjoining owners of single-family lots, the **covered moorage** area shall be deemed to include, subject to limitations of such joint agreement, all of the combined areas lying within the triangles extended upon each adjoining property and the inverted triangle situated between the aforesaid triangles.

3. SINGLE-FAMILY MOORAGE FACILITIES

- a. **Moorage facilities** may be developed and used as an accessory to **dwellings** on shoreline lots with water frontage meeting or exceeding the minimum lot width requirements specified in Table A.
- b. **Piles, floats or other structures** in direct contact with water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of **structures** shall comply with all applicable state and federal regulations.

4. BULKHEADS AND SHORELINE PROTECTIVE STRUCTURES

- a. Construction and maintenance of normal protective **bulkhead** common to **single-family dwellings** requires only a Shoreline Exemption Permit; HOWEVER, if the construction of the **bulkhead** is undertaken wholly or in part on lands covered by water, such construction shall comply with the **SEPA Rules, Chapter 197-11 WAC**.
- b. **Bulkheads** shall be located generally parallel to the natural shoreline. No **filling** may be allowed **waterward** of the **ordinary high water mark**, unless there has been severe and unusual erosion within one (1) year immediately preceding the application for the **bulkhead**. In this event the **City** may allow the placement of the **bulkhead** to recover the dry land area lost by erosion.



- c. Replacement **bulkheads** may be located immediately in front of and abutting an existing **bulkhead**, but no **filling** shall be allowed **waterward** of the **ordinary high water mark**.

5. UTILITIES

- a. **Utilities** shall be placed underground and in common rights-of-way wherever economically and technically practical.
- b. Shoreline **public access** shall be encouraged on publicly owned **utility** rights-of-way, when such access will not unduly interfere with **utility** operations or endanger public health and safety. **Utility** easements on private property will not be used for **public access**, unless otherwise provided for in such easement.
- c. Restoration of the site is required upon completion of **utility** installation.
- d. Construction of **utility buildings** and **structures** require a **Conditional Use Permit**.

6. DREDGING

- a. Dredging **waterward** or **landward** of the **ordinary high water mark** shall be permitted only if navigational access has been unduly restricted or other extraordinary conditions in conjunction with **water-dependent** use, provided that the use meets all state and federal regulations.
- b. Dredging shall be the minimum necessary to accommodate the proposed use.
- c. Dredging shall utilize techniques that cause the least possible environmental and aesthetic impact.
- d. Dredging is prohibited in the following locations:
 - i. Fish spawning areas.
 - ii. In unique environments such as lake logging of the underwater forest.
- e. Disposal of dredged material shall comply with Ecology Water Quality Certification process and U.S. Army Corps of Engineers permit requirements. The location and manner of the disposal shall be approved by the **City**.



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19.07.090 TREES AND VEGETATION

A. PURPOSE

These regulations are adopted for the following purposes, which shall be considered in the administration of this Section:

1. To promote the public health, safety and general welfare of the citizens of Mercer Island;
2. To preserve and enhance the island's physical and aesthetic character by preventing indiscriminate **removal** or destruction of **trees** and **vegetative cover** on **undeveloped** and **partially developed** property;
3. To promote land development practices that result in a minimal disturbance to the island's **trees** and **vegetative cover**;
4. To minimize surface water and ground water runoff and diversion and to prevent erosion and the risks of slides;
5. To minimize the need for additional storm drainage facilities;
6. To retain clusters of **trees** for the abatement of noise and wind protection;
7. To acknowledge that **trees** and **vegetative cover** produce oxygen from carbon dioxide and are an aid in reducing air pollution;
8. To minimize the devaluation of property values due to unnecessary destruction of **trees** and **vegetative cover**;
9. To promote building and site planning practices that are consistent with the island's natural topography and **vegetative cover** features while at the same time recognize that certain factors such as condition (e.g. disease, danger of falling etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the **removal** of certain **trees** and **vegetative cover**;
10. To ensure prompt development, restoration and replanting and effective erosion control of property after land clearing through the use of phase development, performance bonds, and other reasonable controls;
11. To reduce siltation and water pollution in Lake Washington;
12. To implement the City Comprehensive Plan;



13. To implement the goals and policies of the State of Washington Environmental Policy Act and the Bald Eagle Protection Act and the Federal Endangered Species Act;
14. To provide for reasonable development of land on Mercer Island.
15. To manage undeveloped rights-of-way as the City's largest greenbelt.

B. PERMIT REQUIREMENTS

1. A **Tree Cutting/Pruning Permit** is required for all of the following :
 - a. On lots that are **undeveloped or partially developed**;
 - b. On **public property**;
 - c. On land that is designated a **steep slope**;
 - d. On land that is within a designated **watercourse corridor**, or a **wetland** or a **wetland corridor**;
 - e. On land that is within 800 feet of a designated **Bald Eagle** nest and on land within 250 of the ordinary high watermark of Lake Washington;
 - f. On land that is in the Town Center, Business, Planned Business multifamily zoning districts, or a non-residential use in a single family zones.
2. Issuance of a **Tree Cutting/Pruning Permit** shall be issued by the **City Arborist** based on the criteria and conditions established in Part C of this Section.
3. An application for a **Tree Cutting/Pruning Permit** shall be submitted on a form provided by the city, together with a plot plan and other information as described hereinafter:
 - a. The applicant shall give the name, address and telephone number of the applicant and owner of the property.
 - b. The applicant shall give the street address (if known) and legal description of the property (if known).
 - c. The application shall bear a proposed time schedule for **tree cutting/pruning**, land restoration, implementation of erosion control and any excavation or construction of improvements.



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- d. Four prints of the plot plan shall be provided at a scale of one inch equals 10 feet (1" = 10') or larger. Plot plans of smaller scale will not be accepted unless prior permission is obtained from the **City Arborist**. The scale and north indicator shall be given on the plan. The plot plan shall contain all those items as indicated herewith superimposed on the same drawings.
 - e. The plot plan shall indicate topography by contours at a minimum of five-foot intervals, and the grading by dashed contour lines for existing grades and by solid contour lines for existing grades to be changed. The entire area to be cut and/or filled shall be indicated, and temporary storage of any excavated or fill material also indicated.
 - f. The plot plan shall indicate the location of existing and proposed improvements, including, but not limited to, structures, driveways, ponds, and the location of building (zoning) setbacks.
 - g. The plot plan shall indicate the location, diameter and/or size, and species of all existing **trees** and **vegetative cover**. Areas of significant **vegetative cover** shall also be identified. **Trees** and **vegetative cover** proposed to be removed shall be identified and differentiated from those **trees** and ground cover to remain.
 - h. The plot plan shall bear statements and other pertinent information indicating the method to be followed in erosion control and restoration of land during the immediately following construction period.
 - i. A proposed landscaping plan may be submitted with the application.
 - j. Other information as deemed necessary by the **City Arborist** may be required.
4. The **City Arborist** shall complete his review and make his decision within 20 days from the date a complete application is submitted unless an extension is authorized by the city council.
 5. Any permit granted hereunder shall expire one year from the date of issuance, except for time during the period of October 1 to April 1 each year. Upon a showing of good cause, a permit may be extended for six months. Approved plans shall not be amended without authorization of the **City Arborist**. The permit may be suspended or revoked by the **City Arborist** because of incorrect information supplied or any violation of the provisions of this chapter.
 6. No work shall commence until a permit notice has been posted on the subject site at a conspicuous location. The notice shall remain posted until the project has been completed.



7. Applications for a **Tree Cutting/Pruning Permit** shall be circulated to other departments or agencies of the city for review and approval as is deemed necessary by the **City Arborist**.
8. The City Arborist may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved **tree cutting/pruning** has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of this permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration replanting and with surety and conditions satisfactory to the City Arborist.

C. CRITERIA FOR PERMIT

Requests for a **Tree Cutting/Pruning Permit** shall be reviewed by the City Arborist based on the following conditions and criteria:

1. **Trees On Public Property**

- a. There is no **pruning** for view on **public property**.
- b. Conifers will not be topped.
- c. **Pruning** and cutting of **trees** and **vegetative cover** is limited to that required for safety and **removal** of hazardous conditions.
- d. Standing and downed dead **trees** are of value to the ecosystem and shall be removed only if they are determined to be hazardous by the City Arborist.
- e. Downed vegetation will not be removed from the site except where debris will severely limit new plant growth, result in fire hazard or has fallen across a trail.
- f. **Tree** replacement will be required, where feasible and with plant material that meets the following desired needs:
 - i. The standard replacement ratio will be five (5) **trees** six (6) feet tall or larger will be planted for each **tree** removed.
 - ii. Species and placement of new **trees** can be suggested by the applicant and will be approved by the City Arborist.
 - iii. The applicant must guarantee the health of the **trees** for one year after planting and inspection. The guarantee can be either a bond or set-aside savings account in the amount deemed appropriate by the City Arborist.



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- g. Due to the number of **trees** on the Island and the limited resources, hazardous **trees** will be dealt with in the following procedure:
- i. **Trees** will be evaluated using the International Society of Arboriculture method, *Hazard Tree Analysis for Urban Areas*, in its most recent adopted form. The **trees** will be rated using this protocol on a scale of one (1) to twelve (12). (One being least hazardous, 12 being the most hazardous.)
 - ii. **Trees** in parks, open spaces, greenbelts, an rights-of-way that rate an 11 or 12 will be handled with as soon as possible.
 - iii. **Trees** on rights-of-way that rate an 8, 9, or 10 on the International Society of Arboriculture Scale, the City will not prune or remove but will be monitor on an annual or biannual basis. Trees that rate a one through seven will not be managed at that time.
 - iv. Adjacent property owners who want to remove hazardous trees that rate an 8, 9, or 10 on the International Society of Arboriculture Scale, may do so at their own expense of pruning, removal, clean up and traffic control by obtaining a permit from the City Arborist; and subject to the other provisions of this ordinance.

2. Trees On Private Property

- a. Slopes over 20% and less than 41% require the retention of 65% of all **vegetative cover**.
- b. Slopes over 40% require the retention of 70% of all **vegetative cover**.
- c. On all slopes over 20% there is a building and cutting moratorium between October 1 and April 1 of every year. No **tree cutting, pruning, brush removal** or construction may occur during this period each year and no permits will be issued.
- d. **Trees** will be evaluated using the International Society of Arboriculture method, *Hazard Tree Analysis for Urban Areas*, in its most recent adopted form. The **trees** will be rated using this protocol on a scale of one (1) to twelve (12). (One being least hazardous, 12 being the most hazardous.) Only those **trees** rating an imminent hazard rating of 11 and 12 will be allowed to be cut. **Pruning** may be allowed on **trees** that rate a moderate hazard rating of 8, 9, or 10, based upon the discretion of the City Arborist.
- e. The City Arborist will require **tree** replacement as follows:



- i. **Five trees**, six feet tall or larger will be planted for each tree removed.
 - ii. Species and placement of new **trees** may be suggested by the applicant and will be approved by the City Arborist.
 - iii. The applicant shall guarantee that the trees are healthy and vigorous for one year after planting and inspection.
 - iv. In all cases where tree replacement is required the applicant shall deposit with the City a check in the amount of three (3) times the value of the tree or trees replaced.
- f. The permittee will bear all cost of cutting, **pruning, removal**, cleanup of debris, purchasing and replanting replacement **trees**, and any traffic control needed.
3. **PROPERTY WITH SPECIAL CIRCUMSTANCES:**
- a. Property within the Town Center, Business, Planned Business, Multifamily Zoning Districts, or a non-residential use in single-family zones shall comply with the following requirements in addition to Part 2 of this Section above:
 - i. **No Tree Cutting/Pruning Permit** will be issued without prior approval of the Design Commission.
 - ii. Design Commission review is subject to the provisions of MICC 19.15.040, Design Commission Requirements.
 - b. On land that is within a designated **watercourse corridor, wetland, or wetland corridor** shall comply with the following requirements in addition to Part 2 of this section above:
 - i. Surveys of the centerline and corridor of a **watercourse** or the edge of a **wetland** must be current to within one year of the application for development, short plat or subdivision.
 - ii. No power equipment may be used within a **watercourse** or **wetland corridor** without the explicit approval of the Planning Commission.
 - c. On land within 800 feet of a designated **bald eagle** nests or within in 250 feet of the ordinary high water mark of Lake Washington shall comply with the following requirements in addition to Part 2 of this Section above:



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- i. **Tree pruning, cutting or removal, as well as any construction requires a Bald Eagle Management Plan approved by the City Arborist:**
 - (a) The State of Washington Department of Fish and Wildlife will designate that a nest is certified as a Bald Eagle nest and will inform the City of Mercer Island.
 - (b) Exceptions to the Standard Bald Eagle Management Plan need to be approved directly by the Washington Department of Fish and Wildlife Eagle Biologist for the area.
 - (c) There is a State and Federally mandated **tree removal, tree pruning, building, and construction moratorium** within 800 feet of a Bald Eagle nest between February 1 and June 15 each year.
 - (d) All **trees** greater than 20 inches in diameter measured 4.5 feet above the ground shall be retained.

D. NUISANCE ABATEMENT

1. **Trees and vegetative cover** which meets the definition of a nuisance shall be subject to the provisions of Chapter 8.24 NUISANCE CONTROL CODE.
2. In addition to the provisions of Chapter 8.24 NUISANCE CONTROL CODE the following requirements shall apply to **trees and vegetative cover**:
 - a. **Branches over roads** shall be trimmed to a minimum of 12 feet above the road surface, see Figure 1 attached.
 - b. **Branches over sidewalks** shall be trimmed to a minimum of 8 feet above the sidewalk and one foot behind the sidewalk, see Figure 1 attached.
 - c. **Street trees** and other vegetation will be spaced according to the following spacing requirements to facilitate the safe flow of traffic, see Figure 2 attached:
 - i. No **tree plantings** are allowed within a forty-foot sight triangle.
 - ii. **Shrubs** shall not exceed 36" in height above the **street level** within this triangle.
 - iii. **Ten foot (10')** minimum spacing for small **trees**.
 - iv. **Hedges** are not allowed between the sidewalk and the curb, and must be planted at least five feet (5') behind the sidewalk.



- v. Hedges planted for the benefit of adjacent property owners, are required to be maintained by the adjacent property owners.
- vi. Hedges must be trimmed at least three feet (3') behind the sidewalk.
- vii. Plantings of **trees**, shrubs or hedges are not allowed between the street/road edge and a ditch.

E. EXEMPTIONS

The following shall be exempt from the provisions of this chapter as determined by the City Arborist:

1. **Removal of trees** and ground cover for the installation and maintenance of fire hydrants, water meters and pumping stations, and street furniture by the city or its contractors;
2. **Removal of trees and ground cover in emergency situations** involving immediate danger to life or property or substantial fire hazards;

F. APPEALS

1. Any person or persons aggrieved by any action or decision of City staff which is based on the provisions of any City law, rule or regulation, other than a requirement set forth in this chapter, may appeal such action and/or decision by following the applicable appeal procedure for the type of action or decision involved.
2. Any person or persons aggrieved by any action or decision of City staff approving, denying, or approving with conditions a development proposal based solely on the requirements of this chapter other than as set forth above, may seek appeal to the Planning Commission. If the Planning Commission makes the initial decision under the Critical Areas Ordinance, then the appeal is to the City Council.

G. FEES

Fees shall be set forth in a schedule adopted by the City Council by resolution with any modifications, which will be made from time to time by the City Council. Fees shall be based on the time required to review and inspect applications subject to the provisions of this ordinance.

H. ENFORCEMENT

1. Unauthorized cutting, **pruning** or **removal** of **trees** or other vegetation shall be considered a civil infraction and will be prosecuted by the City of Mercer Island.



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2. **Trees** and shrubs shall be appraised according to the method specified by the *Council of Landscape and Tree Appraisers, 1994 revision*.
3. Washington State law allows for a monetary fine of up to three times the value of the damaged or removed plant, plus the cost of reasonable remediation be assessed.
4. Reasonable remediation is the cost to remove the remaining plant parts or debris, the cost to clean up the area, the cost to replant the area, and the cost to administer the remediation process.

I. DEFINITIONS

The following definitions apply to this Code Section only. If the following terms are used elsewhere in the Development Code, their meanings are as set out in MICC 19.16.010.

Brush consists of plants, native, ornamental, or invasive species, that grow on a site. This includes ground cover, shrubs and small **trees**.

City Arborist is the responsible official for administering the provisions of MICC 19.07.090.

Conifer trees are those **trees** that are called evergreen, they stay green all year, have needles or scales for leaves, and bear seeds in protective cones. This includes a few rare conifer **trees** that lose their needles in the fall such as: Tamarack or Larch, *Larix sp.*, Dawn Redwood, *Metasequoia glyptostroboides*, or Bald Cypress, *Taxodium distichum*.

Public property is defined as any property under direct ownership or control of the city of Mercer Island. This includes, but is not limited to, parks, green belts, open spaces, rights-of-way, and grounds around public buildings.

Pruning is the cutting back of any **tree** or shrub by either mechanical or manual means that removes any portion of the **tree** or shrub.

Removal is defined as cutting to the ground or cutting a plant to a degree that it will not recover in the long run.

Steep slope is a slope greater than 20% measured on any forty-foot horizontal area of the property. The **steep slope** includes the 10 feet from the top of the slope and ten feet from the base of the slope.

Tree Cutting/Pruning Permit is a permit issued by the City Arborist that authorizes the removal, trimming or pruning of trees and vegetative cover under the provisions of MICC 19.07.090.

Trimming is the cutting back of any **tree** or shrub by either mechanical or manual means that removes any portion of the **tree** or shrub.



Vegetative cover is defined as all vegetation including the ground cover layer, the shrubs and the trees.

Wetland corridor. The boundary of a wetland Critical Corridor includes the area that extends 25 feet beyond the delineated wetland edge.



19.07.100 ENVIRONMENTAL PROCEDURES

A. AUTHORITY

The **City** adopts the ordinance codified in this Section under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the **SEPA rules**, WAC 197-11-904. This Section contains this **City's** SEPA procedures and policies. The **SEPA rules**, Chapter 197-11 WAC, must be used in conjunction with this Section.

B. PURPOSE

The purpose of these procedures is to implement the requirements of the State Environmental Policy Act of 1971 (SEPA), Chapter 43.21C RCW, as amended, and the **SEPA rules** adopted by the State Department of Ecology and the authority and function of the **City** as provided therein. These procedures shall provide the **City** with principles, objectives, criteria and definitions to provide an efficient overall **City-wide** approach for implementation of the State Environmental Policy Act and Rules. These procedures shall also designate the responsible official, where applicable, and assign responsibilities within the **City** under the National Environmental Policy Act (NEPA).

C. SCOPE AND COVERAGE

It is the intent of the **City** that compliance with the requirements of this Section shall constitute procedural compliance with SEPA and the **SEPA rules** for all proposals. To the fullest extent possible, the procedures required by this Section shall be integrated with existing planning and licensing procedures utilized by the **City**.

D. ADOPTION BY REFERENCE

The **City** adopts by reference as though fully set forth in this Section, the following sections and subsections of Chapter 197-11 WAC (the **SEPA rules**) as adopted by the Department of Ecology of the state of Washington on January 26, 1984, and as the same may be hereafter amended:

WAC 197-11-020(3)	Purpose
197-11-030	Policy
197-11-040	Definitions
197-11-050	Lead agency
197-11-055	Timing of the SEPA process
197-11-060	Content of environmental review
197-11-070	Limitations on actions during the SEPA process
197-11-080	Incomplete or unavailable information
197-11-090	Supporting documents
197-11-100	Information required of applicants
197-11-300	Purpose of this part (categorical exemptions and threshold determinations)
197-11-305	Categorical exemptions
197-11-310	Threshold determination required
197-11-315	Environmental checklist
197-11-330	Threshold determination process
197-11-335	Additional information
197-11-340	Determination of nonsignificance
197-11-350	Mitigated DNS
197-11-360	Determination of significance (DS)/initiation of scoping



197-11-390	Effect of threshold determination
197-11-400	Purpose of EIS
197-11-402	General requirements
197-11-405	EIS types
197-11-406	EIS timing
197-11-408	Scoping
197-11-410	Expanded scoping
197-11-420	EIS preparation
197-11-425	Style and size
197-11-430	Format
197-11-435	Cover letter or memo
197-11-440	EIS contents
197-11-442	EIS contents on nonproject proposals
197-11-443	EIS contents when prior nonproject EIS
197-11-444	Elements of the environment
197-11-448	Relationship of EIS to other considerations
197-11-450	Cost benefit analysis
197-11-455	Issuance of DEIS
197-11-460	Issuance of FEIS
197-11-500	Purpose of this part (commenting)
197-11-502	Inviting comments
197-11-504	Availability and cost of environmental documents
197-11-508(2)	SEPA register
197-11-535	Public hearings and meetings
197-11-545	Effect of no comment
197-11-550	Specificity of comments
197-11-560	FEIS response to comments
197-11-570	Consulted agency costs to assist lead agency
197-11-600	When to use existing environmental documents
197-11-610	Use of NEPA documents
197-11-620	Supplemental environmental impact statement - Procedures
197-11-625	Addenda - Procedures
197-11-630	Adoption - Procedures
197-11-635	Incorporation by reference - Procedures
197-11-640	Combining documents
197-11-650	Purpose of this part (SEPA and agency decisions)
197-11-655	Implementation
197-11-660	Substantive authority and mitigation
197-11-680	Appeals
197-11-700	Definitions
197-11-702	Act
197-11-704	Action
197-11-706	Addendum
197-11-708	Adoption
197-11-710	Affected tribe
197-11-712	Affecting
197-11-714	Agency
197-11-716	Applicant
197-11-718	Built environment
197-11-720	Categorical exemption
197-11-722	Consolidated appeal
197-11-724	Consulted agency
197-11-726	Cost benefit analysis
197-11-728	County/city



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197-11-730	Decisionmaker
197-11-732	Department
197-11-734	Determination of nonsignificance (DNS)
197-11-736	Determination of significance (DS)
197-11-738	EIS
197-11-740	Environment
197-11-742	Environmental checklist
197-11-744	Environmental document
197-11-746	Environmental review
197-11-748	Environmentally sensitive area
197-11-750	Expanded scoping
197-11-752	Impacts
197-11-754	Incorporation by reference
197-11-756	Lands covered by water
197-11-758	Lead agency
197-11-760	License
197-11-762	Local agency
197-11-764	Major action
197-11-766	Mitigated DNS
197-11-768	Mitigation
197-11-770	Natural environment
197-11-772	NEPA
197-11-774	Nonproject
197-11-776	Phased review
197-11-778	Preparation
197-11-780	Private project
197-11-782	Probable
197-11-784	Proposal
197-11-786	Reasonable alternative
197-11-788	Responsible official
197-11-790	SEPA
197-11-792	Scope
197-11-793	Scoping
197-11-794	Significant
197-11-796	State agency
197-11-797	Threshold determination
197-11-799	Underlying governmental action
197-11-800	Categorical exemptions
197-11-880	Emergencies
197-11-890	Petitioning Department of Ecology to change exemptions
197-11-900	Purpose of this part (agency compliance)
197-11-902	Agency SEPA policies
197-11-904	Agency SEPA procedures
197-11-906	Content and consistency of agency procedures
197-11-910	Designation of responsible official
197-11-916	Application to ongoing actions
197-11-920	Agencies with environmental expertise
197-11-924	Determining the lead agency
197-11-926	Lead agency for governmental proposals
197-11-928	Lead agency for public and private proposals
197-11-930	Lead agency for private projects with one agency with jurisdiction
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city



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197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies
197-11-936	Lead agency for private projects requiring licenses from more than one state agency
197-11-938	Lead agencies for specific proposals
197-11-942	Agreements on lead agency status
197-11-944	Agreements on division of lead agency duties
197-11-946	DOE resolution of lead agency disputes
197-11-948	Assumption of lead agency status
197-11-960	Environmental checklist
197-11-965	Adoption notice
197-11-970	Determination of nonsignificance (DNS)
197-11-980	Determination of significance and scoping notice (DS)
197-11-985	Notice of assumption of lead agency status
197-11-990	Notice of action.

E. ABBREVIATIONS

The following abbreviations are used in this Section:

1. DEIS: Draft Environmental Impact Statement.
2. DNS: Determination of Nonsignificance.
2. DS: Determination of Significance.
3. EIS: Environmental Impact Statement
4. FEIS: Final Environmental Impact Statement.
5. - SEIS: Supplemental Environmental Impact Statement.

F. DESIGNATION OF RESPONSIBLE OFFICIAL

For those proposals for which the **City** is the lead agency, the responsible official shall be the director of the Development Services Group or a duly authorized designee.

G. RESPONSIBLE OFFICIAL - DUTIES

The responsible official shall:

1. Perform all duties of the responsible official under SEPA and the **SEPA rules**, and this Section.
2. Perform all duties required to be performed by the **City** under NEPA, including the provision of coordination with the appropriate federal agencies.
3. Make the threshold determination on all proposals for which the **City** is the lead agency.
4. Supervise scoping and the preparation of all draft and final environmental impact statements and supplemental environmental impact statements, whether the same are prepared by the **City** or an applicant.



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5. Establish procedures as needed for the preparation of environmental documents, including environmental impact statements.
6. Ensure that environmental factors are considered by **City** decisionmakers.
7. Coordinate the response of the **City** when the **City** is a consulted agency, and prepare timely written comments, which include data from all appropriate **City Departments**, in response to consultation requests prior to a threshold determination.
8. Provide information to citizens, proposal sponsors and others concerning SEPA and this Section.
9. Retain all documents required by the **SEPA rules** (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.
10. Perform any other function assigned to the lead agency or responsible official by those sections of the **SEPA rules** that were adopted by reference in Part D of this Section.

H. LEAD AGENCY DETERMINATION AND RESPONSIBILITIES

1. The **City Department** receiving an application for or initiating a proposal that involves a nonexempt action shall ask the responsible official to determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940 unless the lead agency has been previously determined.
2. When the **City** is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
3. When the **City** is not the lead agency for a proposal, all **City Departments** shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No **City Department** shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the **City** may conduct supplemental environmental review under WAC 197-11-600.
4. If the **City** or any **City Departments** receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination, or the **City** must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen (15) day time period. Any such petition on behalf of the **City** must be initiated by the responsible official.
5. **City Departments** are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; PROVIDED the responsible official and any **City Department** that will incur responsibilities as the result of any such agreement approve the agreement.

**I. TIMING OF THE ENVIRONMENTAL REVIEW PROCESS**

1. The timing of the environmental review process shall be determined based on the criteria in the **SEPA rules** and this Part of this Section.
2. If the **City's** only action on a proposal is a decision on a **Building Permit** or other license that requires detailed project plans and specifications as part of a complete application for such permit or license, the applicant may request in writing that the **City** conduct environmental review prior to submission of such detailed plans and specifications. A decision as to whether or not to do early environmental review, prior to receiving a complete application, shall be at the discretion of the responsible official.
3. The responsible official may elect to do early environmental review if adequate information is available to determine the size and scope of the proposed action, including dimensions and use of all proposed **structures**, project timing, and the extent of **clearing** and grading.
4. The **City** may initiate preliminary environmental review and have informal conferences with applicants prior to receipt of a complete application. However, this review shall not be binding on the **City** or the applicant (see also MICC 19.07.010(A)(1), Performance Standards for All Development).
5. For City-initiated proposals, the initiating **City Department** should contact the responsible official as soon as a proposal is formulated to integrate environmental concerns into the decision-making process as soon as possible.
6. The procedural requirements of SEPA and this Section shall be completed prior to the issuance of a permit or final decision on a nonexempt proposal.

J. DETERMINATION OF CATEGORICAL EXEMPTION

1. Upon the receipt of an application for a proposal, the receiving **City Department** shall, and for **City** proposals, the initiating **City Department** shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of action (WAC 197-11-704), and the process for determining categorical exemption (WAC 197-11-305). As required, **City Departments** shall ensure that the total proposal is considered. If there is any question whether or not a proposal is exempt, then the responsible official shall be consulted.
2. If a proposal is exempt, none of the procedural requirements of this Section apply to the proposal. The **City** shall not require completion of an environmental checklist for an exempt proposal. The determination that a proposal is exempt shall be final and not subject to administrative review.
3. If the proposal is not categorically exempt, the **City Department** making this determination (if different from proponent) shall notify the proponent of the proposal that it must submit an environmental checklist (or copies thereof) to the responsible official.



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4. If a proposal includes both exempt and nonexempt actions, the **City** may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:
 - a. The **City** shall not give authorization for:
 - i. Any nonexempt action;
 - ii. Any action that would have an adverse environmental impact; or
 - iii. Any action that would limit the choice of alternatives.
 - b. A **City Department** may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - c. A **City Department** may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.

K. ENVIRONMENTAL CHECKLIST

1. A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this Section; except, a checklist is not needed if the **City** and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
2. For private proposals, the **City** will require the applicant to complete the environmental checklist, providing assistance as necessary. For **City** proposals, the **City Department** initiating the proposal shall complete the checklist for that proposal.
3. The **City** may complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 - a. The **City** has technical information on a question or questions that is unavailable to the private applicant; or
 - b. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

L. THRESHOLD DETERMINATION

The responsible official shall make the threshold determination and issue a determination of nonsignificance (DNS) or significance (DS). The responsible official shall make such threshold determination in accordance with the procedures of Chapter 197-11 WAC, Part 3, as adopted by this Section. The responsible official shall notify the applicant, the lead **City Department**, and (where a permit is involved) the permit issuing **City Department** of the threshold determination. The decision of the responsible official to issue a determination of significance shall not be



appealable. The decision of the responsible official to issue a determination of nonsignificance shall be appealable pursuant to Part T of this Section.

M. EARLY NOTICE OF THRESHOLD DETERMINATION AND MITIGATED DNS

1. As provided in this Part of this Section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
2. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - a. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the **City Department** is lead agency; and
 - b. Precede the **City's** actual threshold determination for the proposal.
3. The responsible official should respond to the request for early notice within ten (10) working days. The response shall:
 - a. Be written;
 - b. State whether the **City** currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the **City** to consider a DS; and
 - c. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
4. The **City's** written response under Part M2 of this Section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the **City** to consider the clarifications or changes in its threshold determination.
5. As much as possible, the **City** should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
6. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the **City** shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:
 - a. If the **City** indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the **City** shall issue and circulate a DNS under WAC 197-11-340(2).
 - b. If the **City** indicated areas of concern, but did not indicate specific mitigation measures, the **City** shall make the threshold determination, issuing a DNS or DS as appropriate.



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- c. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific and feasible. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot storm water detention pond at Y location" are adequate.
 - d. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
7. A proposal shall not be considered changed or clarified to permit the issuance of a mitigated DNS under WAC 197-11-350 unless all license applications for the proposal are revised to conform to the changes or other binding commitments made.
 8. If a mitigated DNS is issued, the aspects of the proposal that allowed a mitigated DNS to be issued shall be included in any decision or recommendation of approval of the action. Mitigation measures incorporated into the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the **City**.
 9. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fourteen (14) day comment period and public notice.
 10. If at any time the proposal (including associated mitigating measures) is substantially changed, the responsible official shall reevaluate the threshold determination and, if necessary, withdraw the mitigated DNS and issue a DS. Any questions regarding whether or not a change is substantial shall be resolved by the responsible official.

N. ENVIRONMENTAL IMPACT STATEMENTS

1. An environmental impact statement shall be required on any proposal determined to be a major action having a probable significant, adverse environmental impact. If it is determined that an environmental impact statement is required, the responsible official shall notify the applicant or proposal sponsor, the lead **City Department** and (where a permit is involved) the department responsible for issuing the permit. The responsible official shall arrange for a meeting with the applicant or proposal sponsor to schedule necessary events and give any guidance necessary in the preparation of the EIS.
2. For private proposals, an EIS shall be prepared by a private applicant or agent thereof or by the **City**. For **City** proposals, the EIS shall be prepared by a consultant or by **City** staff. In all cases, the method of preparation and the selection of the consultant shall be subject to the approval of the responsible official. The responsible official shall assure that the EIS is prepared in a responsible and professional manner and with appropriate methodology and consistent with **SEPA rules**. The responsible official shall also direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document. The responsible official may retain the services of a consultant to review all or portions of EIS prepared by an applicant, the applicant's agent, or the **City**, at the applicant's expense. Services rendered by the responsible official and



other **City** staff shall be subject to collection of fees as described in the **City's** officially adopted land use and planning fee schedule.

3. The responsible official will coordinate any predraft consultation procedures and scoping procedures so that the consultant preparing the EIS immediately receives all substantive information submitted by consulted agencies or through the scoping process. The responsible official shall also attempt to obtain any information needed by the consultant preparing the EIS which is on file with another agency or federal agency.
4. An environmental impact statement is required to analyze those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies, affected tribes and the public to identify such impacts and limit the scope of an environmental impact statement in accordance with the procedures set forth in Part N5 of this Section. The purpose of the scoping process is to narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures.
5. PROCEDURES FOR SCOPING
 - a. The responsible official shall consult with agencies and the public to limit the scope of an environmental impact statement by any or all of the following means. The specific method to be followed shall be determined on a proposal-by-proposal basis by the responsible official, but at a minimum shall include the following :
 - i. The responsible official shall give notice that an EIS is to be prepared, which notice shall provide that agencies, affected tribes and the public may submit written comments to identify significant impacts and reasonable alternatives and limit the scope of the EIS. Comments must be submitted not later than twenty-one (21) days from the date of issuance of the declaration of significance. Additionally, notice may be sent to any community groups known by the responsible official to have a possible interest in the proposal. Notice of the intent to prepare an EIS and the opportunity for commenting on the scope thereof may be sent with other public notices concerning the project.
 - ii. Additionally, the responsible official may conduct a meeting to provide the opportunity for oral comment on the scope of the EIS. Notice of such meeting shall be published in a newspaper of general circulation at least five (5) days prior to the date of the meeting. The scoping meeting may be combined with other meetings or hearings concerning the proposal.
 - b. The appendix to the EIS shall include an identification of the issues raised during the scoping process and whether those issues have or have not been determined significant for analysis in the EIS. All written comments regarding the scope of the EIS shall be included in the proposal file.
 - c. The public and agency consulting process regarding the scope of the EIS shall normally occur within thirty (30) days after the declaration of



significance is issued, unless the responsible official and the applicant agree on a later date.

- d. EIS preparation may begin during scoping.
6. The following additional elements may, at the option of the responsible official, be considered part of the environment for the purpose of EIS content, but do not add to the criteria for the threshold determinations or perform any other function or purpose under these rules:
- a. Economy;
 - b. Social policy analysis;
 - c. Cost-benefit analysis.
7. When a public hearing is held under WAC 197-11-535(2), such hearing shall be held before the responsible official.

O. INTERNAL CIRCULATION OF ENVIRONMENTAL DOCUMENTS

Environmental documents shall be transmitted to decisionmakers and advisory bodies prior to their taking official action on proposals subject to SEPA.

P. EMERGENCIES

The responsible official shall designate when an action constitutes an emergency under WAC 197-11-880.

Q. PUBLIC NOTICE

1. Whenever the **City** issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3), the **City** shall give public notice of the DNS or DS by publishing notice in the **City's** permit information bulletin.
2. Whenever the **City** issues a DS under WAC 197-11-360(3), the **City** shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
3. Whenever the **City** issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - a. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
 - b. Publishing notice in the **City's** permit information bulletin.
4. Whenever an EIS hearing is required, the hearing shall be combined with the hearing on the underlying action and notice shall be provided in the manner specified in MICC 19.15.020.
5. The **City** shall integrate the public notice required under this Section with existing notice procedures for the **City's** nonexempt permit(s) or approval(s) required for the proposal.



6. The responsible official may also elect to give notice by one or more of the other methods specified in WAC 197-11-510.
7. The **City** may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

R. FEES

1. **Environmental Checklist.** The **City** shall establish a fee for review of an environmental checklist performed by the **City** when the **City** is the lead agency. The fee shall be identified in the **City's** officially adopted land use and planning fee schedule, and collected prior to undertaking a threshold determination.
2. **Environmental Impact Statements.** For all proposals when the **City** is the lead agency and the responsible official determines that an EIS is required, the applicant shall be charged a fee for the administrative costs of supervision and preparation of the draft and final EISs. This fee shall be identified in the **City's** officially adopted land use and planning fee schedule, and collected prior to the initiation of work on the draft EIS.
3. For private proposals, the cost of retaining consultants for assistance in EIS preparation shall be borne by the applicant whether the consultant is retained directly by the applicant or by the **City**.
4. **Consultant Agency Fees.** No fees shall be collected by the **City** for performing its duty as a consultant agency.
5. **Document Fees.** The **City** may charge any person for copies of any documents prepared pursuant to the requirements of this Section and for mailing thereof, in a manner provided by Chapter 42.17 RCW; PROVIDED no charge shall be levied for circulation of documents as required by this Section to other agencies.

S. AUTHORITY TO CONDITION OR DENY PROPOSALS (SUBSTANTIVE AUTHORITY)

1. The policies and goals set forth in this Section are supplementary to those in the existing authorization of the **City**.
2. The **City** may attach conditions to a permit or approval for a proposal so long as:
 - a. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this Section; and
 - b. Such conditions are in writing; and
 - c. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - d. The **City** has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and



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- e. Such conditions are based on one or more policies in Part S4 of this Section and cited in the license or other decision document.
3. The **City** may deny a permit or approval for a proposal on the basis of SEPA so long as:
 - a. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this Section; and
 - b. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - c. The denial is based on one or more policies identified in Part S4 of this Section and identified in writing in the decision document.
 4. The **City** designates and adopts by reference the following policies as the basis for the **City's** exercise of authority pursuant to this section:
 - a. The **City** shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - ii. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - iii. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - iv. Preserve important historic, cultural, and natural aspects of our national heritage;
 - v. Maintain, wherever possible, an environment which supports diversity and a variety of individual choice;
 - vi. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;
 - vii. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
 - b. The **City** recognizes that each **person** has a fundamental and inalienable right to a healthful environment and that each **person** has a responsibility to contribute to the preservation and enhancement of the environment.



- c. The **City** adopts by reference the policies in the following **City** codes, ordinances, resolutions, and plans, as presently adopted or hereafter amended:
- i. The comprehensive plan of the **City**;
 - ii. The Development Code of the **City**;
 - iii. The policies of the Mercer Island Environmental Procedures Code, including the policies and objectives of SEPA (Chapter 43.21C RCW) as adopted by the **City**;
 - iv. The parks and open space plan of the **City**;
 - v. The community facilities plan of the **City**;
 - vi. The design commission Ordinance No. 297, and the design guidelines Ordinance No. 491 of the **City**;
 - vii. The **City's** arterial plan, Ordinance No. 404;
 - viii. The six-year comprehensive street improvement program;
 - ix. 1976 memorandum agreement regarding I-90, signed by the cities of Mercer Island, Bellevue and Seattle, and the Washington State Department of Transportation;
 - x. Model Traffic Ordinance, Chapter 10.98 MICC;
 - xi. Street improvement and maintenance guidelines, approved September 13, 1982;
 - xii. Sewer rates and regulations, Chapter 15.08 MICC;
 - xiii. Water System, Chapter 15.12 MICC;
 - xiv. Minimum fire flow requirements, Resolution No. 778;
 - xv. Comprehensive city water plan.
5. The responsibility for enforcing conditions under SEPA rests with the **City Department** or official responsible for enforcing the decision on the underlying action.
6. This Part of this Section shall not be construed as a limitation on the authority of the **City** to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

T. APPEALS

1. Except for permits and **variances** issued by the **Code Official** or Hearing Examiner under the Shoreline Management Provisions of the Development Code, when any proposal or action is, or is recommended to be, conditioned or



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denied on the basis of SEPA by a nonelected official or **City Department**, the following shall be appealable to the Planning Commission under this section:

- a. The decision to issue a determination of nonsignificance rather than to require an EIS;
- b. Mitigation measures and conditions that are required as part of a determination of nonsignificance;
- c. The adequacy of a FEIS or a SEIS;
- d. Any conditions or denials of the proposed action under the authority of SEPA.

2. HOW TO APPEAL

The appeal must be consolidated with any appeal that is filed on the proposal action, and must conform to the requirements of MICC 19.15.020(J), Permit Review Procedures. The appeal may also contain whatever supplemental information the appellant wishes to include.

3. For any appeal under this Part of this Section, the **City** shall provide for a record that shall consist of the following:
 - a. Findings and conclusions;
 - b. Testimony under oath; and
 - c. A taped or written transcript.
4. The procedural determination by the **City's** responsible official shall carry substantial weight in any appeal proceeding.
5. The **City** shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

U. NOTICE - STATUTE OF LIMITATIONS

1. The applicant for or proponent of an action of the **City**, when the action is one the **City** is proposing, may publish notice of action pursuant to RCW 43.21C.080 for any action.
2. The form of the notice shall be substantially in the form and manner set forth in RCW 43.21C.080. The notice may be published by the **City** for **City** projects or the applicant or proponent for private projects.
3. If there is a time period for appealing the underlying **City** action to court, the **City** shall give notice stating the date and place for commencing an appeal of the underlying action and an appeal under Chapter 43.21C RCW, the State Environmental Policy Act. Notice shall be given by mailing notice to parties of record to the underlying action and may also be given by publication in a newspaper of general circulation.



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Chapter 19.08 Subdivisions

- 19.08.010 GENERAL PROVISIONS
- 19.08.020 APPLICATION PROCEDURES AND REQUIREMENTS
- 19.08.030 DESIGN STANDARDS
- 19.08.040 PLAT IMPROVEMENTS
- 19.08.050 FINAL PLATS
- 19.08.060 CONDOMINIUM CONVERSIONS

19.08.010 GENERAL PROVISIONS

- A. No person shall subdivide land, either through a **long subdivision** or a **short subdivision**, or make a **lot-line revision**, without first obtaining official approval as herein provided.
- B. All applications for **long subdivisions**, **short subdivisions**, or **lot-line revisions** are governed by the permit review procedures set out in MICC 19.15.020 except where superseded by language contained in this Chapter.
- C. Land contained in a prior **short subdivision** may not be further divided in any manner for a period of five (5) years after the recording of the final plat with King County without the filing of a **long subdivision** plat; HOWEVER when a **short subdivision** consists of less than four (4) lots, an alteration to the **short subdivision** is permitted so long as no more than four (4) lots are created through the total **short subdivision** process.
- D. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public safety, health, and general welfare. This Chapter is not intended to interfere with or abrogate or annul any easements, covenants, conditions, or restrictions created or imposed by plats or deeds or record or by agreements between parties, except where the provisions of this Chapter are more restrictive, in which event the provisions of this Chapter shall govern.
- E. Preliminary **long subdivision**, **short subdivision**, and **lot-line revision** applications shall be processed simultaneously with all applications for rezones, **variances**, planned unit developments, and site plan approvals to the extent the procedural requirements of those actions allow simultaneous action.
- F. Vacations of **long subdivisions** shall be governed by RCW 58.17.212. Alterations to **long subdivisions** shall be governed by RCW 58.17.215. All public hearings for both vacations and alterations of **long subdivisions** shall be before a Hearing Examiner, who shall make recommendations as to the vacation or alteration to the City Council.
- G. Vacations and alterations of **short subdivisions** shall be reviewed by the **Code Official**, and shall comply with the requirements of this Chapter for the creation of **short subdivisions**, unless those requirements are waived by the **Code Official**. Vacations and alterations of **short subdivisions** that involve a public dedication shall be governed by Part F of this Section.



19.08.020 APPLICATION PROCEDURES AND REQUIREMENTS

- A. Applications for **short subdivisions** and **lot-line revisions** or alteration or vacation thereof shall be reviewed by the **Code Official**. Applications for **long subdivisions** or alteration or vacation thereof are reviewed by the Planning Commission and the City Council.
- B. The Planning Commission may grant a **variance**, with restrictions if deemed necessary, from the four (4) acre limitation for purpose of permitting **short subdivision** of property containing more than four (4) acres into four (4) or less lots when all of the following circumstances shall be found to apply:
1. That there are special circumstances applicable to the particular lot, such type of ownership, restrictive covenants, physiographic conditions, location or surroundings, or other factors;
 2. That the granting of the **variance** will not result in future uncoordinated **development** nor alter the character of the neighborhood; and
 3. That granting the **variance** will not conflict with the general purposes and objectives of the Comprehensive Plan or the Development Code.
- C. Applicants for a **long subdivision** shall prepare a concept sketch of the proposed **long subdivision** for the preapplication meeting required under MICC 19.07.010(A)(1), Critical Areas, for all **long subdivisions**, **short subdivisions**, or **lot-line revisions**.
- D. PRELIMINARY APPLICATION CONTENTS

In addition to any documents, information, or studies required under MICC Chapter 19.07, Critical Areas, an application for a **long subdivision**, **short subdivision**, or a **lot-line revision** shall include the documents set forth below and any other document or information deemed necessary by the **Code Official** upon notice to the applicant. All documents shall be in the form specified by the **Code Official** and shall contain such information as deemed necessary by the **Code Official**. The applicant shall submit the number of copies of each document specified by the **Code Official**.

1. DEVELOPMENT APPLICATION COVER FORM

The Development Application Cover Form shall be signed by all current property owners listed on the Plat Certificate, and shall list the legal parcel numbers of all property involved in the project.

2. LONG SUBDIVISION, SHORT SUBDIVISION, OR LOT-LINE REVISION PLAN

The applicant shall provide copies of fully dimensioned plans of the project prepared by a Washington registered civil engineer or land surveyor, meeting the requirements of MICC Chapter 19.07, Critical Lands, and containing any other information deemed necessary by the **Code Official**. The City Engineer may waive the requirement that an engineer or surveyor prepare the plans for a **short subdivision** or **lot-line revision**.



3. PLAT CERTIFICATE

Applicant shall provide a Plat Certificate issued by a qualified title insurance company not more than thirty (30) days before filing of the application showing the ownership and title of all parties interested in the plat. If the Plat Certificate references any recorded documents (i.e. easements, dedications, covenants, etc.) copies of those documents shall also be provided.

4. LEGAL DOCUMENTS

Applicants shall provide copies of each of the following documents (if applicable):

- a. Proposed restrictive covenants.
- b. Draft deeds to the **City** for any land to be dedicated.
- c. Proposed easements.

5. PROJECT NARRATIVE

Applicants shall provide a clear and concise written description and summary of the proposed project.

6. NEIGHBORHOOD DETAIL MAP

Applicants shall provide copies of a map drawn at a scale specified by the **Code Official** showing the location of the subject site relative to the property boundaries of the surrounding parcels within approximately one thousand (1,000) feet, or approximately two thousand five hundred (2,500) feet for properties over four (4) acres. The map shall identify the subject site with a darker perimeter line than that of the surrounding properties.

7. TOPOGRAPHY MAP

The applicant shall provide copies of a topographical map showing the existing land contours using vertical intervals of not more than two (2) feet, completed and signed by a Washington licensed surveyor. For any existing **buildings**, the map shall show the finished floor elevations of each floor of the **building**. **Critical Slopes** exceeding thirty (30) percent must be labeled and delineated by a clearly visible hatching.



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8. DETAILED GRADING PLAN

If the grade differential on the site of the proposed project will exceed twenty-four (24) inches and/or if the amount of earth to be disturbed exceeds fifty (50) cubic yards, the applicant shall provide copies of a detailed grading plan drawn by a Washington licensed engineer.

9. STREET PROFILES

The applicant shall provide copies of a Street Profile showing the profiles and grades of each **street**, together with typical cross sections indicating:

- a. Width of pavement;
- b. Location and width of sidewalks, trails, bike lanes, ditches, swales, etc.; and
- c. Location of any **utility** mains.

10. GEOTECHNICAL REPORT

The applicant shall provide a geotechnical report meeting the requirements of MICC Chapter 19.07, Critical Lands. This requirement may be waived by the City Engineer under the criteria set out in MICC 19.07.010.

11. UTILITY PLAN

Conceptual plan showing the locations of existing and proposed **utilities**.

E. NOTICE

1. SHORT SUBDIVISIONS AND LOT-LINE REVISIONS

Public notice of an application for a **short subdivision** or a **lot-line revision** shall be made in accordance with the procedures set forth in MICC 19.15.020.

2. LONG SUBDIVISIONS

- a. Public notice of a **long subdivision** application shall be made at least ten (10) days prior to the **open record hearing** on the application in accordance with the procedures set forth in MICC 19.15.020 for an administrative or discretionary act; PROVIDED notice shall also be published at least ten (10) days prior to the hearing in a newspaper of general circulation within the **City**.
- b. If the owner of a proposed **long subdivision** owns land adjacent to the proposed **long subdivision**, that adjacent land shall be treated as part of the **long subdivision** for notice purposes, and notice of the application shall be given to all owners of **lots** located within three hundred (300) feet of the proposed **long subdivision** or the applicant's adjacent land.



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3. The **City** shall provide written notice to the Department of Transportation of an application for a **long subdivision** or **short subdivision** that is located adjacent to the right of way of a state highway. The notice shall include a legal description of the **long subdivision** or **short subdivision** and a location map.

F. PRELIMINARY APPLICATION PROCEDURE

1. FINDINGS OF FACT

All preliminary approvals or denials of a **long subdivisions** or **short subdivisions** shall be accompanied by written findings of fact demonstrating that:

- a. The project does or does not make appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, **streets** or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;
- b. The public use and interest will or will not be served by approval of the project; and
- c. The project does or does not conform to applicable zoning and land use regulations.

2. SHORT SUBDIVISIONS AND LOT-LINE REVISIONS

The **Code Official** shall grant preliminary approval for a **short subdivision** or **lot-line revision** if the application is in proper form and the project complies with the design standards set out in MICC 19.08.030, the Comprehensive Plan, and other applicable **development** standards.

3. LONG SUBDIVISIONS

- a. At an **open record hearing** the Planning Commission shall review the proposed **long subdivision** for its conformance with the requirements of MICC 19.08.030, the Comprehensive Plan, and other applicable **development** standards.
- b. The Planning Commission shall make a written recommendation on the **long subdivision**, containing findings of fact and conclusions, to the City Council not later than fourteen (14) days following action by the Planning Commission.
- c. Upon receipt of the Planning Commission's recommendation, the City Council shall at its next **public meeting** set the date for the public hearing where it may adopt or reject the Planning Commission's recommendations.



- d. Preliminary approval of **long subdivision** applications shall be governed by the time limits and conditions set out in MICC 19.15.020(E); EXCEPT the deadline for preliminary plat approval is ninety (90) days, unless the applicant consents to an extension of the time period.

4. CONDITIONS FOR PRELIMINARY APPROVAL

As a condition of preliminary approval of a project, the City Council in the case of a **long subdivision**, or the **Code Official** in the case of a **short subdivision** or **lot-line revision**, may require the installation of plat improvements as provided in MICC 19.08.040 which shall be conditions precedent to final approval of the **long subdivision**, **short subdivision**, or **lot-line revision**.

5. EXPIRATION OF APPROVAL

- a. Once the preliminary plat for a **long subdivision** has been approved by the **City**, the applicant has five (5) years to submit a final plat meeting all requirements of this Chapter to the City Council for approval.
- b. Once the preliminary plat for a **short subdivision** has been approved by the **City**, the applicant has one (1) year to submit a final plat meeting all requirements of this Chapter to the City Council for approval. A plat that has not been recorded within one (1) year after its preliminary approval shall expire, becoming null and void. The **City** may grant a single one (1) year extension, if the applicant submits the request in writing before the expiration of the preliminary approval.
- c. In order to revitalize an expired preliminary plat, a new application must be submitted.

6. NO CONSTRUCTION BEFORE APPLICATION APPROVAL

No construction of **structures**, **utilities**, **storm drainage**, **grading**, **excavation**, **filling**, or **land clearing** on any land within the proposed **long subdivision**, **short subdivision**, or **lot-line revision** shall be allowed prior to preliminary approval of the application and until the applicant has secured the permits required under the Mercer Island Municipal Code.



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19.08.030 DESIGN STANDARDS

A. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

The proposed **subdivision** shall comply with Arterial, Community Facility, and Land Use elements of the Comprehensive Plan; all other Chapters of the Development Code; the Shoreline Management Act; and other applicable legislation.

B. PUBLIC IMPROVEMENTS

1. The **subdivision** shall be reconciled as far as possible with current official plans for acquisition and **development** of arterial or other public **streets**, trails, public **buildings**, **utilities**, parks, playgrounds, and other public improvements.
2. If the preliminary plat includes a dedication of a public park with an area of less than two (2) acres and the donor has designated that the park be named in honor of a deceased individual of good character, the **City** shall adopt the designated name.

C. CONTROL OF HAZARDS

1. Where the project may adversely impact the health, safety, and welfare of, or inflict expense or damage upon, residents or property owners within or adjoining the project, other members of the public, the State, the **City**, or other municipal corporations due to flooding, drainage problems, **critical slopes**, unstable soils, traffic access, public safety problems, or other causes, the City Council in the case of a **long subdivision**, or the **Code Official** in the case of a **short subdivision** or **lot-line revision**, shall require the applicant to adequately control such hazards or give adequate security for damages that may result from the project, or both.
2. If there are soils or drainage problems, the City Engineer may require that a Washington registered civil engineer perform a geotechnical investigation of each **lot** in the project. The report shall recommend the corrective action likely to prevent damage to the areas where such soils or drainage problems exist. Stormwater shall be managed in accordance with the criteria set out in MICC 15.09.030 and shall not increase likely damage to downstream or upstream facilities or properties.
3. Alternative tightline storm drains to Lake Washington shall not cause added impact to the properties, and the applicant shall submit supportive calculations for storm drainage detention.

D. STREETS, ROADS AND RIGHTS-OF-WAY

1. The width and location of rights-of-way for major, secondary, and **collector arterial streets** shall be as set forth in the Comprehensive Arterial Plan.
2. Public rights-of-way shall comply with the requirements set out in MICC 19.09.030.



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3. Private access roads shall meet the criteria set out in MICC 19.09.040.
4. **Streets** of the proposed **subdivision** shall connect with existing improved **public streets**, or with existing improved private access roads subject to easements of way in favor of the land to be subdivided.

E. RESIDENTIAL LOTS

1. The area, width, and depth of each residential **lot** shall conform to the requirements for the zone in which the **lot** is located. Any **lot** which is located in two or more zones shall conform to the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).
2. Each side line of a **lot** shall be approximately perpendicular or radial to the center line of the **street** on which the **lot** fronts.

F. DESIGN STANDARDS FOR SPECIAL CONDITIONS

1. **Subdivisions** abutting an arterial **street** as shown on the Comprehensive Arterial Plan shall be oriented to require the rear or side portion of the **lots** to abut the arterial and provide for internal access **streets**.
2. Where **Critical Areas** meeting the criteria set out in MICC Chapter 19.07 are present within the **subdivision**, the **Code Official** or **City Council** may:
 - a. Require that certain portions of the **long subdivision** or **short subdivision** remain undeveloped with such restrictions shown on the official documents;
 - b. Increase the usual **building** set-back requirements; and/or
 - c. Require appropriate **building** techniques to reduce the impact of site **development**.

G. OPTIONAL STANDARDS FOR DEVELOPMENT

In situations where designing a **long subdivision** or **short subdivision** to the requirements of Parts A through F of this Section would substantially hinder the permanent retention of wooded or steep areas or other natural features; preclude the provision of parks, playgrounds, or other **non-commercial recreational areas** for neighborhood use and enjoyment; or would negatively impact the physiographic features and/or existing **ground cover** of the subject area, the applicant may request that the project be evaluated under the following standards:

1. The use of the land in the **long subdivision** or **short subdivision** shall be one permitted in the zone in which the **long subdivision** or **short subdivision** is located.
2. The number of **lots** shall not exceed the number that would otherwise be permitted within the area being subdivided, excluding the **shorelands** part of any such **lot** and any part of such **lot** that is part of a **street**.



3. An area suitable for a private or public open space **tract** shall be set aside for such use.
4. The **lots** may be of different areas, but the minimum **lot** area shall be at least seventy-five (75) percent of that otherwise required in the zone in which the **long subdivision** or **short subdivision** is located. Any designated open space or recreational **tract** shall not be considered a **lot**.
5. The ownership and use of any designated open space or recreational **tract**, if private, shall be shared by all property owners within the **long subdivision** or **short subdivision**. In addition, a right of entry shall be conveyed to the public to be exercised at the sole option of the City Council if such area shall cease to be an open space or recreational **tract**.
6. The open space or recreational **tract** must remain in its approved configuration and be maintained in accordance with approved plans. Any **deviation** from the foregoing conditions must receive expressed approval from the Planning Commission.



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19.08.040 PLAT IMPROVEMENTS

A. STREETS, UTILITIES AND STORM DRAINAGE

The **long subdivision, short subdivision, or lot-line revision** shall include provisions for **streets, water, sanitary sewers, storm drainage, utilities** and any easements or facilities necessary to provide these services. **All utilities** shall be placed underground unless waived by the City Engineer. Detailed plans for these provisions shall not be required until after the approval of the preliminary plat and shall be a condition precedent to the official approval of the **subdivision**.

B. PERFORMANCE BOND

The owner(s) of a project shall deposit with the **City** a performance bond or funds for a set-aside account in an amount equal to one hundred fifty (150) percent of the cost of the required improvements, as established by the City Engineer. Such security shall list the exact work that shall be performed by the owner(s) and shall specify that all of the deferred improvements shall be completed within the time specified by the City Engineer, and if no time is so specified, then not later than one (1) year. The **City** may also require a bond or set-aside account securing the successful operation of improvements or survival of required landscaping for up to two (2) years after final approval.

C. SITE SUPERVISION

Any and all services performed by **City** employees in field inspection of construction of plat improvements, **clearing**, and/or grading processes, shall be charged to the developer at one hundred (100) percent of direct salary cost, plus thirty-five (35) percent of such cost for overhead. Any outside consultants retained by the **City** to evaluate any phase of plat design or construction shall be charged at actual cost, plus any additional administrative costs. Billings tendered to the owner(s) shall be payable within thirty (30) days.

D. CONSTRUCTION SEASONS

Either the City Engineer or the Building Official may:

1. Limit the construction project to a specific seasonal time period.
2. Prevent land **clearing, grading, filling**, and foundation work on lots with **critical slopes or geologic hazard areas** between October 1 and April 1, as set out in MICC 19.07.020; and
3. Require short term soil and drainage control measures such as, but not limited to: **hemping, seeding, gravel or light asphalt base roads, temporary siltation and detention ponds.**

**19.08.050 FINAL PLATS****A. REQUIRED SIGNATURES**

1. Before the original or extended deadline for recording the final plat as set forth in MICC 19.08.020(F)(5), the applicant may file with the **City** the final plat of the proposed **long subdivision, short subdivision, or lot-line revision** in the form prescribed by Part C of this Section.
2. The City Engineer shall check the final plat and shall sign it when satisfied that it meets the requirements of Part C of this Section, adequately addresses sewage disposal and water supply, and complies with all conditions placed on the preliminary plat approval.
3. After the final plat has been signed by the City Engineer, it shall go to the Mayor, on behalf of the City Council, in the case of a **long subdivision**, or the **Code Official** in the case of **short subdivisions and lot-line revisions**, for final signature.
4. Each **long subdivision** plat submitted for final signature shall be accompanied by the following recommendations for approval or disapproval:
 - a. Planning Commission as to compliance with all terms of the preliminary approval of the proposed **subdivision**.
 - b. City Engineer as to the requirements of Part A2 of this Section. The City Engineer's signature on the final plat shall constitute such recommendation.
5. Final plats and final short plats shall be approved, disapproved, or returned to the applicant within thirty (30) days from the date of filing, unless the applicant consents to an extension of such time period.

B. RECORDING OF THE FINAL PLAT

1. When all signatures have been obtained, the **City** will transmit the mylar via US mail to King County for recording or the applicant may personally deliver the mylars to King County for recording.
2. The recording of the final plat with the County Department of Records shall constitute the official approval of the **subdivision**, and **lots** may not be legally sold until the plat has received its recording number.
3. After the final plat has been recorded, the original plat shall be returned to the City Engineer and filed as the property of the **City**.



C. CONTENTS OF THE FINAL PLAT

All Final Plats submitted to the **City** shall meet the requirements set out in RCW Chapter 58.09, WAC Chapter 332-130, and those requirements set out below.

Final Plats submitted to the **City** shall consist of two (2) mylars and four (4) copies containing the information set out below. The mylars and copies shall be eighteen (18) inches by twenty-two (22) inches in size, allowing one-half (.5) inch for borders. If more than one sheet is required for the mylars and copies, each sheet, including the index sheet, shall be the specified size. The index sheet must show the entire **subdivision**, with **street** and highway names and block numbers.

1. IDENTIFICATION AND DESCRIPTION

- a. Name of the **long subdivision**, **short subdivision** or **lot-line revision**.
- b. A statement that the **long subdivision** or **short subdivision** has been made with the free consent and in accordance with the desires of the owner or owners.
- c. Location by section, township and range, or by other legal description
- d. The name and seal of the registered engineer or the registered land surveyor.
- e. Scale shown graphically, date and North Point. The scale of the final plat shall be such that all distances and bearings can be clearly and legibly shown thereon in their proper proportions. Where there is a difference between the legal and actual field distances and bearings, both distances and bearings shall be shown with the field distances and bearings shown in brackets.
- f. A description of property platted which shall be the same as that recorded in preceding transfer of said property or that portion of said transfer covered by plat. Should this description be cumbersome and not technically correct, a true and exact description shall be shown upon the plat, together with original description. The correct description follow the words: "The intent of the above description is to embrace all the following described property."
- g. A vicinity map showing the location of the plat relative to the surrounding area.

2. DELINEATION

- a. Boundary plat, based on an accurate traverse, with angular and lineal dimensions.
- b. Exact location, width, and name of all **streets** within and adjoining the plat, and the exact location and widths of all roadways, driveways, trail easements. The name of a **street** shall not duplicate that of any existing **street** in the **City**, unless the platted **street** be a new section or continuation of the existing **street**.



- c. True courses and distances to the nearest established **street** lines or official monuments which shall accurately describe the location of the plat.
 - d. Municipal, township, county or section lines accurately tied to the lines of the **subdivision** by courses and distances.
 - e. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
 - f. All easements for rights-of-way provided for public services or **utilities**. **Utility** easements shall be designated as public or private.
 - g. All **lot** and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to **subdivisions** bearing the same name may be numbered or lettered consecutively through the several additions. The square footage for each **lot** less vehicular easements shall be shown.
 - h. Accurate location of all monuments, which shall be concrete commercial monuments four (4) inches by four (4) inches at top, six (6) inches by six (6) inches at bottom, and sixteen (16) inches long. One such monument shall be placed at each **street** intersection and at locations to complete a continuous line of sight and at such other locations as are required by the Engineer.
 - i. All plat meander lines or reference lines along bodies of water shall be established above the **ordinary high water** line of such water.
 - j. Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purpose indicated thereon and in the dedication; and of any area to be reserved by deed covenant for common uses of all property owners.
 - k. **Building pads** that meet the requirements of MICC Chapter 19.07, Critical Areas, accurately shown with dimensions.
 - l. **Critical slopes** and **watercourses** as identified under MICC Chapter 19.07.
3. OTHER MARGINAL DATA ON FINAL PLAT
- a. If the plat is subject to dedications to the **City** or any other party, the dedications shall be shown and shall be duly acknowledged. The plat shall also contain a waiver of all claims for damages against the **City** which may be occasioned to the adjacent land by the established construction, drainage and maintenance of any **streets** dedicated to the **City**.
 - b. A copy of the protective covenants, if any.
 - c. Certification by Washington registered civil engineer or land surveyor to the effect that the plat represents a survey made by that **person** and that



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the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.

- d. Proper forms for the approvals of the City Engineer and the Mayor, on behalf of the City Council, in the case of a **long subdivision**; or the City Engineer and the **Code Official** in the case of **short subdivisions or lot-line revisions**, with space for signatures.
- e. Certificates by the County Assessor showing that the taxes and assessments on the land to be submitted have been paid in accordance with law, including a deposit for the taxes for the following year.
- f. Approval by the County Department of Records.

4. OTHER DOCUMENTS

When filed with the **City**, the Final plat shall be accompanied by the following additional documents.

a. "AS BUILT" DRAWINGS

A plan, profile and section drawing, prepared by a Washington licensed engineer showing all streets and other access ways, water, sewer, stormwater detention facilities, **retaining walls**, and **rockeries** within the **subdivision** at a scale of one (1) inch equal to forty (40) feet or less on a standard sheet twenty-four (24) inches wide and thirty-six (36) inches long.

b. PLAT CERTIFICATE

A Plat Certificate issued by a qualified title insurance company not more than thirty (30) days before filing of the Final Plat showing the ownership and title of all parties interested in the plat. If the Plat Certificate references any recorded documents (i.e. easements, dedications, covenants, etc.) copies of those documents shall also be provided.

**19.08.060 CONDOMINIUM CONVERSIONS**

In addition to the requirements set out in RCW Chapter 64.34, **multiple-family dwellings** being converted into **condominiums** are subject to the following conditions.

A. PRE-CONVERSION INSPECTION

1. All **multiple-family dwellings** being converted to a **condominium** shall be inspected by the Building Official and the Fire Marshal prior to **dwelling units** being offering for sale.
2. The inspection report shall list any violations of the Development Code or other applicable governmental regulations.
3. The inspection shall be made within forty-five (45) days of the declarant's written request therefor and the inspection report shall be issued within fourteen (14) days of said inspection being made.
4. Such inspection shall not be required for any **building** for which a final certificate of occupancy has been issued by the **City** within the preceding twenty-four (24) months.
5. The fee for making the pre-conversion inspection shall be same as the fee that would be charged for making such inspection for a purpose other than a **condominium** conversion.

B. DISCLOSURE OF INSPECTION REPORT

The public offering statement required by RCW Chapter 64.34 for a **condominium** conversion shall contain a copy of the inspection report prepared under Part A of this Section.

C. REINSPECTION

1. Prior to the conveyance of any **dwelling unit** within a conversion **condominium**, other than a conveyance to a declarant or affiliate of a declarant, all violations disclosed in the inspection report shall be repaired to the **City's** satisfaction.
2. The **City** shall reinspect the **building** within seven (7) days of the declarant's written request for reinspection, and if the repairs have been made to the **City's** satisfaction, the **City** shall issue a certification stating that such repairs have been made.



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D. WARRANTY ON REPAIRS

The declarant shall warranty all repairs required by the **City** against defects due to workmanship or materials for a period of one (1) year following the completion of such repairs. The declarant shall also deposit with the **City** funds equaling ten (10) percent of the actual cost of making such repairs, to be used to satisfy claims made under such warranty. Following the expiration of the one (1) year warranty period, any funds remaining in such account shall be returned to the declarant.

E. RELOCATION ASSISTANCE

1. Relocation assistance not to exceed five hundred (500) dollars per **dwelling unit** shall be paid to tenants and subtenants who elect not to purchase a **dwelling unit** and who are in lawful occupancy for residential purposes of a **dwelling unit** and whose monthly household income from all sources, on the date of the notice required under RCW 64.34.440(1), was less than an amount equal to eighty (80) percent of:
 - a. The monthly median income for comparably sized households in the standard metropolitan statistical area, as defined and established by the United States Department of Housing and Urban Development, in which the **condominium** is located; or
 - b. If the **condominium** is not within a standard metropolitan statistical area, the monthly median income for comparably sized households in the state of Washington, as defined and determined by said department.
2. The household size of a unit shall be based on the number of **persons** actually in lawful occupancy of the unit. The tenant or subtenant actually in lawful occupancy of the unit shall be entitled to the relocation assistance.
3. Relocation assistance shall be paid on or before the date the tenant or subtenant vacates and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled. Unpaid rent or other amounts owed by the tenant or subtenant to the landlord may be offset against the relocation assistance.

CHAPTER 19.09

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Chapter 19.09 Property Development

- 19.09.010 MODEL CODES AND RELATED STANDARDS
- 19.09.020 AMENDMENTS, ADDITIONS AND/OR EXCEPTIONS
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19.09.010 MODEL CODES AND RELATED STANDARDS

A. UNIFORM ADMINISTRATIVE CODE

1. The most recent edition of the Uniform Administrative Code published by the International Conference of Building Officials, is adopted and shall be applicable within the **City**, as amended in this Chapter.
2. In addition to the exemptions set forth in Section 301.2.3 of the Uniform Administrative Code, permits are not required for minor repair work such as repairing flush or snap switches, replacing fuses, repairing lamp sockets and receptacles, when such work is done in accordance with the provisions of this code, nor are permits required for the setting of meters by any company engaged in the business of supplying electricity to the public; provided, that meter loops have been installed under permit; and furthermore provided, that such meters are not connected to any electrical installation regulated by this code until approval of such connection has been given by the Building Official.

B. FULLY COMPLETED APPLICATION

A fully completed **Building** Permit application for a **structure** that is permitted under existing land use regulations shall be reviewed under the regulations in effect at the time of application. In order to be accepted as fully completed, an application shall be reviewed at the time of application by the **Code Official** to verify that all information required by the **City's development** guidelines has been provided in a clear and usable format. Once it is determined that all the required information is present, the **Code Official** may accept the application as fully complete.

C. UNIFORM BUILDING CODE

The most recent edition of the Uniform Building Code and Standards, authorized by Chapter 51-40 WAC, and published by the International Conference of Building Officials, together with Appendix Chapters 3 (Div. II), 11 (Div. II), 15, 16 (Div. I, III), 19, 23, 34 (Div. I, II), and amendments and/or additions thereto, are adopted and shall be applicable within the **City**, as amended in this Chapter.

**D. UNIFORM MECHANICAL CODE**

The most recent edition of the Uniform Mechanical Code and Standards authorized by Chapter 51-42 WAC, and published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials together with Appendices A, B, C and D, and amendments and/or additions thereto, are adopted and shall be applicable within the **City**, as amended in this Chapter.

E. UNIFORM PLUMBING CODE

The most recent edition of the Uniform Plumbing Code and Standards, authorized by Chapter 51-46 WAC, and published by the International Association of Plumbing and Mechanical Officials, together with Appendices A, B, C, D and H, and amendments and/or additions thereto, are adopted and shall be applicable within the **City**, as amended in this Chapter.

F. NATIONAL ELECTRICAL CODE

The most recent edition of the National Electrical Code authorized by Chapter 19.28 RCW, published by the National Fire Protection Association, together with the tables and appendices and amendments and/or additions thereto are adopted and shall be applicable within the **City**, as amended in this Chapter.

G. UNIFORM HOUSING CODE

The most recent edition of the Uniform Housing Code, published by the International Conference of Building Officials, together with amendments and/or additions thereto, is adopted and shall be applicable within the **City**, as amended in this Chapter.

H. UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE

The most recent edition of the Uniform Swimming Pool, Spa and Hot Tub Code, published by the International Association of Plumbing and Mechanical Officials, together with amendments and/or additions thereto, is adopted and shall be applicable within the **City**, as amended in this Chapter.

I. DWELLING CONSTRUCTION UNDER THE UNIFORM BUILDING CODE

The most recent edition of the Dwelling Construction Under the Uniform Building Code, published by the International Conference of Building Officials, together with amendments and/or additions thereto, is adopted and shall be applicable within the **City**, as amended in this Chapter.

J. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

The most recent edition of the Uniform Code for the Abatement of Dangerous Buildings, published by the International Conference of Building Officials, together with



amendments and/or additions thereto, is adopted and shall be applicable within the City, as amended in this Chapter.

K. WASHINGTON STATE ENERGY CODE

The Washington State Energy Code authorized by Chapter 51-11 WAC is hereby adopted.

L. ADOPTION BY REFERENCE

All codes, standards, rules and regulations adopted by this Chapter are adopted by reference thereto as though fully set forth herein. A copy of each such adopted code, standard, rule or regulation, in the form in which it was adopted and suitably marked to indicate amendments, additions, deletions and exceptions as provided herein, shall be authenticated and filed by the City Clerk in the records of his or her office, suitably referenced and indexed to the ordinance codified in this title. A copy of each such code, standard, rule or regulation in the form in which it was adopted and suitably marked to indicate amendments, additions, deletions and exceptions as provided herein shall be available for use and examination by the public.



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19.09.020 AMENDMENTS, ADDITIONS AND/OR EXCEPTIONS

A. ADMINISTRATION AND ENFORCEMENT OF TECHNICAL CODES

1. Part I of the Uniform Building Code, Part I of the Uniform Mechanical Code and Part I of the Uniform Plumbing Code are each deleted in their entirety. The administrative and enforcement provisions found in the Uniform Administrative Code shall be used in place of the sections deleted in each of the codes cited in this section.
2. Table No. 3-B, Electrical Permit Fees of the Uniform Administrative Code is revised to include a new fee for new nonresidential buildings, which shall be inserted in the fee schedule prior to the fees for new residential buildings. The new schedule shall read as follows:

New Non-Residential Buildings. The following fees shall include all wiring and electrical equipment or appliances in or on each building intended for general building, lighting, HVAC and operation, on the same **premises**, constructed at the same time, per square foot .056. For other electrical appliances or equipment for the use of the occupant, extensions of existing circuits, additions, alterations, modifications, and tenant improvements, use the unit fee schedule.

B. SECTION 204 AMENDED - BOARD OF APPEALS

Section 204 of the Uniform Administrative Code is hereby amended to read as follows:

Section 105. Board of Appeals - Appeal. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this Code, there shall be a Building Code Board of Appeals as established in Chapter 3.28 MICC.

Any applicant aggrieved by an action of the Building Official in the determination of the suitability of alternate materials and methods of construction may, within thirty (30) days of such action, file a notice of appeal as provided in Chapter 3.28 MICC.

C. SECTION 205 AMENDED - VIOLATIONS

Section 205 of the Uniform Administrative Code is hereby amended to read as follows:

Section 205. It shall be unlawful for any **person**, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or **structure** in the **City**, or cause or permit the same to be done contrary to or in violation of any of the provisions of this code and/or the technical codes.

Any **person**, firm, or corporation violating any of the provisions of this code shall be guilty of a misdemeanor. It shall be deemed a separate offense for each and every



day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted. Upon conviction of any such violation such person shall be punishable by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment for each separate offense.

D. SECTION 303.1 AMENDED - ISSUANCE

Section 303.1 of the Uniform Administrative Code is hereby amended to read as follows:

Section 303.1. Issuance. The application, plans and specifications filed by an applicant for a permit shall be checked by the Building Official. Such plans may be reviewed by other departments of the City to check compliance with the laws and ordinances under their jurisdiction. If the Building Official is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Code and other pertinent laws and ordinances and that the fee specified in Section 106.2 has been paid, s/he shall issue a permit therefor to the applicant.

When the Building Official issues the permit, s/he shall endorse in writing or stamp on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the Building Official, and all work shall be done in accordance with the approved plans.

The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved provided adequate information and detailed statements have been filed complying with all pertinent requirements of this Code. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building or structure will be granted.

Land Clearing Permits will not be issued prior to the issuance of a Building Permit when a separate Land Clearing Permit is required; provided, however, that after due consideration of the specific circumstances of the project the Building Official may issue such Land Clearing Permit prior to issuance of a building permit, otherwise both permits are to be issued simultaneously.

E. SECTION 303.6 AMENDED - TEMPORARY BUILDING PERMITS

Section 303 of the Uniform Administrative Code is hereby amended by adding a new subsection 6 entitled Temporary Building Permits, which shall read as follows:

Section 303.6. Temporary Building Permits. The Board of Appeals in its judgment may allow the Building Official to issue a permit to erect and maintain a temporary building, for a period of time as stipulated by the Board, but not to exceed twenty-four (24) months. The Board shall consider among other things in making its judgment and in



stipulating the permit life, the type of structure and its degree of nonconformity to the Code and the open spaces provided around the temporary building.

Such temporary building shall be removed within the time stipulated by the Board of Appeals after the issuance of the permit and such removal shall be guaranteed in the manner set out in MICC 19.06.070 by a set-aside account or by a surety bond in a sum, which in either case, shall be fixed by the Building Official.

The conditions relating to the cash deposit or bond shall be such that in case of failure of the owner or occupant to conform to any of the lawful requirements of the City of Mercer Island, relative to the erection, maintenance or removal of such temporary building, the properly authorized officials of said City, may enter the premises and take such steps as are necessary to conform to such lawful requirements and shall recover the cost thereof from the set-aside account or bond.

The construction of such temporary building shall be subject to such reasonable safeguards for persons and property as the Code Official shall prescribe; the nature and extent of fire extinguishing equipment and decorations shall be subject to the requirements of the Fire Marshal and the sanitation facilities shall meet all applicable health requirements.

F. SECTION 303 AMENDED - DAMAGES - FINANCIAL RESPONSIBILITY

Section 303 of the Uniform Administrative Code is hereby amended by adding a new subsection 7 entitled Damages, which shall read as follows:

Section 303.7. Damages. Prior to issuance of any Building Permit the City may require the applicant to provide assurance that recourse will be available to the City of Mercer Island and/or any person who may be damaged by the construction activity of the applicant or his agents. Such assurance shall be in an amount and form acceptable to the City Attorney and Code Official, and may be a bond, letter of credit or insurance.

Such assurance may be required for, but not limited to, the following reasons: **critical slope lot**, poor soil conditions, adjacency of a **watercourse**, a roadway, other houses, or on the basis of previous poor performance on the part of the applicant or his agents.

Further, any person, firm or corporation making application for a Building Permit for construction activity on any property located in an area designated as being a **geologic hazard area**, as defined in MICC 19.07.020, or as being potentially hazardous according to engineering standards and existing historical records, documents or studies on file with the Development Services Group shall, as a condition for approval of said permit provide the City with an executed "Waiver and Covenant Not to Sue," on a form provided by the City, which form is hereby adopted by reference, thereby evidencing the applicant's examination and study of such historical documents or engineering studies for the purpose of determining whether the proposed construction site is suitable for residential, multi-residential, or commercial construction, together with the applicant's covenant with the City of Mercer Island to: (1) thereafter initiate no litigation against the City or its



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employees concerning any defect of the construction activity due to steep slopes or slide prone soils; (2) bind successors in title, and (3) record such documents with the County Auditor as a covenant running with the land.

G. SECTION 304.1 AMENDED - ADDITIONAL FEES

Section 304.1 of the Uniform Administrative Code is hereby amended to read as follows:

Section 304.1. Fees shall be as set forth and assessed in accordance with Tables No. 3-A through 3-G of the Uniform Code unless modified by the City Council by resolution. The City may set fees which differ from those set forth in the Uniform Administrative Code and/or may impose additional miscellaneous fees, by resolution from time to time. A copy of said resolution is on file in the office of the City Clerk and in the Development Services Group.

H. SECTION 312.1 AMENDED - GROUP U OCCUPANCIES DEFINED

Section 312.1 of the Uniform Building Code is hereby amended to read as follows:

Section 312.1. Group U Occupancies shall be:

Division 1. Private garages, carports, sheds, agricultural buildings, and waterfront structures.

Exception: Where applicable (see Section 10.13) for agricultural buildings, see Appendix Chapter 3.

Division 2. Fences over 6 feet high, tanks, towers, and retaining walls.

For occupancy separations see Table No. 3-B.

I. CHAPTER 18 AMENDED - FOUNDATION DRAINAGE SYSTEM

Chapter 18, Excavations, Foundations and Retaining Walls, of the Uniform Building Code is hereby amended by adding a section to be numbered Section 1804.8 and entitled Foundation Drainage, which shall read as follows:

Section 1804.8. Foundation Drainage. Foundation drains shall be installed around all footings which enclose a crawl space, cellar, basement, garage or habitable space. Foundation drains around footings shall be designed and installed as a separate drainage system, and shall not receive downspouts from a roof or any other drainage.

Foundation drains shall be designed as a system with a non-erosive outlet to conduct water away from the building or structure to a roadway drainage ditch, natural drainage ditch or other drainage system. Foundation drains shall have clean-out devices or catch basin at appropriate locations to facilitate maintenance.



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Drainage piping shall be rigid, high impact material, installed with the perforations directed toward the source of any ground water; the piping shall be sloped toward the outlet throughout its length. Drain pipe shall be bedded in gravel at the footing level and backfilled with free draining granular material other than sand, but no larger than 1-1/2" in diameter to a depth equal to 2/3 of the height of the backfill against the wall or foundation. In silty soils, a nondegradable filter fabric shall be used to separate the gravel backfill from the loose soils. The requirements may be modified by the Building Official based upon recommendations from the project engineers.

J. SECTION 1506.2 AMENDED - ROOF DRAIN REQUIREMENTS

Section 1506.2 of the Uniform Building Code is hereby amended to read as follows:

Section 1506.2. Roof Drains. Unless roofs are sloped to drain over edges or are designed to support accumulated water, roof drains shall be installed at each low point of the roof.

Roof drains shall be adequate in size to convey the water tributary to the roof drains. Downspout leaderheads shall have a device to prevent the entrance of leaves or other debris into the downspouts. Downspouts shall not be connected to foundation drains.

Roof drainage shall be designed as a system with a non-erosive outlet to conduct water away from a roof to a roadway drainage ditch, natural drainage ditch or other drainage system.

Increased surface drainage and storm water run-off which results from the construction of improvements such as a building, driveway or patio, shall be controlled and disposed of, in accordance with plans approved by the City. In some cases it will be required by the City that storm water detention facilities be designed, built and maintained.

K. SECTION 904.1.3 ADDED - SPACE FOR SPRINKLERS

The Uniform Building Code is amended by adding a new section to Section 904 to read as follows:

Section 904.1.4. When sprinklers are installed in an insulated ceiling cavity not meeting exceptions of UBC Standards or where blocked by ducts or other similar obstructions, a space 6 inches or greater in depth with not less than 12 inches clearance from ducts or other similar obstructions shall be provided under all sprinklers.

L. SECTION 904.2.9 AMENDED - AUTOMATIC SPRINKLER SYSTEM REQUIRED

Uniform Building Code Section 904.2.9 is amended to read as follows:

Section 904.2.9. Group R, Division I Occupancies. An automatic sprinkler system shall be installed throughout every apartment house three or more stories in height or containing more than 5 dwelling units and every hotel three or more stories in height or containing 6 or more guest rooms. Residential or quick response standard sprinkler heads shall be



used in the dwelling unit and guest room portions of the building. The sprinkler system installation shall comply with the requirements of NFPA 13, latest edition.

M. ELEVATOR REQUIREMENTS DELETED

Section 3003 of the Uniform Building Code is deleted due to potential conflict with Chapter 296-81 WAC as adopted by the Washington State Department of Labor and Industries pursuant to Chapter 70.87 RCW.

N. SECTION 3005 AMENDED - HOISTWAY VENTING

Section 3005 of the Uniform Building Code is amended to delete a specific reference to sleeves in the machine room floor and shall read as follows:

Elevator Machine Room Floors Sec. 3005. Elevator hoist ways shall not be vented through an elevator machine room unless such venting is accomplished by an approved duct system installed through the elevator machine room. Cable slots entering the machine room must be installed in a manner that inhibits the passage of smoke into the machine room.

O. STANDARD NO. 38-3W ADDED - SPRINKLER INSTALLATION STANDARDS

The Uniform Building Code Standards are amended by adding a new Standard No. 38-3W which shall read as follows:

Washington State Building Code Standard No. 38-3W Installation of Sprinkler Systems in Residential Occupancies.

Sec. 38.301W. Except for the limitations, deletions, modifications or amendments set forth in Section 38.302W of this standard, the installation of sprinkler systems in residential occupancies of four stories or less when required by the Uniform Building Code shall be in accordance with the "Standard for the Installation of Sprinkler Systems in Residential Occupancies, NFPA 138-1988", published by the National Fire Protection Association, copyright 1988, Batterymarch Park, Quincy, Massachusetts 02269, as if set out at length herein.

Sec. 38.302W, the National Fire Protection Association standard adopted by Section 38.301W applies to the selection, installation, inspection, maintenance and testing of residential sprinkler systems, except as follows:

1. Table 1-5.1 is amended to read as follows:

Table 1-5.1
Materials and
Dimensions Standard
Spec. for Black and Hot-Dipped
Zinc Coated (Galvanized) Welded



and Seamless Steel Pipe for Fire
Protection Use ASTM A795
Specification for Welded and
Seamless Steel Pipe ASTM A53
Wrought-Steel Pipe AWSI B36.10
Specification for Electric-
Resistance Welded Steel
Pipe ASTM A135
Copper Tube (Drawn,
Seamless) Specification for
Seamless Copper Tube ASTM B88
Specification for General
Requirements for Wrought
Seamless Copper and
Copper-Alloy Tube ASTM B251
Brazing Filler Metal
(Classification BCuP-3 or
BCuP-4) AWS A5.8
Specification for Solder Metal,
9-5 (Tin-Antimony-Grade
95TA) ASTM B32
Specifications for CPVC Pipe
ASTM F437
ASTM F438
ASTM F439
ASTM F442
Specification for Polybutylene
Tube ASTM S3309

2. Table 1-5.5 is amended to read as follows:

Table 1-5.5

Materials and

Dimensions Standard

Cast Iron

Cast Iron Threaded Fittings

Class 125 and 250 ANSI B16.4

Cast Iron Pipe Flanges and

Flanged Fittings ANSI B16.1

Malleable Iron

Malleable Iron Threaded Fittings

Class 150 and 300 ANSI B16.3

Steel

Factory-made Threaded Fittings

Class 150 and 300 ANSI B16.9

Buttwelding Ends for Pipe,

Valves, Flanges and

Fittings ANSI B16.25

Specs. for Piping Fittings or



Wrought Carbon Steel and Alloy
 Steel for Moderate and Elevated
 Temperatures ASTM A234
 Pipe Flanges and Flanged
 Fittings, Steel Nickel Alloy and
 Other Special Alloys AWSI B16.5
 Forged Steel Fittings, Socket Welded and Threaded AWSI B16.11
 Copper
 Wrought Copper and Copper
 Alloy-Solder Joint Pressure
 Fittings ANSI B16.22
 Cast Copper Alloy-Solder Joint
 Pressure Fittings ANSI B16.18
 Plastic Fittings for CPVC Pipe
 ASTM F437
 ASTM F438
 ASTM F439
 ASTM F442
 Plastic Fittings for Polybutylene
 Tube ASTF D3309

EXCEPTION: In the case of conflict between the ventilation requirements of
 Section 605, Section 705, Section 905, and Section 1205 of this code and the
 ventilation requirements of Chapter 51-12 WAC, the Washington State Energy
 Code, or where applicable, a local jurisdiction's energy code, the provisions of
 such energy codes shall govern.

P. PART X AMENDED - WATERFRONT STRUCTURES

Part X, Special Subjects, of the Uniform Building Code is amended by adding a new
 Chapter 57, entitled Waterfront Structures, which shall read as follows:

Chapter 57

WATERFRONT STRUCTURES Section 5701. General. In addition to other requirements
 of this Code, all **waterfront structures** including, but not limited to docks, piers, wharves,
 floats, mooring **piles**, anchor buoys, **bulkheads**, submerged or overhead wires, pipes,
 and cables, and any object passing beneath, through or over the water beyond the line of
ordinary high water shall comply with the regulations of this Chapter.

Sec. 5702. Approvals Required. Before any permit on a new **waterfront structure**
 shall be issued by the Building Official, the applicant shall obtain prior approval from
 all applicable state and federal agencies.

Sec. 5703. Definitions. The following definitions give the meaning of certain terms as
 used in this chapter:



COVERED WATERFRONT STRUCTURE is any waterfront structure covered in whole or in part by a roof.

COVERED WATERFRONT STRUCTURE BUILDING AREA is the area lying directly beneath the portion of a structure covered by a roof.

SUBSTRUCTURE is that portion of the construction of a dock, pier, wharf or other similar waterfront structure below the deck.

SUPERSTRUCTURE is that portion of the construction of a dock, pier, wharf or other similar waterfront structure above the deck.

Sec. 5704. Construction Requirements.

(a) Substructure. The substructure may be constructed of any materials allowed by this Code. All decks shall sustain, within the limitations of this Code, all "Dead Loads" plus a "Live Load" of not less than 100 pounds per square foot, assumed to act vertically. In addition to the "Live Load" requirement all structures and every portion thereof shall be designed and constructed to resist a horizontal force of not less than 100 pounds per lineal foot acting at the deck line, in any direction.

(b) Superstructure. The superstructure shall be designed and constructed to sustain all "Dead Loads", "Live Loads", and "Wind Loads" required by this Code, and shall be constructed of any materials allowed by this Code, except when the building area of a covered waterfront structure exceeds 1,000 square feet the entire superstructure and deck shall be constructed of incombustible materials as required for Type IV Building, and the superstructure shall be protected and subdivided as required in NBFU No. 87, Standards of National Board of Fire Underwriters for the Construction and Protection of Piers and Wharfs, and as thereafter amended.

(c) Hardware. All hardware used structurally shall be of a corrosive resistant metal, such as aluminum, brass, copper, and stainless steel, or be completely protected by a coating of approved paint or corrosive resistant metal, such as zinc.

Q. SECTION 604 AMENDED - DUCT INSULATION

Section 604 of the Uniform Mechanical Code is amended by adding an exception to the first paragraph which shall read as follows:

Exception. In the case of conflict between the duct insulation requirements of Section 604 of this code and the duct insulation requirements of Chapter 51-11 WAC the Washington State Energy Code, the Energy Code shall govern.



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R. PLUMBING CODE - CHAPTERS DELETED

MICC 19.09.010(E) is amended by deleting Chapters 11 and 12 of the Uniform Plumbing Code, and those references in Chapter 13 of the UPC relating to venting of appliances.

S. SECTION 3309 AMENDED - EXCAVATION AND GRADING

Section 3309 of the Uniform Building Code is hereby amended to read as follows:

Section 3309. No **person** shall do any grading without first having obtained a Grading Permit from the Building Official except for the following:

1. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid Building Permit. This shall not exempt any excavation having an unsupported height greater than 5 feet.
2. An excavation of less than 50 cubic yards of materials which (a) is less than 2 feet in depth and/or (b) which does not create a cut slope of a ratio steeper than two horizontal to one vertical.
3. A fill of less than 50 cubic yards of material which is less than 1 foot in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical.

The exceptions set forth in this section do not exempt any **person** from meeting the requirements of any other applicable City ordinance.

T. SECTION 3315.1 AMENDED - DRAINAGE AND TERRACING - GENERAL SECTION AMENDED

Section 3315.1 of the Uniform Building Code is hereby amended to read as follows:

Section 3315.1. General. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provisions of this Section. Surface drainage and storm water shall be diverted away from all buildings to a roadway drainage ditch, natural drainage ditch or other drainage system.

Surface drainage and storm water run-off from the construction of improvements such as a building, driveway or patio, shall be controlled and disposed of, in accordance with plans approved by the City. In some cases it will be required by the City that storm water detention facilities be designed, built and maintained.

U. CHAPTER 3 AMENDED - SWIMMING POOL FENCING

Chapter 3 of the Uniform Swimming Pool, Spa and Hot Tub Code is hereby amended by adding a new section, Section 321, entitled Fencing, which shall read as follows:



Section 321. Fencing. Outdoor pools shall be fenced so that unsupervised children and animals cannot enter the area used by bathers. The fencing shall be a solid structure of fence material not less than five (5) feet in height with no opening therein, other than doors or gates, larger than four (4) inches and of a non-climbable design. The said fence or other solid structure shall completely surround such pool in such manner as to minimize the danger of unsupervised children gaining access thereto. All gates or doors opening through such enclosure shall be equipped with a self closing and self latching device designed to keep and capable of keeping such door or gates securely closed at all times when not in actual use, and all latches shall be placed at least five (5) feet above the ground or shall be made inaccessible to small children from the outside; provided, however, that the gate or door to any dwelling and forming any part of the enclosure hereinabove required need not be so equipped. Such fencing and latches shall be installed prior to the filling of the pool with water for use.

When a pool is located within a yard enclosed by a fence which satisfies the requirements of this Code, no fence immediately surrounding said pool shall be required.



19.09.030 PUBLIC AND PRIVATE STREETS

A. STANDARDS ADOPTED BY REFERENCE

Residential access streets (**local access streets**), curbs, gutters, sidewalks and drainage and utility facilities in the public right-of-way shall be constructed in accordance with "City and County Design Standards for Low Volume Roads and Streets, Adopted February 10, 1994, per RCW 35.78.030 and RCW 43.32.020" which was enacted by Ordinance 98C-07, and which is on file in the City Clerk's office, and by this reference made a part of this Section as if fully set forth, and the plans and profiles for any such construction shall be submitted to and approved by the City Engineer prior to the commencement of any grading, excavation or other phase of such construction.

B. ACCEPTANCE OF IMPROVEMENTS

Upon certification by the City Engineer that the construction has been completed in compliance with the provisions of this Section and to his or her satisfaction, the City Council may formally accept the improvements for maintenance by the City.

C. CONSTRUCTION SPECIFICATIONS

Residential access streets (**local access streets**) shall be constructed of six (6) inch cement concrete pavement or two (2) inch asphaltic concrete with cement concrete curbs and gutters, rolled cement concrete curbs or thickened asphaltic concrete edges, and shall be a minimum of sixteen (16) feet in width with a minimum one (1) foot wide gravel shoulders, measured from the outside edges of thickened asphaltic concrete edges or of rolled cement concrete curbs and from the inside faces of cement concrete curbs. All construction materials and workmanship shall be in accordance with the Washington State Department of Transportation and American Public Works Association current "Standard Specifications for Road, Bridge, and Municipal Construction" as amended by the City Engineer for City of Mercer Island public works projects, and shall be subject to inspection and approval by the City Engineer.

D. RIGHTS-OF-WAY WIDTHS

1. ARTERIALS

Arterial streets, as designated in the 1976 Arterial and Circulation Plan, shall have rights-of-way widths as follows:

<u>Street Designation</u>	<u>Right-of-way (ft.)</u>
Major Arterial	60-100
Secondary Arterial	60-90
Collector Arterial	50-66



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2. LOCAL ACCESS STREETS

Local access streets shall have rights-of-way of the following widths, based on the type of **street** and on the number of potential **lots** or **dwelling units** that the **street** will serve.

a. DEAD-END STREETS

<u>Number of Lots or Dwelling Units</u>	<u>Right-of-way (ft.)</u>
Over 20	40-50
11 - 20	35-50
6 - 10	30-45
3 - 5	20-40
1 - 2	16-40

b. THROUGH STREETS

Through **street** shall have rights-of-way widths of forty (40) to fifty (50) feet.

E. EXCEPTIONS FROM WIDTH REQUIREMENTS AUTHORIZED

In cases where it is found by the City Council that special conditions of topography, right-of-way width, traffic flow and the like exist, and that a lesser improvement width will not create a vehicular or pedestrian traffic hazard, the City Council may, in its discretion, grant exceptions from the minimum width requirements.



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19.09.040 PRIVATE ACCESS ROADS

- A. The following are the minimum requirements for private access roads. To accommodate fire suppression and rescue activities, the Mercer Island Fire Chief may require that the widths of private access roads or the size of turn-arounds be increased or that turn-arounds be provided when not otherwise required by this Section.
- B. All private access roads serving three (3) or more **single-family dwellings** shall be at least twenty (20) feet in width. All private access roads serving less than three (3) **single-family dwellings** shall be at least sixteen (16) feet in width, with at least twelve (12) feet of that width consisting of pavement and the balance consisting of well compacted shoulders.
- C. All corners shall have a minimum inside turning radius of twenty-eight (28) feet.
- D. All private access roads in excess of one hundred fifty (150) feet in length, measured along the centerline of the access road from the edge of **City street** to the end of the access road, shall have a turn-around with an inside turning radius of twenty-eight (28) feet.
- E. All cul-de-sacs shall be at least seventy (70) feet in diameter; PROVIDED cul-de-sacs providing access to three (3) or more **single-family dwellings** shall be at least ninety (90) feet in diameter.
- F. GRADIENT
 - 1. No access road or driveway shall have a gradient of greater than twenty (20) percent.
 - 2. For all access roads and driveways with a gradient exceeding fifteen (15) percent, the road surface shall be cement concrete pavement with a brushed surface for traction. Access roads and driveways with gradients of fifteen (15) percent or less may have asphalt concrete surface.



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19.09.050 STREET NAMES AND HOUSE NUMBERS

A. CLASSIFICATIONS OF STREETS

1. AVENUE

A public or private roadway improved for general travel which, except for occasional sinuosities, runs in a generally north-south direction shall be designated as an Avenue.

2. BOULEVARD DRIVE, ROAD, LANE OR WAY

A public or private roadway improved for general travel, either as a thoroughfare or cul-de-sac, having such sinuosities as not to fit into the regular **street** or avenue pattern, or a divided or other ornamental way within or adjacent to a park, scenic or landscaped area and not being a portion or extension of a named **street** or avenue shall be designated as a Boulevard, Drive, Road, Lane, or Way.

3. PLACE

A public or private roadway improved for general travel and, except for occasional sinuosities, lying between and parallel to **streets** or avenues as an extra roadway to the grid system of sixteen (16) **streets** to a mile; or a public or private roadway other than an alley, boulevard, drive, road, lane or way, which does not fit into the fixed **street** and avenue pattern by virtue of running at an acute angle to **streets** or avenues shall be designated as a Place.

4. STREET

A public or private roadway improved for general travel which, except for occasional sinuosities, runs in a generally east-west direction shall be designated as a **Street**.

B. ASSIGNMENT OF NAMES AND NUMBERS TO PUBLIC OR PRIVATE ROADWAYS

The Code Official shall assign names or numbers to all public or private roadways, now existing or hereafter established, which have not been named or numbered heretofore; PROVIDED no name or number shall be assigned to a private roadway unless the same shall be servient to one (1) or more properties other than the **lot** of which it is a portion.

C. CHANGE OF EXISTING ROADWAY DESIGNATIONS

All existing roadways shall continue to bear the designation heretofore existing unless changed by resolution of the City Council after the Council has determined that the prior designation does not conform to the criteria set forth



in this Section, and that the public convenience and welfare will be served by such change and designation.

D. USE OF COUNTY SYSTEM TO NAME AND NUMBER ROADWAYS

The Code Official shall assign a name or number to all public or private roadways in accordance with the King County numbering system set out in King County Code, Chapter 16.08, Road Names and Addressing Buildings. All public or private roadways shall be designated by numbers or names assigned at intervals of one-sixteenth (1/16) of a mile; PROVIDED road names shall only be assigned when the numbered grid is determined to be infeasible by the Code Official.

E. ISSUANCE OF HOUSE NUMBERS TO NEW RESIDENCES AND BUILDINGS

The Code Official shall issue house or **premises** numbers to each new residence or other **structure** requiring a means of separate and simple identification, at the time of issuing a **Building** Permit therefor. Such numbers shall be issued for a preexisting **building** or **premises** where the previous number conflicts with the numbering system set forth by this Section and public convenience and welfare would be promoted by such renumbering.

F. RULES FOR ASSIGNMENT OF HOUSE NUMBERS

The numbers assigned by the designating official shall be determined by application of the following rules:

1. House or **premises** numbers shall be determined by adding two (2) digits to the block number in which such house or **premises** is located. The block numbers shall be obtained by taking the number of the nearest **street** to the north or avenue to the west. Block numbers shall be obtained from **streets** or avenues only.
2. Consecutive numbers shall be assigned on public and private roadways running east-west, for each twenty (20) foot interval commencing from the intersection of the nearest avenue to the west or from where such avenue would intersect if it extended that far.
3. Consecutive numbers shall be assigned on public and private roadways running north-south, for each twenty (20) foot interval commencing from the intersection of the nearest **street** to the north or from where such **street** would intersect if it extended that far.
4. The houses or **premises** located on the south and/or west side of such public or private roadways shall receive odd numbers and the **premises** or houses on the north and/or east side of such roadways shall receive even numbers.



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G. HOUSE NUMBER PLACEMENT AND SPECIFICATIONS

On **buildings** now or hereafter erected and fronting on any public or private roadway, there shall be conspicuously placed the number as provided by this Section. The number shall:

1. Be made of durable material at least six (6) inches in height.
2. Contrast with the color of the **building** upon which it is placed.
3. Be placed as to be readily visible from the roadway; PROVIDED in the case where the residence is not readily visible from the roadway, the house number shall be placed in a conspicuous location at the entrance to the driveway serving the residence.

H. NOTICE TO OWNER UPON FAILURE TO PLACE NUMBER

If the owner or lessee of any **building** fails, refuses or neglects to place the number, or replace it when necessary, the Building Official may cause a notice to be served on such owner or lessee as set out in MICC 19.15.030, Enforcement.

I. STRUCTURE APPROVAL BY BUILDING INSPECTOR SUBJECT TO PROPER AFFIXATION OF NUMBER

Final approval of any **structure** erected, repaired, altered or modified after enactment of this Section shall be withheld by the City Building Inspector until a permanent number meeting the specifications set forth in the Section has been affixed to said **structure**.

**19.09.060 EXCAVATIONS****A. PERMITS**

1. It is unlawful to dig up, break, excavate, tunnel, undermine or in any manner break up any right-of-way or to make or cause to be made any excavation in or under the surface of any right-of-way for any purpose or to place, deposit or leave upon any right-of-way any earth or other excavated material obstructing or tending to interfere with the free use of the right-of-way, unless such person has first obtained a Right-of-way Permit from the City Engineer as provided in this Section.
2. No permit shall be issued unless a written application is submitted to the City Engineer. The application shall be accompanied by plans, when applicable, showing the extent of the proposed excavation work.
3. Fees for permits granted under the Section shall be established by the City Council and assessed in accordance with the provisions as set forth by resolution.
4. It shall be the duty of any permittee under this Section to keep the permit and plans in a conspicuous place at the site of the excavation work.

B. SURETY BOND

1. As set out in MICC 19.06.070, before a permit is issued the applicant shall either deposit with the City money to be held in a set-aside account or post a surety bond with the City indemnifying the City against potential damage or injury to public property caused by the permitted excavation.
2. Any property owner repairing or hiring another to repair a sidewalk on such property shall not be required to give such a bond or set-aside.
3. At the City's discretion, a permittee may establish an annual set-aside account under MICC 19.06.070 which shall remain in force for one (1) year, and which shall be funded in an amount sufficient to indemnify the City for all excavation work in streets during the term of the account. If at any time the balance of the account falls below an amount the City Engineer deems sufficient, no further permit shall be issued until the permittee deposits sufficient funds into the account.

C. INSURANCE

Prior to the commencement of excavation, a permittee shall furnish the City Engineer satisfactory written evidence that liability insurance as set out in MICC 19.06.070 is in force and will be in force during the performance of the excavation work.



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D. ROUTING OF TRAFFIC

1. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; PROVIDED the City Engineer may close **streets** to all traffic for a period of time if he or she finds it necessary.
2. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the City Engineer will designate detours. The permittee shall construct all detours at its expense and in conformity with the specifications of the City Engineer. The permittee will be responsible for mitigating any damage caused to any **streets** by the operation of its equipment.

E. CLEARANCE FOR FIRE EQUIPMENT

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions may be placed within fifteen (15) feet of fire hydrants; PROVIDED no material or obstruction shall be placed in front of a hydrant. Passageways leading to fire escapes or fire fighting equipment shall be kept free of piles of material or other obstructions.

F. PROTECTION OF TRAFFIC

The permittee shall erect and maintain suitable barriers to confine earth from trenches or other excavations in order to encroach upon **streets** as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across **streets** under improvement to accommodate vehicular and pedestrian traffic at all **street** intersections.

G. REMOVAL AND PROTECTION OF UTILITIES

The permittee shall not interfere with any existing **utility** without the written consent of the City Engineer and the **utility** company or **person** owning the **utility**. If it becomes necessary to remove an existing **utility**, this shall be done by its owner or as otherwise approved by the City Engineer. No **utility** owned by the **City** shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned **utilities** shall be similarly borne by the permittee unless it makes other arrangements with the **person** owning the **utility**. In case any of said **utilities** should be damaged, the cost of repairs shall be borne by the permittee, and its bond or set-aside account shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any **utility** and its bond or set-aside account shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground **utilities** and protect the same against damage.



H. PROTECTION OF ADJOINING PROPERTY

The permittee shall at all times and at its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose. The permittee shall, at its own expense, shore up and protect all **buildings, walls, fences** or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work.

I. SIDEWALK EXCAVATIONS

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three (3) feet wide and securely railed on each side so that foot passengers can pass over safely at all times.

J. PROTECTIVE MEASURES

The permittee shall erect such **fence, railing** or barriers about the site of the excavation work as shall prevent danger to persons using the **City street** or sidewalks, and such protective barriers shall be maintained until the work is completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or **structures** or other obstructions to **streets**, suitable and sufficient lights during the maintenance of such obstructions. It is unlawful for anyone to remove or tear down the **fence** or railing or other protective barriers or any lights provided there for the protection of the public.

K. ATTRACTIVE NUISANCE

It is unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children, and hazardous to their safety or health.

L. CARE OF EXCAVATED MATERIAL

All material excavated from trenches and piled adjacent to the trench or in any **street** shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the right-of-way, and so that as little inconvenience as possible is caused to those using right-of-way and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure



the necessary permission and make all necessary arrangements for all required storage and disposal.

M. DAMAGE TO EXISTING IMPROVEMENTS

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials and workmanship for such repair shall conform with the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the City Engineer shall have the authority to cause said necessary labor and materials to be furnished by the **City** and the cost shall be charged against the permittee, and the permittee shall also be liable on its bond or set-aside account therefor.

N. CLEANUP OPERATIONS

As the excavation work progresses, all **streets** and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the City Engineer. From time to time as may be ordered by the City Engineer and in any event immediately after completion of said work, the permittee shall at its own expense cleanup and remove all refuse and unused materials of any kind resulting from the work and, upon failure to do so within twenty-four (24) hours after having been notified to do so by the City Engineer, the work may be done by the City Engineer and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond or set-aside account provided under MICC 19.06.070.

O. PROTECTION OF DRAINAGE FACILITIES

The permittee shall provide for the flow of all ditches, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the City Engineer may direct. The permittee shall not obstruct the gutter of any **street**, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

P. TUNNELS

Tunnels under pavements shall not be permitted except by permission of the City Engineer. Where pipes or cables are placed under main thoroughfares, concrete **streets**, state highways, first grade asphalt **streets**, or wherever designated by the City Engineer, such work shall be done by jacking or boring casings under **street** surfaces and placing said pipes or cables inside of the casing.

**Q. BACKFILLING**

Backfilling in any **street** opened or excavated pursuant to a permit issued under this Section shall be compacted in accordance with **City** standards.

R. RESTORATION OF SURFACE

1. The permittee shall restore the surface of all **streets** broken into or damaged as a result of the excavation work to their original condition in accordance with the specifications of the City Engineer. The permittee may be required to place a temporary surface over openings made in paved traffic lanes.
2. Permanent restoration of the **street** shall be made by the permittee in strict accordance with the specifications prescribed by the City Engineer to restore the **street** to its original and proper condition, or as near as may be possible.
3. Acceptance or approval of any excavation work by the City Engineer shall not prevent the **City** from asserting a claim against the surety bond or set-aside account required under MICC 14.06.070 for incomplete or defective work if discovered within twenty-four (24) months from the completion of the excavation work. The City Engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities under this Section.

S. CITY'S RIGHT TO RESTORE SURFACE

1. If the permittee has failed to restore the surface of the **street** to its original and proper condition upon the expiration of the time fixed by such permit, or fails to prosecute the work in accordance with the requirements of this Section, or has otherwise failed to complete the excavation work covered by such permit, the City Engineer, if he or she deems it advisable, shall have the right to do all work and things necessary to restore the **street** and to complete the excavation work. The permittee shall be liable for the actual cost thereof and twenty-five (25) percent of such cost in addition for general overhead and administrative expenses. The **City** shall have a cause of action for all fees, expenses and amounts paid out and due it for such work, and the **City** shall also enforce its rights under the permittee's surety bond or set-aside account provided pursuant to this Section.
2. It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two (2) years after restoring it to its original condition.

T. TRENCHES IN PIPE LAYING

Except by special permission from the City Engineer, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe laying, nor left unfilled more than five hundred (500) feet where pipe has been laid. The length of the trench that



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may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be shored according to generally accepted safety standards for construction work. No timber bracing, lagging, sheathing or other lumber shall be left in any trench.

U. PROMPT COMPLETION OF WORK

The permittee shall prosecute with diligence and expedition all excavation work covered by the permit and shall promptly complete such work and restore the **street** to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the permit therefor.

V. URGENT WORK

If in the judgment of the City Engineer, traffic conditions, the safety or convenience of the traveling public, or the public interest require that the excavation work be performed as emergency work, the City Engineer shall have full power to order, at the time the permit is granted, that a crew of workers and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible.

W. EMERGENCY ACTION

In the event of any emergency in which a sewer, main, conduit or **utility** in or under any **street** breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the **person** owning or controlling such sewer, main, conduit or **utility**, without first applying for and obtaining a permit under this Section, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such **person** owning or controlling such facility shall apply for a permit not later than the end of the next succeeding day during which the City Engineer's office is open for business, and shall not proceed with permanent repairs without first obtaining a permit under this Section.

X. DUST AND DEBRIS

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable any dust or unsightly debris generated by the excavation.

Y. PRESERVATION OF MONUMENTS

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the City Engineer. All **street** monuments, property corners, bench marks and other monuments disturbed during the progress of



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the work shall be replaced by the City Engineer and the cost of the same shall be paid by the permittee.

Z. INSPECTIONS

1. The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this Section, and the permittee shall bear the cost of such inspections.
2. The City Engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this Section.

AA. MAINTAIN DRAWINGS

Users of subsurface **street** space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground **structures** including abandoned installations. Corrected maps shall be filed with the City Engineer within sixty (60) days after new installations, changes or replacements are made.

BB. PROVISIONS NOT APPLICABLE TO CITY WORK

The provisions of this Section shall not be applicable to any excavation work, under the direction of competent **City** authorities, by employees of the **City** or by any contractor of the **City** performing work for and in behalf of the **City**, necessitating openings or excavations in **streets**.

CC. LIABILITY OF CITY

This Section shall not be construed as imposing upon the **City** or any official or employee any liability or responsibility for damages to any **person** injured by the performance of any excavation work for which an Excavation Permit is issued under this Section; nor shall the **City** or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized under this Section, the issuance of any permit or the approval of any excavation work.



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19.09.070 STREET VACATIONS

A. PURPOSE

The purpose of this Section is to set forth the procedure and criteria for vacation of **City streets**. It is in the best interests of the residents of the **City** that **City streets** remain in **City** ownership unless the applicants for a **street** vacation clearly demonstrate that there is no public purpose to be served in the retention of ownership of the **street** or portion thereof sought to be vacated, or that the public interest is best served by the vacation.

B. SUFFICIENCY OF SIGNATURE

For the purpose of determining the sufficiency of signatures of property owners on a petition for **street** vacation, the following rules shall govern:

1. Where property is subject to a mortgage, the signature of the mortgagor shall be sufficient.
2. Where property is subject to a contract of purchase, the signature of the contract vendee shall be sufficient.
3. Where property is subject to a deed of trust, the signature of the grantor shall be sufficient.
4. In the case of ownership by partnership or corporation, the signature of any officer authorized by the bylaws or resolution of the partners or board of directors shall be sufficient when evidenced by a copy of the section of bylaws or resolution granting such authority.
5. Where property is subject to a long term lease (in excess of twenty-five (25) years) the signature of either the lessor or lessee shall be sufficient.
6. In the case of property subject to a life estate, the signature of the holder of the life estate shall be sufficient.
7. In the case of property owned by the estate of a decedent or incompetent, the signature of the duly qualified personal representative or guardian shall be sufficient.

C. PETITION OR RESOLUTION FOR VACATION

The owners of an interest in real property abutting upon any **City street** who desire to vacate such **street**, or any part thereof, may petition the City Council for vacation of the **street**, giving the description of the portion sought to be vacated; or the City Council may itself initiate a vacation procedure by passing a City Council resolution. The petition or resolution shall be filed with the City Clerk. The proposed **street** vacation shall be processed by the City Engineer or a designee.



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D. CITY COUNCIL HEARING - TIME FIXED

1. **Petition Method.** If the petition for **street** vacation is signed by the owners of more than two-thirds (2/3) of the property abutting upon the part of the **street** sought to be vacated, the City Council by resolution shall fix a time when the petition shall be heard by the council. The date shall not be more than sixty (60) days nor less than twenty (20) days after the date of the passage of such resolution.
2. **Resolution Method.** In cases where **street** vacation is initiated by City Council resolution, the resolution shall include the City Council hearing date for the proposed vacation.

E. REPORT AND RECOMMENDATION

1. All requests for **street** vacation, whether by petition or resolution, shall be submitted to **City** staff for report and recommendations to the City Council.
2. In addition, all such requests for **street** vacation, whether by petition or resolution, shall be considered by the Planning Commission.

F. PUBLIC NOTICE

Public notice of a proposed **street** vacation shall be made in accordance with the procedures set forth in MICC 19.15.020; PROVIDED at least twenty (20) days prior to the City Council hearing on the proposed **street** vacation, and at least twenty (20) days prior to consideration by the Planning Commission, the City Clerk shall issue written notice of the hearings which shall be:

1. Posted in three (3) of the most public places in the **City** and in a conspicuous place on a portion of the **street** proposed for vacation, or at a nearby location that can be viewed by the public; and
2. Mailed to residents of property located within three hundred (300) feet of the portion of the **street** or alley sought to be vacated.

G. RESOLUTION METHOD - DIVESTITURE OF JURISDICTION TO PROCEED

If fifty (50) percent or more of the abutting property owners file written objection to the proposed vacation with the City Clerk prior to the time of hearing, the **City** shall be prohibited from proceeding with a proposed **street** vacation initiated by resolution.

H. CRITERIA FOR GRANTING VACATION

The City Council shall grant the requested vacation; PROVIDED:

1. The applicants can demonstrate that:



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- a. Granting the vacation will not conflict with the general purposes and objectives of the **City's** comprehensive plan as to land use, **streets, utilities, drainage, parks, trails, and open space;**
 - b. The **street** or portion thereof, is not likely to serve a useful public purpose both now and in the future, which cannot be met through use of easements for a specific purpose, or the vacation will best serve the public interest;
 - c. The vacated area will not increase the number of single-family building sites or multifamily density. This may be mitigated by appropriate conditions on the vacated area per Part K of this Section;
 - d. The request for vacation was not initiated to correct a condition created by an applicant in violation of **City ordinance;** and
 - e. The vacated area cannot be used to increase commercial density. This may be mitigated by appropriate conditions on the vacated area per Part K of this Section.
2. The **City** shall not vacate a **street** if any portion of the **street** abuts Lake Washington unless the following additional criteria are satisfied:
- a. The vacation is sought by the **City** to enable it to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;
 - b. The **City**, by resolution of the City Council, declares that the **street** is not presently being used as a **street** and that the **street** is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or
 - c. The vacation is sought to enable the **City** to implement a plan, adopted by resolution or ordinance, that provides comparable or improved **public access** to the same shoreline area to which the **streets** sought to be vacated abut, had the properties included in the plan not been vacated.
3. Before adopting a resolution vacating a **street** under Part H2 of this Section, the **City** shall:
- a. Compile an inventory of all rights-of-way within the **City** that abut the same body of water that is abutted by the **street** sought to be vacated;
 - b. Conduct a study to determine if the **street** to be vacated is suitable for use by the **City** for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;
 - c. Hold a public hearing on the proposed vacation in the manner required by Part D of this Section and provide public notice of the hearing as set out in



Part F of this Section, where the notice shall indicate that the area is **public access**, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to the **City** indicating his or her objection; and

- d. Make a finding that the **street** sought to be vacated is not suitable for any of the purposes listed under Part H3b of this Section, and that the vacation is in the public interest.

J. CITY COUNCIL DECISION

At the conclusion of the public hearing the City Council may take the following action.

1. Pass an ordinance granting the proposed vacation either in whole or in part; or
2. Pass a motion denying the proposed vacation; or
3. Pass a motion of intent to vacate stating that the City Council will, by ordinance, grant the vacation if the applicant meets certain conditions within a stated period of time.

K. GRANTING - CONDITIONS

1. If the City Council decides to grant the vacation, such action shall be made by ordinance with such conditions or limitations as the City Council deems necessary and proper to preserve any desired public use, benefit or interest, such as, but not limited to:
 - a. Reserving within the portion of the **street** that is vacated easements for access, construction, repair and maintenance of public **utilities**; for trails; or for other public necessities; and
 - b. Land use restrictions such as, but not limited to, not allowing the area of the vacated portion being used as a part of the abutting property area if the vacated area allows increases in building density or the number of single-family homes.
2. The City Council may require that the owners of property abutting upon the **street**, or part thereof so vacated, compensate the **City** in an amount which does not exceed one-half (1/2) the appraised value of the area so vacated; PROVIDED no vacation of a **street** abutting Lake Washington shall be effective until the **fair market value** has been paid for the **street** that is vacated. Moneys received from the vacation shall be used by the **City** for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites.



L. EFFECTIVE DATE

1. No ordinance granting a vacation in exchange for real property as set forth below shall become effective until instruments of conveyance approved by the City Attorney have been accepted by the City Council.
2. Where the City Council has required compensation for the **street** vacation, no ordinance granting such vacation shall become effective until the owners of property abutting upon the portion of the **street** to be vacated have compensated the **City** in the appropriate amount, as provided in Part M of this Section; PROVIDED, however, in the event the **street** or portion thereof to be vacated was acquired at public expense, compensation may be required in an amount equal to the full appraised value of the portion vacated.
3. A certified copy of the ordinance granting vacation shall be recorded by the City Clerk in the office of the King County Department of Records within thirty (30) days of the effective date of the ordinance.

M. PROCEDURE FOR COMPENSATION

1. Upon a finding that the criteria for granting a vacation have been met, the City Council may conditionally approve the vacation and direct the City Manager or his/her designee to secure an appraisal of the portion or the street or alley to be vacated and an estimate of the cost of the appraisal. The applicants shall then post with the City Clerk a cash deposit equal to the estimated appraisal cost to guarantee payment for the appraisal.
2. Upon notification that the amount of required compensation for the vacation has been established, the applicants shall have ninety (90) days to deposit that amount, together with appraisal costs with the City Clerk. Credit shall be given for the appraisal cost deposit previously made. If the required compensation and appraisal costs are not made within the allocated time period, the conditional approval of the vacation shall lapse and the portion of the appraisal cost deposit not expended on the appraisal shall be returned to the applicant.
3. Determination of appraised value shall be made by appraisal of the portion of the **street** to be vacated with value determination based on highest and best use. Any easement or other public rights retained by the **City** or dedicated to the **City** shall be considered in the appraisal. The appraisal cost shall be borne by the applicant and shall be added to the amount of compensation to be received by the **City** for the vacation.
4. In lieu of total or partial monetary compensation, the applicant may offer to the **City** a grant or dedication of real property useful for **street** or other public purposes. The City Council shall not be obligated to accept such exchange.



19.09.080 MOVING OF BUILDINGS

A. PERMIT REQUIRED

It is unlawful for any **person** to move any **building** over, along or across any highway, **street**, alley or public place in the **City** without first obtaining a permit from the Building Official.

B. APPLICATION

1. Before a permit can be issued, an application must be submitted to the Building Official at least seven (7) days before the proposed move.
2. Applications shall be submitted on forms provided by the Building Official, and shall contain:
 - a. Location of the **building** to be moved;
 - b. Proposed new location of the **building**;
 - c. Dimensions of the **building** when loaded;
 - d. Proposed route for moving; and
 - e. Any other information deemed necessary by the Building Official.
3. The Building Official shall route copies of the application to the Department of Public Safety and the Maintenance Department for review.

C. DEPOSIT FOR EXPENSE OF CITY

Upon receipt of an application, the Building Official shall estimate the expense of removing and replacing any property of the **City** necessary to move the **building** through the **City**, together with the cost of materials necessary to be used in making such removals and replacements. Prior to the issuance of the permit, the Building Official shall require the applicant to deposit a sum of money equal to twice the amount of the estimated expense.

D. SURETY BOND - LIABILITY INSURANCE

As set out in MICC 19.06.070, an application for a **Building Moving Permit** shall be accompanied by the following, unless waived by the Building Official:

1. A bond or funds for a set-aside account sufficient to:
 - a. Indemnify the **City** for the following:



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- i. Loss sustained by the **City** due to damage or injury to any highway, **street** or alley, sidewalk or other property of the **City** caused by or incidental to moving the **building** over, along or across any **street** in the **City**, and
 - ii. The cost of removing the **structure** if the applicant should abandon it before the move is completed, and
 - iii. The cost of placing the original **premises** in a safe and sanitary condition where the applicant has failed to do so; and
 - b. Guarantee that the construction, painting and finishing of the exterior of the **building** shall be completed in accordance with the Mercer Island City Code within six (6) months; and
2. Liability Insurance remaining in full force and effect during the moving operation and holding the **City** harmless from all claims arising from the moving operation.

E. CONDITIONS FOR SECURING PERMIT

1. As a condition of securing the permit, the applicant shall:
 - a. Furnish the **City** with a set of plans and specifications for the completed **building**; and
 - b. Prior to making any application for such permit, or within ten (10) days after making such application, remove sufficient portions of all of the interior or exterior walls, ceiling or flooring as may be necessary to permit the Building Official to examine the materials and type of construction of such **building** to ascertain whether it will comply with the Development Code and related codes of the **City**.
2. If the **building** is to be moved onto a site location within the **City**, no permit shall be granted unless the Building Official after inspection of the **building** certifies in writing that:
 - a. The **structure** to be moved will comply with the Development Code; and
 - b. That the requirements under Part G of this Section have been satisfied.

F. INSPECTION BY BUILDING OFFICIAL

The Building Official shall inspect the **building** and the applicant's equipment to determine whether the standards for issuance of a permit are met.



G. STANDARDS FOR ISSUANCE

The Building Official shall refuse to issue a permit if it is found:

1. That any application requirement or any fee or deposit requirement has not been complied with;
2. That the **building** is too large to move without endangering **persons** or property in the **City**;
3. That the **building** is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering **persons** and property in the **City**;
4. That the **building** is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the **City**;
5. That the applicant's equipment is unsafe and that **persons** and property would be endangered by its use;
6. That the Development Code would be violated by the **building** in its new location;
7. Approval of the application by the Department of Public Safety and Maintenance Department shall be a condition precedent to issuance of the permit;
8. After consultation with the Development Services Group, and the Design Commission for **structures** under its jurisdiction, that the **building** when relocated and completed *will not be compatible with the district in which located*. "Compatible" shall mean similar to, equal or commensurate with existing **development** in the immediate affected vicinity in such matters as:
 - a. **Building height**: i.e. in area of all one-story **buildings**, the relocated building should be a one-story **building**, if the affected vicinity is all two-story **buildings**, the relocated **building** should be two stories,
 - b. **Finish materials**: i.e. in an area with all **buildings** finished in brick, the relocated **building** should be finished in brick; if **buildings** in the affected vicinity are all white painted siding, then the relocated **building** should be white painted siding,
 - c. **Architecture**: i.e. in an area of all contemporary modern **buildings** a relocated **building** should be contemporary; if the affected vicinity is all New England colonial or all English Tudor or all western log cabin, the relocated **building** should be of the same architectural style,
 - d. **Site development**: i.e. in an area of sites all developed in open and contiguous lawns, the relocated **building** site should be in open lawn; if the



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affected vicinity is developed in intense shrub and **tree** plantings, or in **yard fences** and paving, the relocated **building** site should be so developed,

- e. **Age:** i.e. a **building** of such age or character that the brand of its era cannot be erased by remodeling should not be permitted to move into an area that will suffer property devaluation as a result of the relocated **building**,
 - f. **Value:** i.e. a relocated **building** should be reasonably commensurate in dollar value with the **buildings** in the affected vicinity,
 - g. In an area or vicinity that has only some established standards or characteristics, such as are listed above, and is mixed to a degree itself, only those characteristics which are clearly established as standards in the existing **buildings** of the vicinity shall be used to judge the merit or demerit of a proposed relocated **building**,
 - h. The area or immediate affected vicinity to be considered in judging the impact of a proposed relocated **building** shall be that area which is visually connected and related to the relocated **building** site;
9. That the applicant has not furnished proof that all affected public and private **utilities**, including those involved with electricity, gas, telephone, water and sewer have been notified of the time of the move and the route to be followed;
 10. That for any other reason **persons** or property in the **City** would be endangered by the move of **buildings**.

H. FEES AND DEPOSITS

1. RETURN UPON NONISSUANCE

Upon the refusal of the Building Official to issue a permit, the Building Official shall return to the applicant all deposits and bonds; except the application fee.

2. RETURN UPON ALLOWANCE FOR EXPENSE

After the **building** has been moved the Building Official shall prepare a final written statement for all expenses incurred in removing and replacing all property belonging to the **City**, and all material used in the making of the removal and replacement together with a statement of all damage caused to or inflicted upon property belonging to the **City**; PROVIDED the permittee shall not be liable for the cost of removing wires, poles, lamps or other property whose location is not in conformity with governing ordinances. The Building Official shall return to the applicant all deposits after deduction of a sum sufficient to pay for all of the cost and expenses and for all damage done to property of the **City** by reason of removal of the **building**.



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I. BUILDING OFFICIAL TO DESIGNATE STREET FOR REMOVAL

The Building Official shall designate the **streets** over which the **building** may be moved and shall have the route approved by the Department of Public Safety. In making their determinations the Building Official and the Department of Public Safety shall act to assure maximum safety to **persons** and property in the **City** and to minimize congestion and traffic hazards on public **streets**.

J. MAXIMUM TIME FOR MOVE

The Building Official shall designate the time within which the move must be completed. If more than one (1) day will be required to move the **building**, the Building Official shall designate where the **building** may be located when not being moved, and how it shall be equipped to warn the public of the danger involved. The applicant shall comply with such designations.

K. COMPLIANCE WITH TRAFFIC REGULATION

Except insofar as the permit shall authorize excess height, width, or weight, the permittee shall comply with all applicable traffic regulations.

L. DUTIES OF PERMITTEE

Every permittee under this chapter shall:

1. USE DESIGNATED STREETS

- Move a **building** only over **streets** designated for such use in the written permit;

2. NOTIFY OF REVISED MOVING TIME

Notify the Building Official in writing of a desired change in moving date and hours as proposed in the application;

3. NOTIFY OF DAMAGE

Notify the Building Official in writing of any and all damage done to property belonging to the **City** within twenty-four (24) hours after the damage or injury has occurred;

4. DISPLAY LIGHTS

Cause red lights to be displayed during the nighttime on every side of the **building**, while standing on a **street**, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the



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streets in such manner as to protect the public from damage or injury by reason of the removal of the **building**;

5. STREET OCCUPANCY PERIOD

Remove the **building** from the **City streets** after four (4) days of such occupancy, unless an extension is granted by the Building Official;

6. COMPLY WITH GOVERNING LAW

Within six (6) months from the date of issuance of the permit, comply with the Development Code and all other applicable ordinances and laws upon relocating the **building** in the **City**; PROVIDED a residential **building** that is moved between locations within the **City**, and that was in compliance with this Chapter when built, shall not be subject to requirements imposed subsequent to that time. **Buildings** that are substantially remodeled or renovated and new foundations constructed for the moved **building** shall be subject to the current requirements of this Chapter.

7. PAY EXPENSE OF OFFICER

Pay the expense of a traffic officer ordered by the Building Official to accompany the movement of the **building** to protect the public from injury; and

8. CLEAR OLD PREMISES

Remove all rubbish and materials and fill all excavations to **existing grade** at the original **building** site so that the **premises** are left in a safe and sanitary condition.

M. ENFORCEMENT

1. ENFORCING OFFICERS

The Building Official and the Department of Public Safety shall enforce and carry out the requirements of this Section.

2. PERMITTEE LIABLE FOR EXPENSE ABOVE DEPOSIT

The permittee shall be liable for any expense, damages or costs in excess of deposited amounts or securities.

3. ORIGINAL PREMISES LEFT UNSAFE

The **City** shall proceed to do the work necessary to leave the original **premises** in a safe and sanitary condition where permittee does not comply with the requirements of this Section, and the cost thereof shall be charged against the general deposit.



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Chapter 19.15 Administration

- 19.15.010 GENERAL PROCEDURES
- 19.15.020 PERMIT REVIEW PROCEDURES
- 19.15.030 ENFORCEMENT
- 19.15.040 DESIGN COMMISSION REQUIREMENTS

19.15.010 GENERAL PROCEDURES

A. PURPOSE

Administration of the Development Code is intended to be expedient and effective. The purpose of this Chapter is to identify the processes, authorities and timing for administration of **development** permits. Public noticing and hearing procedures, decision criteria, appeal procedures, dispute resolution and code interpretation issues are also described.

B. OBJECTIVES

- guide customers confidently through the permit process;
- process permits equitably and expediently;
- balance the needs of permit applicants with neighbors;
- allow for an appropriate level of public notice and involvement;
- make decisions quickly and at the earliest possible time;
- allow for administrative decision-making, except for those decisions requiring the exercise of discretion which are reserved for appointed decision makers;
- ensure that decisions are made consistently and predictably; and
- resolve conflicts at the earliest possible time.

C. ROLES AND RESPONSIBILITIES

The roles and responsibilities for carrying out the provisions of the Development Code are shared by appointed boards and commissions, elected officials and **City** staff. The authorities of each of these bodies are set forth below.

1. CITY COUNCIL

The City Council is responsible for establishing policy and legislation affecting land use within the **City**. The City Council acts on recommendations of the Planning Commission in legislative and quasi-judicial matters, and serves as the appeal authority on discretionary actions.

2. PLANNING COMMISSION

The role of the Planning Commission in administering the Development Code is governed by MICC Chapter 3.46. In general, the Planning Commission is the



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designated planning agency for the **City** (see RCW 35.63). The Planning Commission is responsible for final action on a variety of discretionary permits and makes recommendations to the City Council on land use legislation, Comprehensive Plan amendments and quasi-judicial matters. The Planning Commission also serves as the appeal authority for some ministerial and administrative actions.

3. DESIGN COMMISSION

The role of the Design Commission in administering the Development Code is governed by MICC Chapter 3.34 and MICC 19.15.040. In general, the Design Commission is responsible for maintaining the **City's** design standards and action on sign, commercial and multiple-family design applications.

4. BUILDING BOARD OF APPEAL

The role of the Building Board of Appeal in administering the Development Code is governed by MICC Chapter 3.28. In general, the Building Board of Appeal is responsible for hearing appeals of interpretations or application of the Uniform Building Code.

5. DEVELOPMENT SERVICES GROUP

The responsible officials in the Development Services Group act upon ministerial and administrative permits.

- a. The **Code Official** is responsible for administration, interpretation and enforcement of the Development Code.
- b. The **Building Official** is responsible for administration and interpretation of the Building Code.
- c. The **City Engineer** is responsible for the administration and interpretation of engineering standards.
- d. The **Environmental Official** is responsible for the administration of the State Environmental Policy Act and Shoreline Master Program.
- e. The **Fire Marshal** is responsible for administration and interpretation of the Uniform Fire Code.

6. HEARING EXAMINER

The role of the Hearing Examiner in administering the Development Code is governed by MICC Chapter 3.40. In general, the Hearing Examiner is responsible for review of administrative permits referred by staff.



D. ACTIONS

There are four categories of actions or permits that are reviewed under the provisions of the Development Code.

1. MINISTERIAL ACTIONS

Ministerial actions are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.

2. ADMINISTRATIVE ACTIONS

Administrative actions are based on objective and subjective standards that require the exercise of limited discretion about nontechnical issues.

3. DISCRETIONARY ACTIONS

Discretionary actions are based on standards that require substantial discretion and may be actions of broad public interest. Discretionary actions are only taken after an **open record hearing**.

4. LEGISLATIVE ACTIONS

Legislative actions involve the creation, amendment or implementation of policy or law by ordinance. In contrast to the other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens. Legislative actions are only taken after an **open record hearing**.



E. SUMMARY OF ACTIONS AND AUTHORITIES

The following is a non-exclusive list of the actions that the City may take under the Development Code, the criteria upon which those decision are to be based, and which boards, commissions, elected officials, or City staff have authority to make the decisions and to hear appeals of those decisions.

Action	Decision Authority	Criteria	Appeal Authority
Ministerial Actions			
Building Permit	Building Official	MICC Ch. 19.09	Building Board of Appeals
Right-of-way Permit	City Engineer	MICC Ch. 19.09	Hearing Examiner
Grading and Clearing Permit	Building Official	MICC § 19.09.010, 020	Hearing Examiner
Home Business Permit	Code Official	MICC § 19.02.010	Hearing Examiner
Lot Line Adjustment Permit	Code Official	MICC Ch. 19.08	Hearing Examiner
Design Review-minor new construction	Code Official or Design Commission	MICC § 19.04.010	City Council
Final Short Plat Approval	Code Official	MICC Ch. 19.08	Planning Commission
Administrative Actions			
Accessory Dwelling Unit Permit	Code Official	MICC § 19.02.030	Hearing Examiner
Short Plat	Code Official	MICC Ch. 19.08	Planning Commission
Variance	Code Official or Design Commission	MICC § 19.15.020(G)	Planning Commission
Deviation	Code Official or Design Commission	MICC § 19.15.020(G)	Planning Commission
Critical Lands Determination	Code Official	MICC Ch. 19.07	Planning Commission
Shoreline-Substantial Development Permit	Code Official	MICC § 19.07.080	Shoreline Hearings Board
Shoreline-Exemption	Code Official	MICC § 19.07.080	City Council *
SEPA Threshold Determination	Code Official	MICC § 19.07.100	Planning Commission
* Final rulings granting or denying an exemption under MICC 19.07.070 are not appealable to the Shoreline Hearings Board (SHB No. 98-60).			



Action	Decision Authority	Criteria	Appeal Authority
Discretionary Actions			
Conditional Use Permit	Planning Commission	MICC § 19.15.020(G)	City Council
Reclassification (rezone)	City Council via Planning Commission*	MICC § 19.15.020(G)	Superior Court
Design Review-major new construction	Design Commission	MICC § 19.04.010	City Council
Preliminary Long Plat Approval	City Council via Planning Commission*	MICC Ch. 19.08	Superior Court
Variance from short plat acreage limitation	Planning Commission	MICC § 19.08.020	City Council
Critical Land Variance	Planning Commission	MICC § 19.07.010	City Council
Street Vacation	City Council via Planning Commission*	MICC § 19.09.070	Superior Court
Watercourse Variance	Planning Commission	MICC § 19.07.030	City Council
Shoreline Deviation	Planning Commission	MICC § 19.07.080	City Council
Legislative Actions			
Code Amendment	City Council via Planning Commission*	MICC § 19.15.020(G)	Superior Court
Comprehensive Plan Amendment	City Council via Planning Commission*	MICC § 19.15.020(G)	Superior Court
* The original action is by the Planning Commission which holds a public meeting and makes recommendations to the City Council which holds an open record hearing and makes the final decision.			

**19.15.020 PERMIT REVIEW PROCEDURES**

The following are general requirements for processing a permit application under the Development Code. Additional or alternative requirements may exist for actions under specific Code sections (see MICC 19.07.080, MICC 19.07.100, and MICC 19.08.020).

A. PRE-APPLICATION

Applicants for **development** permits are encouraged to participate in informal meetings with **City** staff and property owners in the neighborhood of the project site. Meetings with the staff provide an opportunity to discuss the proposal in concept terms, identify the applicable **City** requirements and the project review process. Meetings or correspondence with the neighborhood serve the purpose of informing the neighborhood of the project proposal prior to the formal notice provided by the **City**.

B. APPLICATION

1. All applications for permits or actions by the **City** shall be submitted on forms provided by the Development Services Group. An application shall contain all information deemed necessary by the **Code Official** to determine if the proposed permit or action will comply with the requirements of the applicable development regulations.
2. All applications for permits or actions by the **City** shall be accompanied by a filing fee in an amount established by City Ordinance.

C. DETERMINATION OF COMPLETENESS

1. The **City** will not accept an incomplete application. An application is complete when all information required on the application form has been provided to the satisfaction of the **Code Official**.
2. Within twenty-eight (28) days after receiving a **Development Permit** application, the **City** shall mail or provide in person a written determination to the applicant, stating either that the application is complete or that the application is incomplete and what is necessary to make the application complete. An application shall be deemed complete if the **City** does not provide a written determination to the applicant stating that the application is incomplete.
3. Within fourteen (14) days after an applicant has submitted all additional information identified as being necessary for a complete application, the **City** shall notify the applicant whether the application is complete or what additional information is necessary.
4. If the applicant fails to provide the required information within ninety (90) days of the determination of incompleteness, the application shall lapse. The



applicant may request a refund of the application fee minus the **City's** cost of determining the completeness of the application.

D. NOTICE OF APPLICATION

1. Within fourteen (14) days of the determination of completeness, the **City** shall issue a Notice of Application for all administrative, discretionary, and legislative actions listed in MICC 19.15.010(E).
2. The Notice of Application shall include the following information:
 - a. The dates of the application, the determination of completeness, and the notice of application;
 - b. The name of the applicant;
 - c. The location and description of the project;
 - d. The requested actions and/or required studies;
 - e. The date, time, and place of the **open record hearing**, if one has been scheduled;
 - f. Identification of environmental documents, if any;
 - g. A statement of the public comment period, which shall be not less than fourteen (14) days nor more than thirty (30) days following the date of notice of application; and a statement of the rights of individuals to comment on the application, receive notice and participate in any hearings, request a copy of the decision once made and any appeal rights;
 - h. The **City** staff contact and phone number;
 - i. The identification of other permits not included in the application to the extent known by the **City**;
 - j. A description of those **development** regulations used in determining consistency of the project with the **City's** Comprehensive Plan; and
 - k. Any other information that the **City** determines appropriate.

3. OPEN RECORD HEARING

If an **open record hearing** is required on the permit, the **City** shall:

- a. Provide the Notice of Application at least fifteen (15) days prior to the hearing; and



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- b. Issue any threshold determination required under MICC 19.07.100 at least fifteen (15) days prior to the hearing.
4. Notice shall be provided in the bi-weekly DSG Bulletin, posted at City Hall and made available to the general public upon request.
5. All comments received on the Notice of Application must be received by the Development Services Group by 5:00 PM on the last day of the comment period.
6. Except for a Determination of Significance, the City shall not issue a threshold determination under MICC 19.07.100 or issue a decision on an application until the expiration of the public comment period on the Notice of Application.
7. A Notice of Application is not required for the following actions; PROVIDED the action is either categorically exempt from SEPA or an environmental review of the action in accordance with SEPA has been completed:
 - a. **Building Permit;**
 - b. **Lot-line revision;**
 - c. **Right-of-way Permit;**
 - d. **Storm Drainage Permit;**
 - e. **Home Occupation Permit;**
 - f. **Design Review-minor new construction;**
 - g. **Final plat approval;**
 - h. **Shoreline Exemption Permit; and**
 - i. **Critical Lands Determination.**

E. PUBLIC NOTICE

1. In addition to the Notice of Application, a Public Notice is required for all administrative, discretionary, and legislative actions listed in MICC 19.15.010(E).
2. Public Notice shall be provided at least ten (10) days prior to any required open record hearing. If no such hearing is required, Public Notice shall be provided ten (10) days prior to the decision on the application.
3. The Public Notice shall include the following:



- a. A general description of the proposed project and the action to be taken by the **City**;
 - b. A non-legal description of the property, vicinity map or sketch;
 - c. The time, date and location of any required **open record hearing**;
 - d. A contact name and number where additional information may be obtained;
 - e. A statement that only those **persons** who submit written comments or testify at the **open record hearing** will be parties of record; and only parties of record will receive a notice of the decision and have the right to appeal; and
 - f. A description of the deadline for submitting public comments.
4. Public Notice shall be provided in the following manner:
- a. ADMINISTRATIVE AND DISCRETIONARY ACTIONS

Notice shall be mailed to all property owners within three hundred (300) feet of the property and posted on the site in a location that is visible to the public right of way.
 - b. LEGISLATIVE ACTION

Notice shall be published in a newspaper of general circulation within the **City**.

F. OPEN RECORD HEARING

1. One **open record hearing** shall be required prior to action on all discretionary and legislative actions.
2. **Open record hearings** shall be conducted in accordance with hearing body's rules of procedures. In conducting an **open record hearing**, the hearing body's chair shall, in general, observe the following sequence:
 - a. Staff presentation, including the submittal of any additional information or correspondence. Members of the Hearing Body may ask questions of staff.
 - b. Applicant and/or applicant representative's presentation. Members of the Hearing Body may ask questions of the applicant.



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- c. Testimony by the public. Questions directed to the staff, the applicant or members of the hearing body shall be posed by the chairperson at his/her discretion.
 - d. Rebuttal, response or clarifying statements by the applicant and/or the staff.
 - e. The public comment portion of the hearing is closed and the hearing body shall deliberate on the action before it.
3. Following the hearing procedure described above, the Hearing Body shall:
- a. Approve;
 - b. Conditionally approve;
 - c. Continue the hearing; or
 - d. Deny the application.
4. For any one project action, there shall be only one **open record hearing** and one **closed record appeal**. In the situation that a project requires action by both the Planning Commission and the Design Commission, the Design Commission shall hold a **public meeting** and make a recommendation to the Planning Commission which shall conduct the **open record hearing**.

G. DECISION CRITERIA

Decisions shall be based on the criteria specified in the Mercer Island City Code for the specific action. A reference to the code sections that set out the criteria and standards for decisions appears in MICC 19.15.010(E). For those actions that do not otherwise have criteria specified in other sections of the Code, the following are the required criteria for decision.

1. **COMPREHENSIVE PLAN AMENDMENT**
 - a. There exists obvious technical error in the information contained in the Comprehensive Plan;
 - b. The amendment is consistent with the Growth Management Act, the County-wide Planning Policies, and the other provisions of the Comprehensive Plan and **City** policies;
 - c. The amendment addresses changing circumstances of the **City** as a whole;
 - d. If the amendment is directed at a specific property, the following additional findings shall be determined:



1. The amendment is compatible with the adjacent land use and **development** pattern;
 2. The property is suitable for **development** in conformance with the standards under the potential zoning;
 3. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.
2. RECLASSIFICATION OF PROPERTY (REZONES)
- a. The proposed reclassification is consistent with the policies and provisions of the Mercer Island Comprehensive Plan;
 - b. The proposed reclassification is consistent with the purpose of the Mercer Island Development Code as set forth in MICC 19.01.010;
 - c. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;
 - d. The proposed reclassification does not constitute a "spot" zone;
 - e. The proposed reclassification is compatible with surrounding zones and land uses; and
 - f. The proposed reclassification does not adversely affect public health, safety and welfare.
3. CONDITIONAL USE PERMIT
- a. The permit is consistent with the regulations applicable to the zone in which the **lot** is located;
 - b. The proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed uses, character of surrounding **development**, traffic capacities of adjacent **streets**, environmental factors, size of proposed **buildings**, and density;
 - c. The use is consistent with policies and provisions of the Comprehensive Plan; and
 - d. Conditions shall be attached to the permit assuring that the use is compatible with other existing and potential uses within the same general area and that the use shall not constitute a nuisance.



4. VARIANCES

- a. No use **variance** shall be allowed;
- b. There are special circumstances applicable to the particular lot such as the size, shape, topography, or location of the lot; the trees, ground cover, or other physical conditions of the lot and its surroundings; or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for the purposes of providing solar access;
- c. The granting of the **variance** will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
- d. The granting of the **variance** will not alter the character of the neighborhood, nor impair the appropriate use or **development** of adjacent property; and
- e. The **variance** is consistent with the policies and provisions of the Comprehensive Plan and the Development Code.

5. DEVIATION

- a. No use **deviation** shall be allowed;
- b. The granting of the **deviation** will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
- c. The granting of the **deviation** will not alter the character of the neighborhood, nor impair the appropriate use or **development** of adjacent property; and
- d. The **deviation** is consistent with the policies and provisions of the Comprehensive Plan and the Development Code.

H. NOTICE OF DECISION

1. Unless the **City** and applicant have mutually agreed in writing to an extension of time, project review shall be completed within one hundred twenty (120) days from the date the application is determined to be complete. Time required for the submittal of additional information, preparation of environmental impact statement, and hearing of appeals shall be excluded from this one hundred twenty (120) day period.



2. Written Notice of the Decision shall be provided to the applicant and all parties of record. Notice of Decision shall also be provided in the bi-weekly DSG bulletin.

I. OPTIONAL CONSOLIDATED PERMIT PROCESSING

1. An application that involves two (2) or more actions may be processed concurrently and the decision consolidated at the request of the project applicant. If an applicant elects the consolidated permit processing, the **Code Official** shall determine the appropriate application and review procedures for the project.
2. If a project requires action from more than one hearing body, the decision authority in the consolidated permit review shall be by the decision body with the broadest discretionary powers.

J. APPEALS

1. Any party of record on a decision may file a letter of appeal on the decision. Appeals shall be filed with the City Clerk within fourteen (14) days after the Notice of Decision or after other notice that the decision has been made and is appealable.
2. Appeals shall include the following information:
 - a. The decision being appealed;
 - b. The name and address of the appellant and his/her interest in the matter;
 - c. The specific reasons why the appellant believes the decision to be wrong. The burden of proof is on the appellant to demonstrate that there has been substantial error, or the proceedings were materially affected by irregularities in procedure, or the decision was unsupported by evidence in the record, or that the decision is in conflict with the standards for review of the particular action;
 - d. The desired outcome or changes to the decision; and
 - e. The appeals fee, if required.
3. Authority for appeals is specified in MICC 19.15.010(E).



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4. Public Notice of an appeal shall be provided in the manner specified in Part E of this Section.
5. The rules of procedure for appeal hearings shall be as follows:
 - a. For **development** proposals that have been subject to an **open record hearing**, the appeal hearing shall be a **closed record appeal**, based on the record before the decision body, and no new evidence may be presented.
 - b. For **development** proposals that have not been subject to an **open record hearing**, the appeal hearing shall be an **open record appeal** and new information may be presented.
 - c. The total time allowed for oral argument on the appeal shall be equal for the appellants and the applicant (if not the appellants). If there are multiple parties on either side, they may allocate their time between themselves or designate a single spokesperson to represent the side. All testimony shall be given under oath.
 - d. If the hearing body finds that there has been substantial error, or the proceedings were materially affected by irregularities in procedure, or the decision was unsupported by material and substantial evidence in view of the entire record, or the decision is in conflict with the City's applicable decision criteria, it may:
 1. Reverse the decision.
 2. Modify the decision and approve it as modified.
 3. Remand the decision back to the decision maker for further consideration.
 - e. If the hearing body finds that none of the procedural or factual basis listed above exist and that there has been no substantial error, the hearing body may adopt the findings and/or conclusions of the decision body, concur with the decision of the decision body and approve the **development** proposal as originally approved, with or without modifications.
 - f. Final decision on the appeal shall be made within thirty (30) days of the appeal hearing.
 - g. The **City's** final decision on a **development** proposal may be appealed by a party of record with standing to file a land use petition in King County Superior Court. Such petition must be filed within twenty-one (21) days of the issuance of the decision.



K. EXPIRATION OF APPROVALS

Except for **building** permits or unless otherwise conditioned in the approval process, permits shall expire one (1) year from the date of Notice of Decision if the activity approved by the permit is not exercised. Responsibility for knowledge of the expiration date shall be with the applicant.

L. CODE INTERPRETATIONS

Upon request or as determined necessary, the **Code Official** shall interpret the meaning or application of provisions of the Development Code. The **Code Official** may also bring any issue of interpretation before the Planning Commission for determination. Anyone in disagreement with an interpretation by the **Code Official** may also request a review of the **Code Official's** interpretation by the Planning Commission.



CHAPTER 19.15

ADMINISTRATION

19.15.030 ENFORCEMENT

A VIOLATIONS

1. It is a violation of the Development Code, Title 19, Mercer Island City Code, for any **person** to initiate or maintain or cause to be initiated or maintained the use of any **structure**, land or real property within the City of Mercer Island without first obtaining proper permits or authorizations required for the use by the Development Code.
2. It is a violation of the Development Code for any **person** to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any **structure**, land or property within the City of Mercer Island in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the Development Code or previous codes.
3. It is a violation of the Development Code to misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.
4. It is a violation of the Development Code for anyone to fail to comply with the requirements of the Development Code, as set out in the specific sections of the Code.

B. DUTY TO ENFORCE

1. It shall be the duty of the Director of the Development Services Group to enforce the Development Code. The Director may call upon the police, fire, health or other appropriate **City Departments** to assist in enforcement.
2. Upon presentation of proper credentials, the Director or duly authorized representative of the Director may, with the consent of the owner or occupier of a **building** or **premises**, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any **building** or **premises** subject to the consent or warrant to perform the duties imposed by the Development Code.
3. The Development Code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular **person** or class of **persons**.
4. It is the intent of the Development Code to place the obligation of complying with its requirements upon the owner, occupier or other **person** responsible for the condition of the land and **buildings** within the scope of this Code.
5. No provisions or term used in this Code is intended to impose any duty upon the **City** or any of its officers or employees, which would subject them to damages in a civil action.

**C. INVESTIGATION**

1. The Director or his/her designee, shall investigate any **structure** or use which the Director reasonably believes does not comply with the standards and requirements of this Development Code.
2. If, after investigation, the Director determines that the standards or requirements have been violated, the Director shall serve a notice of violation upon the owner, tenant or other **person** responsible for the condition. The notice of violation shall state separately each standard or requirement violated; shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance. The notice shall state that any further violation may result in criminal prosecution and civil penalties.
3. The notice shall be served upon the owner, tenant or other **person** responsible for the condition by personal service, registered mail, or certified mail with return receipt requested addressed to the last known address of such **person**. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the **person** or **persons** is unknown or service cannot be accomplished and the Director makes an affidavit to that effect, then service of the notice upon such **person** or **persons** may be made by publication and mailing to the last known address.

D. STOP WORK/EMERGENCY ORDERS**1. STOP WORK ORDER**

Whenever a continuing violation of the Development Code will materially impair the Director's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Director may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a Stop Work Order shall constitute a violation of this Development Code.

2. EMERGENCY ORDER

Whenever any use or activity in violation of this Code threatens the health and safety of the occupants of the **premises** or any member of the public, the Director may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an Emergency Order shall constitute a violation of this Development Code.



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3. Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Director is authorized to abate such nuisance summarily by such means as may be available. If the City declines to bring an abatement action, then such action may be brought by any **person** who owns or resides on property within three hundred (300) feet of the **structure** or whose use and enjoyment of property is impaired by the **structure** or use complained of.

E. EXTENSION OF COMPLIANCE DATE

1. The Director may grant a reasonable extension of time for compliance with any notice or order, whether pending or final, upon the Director's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension. Such extension of time shall not exceed one hundred eighty (180) days.
2. An extension of time may be revoked by the Director if it is shown that the conditions at the time the extension was granted have changed, the Director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date.

F. CIVIL PENALTY

1. In addition to any other sanction or remedial procedure which may be available, any **person** violating or failing to comply with any of the provisions of the Development Code, Stop Work Order or Emergency Order shall be subject to a cumulative monetary penalty. Each separate day of non-compliance shall be a separate and distinct violation of the Development Code and shall be subject to a separate notice of civil infraction. The penalty shall be:
 - a. Fifty (50) dollars for the first day of non-compliance after the compliance date set in the notice.
 - b. Seventy-five (75) dollars for the second day of non-compliance after the compliance date set in the notice.
 - c. One hundred (100) dollars for the third and each following additional day of non-compliance after the compliance date set in the notice.
2. The penalty imposed by this section shall be collected by notice of civil infraction, as authorized by Chapter 7.80 RCW.
3. The Director of Development Services, and his/her designees, are the authorized enforcement officers for purposes of issuing a Notice of Infraction for violation of the Development Code.



4. A notice of infraction issued under this Section represents a determination that a civil infraction has been committed, and the determination is final unless contested.
5. The **City's** notice of infraction shall include the following:
 - a. A statement that the notice represents a determination that a civil infraction has been committed by the **person** named and the determination is final unless contested.
 - b. A statement that a civil infraction is a non-criminal offense for which imprisonment may not be imposed.
 - c. A statement of the specific violation of the Development Code for which the notice is issued.
 - d. A statement of the monetary penalty for the violation.
 - e. A statement of the options available for responding to the notice of infraction and the procedures necessary to exercise those options.
 - f. A statement that at the hearing to contest the notice the **City** has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the **person** may subpoena witnesses, including the enforcement officer issuing the notice.
 - g. A statement that at any hearing requested to explain mitigating circumstances surrounding the commission of the civil infraction, the **person** will be deemed to have committed the infraction and may not subpoena witnesses.
 - h. A statement that the **person** must respond to the notice within fourteen (14) days.
 - i. A statement that failure to respond to the notice or to appear at a hearing, if requested, will result in a default judgment in the amount of the penalty and may be referred for criminal prosecution for failure to appear.
 - j. A statement, which the **person** shall sign, that the **person** promises to respond to the notice of civil infraction in one of the ways set forth in this section.
6. Any **person** who receives a notice of infraction for violation of the Development Code shall respond to the notice as provided in this section within fourteen (14) days of the date of the notice.
 - a. If the **person** does not contest the determination, he/she shall respond by completing the appropriate portion of the notice and sending it, with a



check or money order in the amount of the penalty, to the court specified on the notice.

- b. If the **person** wishes to contest the civil infraction, the **person** shall complete the portion of the notice requesting a hearing and submit it to the court specified on the notice. The court shall notify the **person** of the time and place of the hearing.
 - c. If the **person** does not contest the violation but wishes to explain mitigating circumstances surrounding the violation, the **person** shall complete the portion of notice requesting a hearing for that purpose and submit it to the court specified on the notice. The court shall notify the **person** of the time and place of the hearing.
 - d. The court shall enter a default judgment for the amount of the penalty for the civil infraction if a **person** fails to respond within fifteen (15) days or to appear at the hearing.
7. The violator may show as full or partial mitigation of the infraction:
- a. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or
 - b. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject **structure**, or other condition or circumstance beyond the control of the defendant.
8. Failure to respond to a civil citation within fourteen (14) days or to appear for a requested hearing is a misdemeanor, punishable by fine or imprisonment in jail.

G. CRIMINAL PENALTIES

Any **person** violating or failing to comply with any of the provisions of this Development Code shall be subject to criminal prosecution and upon conviction shall be fined in a sum not exceeding one thousand (1,000) dollars or be imprisoned in the City Jail for a term not exceeding ninety (90) days or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this Development Code shall constitute a separate offense. However, the aggregate penalty for all days of non-compliance shall not exceed five thousand (5,000) dollars or one (1) year in the City Jail.

H. ADDITIONAL RELIEF

The Director may seek legal or equitable relief to enjoin any actions or practices and abate any condition which constitutes or will constitute a violation of this Development Code when civil or criminal penalties are inadequate to effect compliance.

**19.15.040 DESIGN COMMISSION REQUIREMENTS****A. INTENT AND PURPOSE**

These regulations are intended to implement and further the Comprehensive Plan of the **City** and are adopted for the following purposes:

1. To promote the public health, safety and general welfare of the citizens of the **City**.
2. To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government.
3. To protect, preserve and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of Mercer Island.
4. To promote and enhance construction and maintenance practices that will tend to promote visual quality throughout Mercer Island.
5. To recognize environmental and aesthetic design as an integral part of the planning process.

B. CREATION OF DESIGN COMMISSION

There is hereby created a Design Commission for the **City** which shall have the powers, duties and functions as hereinafter provided.

C. MEMBERS, QUALIFICATIONS AND TERMS

1. The Design Commission shall consist of seven (7) members. In order to achieve broad-based representation, there shall be appointed at least (1) member from each of the following specialties: architecture, landscape architecture, urban planning, and civil engineering. In order to qualify for appointment it shall be demonstrated that the individual's primary work-related experience has been in the particular field for which he/she is appointed. In addition there shall be at least two (2) lay members. One (1) of the lay members must have a connection to the **City's** business community, either by owning or managing property or a business in the **City's** business or commercial districts, or by working in said districts, or otherwise.
2. All members shall be appointed by the Mayor, subject to the confirmation of the City Council. In making appointments to the Design Commission, the Mayor shall



use all reasonable efforts to appoint **persons** who are certified in the areas of specialty heretofore mentioned; PROVIDED, however, if no certified specialists seek or are available for appointment, the Mayor shall seek to appoint **persons** who are knowledgeable in matters of design and aesthetic judgment by virtue of training, education, and/or experience and who possess qualities of impartiality and broad judgment.

3. A majority of the Design Commission shall be residents of Mercer Island. Members shall serve without compensation. The appointment of members of the Design Commission shall be for a term of four (4) years. No member shall serve more than two (2) consecutive terms. A **person** appointed to fill a vacancy shall serve for the remainder of the unexpired term.
4. No member of the Design Commission shall participate in discussions or vote on any matter involving any client he or she is serving or from any business of which he or she is an owner, corporation officer, or employee.
5. The Mayor, with concurrence of a majority of the Council, shall have the authority to remove any member without cause.

D. RULES AND RECORDS

1. The Design Commission shall adopt rules and regulations for the conduct of its business, subject to the approval of the City Council.
2. A majority of the membership shall constitute a quorum for the purpose of transacting business. Action by the Design Commission shall be by majority vote of the members constituting the quorum. A tie vote on a motion to approve shall constitute a failure of the motion and a denial of the application.
3. The **Code Official** shall serve as Executive Secretary of the Design Commission and shall be responsible for all records. All meetings of the Design Commission shall be open to the public. The Design Commission shall keep minutes of its proceedings and such minutes and a copy of its rules shall be kept on file in the office of the City Clerk and open to inspection by the public.

E. POWERS OF THE COMMISSION

1. No **Building Permit** or other required permit shall be issued by the **City** for any **regulated improvement** without prior approval of the Design Commission, and no significant changes shall be made in or to an architectural feature of any **regulated improvement** without the prior approval of the Design Commission. **Deviations** from a plan approved by the Design Commission shall be permitted only upon the filing and approval of an amended plan.
2. The Design Commission may require a bond or set-aside account as set out in MICC 19.06.070 to secure the installation and maintenance of landscaping,



screens, parking lots, exterior lighting, walkways and other similar site improvements.

3. When the City Council deems it necessary to retain consultants for a proposed **capital improvement**, the Council shall seek recommendations from the Design Commission as to the selection of consultants to provide design services.
4. Consultants or City Officials charged with the design responsibility for a **capital improvement** shall hold preliminary discussions on the proposed project with the Design Commission to obtain its preliminary recommendations as to aesthetic, environmental and design principles and objectives. In addition, the Design Commission shall review substantial **capital improvements** at the completion of the design **development** phase and construction document phase, or at any time they deem necessary. A **capital improvement** approved by the City Council after review and recommendations by the Design Commission may be implemented on a phasing basis without further review so long as the improvement is developed in substantial conformity with the reviewed plan. Significant **deviations** from an approved plan shall be submitted to the Design Commission for its further review and recommendations.
5. The Design Commission shall complete its review and make its decision and/or recommendations within sixty (60) days after a matter is submitted to it, unless an extension is authorized by the City Council. Decisions of the Design Commission shall be based upon the criteria set forth in Part H of this Section, and the Design Guidelines of the Mercer Island Design Commission, dated May 14, 1973, which are set out in Appendix C of this Development Code and hereby adopted by reference and incorporated herein as though fully set forth, with such amendments as may be made to said Design Guidelines from time to time by the City Council.

F. ADDITIONAL FUNCTIONS

1. The Design Commission may assist any **person**, group, or agency who requests design advice on matters not requiring formal Commission action.
2. The Design Commission shall consult and cooperate with the Planning Commission, Park and Community Activities Board, and other governmental bodies on matters affecting the appearance of the Island. The Design Commission may offer recommendations to the appropriate **City** agencies and officials on legislation to promote aesthetic and environmental values.

G. PROCEDURE

1. An applicant seeking Design Commission approval shall submit to the **Code Official** a site plan and exterior elevations and such other data as will assist the Design Commission in evaluating the proposed **development**. The **Code**



Official shall specify the submittal requirements for an application to be deemed complete and to be accepted for filing.

2. An application for Design Commission review will be processed in two (2) stages: preliminary stage and final stage.
3. All plans and elevations shall be drawn to scale and shall indicate the nature and extent of the work proposed and shall show in detail that they conform with the provisions of this Code and other applicable laws and regulations.
4. After all of the material required for Design Commission review has been submitted to the **Code Official**, the matter will be placed on the Design Commission agenda. The Design Commission may approve, approve with conditions, or disapprove an application. In no instance shall the Design Commission's action conflict with the **City's** Development Code or other applicable **City** ordinances, or with State or Federal requirements.
5. All decisions of the Design Commission shall be reduced to writing and shall include findings of fact and conclusions which support the decision.
6. If SEPA review is required, the Design Commission's decision on the preliminary plans shall represent an action on the proposal for SEPA appeal purposes. The final plans shall be in substantial compliance with approved preliminary plans and shall include all conditions specified on the approval of the preliminary plans.

H. CRITERIA

1. RELATIONSHIP OF BUILDING TO SITE.
 - a. The site should be planned to accomplish a desirable transition from the streetscape, and to provide for adequate planting, and pedestrian movement.
 - b. Parking and service areas should be located, designed, and screened to be obscured from public view.
 - c. The height and scale of each **building** should be compatible with its site and adjoining **buildings**.
2. RELATIONSHIP OF BUILDING AND SITE TO ADJOINING AREA
 - a. **Buildings** and **structures** should be made compatible with adjacent **buildings** of conflicting architectural styles by such means as screens, site breaks, and materials.
 - b. Harmony in texture, lines, and masses should be encouraged.



- c. Attractive landscape transition to adjoining properties should be provided.
- d. Public and quasi-public **buildings** and **structures** should be consistent with the established neighborhood character.

3. LANDSCAPE AND SITE TREATMENT

- a. Where existing topographic patterns contribute to beauty and utility of a **development**, they should be preserved and developed.
- b. Grades of walks, parking spaces, terraces, and other paved areas should provide an inviting and stable appearance.
- c. Landscape treatment should be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- d. In locations where plants will be susceptible to injury by pedestrian or motor traffic, they should be protected by appropriate curbs, **tree guards**, or other devices.
- e. Where lot size or configuration limits planting, the placement of **trees** or shrubs in parkways or paved areas is encouraged.
- f. Screening of service yards, and other places which tend to be unsightly, should be accomplished by use of walls, fencing, planting, or combinations of these. Screening shall be effective in winter and summer.
- g. In areas where general planting will not prosper, other materials such as **fences**, walls, and pavings of wood, brick, stone, gravel, etc. should be used.
- h. Exterior lighting, when used, should enhance the **building** design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the **building** and adjacent areas. Lighting should be shielded, and restrained in design. Excessive brightness and brilliant colors should be avoided.

4. BUILDING DESIGN

- a. Architectural style is not restricted - evaluation of a project should be based on quality of its design and relationship to surroundings.
- b. **Buildings** should be to appropriate scale and be in harmony with permanent neighboring **development**.
- c. **Building** components such as windows, doors, eaves, and parapets should have good proportions and relationship to one another.
- d. Colors should be harmonious, with bright or brilliant colors used only for accent.



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- e. Design attention should be given to mechanical equipment or other **utility hardware** on roof, ground or **buildings** so as to screen from view.
- f. Exterior lighting should be part of the architectural concept. Fixtures, standards and all exposed accessories should be harmonious with **building design**.
- g. Monotony of design in single or multiple **building** projects should be avoided. Variety of detail, form, and siting should be used to provide visual interest. In multiple **building** projects, variable siting or individual **buildings** may be used to prevent a monotonous appearance.

5. SIGNS

- a. **Signs** should be part of the architectural concept. Size, materials, color, lettering, location, number, and arrangement should be harmonious with the **building design**.
- b. The number of **signs** should be minimized in order to avoid visual clutter.
- c. Colors should be used harmoniously and with restraint. Excessive brightness and brilliant colors should be avoided. Lighting should be harmonious with the design. If external spot or flood lighting is used, it should be arranged so that light source is shielded from view.

6. MISCELLANEOUS STRUCTURES AND STREET FURNITURE

- a. Miscellaneous **structures** and **street furniture** located on private property, public ways and other public property should be designed to be part of the architectural concept of design and landscape. Materials should be compatible with **buildings**, scale should be appropriate, colors should be in harmony with **buildings** and surroundings, and proportions should be to scale.
- b. Lighting in connection with miscellaneous **structures** and **street furniture** should meet the criteria applicable to site, landscape, **buildings**, and **signs**.

I. APPEALS

Any **person** or **persons** feeling aggrieved by any action of the Design Commission, on preliminary and/or final plans may file a notice of appeal with the City Council setting forth the reasons for such appeal. Appeals must be filed with the City Clerk within fourteen (14) days from the date of the Notice of Decision. The Design Commission's decision on the preliminary plans shall represent an action on the proposal for SEPA appeal purposes. The filing of an appeal shall suspend the issuance of any **building** or other required permit until the Council has taken final action on the appeal. The City Council shall take final action within forty-five (45) days of the filing of a notice of appeal. Review by the City Council shall be consistent with the appeal procedures specified in MICC 19.15.020.



Chapter 19.16
Definitions

19.16.010 DEFINITIONS

Words used in singular include the plural and the plural the singular.

ACCESSORY BUILDINGS: A separate **building** or a portion of the main **building**, the use of which is related to and supports that of the main **building** on the same lot.

1. **ATTACHED ACCESSORY BUILDING:** An accessory building that shares a portion of one of its walls with the main **building**, is separated from the main **building** by less than five (5) feet, or is attached to the main **building** by a **structure** other than a **fence**.
2. **DETACHED ACCESSORY BUILDING:** An accessory building that does not share a portion of any of its walls with the main **building** and is separated from the main **building** by at least five (5) feet and is not attached to the main **building** by a **structure** except for a **fence**.

ACCESSORY DWELLING UNIT (ADU): A habitable **dwelling unit** added to, created within, or detached from a **single-family dwelling** that provides basic requirements for living, sleeping, eating, cooking and sanitation.

ACCESSORY USE: A use customarily incidental and accessory to the principal use of a site or a **building** or other **structure** located upon the same lot.

ADULT ENTERTAINMENT: An **adult retail** establishment or **adult theater**. Adult Entertainment shall not be considered to be included under any other permitted use in this Code as either a primary or accessory use, and is not permitted in any zone unless specifically stated. For purposes of adult entertainment, the following definitions apply:

1. **ADULT RETAIL:** An establishment in which ten (10) percent or more of the **stock in trade** consists of **merchandise** distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to **specified sexual activities** or **specified anatomical areas**.
2. **ADULT THEATER:** A facility used for presenting for commercial purposes motion picture films, video cassettes, cable television, live entertainment or any other such material, performance or activity, distinguished or characterized by a predominant emphasis on depiction, description, simulation or relation to **specified sexual activities** or **specified anatomical areas** for observation by patrons therein. **Structures** housing **panoramas**, **peep shows**, entertainment studios or topless or nude dancing are included in this definition.
3. **MERCHANDISE:** Shall include but is not limited to the followings: books, magazines, posters, cards, pictures, periodicals or other printed material;



prerecorded video tapes, discs, film, or other such medium; instruments, devices, equipment, paraphernalia, or other such products.

4. **PANORAMAS OR PEEP SHOWS:** Any device which, upon insertion of a coin or token or by any other means, exhibits or displays a picture; an image from a film, video cassette, video disc, or any other medium; or provides a view of a live performance.
5. **SPECIFIED ANATOMICAL AREAS:**
 - a. Less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below the top of the areola.
 - b. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
6. **SPECIFIED SEXUAL ACTIVITIES:**
 - a. Human genitals in a state of sexual stimulation, and/or
 - b. Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between **persons** of the same or opposite sex or between humans and animals, and/or
 - c. Acts of human masturbation, sadism or torture in the context of sexual relationship, and/or sadomasochistic abuse in the context of sexual relationship, and/or
 - d. Fondling or other erotic touching of human genitals, pubic region, buttocks or the female breast.
7. **STOCK IN TRADE:** Shall mean either:
 - a. The dollar value of all merchandise readily available for purchase, rental, viewing, or use by patrons of the establishment excluding material located in any storeroom or other portion of the **premises** not regularly open to patrons; or
 - b. The total volume of shelf space and display area in those portions of the establishment open to patrons.

ADULT FAMILY HOME: The regular **family** abode of a **person** or **persons** who are providing personal care, special care, and room and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the **person** or **persons** providing the services.



CHAPTER 19.16

DEFINITIONS

ALTERATION

1. Any human-induced action which impacts the existing condition of the area, including, but is not limited to:
 - a. grading, **filling**, dredging, draining, channelizing, cutting, topping;
 - b. **clearing**, relocating or removing vegetation;
 - c. paving, construction, modifying for surface water management purposes;
 - d. human activity that impacts the existing topography, vegetation, hydrology, or wildlife habitat.

Alteration does not include walking, passive recreation, fishing, or similar activities.

ANTENNA: An apparatus, outside of or attached to the exterior of a **structure**, together with any supporting **structure** for sending or receiving electromagnetic waves. Antenna include but is not limited to a **dish antenna**, wire or whip antenna, and microwave transmitting antenna. This definition does not include an antenna mounted on a licensed **vehicle**; PROVIDED the antenna is a type commonly mounted on a licensed **vehicle** for the purposes of mobile communication or radio reception within the **vehicle** (such as AM/FM radio, citizens band radio, two-way radio or cellular telephone).

APPEAL, CLOSED RECORD: An administrative appeal to the City Council following an **open record hearing** on a project application. Evidence for the appeal is limited to the record of the **open record hearing**. (See also OPEN RECORD HEARING).

APPEAL, OPEN RECORD: An administrative appeal to the Planning Commission or City Council when there has not been an **open record hearing** on a project application. New evidence or information is allowed to be submitted in review of the decision (See also OPEN RECORD HEARING).

APPURTENANCE: A **structure** which is necessarily connected to the use and enjoyment of a **single-family dwelling**. An appurtenance includes but is not limited to **antennas**, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, **garages**, decks, driveways, **utilities**, **fences**, swimming pools, hot tubs, landscaping, irrigation, grading outside the **building footprint** which does not exceed two hundred fifty (250) cubic yards and other similar minor construction.

BAR: A **premise** used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the **premises** as accessory to the principal use.



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BASE ELEVATION: The elevation established by averaging the elevation of the **existing grade** at from four (4) to eight (8) corners equally distributed around the perimeter of an **existing building** or the proposed corners of a **building** to be erected at the site; **PROVIDED**

1. If the **building** has rounded corners, the corners are to be projected by extending the adjacent exterior wall lines.
2. Roof overhangs and eaves, chimneys and fireplaces, unenclosed projecting wall elements (columns and fin walls), unenclosed and unroofed stairs, and porches and terraces may project outside exterior walls and are not to be considered as corners.
3. If the **building** is circular in shape, four points, 90 degrees apart, at the exterior walls, shall be used to calculate the **base elevation**.

BED AND BREAKFAST: A **single-family dwelling** in which public lodging and meals may be provided to guests for periods of thirty (30) days or less.

BINDING SITE PLAN: A method of dividing land that sets out specifications for a number of aspects of **development** on the site, including streets, building envelopes, improvements, utilities, parking, and open spaces. The requirements of a Binding Site Plan are enforceable against any **person** acquiring an interest in any **lot** or parcel created pursuant to the plan.

BOAT RAMP: An inclined **structure** upon which a watercraft is raised or pulled onto land or a dock.

BREAKWATER: A protective **structure** usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action.

BUILDING: A **structure** having a roof, but excluding **trailers**, mobile homes, and all other forms of **vehicles** even though immobilized. Where this Code requires, or where special authority granted pursuant to this Code requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

BUILDING FOOTPRINT: That portion of the **lot** that is covered by **building(s)**.

BUILDING HEIGHT: The vertical distance measured from the **base elevation** to the highest point of the roof **structure**. This definition does not include natural vegetation and **trees**.

BUILDING PAD: That portion of a **lot** on which a **building** may be located based on criteria set forth under the Development Code.

BULKHEAD: A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to, and normally erected at, the **ordinary high water** line for the purpose of protecting adjacent property from waves or currents.



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CAPITAL IMPROVEMENT: Any development by the City upon property owned by or under the control of the City.

CARE SERVICES: The provision of rooms, meals, personal care and health monitoring assistance. Other support may be provided as an adjunct to the provision of care services, including recreation, social, counseling, transportation and financial services. Examples include **daycare services, nursing homes, retirement homes, and residential care facilities.**

CATASTROPHIC LOSS: A loss which occurs as a result of fire, storm, earthquake or any act of God.

CITY: The City of Mercer Island, Washington.

CITY DEPARTMENT: Any division, subdivision or organizational unit of the City established by ordinance, rule or order.

CIVIC AND SOCIAL ORGANIZATIONS: Organizations primarily engaged in promoting the civic and social interests of their members. Illustrative examples include alumni associations, fraternal lodges, granges, and social clubs. Such organizations may operate **bars and restaurants** for their members if such uses are otherwise allowed within the zone.

CLEARING: The act of destroying or removing **trees or ground cover** from any **undeveloped or partially developed lot, public lands, or public right-of-way.** Clearing may only occur on these **lots** with approval by the **City.**

CODE OFFICIAL: The Director of the Development Services Group for the City of Mercer Island or a duly authorized designee.

CONDITIONAL USE: A use listed among those permitted in any given zone but authorized only after a Conditional Use Permit has been granted.

CONDOMINIUM: A **multiple-family dwelling,** portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the **dwelling unit** owners, and unless a declaration and a survey map and plans have been recorded.

COVERED MOORAGE: A pier, dock, boatlift, series of **piles,** or other **structure** intended for moorage over which a roof or canopy is erected.

CRITICAL AREAS: **Geologic hazard areas, Watercourse Corridors, Wetlands, shorelines,** and publicly and privately-owned passive open spaces. Critical Areas have measurable characteristics which, when combined, create a value for or potential risk to the public health, safety, and welfare.



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CRITICAL SLOPE: Any **slope** of thirty (30) percent or greater calculated by measuring the vertical rise over any forty (40) foot horizontal run. Critical slopes may cross property lines.

CRITICAL SLOPE HAZARD AREA: An area consisting of a **critical slope** and the land that extends for ten (10) feet past the **top and toe of the slope**.

DAY CARE: A business that provides care and supervision of minor children for a fee or other consideration for periods lasting less than twenty-four (24) hours.

DEVELOPMENT:

1. A piece of land that contains **buildings, structures**, and other modifications to the natural environment; or
2. The alteration of the natural environment through:
 - a. The construction or exterior alteration of any **building or structure**, whether above or below ground or water, and any grading, filling, dredging, draining, channelizing, cutting, topping, or excavation associated with such construction or modification.
 - b. The placing of permanent or temporary obstructions that interfere with the normal public use of the waters and lands subject to this Code.
 - c. The division of land into two or more parcels, and the adjustment of property lines between parcels.

DEVIATION: A minor modification of standard Development Code provisions that does not require the special circumstances necessary for granting a **variance** and which complies with the **City's** deviation criteria.

DISH ANTENNA: A **parabolic antenna** greater than twenty-four (24) inches in diameter intended to send or receive signals to or from orbiting satellites or other communications systems.

DWELLING:

1. **DWELLING UNIT:** A part of a **multiple-family dwelling** containing only one **kitchen**, that houses not more than one **family**, plus any live-in household employees of such **family** (See also ACCESSORY DWELLING UNIT).
2. **MULTIPLE-FAMILY DWELLING :** A **building**, other than a **single-family dwelling** with an **Accessory Dwelling Unit**, containing two or more **dwelling units**.
3. **SINGLE-FAMILY DWELLING:** A **building** designed and/or used to house not more than one **family**, plus any live-in household employees of such **family**.



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4. **SINGLE FAMILY – DETACHED:** A **single family dwelling** that is not attached to any other **structure** by any means and is surrounded by open space or **yards**.
5. **SINGLE FAMILY – SEMIDETACHED:** A **single family dwelling** that is attached to another **dwelling unit** by a common vertical wall, with each **dwelling unit** located on a separate lot.

EXISTING GRADE: The surface level at any point on the **lot** prior to **alteration** of the ground surface.

FAIR MARKET VALUE: The expected price at which a **development** can be sold to a willing buyer. For **developments** which involve nonstructural operations such as dredging, drilling, dumping, or **filling**, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation and other costs incurred for the duration of the permitted project (WAC 173-27-030(8)).

FAMILY: One or more **persons** (but not more than six unrelated **persons**) living together in a single housekeeping unit. For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and **persons with handicaps** within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated **persons**.

FENCE: A barrier composed of posts or piers connected by boards, rails, panels or wire, or a masonry wall.

FILL: The placement of earth material by artificial means.

FINANCIAL AND INSURANCE SERVICES: Establishments primarily engaged in financial transactions and/or in facilitating financial transactions. Examples include banks, credit unions, stock brokers, and insurance underwriters.

FINGER PIER: An extension from a dock used to create moorage slips.

FLOATING PLATFORM: A flat **structure** or device moored or anchored, not permanently secured by **piles**, which floats upon the water.

FOSTER FAMILY HOME: A **person** or **persons** providing state-licensed foster care on a twenty-four (24) hour a day basis to one (1) or more, but not more than four (4), children, expectant mothers, or developmentally disabled **persons** in the **family** abode of the **person** or **persons** under whose direct care and supervision the child, expectant mother or developmentally disabled **person** is placed.

GARAGE (including CARPORT): An **accessory building** or an accessory portion of the main **building** designed and/or used customarily for shelter or storage of **vehicles, trailers, and boats**.



GEOLOGIC HAZARD AREA: An area 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**.

GEOTECHNICAL ENGINEER: A practicing Geotechnical Engineer licensed as a professional Engineer in the State of Washington.

GOVERNMENT SERVICES: Services provided by the **City**, King County, the State of Washington, or the Federal Government including, but not limited to, fire protection, police and public safety activities, courts, administrative offices, and equipment maintenance facilities.

GROIN: A **structure** used to interrupt sediment movement along the shore.

GROSS FLOOR AREA: The total square footage of floor area bounded by the exterior faces of the **building**. The gross floor area of a **single-family dwelling** shall include:

1. the main **building**, including but not limited to attached **accessory buildings**.
2. all **garages** and covered parking areas, and detached **accessory buildings** with a gross floor area over one hundred twenty (120) square feet.
3. that portion of a basement as defined in the Uniform Building Code which projects above **existing grade** as calculated in Appendix B of this Development Code.

GROUND COVER: Small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and includes **trees** less than four (4) inches in diameter measured at twenty-four (24) inches above the ground level.

HANDICAPS:

1. **PERSON WITH HANDICAPS**
 - a. A **person** who has a physical or mental impairment which substantially limits one or more of such **person's** major life activities; or
 - b. A **person** with a record of having such an impairment; or
 - c. A **person** who is regarded as having such an impairment, but the term impairment does not include current, illegal use of or active addiction to a controlled substance.
2. **HOUSING FOR PERSONS WITH HANDICAPS:** Housing used, or intended for use, by persons with handicaps. **Adult Family Homes, Residential Care Facilities, Foster Family Homes, and Large Foster Family Homes** may



qualify as housing for persons with handicaps, if they actually house **persons with handicaps**.

HAZARDOUS WASTE: Those solid wastes designated by 40 CFR Part 261 and regulated by the State Dangerous Waste Regulations, Chapter 173-303 WAC.

1. **HAZARDOUS WASTE STORAGE:** The holding of hazardous waste for a temporary period.
2. **HAZARDOUS WASTE TREATMENT:** The physical, chemical or biological processing of hazardous waste to make such waste non-dangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

HEALTHCARE SERVICES: Establishments providing outpatient health care services directly or indirectly to ambulatory patients. Examples include offices for doctors, dentists, optometrists, and mental health professionals. This use does not include medical and diagnostic laboratories.

HOTEL/MOTEL: A facility offering temporary accommodations for a fee to the general public and which may provide additional services such as **restaurants**, meeting rooms, entertainment, and recreational facilities.

HYDRIC SOILS: Soil that is wet long enough to periodically produce reduced oxygen conditions, thereby influencing the growth of plants.

IMPERVIOUS SURFACES: Areas or surfaces that cannot be penetrated by rain or surface water runoff. These areas include **structures** and roof projections, impervious decks, asphalt or concrete driveways, and surfaces which substantially reduce and alter the natural filtration characteristics of the soil.

JETTY: A barrier used to protect areas from accumulations of excess sediment.

KENNEL:

1. Any lot on which six (6) or more dogs, cats, or other small animals over the age of four (4) months are kept for any reason; or
2. Any lot on which any number of dogs, cats, or other small animals over the age of four (4) months are kept for sale, are bred to produce off-spring for sale, or are boarded for a fee or other consideration.

KITCHEN: Any room used, intended, or designed for cooking and/or preparation of food.

LANDWARD: Any point located inland from the **Ordinary High Water Mark**.



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LATERAL LINE: The extension **waterward** of a property line into Lake Washington beyond the **ordinary high water** mark. How property lines extend **waterward** from the **ordinary high water** mark is an area of misconception. If the title does not clearly state the location of the property lines **waterward** from the **ordinary high water** mark, waterfront owners are not allowed to unilaterally project the upland boundaries out into the **shorelands (waterward)**. There are no statutes defining the direction of the **lateral lines waterward** from the **ordinary high water** mark. The Supreme Court has the final word to decide location of lateral line on case by case basis.

LARGE FOSTER FAMILY HOME: At least two (2) **persons** providing state-licensed foster care on a twenty-four (24) hour a day basis to five (5) or six (6) children, expectant mothers or developmentally disabled **persons** in the **family** abode of the **persons** under whose direct care and supervision the child, expectant mother or developmentally disabled **person** is placed.

LIFT STATION (Boat Hoist): A **structure** or device normally attached to a dock or pier used to raise a watercraft above the waterline for secure moorage purposes.

LOT: Land held as a unit that meets the minimum zoning requirements for area and dimensions, regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title as one of several tracts, blocks, **lots**, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one **person** or by a group of affiliated **persons** (such as a marital community; religious organization; joint venture; partnership; or a corporation and one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land; **PROVIDED** the existence of a public or private roadway, **utility** and/or similar easement shall not be deemed to divide or make land noncontiguous if land on both sides of such easement is so owned or controlled.

1. **CORNER LOT:** A lot located at the junction of and abutting two or more intersecting **streets**.
2. **UPLAND LOT:** A lot having no frontage on Lake Washington.
3. **WATERFRONT LOT:** A lot having frontage in fee simple on Lake Washington.

LOT LINE REVISIONS: An adjustment of boundary lines between existing **lots** that does not create any additional **lots** and which does not reduce the area of any existing **lot** to the point that it fails to meet minimum Development Code requirements for area and dimensions.

MAJOR NEW CONSTRUCTION: Construction from bare ground or an enlargement or alteration of an existing **structure** in excess of fifty (50) percent of its value at the time of reconstruction, excluding tenant improvements.

MANUFACTURING: An establishment engaged in the mechanical or chemical transformation of materials or substances into new products.



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MARINA: A commercial basin providing rental or sale of docks, watercraft, moorage, and/or supplies. Casual single-family renting of moorage is excluded from this definition.

MASTER SITE PLAN: The comprehensive, long range plan intended to guide the growth and **development** on a parcel of land that shows the existing and proposed conditions on the site including topography, vegetation, drainage, flood plains, **wetlands**, waterways, landscaping, open spaces, walkways, means of ingress and egress, circulation, **utilities, structures and buildings**, and any other information reasonably necessary for the Design Commission to make an informed decision about **development** of the site.

MINOR EXTERIOR MODIFICATION: Modification to an existing **structure** which does not meet the standard for **Major New Construction**.

MEAN LOW WATER: The level of Lake Washington during the fall and winter when the water level is lowered to minimize winter storm damage to lakeside properties. Mean low water is one and one-half (1 1/2) feet lower than **Ordinary High Water**.

MINOR MODIFICATION TO SITE PLAN: Modification of lot lines which does not violate any **development** or design standards, or increase the intensity or density of uses; reconfiguration of parking lots or landscape areas which does not reduce the required amount of parking or landscaping or negatively impact the screening from adjacent residential property; change in **tree** and landscape plant material that is less than four (4) inch caliber in size; modifications of the **building** envelope which do not increase the **building footprint** or which constitute **Minor Exterior Modification**; relocation of fire lanes or **utility** lines.

MITIGATION: An action which minimizes the impacts of an **alteration** by limiting the degree or magnitude of the **alteration** with appropriate technology; reduces the impact of the **alteration** over time with preservation or maintenance techniques, or compensates for the impact of the **alteration** by replacing, enhancing, or providing substitute **Critical Areas**.

MOORAGE FACILITY: Any device or **structure** used to secure a boat or a vessel, including piers, docks, **piles, lift stations** or buoys.

MORTUARY SERVICES: The preparation of the dead for burial or interment including conducting funerals, transporting the dead, and selling caskets and related merchandise.

MUSEUMS AND ART EXHIBITIONS: The exhibition of objects of historical, cultural, and/or educational value that are not offered for sale.

NON-CONFORMING LOT: A parcel of land that has less than the minimum area required in the zone in which the **lot** is located.

NON-CONFORMING STRUCTURE: A **structure** lawfully in existence on the effective date of this Code, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which such **structure** is located.



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NON-CONFORMING USE: A lawful use of land on the effective date of this Code, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which such use is located.

NURSING HOME: An establishment as defined, regulated and licensed by RCW Chapter 18.51 that provides care to **persons** who through illness or infirmity are not capable of caring for themselves.

OFFICE USES: The use of a room or group of rooms for conducting the affairs of a business, profession, service, or government and generally furnished with desks, tables, files and communication equipment.

OPEN RECORD HEARING: A hearing conducted by the authorized body that creates the **City's** record through testimony and submission of evidence and information, under procedures prescribed by **City** ordinance and/or adopted by the hearing body.

ORDINARY HIGH WATER (OHW): The point on the shore that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter in accordance with permits issued by a local government or the department.

PATIO HOME: A **single family dwelling** on a separate parcel with open spaces on three (3) sides and with a court.

PERSON: An individual, partnership, corporation, or association.

PERSONAL SERVICES: A business that provides services relating to personal grooming and health. Uses include barber shops, hair stylists, nail salons, dry-cleaning, tailoring, and **healthcare services** provided by licensed practitioners.

PARTIALLY DEVELOPED LOT: A **lot** upon which a **single-family dwelling** is located and which is of sufficient area so as to be capable of **subdivision** in accordance with MICC Chapter 19.08.

PILE: A timber or section of concrete placed into the ground to serve as a support or moorage.

PLACES OF WORSHIP: A Church, Synagogue, Mosque, or other institution that people regularly attend to participate in or hold religious services, meetings, or other religious activities.

PREMISES: A piece of land with or without improvements, including but not limited to a **building**, room, enclosure, **vehicle**, vessel or other place thereon.



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PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES: Establishments that specialize in performing professional, scientific, and technical activities for others. These activities require a high degree of expertise and training and include: legal services; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; real estate sales services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

PUBLIC ACCESS: A means of physical approach to and along the shoreline, or other area, available to the general public. Public access may also include visual approach.

PUBLIC FACILITY: A **building, structure,** or complex used by the general public. Examples include but are not limited to assembly halls, schools, libraries, **theaters** and meeting places.

PUBLIC MEETING: A meeting, hearing workshop, or other public gathering of people to obtain comments from the public on a proposed project permit prior to the **City's** decision. A public meeting does not include an **open record hearing**.

RECREATIONAL AREA: An area, including facilities and equipment, for recreational purposes, such as a swimming pool, tennis court, a golf course, or a playground.

1. **COMMERCIAL RECREATIONAL AREA:** A recreational area maintained and operated for a profit.
2. **NON-COMMERCIAL RECREATIONAL AREA:** A recreational area maintained and operated by a non-profit club or organization with specified limitations upon the number of members or limited to residents of a block, **subdivision,** neighborhood, community or other specific area of residence for the exclusive use of members and their guests.
3. **RECREATIONAL AREA, PRIVATE:** A recreational area maintained by an individual for the sole use of his/her household and guests, located or adjacent to his/her residence, not for profit or in connection with any business operated for profit.
4. **SEMI-PRIVATE WATERFRONT RECREATIONAL AREA:** A separate **shoreline** property interest established in fee simple or by easement in favor of one or more **upland lots** which is used for water-related recreational purposes.

REGULATED IMPROVEMENTS: Any **development** of any property within the **City,** EXCEPT:

1. Property owned or controlled by the **City;** or
2. **Single-family dwellings** and the **buildings, structures** and uses accessory thereto.



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REPAIR SERVICES: The repair and maintenance of personal and household goods, including locksmithing, appliance repair, furniture reupholstery, and shoe repair.

RESIDENTIAL CARE FACILITY: A facility, licensed by the state that cares for at least five (5) but not more than fifteen (15) people with functional disabilities, that has not been licensed as an **Adult Family Home** pursuant to Chapter 70.128 RCW.

RESIDENTIAL USES: For purposes of the Shoreline Management provisions of this Code, residential uses shall mean those uses allowed in the R-8.4, R-9.6, R-12, R-15, MF-2L, and MF-2 zones.

RESTAURANT: An establishment where food and drink are prepared and consumed. Such establishment may also provide catering services.

RETAIL USE: An establishment engaged in selling goods or merchandise and rendering services incidental to the sale of such goods.

1. **SMALL SCALE RETAIL:** A retail establishment occupying a space of twenty thousand (20,000) square feet or less.
2. **LARGE SCALE RETAIL:** A retail establishment occupying more than twenty thousand (20,000) square feet.
3. **OUTDOOR RETAIL:** The display and sale primarily outside a **building or structure** of the following: **vehicles**, garden supplies, gas, tires, boats, aircraft, motor homes, **building** and landscape materials, and lumber yards.

RETAINING WALLS/ROCKERIES: A wall of masonry, wood, rock, metal, or other similar materials or combination of similar materials that bears against earth or other **fill** surface for purposes of resisting lateral or other forces in contact with the wall, and/or the prevention of erosion.

RETIREMENT HOME: An establishment operated for the purpose of providing domiciliary care or assisted living for a group of **persons** who by reason of age are unable to or do not desire to provide such care for themselves and who are not in need of medical or nursing aid, except in cases of temporary illness.

RIPRAP: Hard angular carry rock or other similar materials used for erosion control and/or land or bank stabilization.

SENIOR CITIZEN HOUSING: **Dwelling units** which are used exclusively for housing **persons** sixty (60) years of age and older.

SEPA RULES: Chapter 197-11 WAC adopted by the Department of Ecology, as now or hereafter amended.



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SERVICE: An establishment primarily engaged in providing assistance as opposed to products. Examples include but are not limited to **personal services, financial and insurance services, mortuary services, tailors, healthcare services, repair services, and professional, scientific, and technical services.**

SERVICE STATIONS: Establishments retailing automotive fuels (e.g., gasoline, diesel fuel, gasohol) and automotive oils. These establishments may also provide repair and maintenance services for automotive **vehicles** and/or and convenience store retailing.

SHARED PIER: A dock or pier which is shared by two or more **waterfront lots.**

SHORELANDS: Those areas extending **landward** for two hundred (200) feet in all directions, as measured on a horizontal plane from the **ordinary high water mark, floodways and contiguous floodplain areas landward two hundred (200) feet from such floodplains and all wetlands** and river deltas associated with the streams, lakes and tidal waters subject to the Shoreline Management Act (RCW 90.58).

SIGN: Any series of letters, figures, design symbols, lights, **structure**, billboard, trademark or device intended or used to attract attention to any activity, service, place, subject, **person, firm, corporation, or thing.** Excluded are official traffic **signs** or signals, public notices, and governmental flags.

SIGN, DIRECTIONAL: A **sign** which contains only the name and location of a use located elsewhere and intended for guidance only.

SLOPE: A measurement of the average incline of a **lot** or other piece of land calculated by subtracting the lowest elevation from the highest elevation, and dividing the resulting number by the horizontal distance between these two points.

SOLAR ENERGY SYSTEM: Any device, **structure**, mechanism, or series of mechanisms which use solar radiation as an energy source for heating, cooling, or electrical energy.

STREET: An improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property.

1. **COLLECTOR ARTERIAL:** A street designed to collect and distribute traffic from major arterials to the local access streets. The collector arterial is similar to a local access street except for stop and yield privileges over a local access street and restrictions for on street parking.
2. **LOCAL ACCESS STREET:** A street designated for direct access to properties, and which is tributary to the arterial system.
3. **MAJOR ARTERIAL STREET:** A street designed to collect and distribute large volumes of traffic from the freeway, town center and less important arterial streets. This type of arterial normally is designed to expedite through traffic.



4. **SECOND ARTERIAL STREET:** A street designed to collect and distribute traffic from the freeway or major arterials and less important streets.

STREET FURNITURE: Structures located in streets, rights-of-way, parking lots, or other similar open spaces on a site, including, but not limited to, light standards, utility poles, newspaper stands, bus shelters, planters, traffic signs, traffic signals, benches, guard rails, rockeries, retaining walls, mail boxes, litter containers, and fire hydrants.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBDIVISION: The division of, or the act of division of, land into two or more lots for the purpose of transfer of ownership, building development, or lease, whether immediate or future, and shall include all resubdivision of land.

1. **SHORT SUBDIVISION:** A subdivision consisting of four (4) or less lots on four (4) or less acres.
2. **LONG SUBDIVISION:** A subdivision consisting of five (5) or more lots on any number of acres or any number of lots on more than four (4) acres.

SUBSTANTIAL DEVELOPMENT: A development of which the total cost or fair market value exceeds two thousand, five hundred (2,500) dollars or any development that materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90-58-030(3e) and WAC 173-27-040.

TEEN DANCE: Any dance that is open to the public and is held and conducted directly or indirectly for a profit, or requires a monetary contribution from any of the persons admitted or from a parent, and which permits the entry of persons under the age of twenty (20) years. Teen dance does not include non-commercial dances sponsored by an accredited educational institution, nor does it include a dance sponsored by churches or other religious institutions, community organizations or other non-profit tax-exempt organizations.

THEATERS: Establishments primarily engaged in either (1) producing live presentations involving the performances of actors and actresses, singers, dancers, musical groups and artists, and other performing artists or (2) exhibiting motion pictures or videos.

TOP AND TOE OF SLOPE: The points at which a critical slope decreases to less than thirty (30) percent slope. The upper edge is the Top of the Slope and the bottom is the Toe.

TOWN CENTER DISTRICT PLAN: Town Center Plan for the City of Mercer Island, prepared by the City of Mercer Island and The Regional Transportation Authority, prepared by Lennertz and Coyle, November 30, 1994.

TOWNHOUSE: A single-family dwelling which has a front and rear yard. No dwelling unit is located over another dwelling unit. Each dwelling unit is separated from another unit by one or more vertical common walls.



TRACT: A piece of land designated and set aside as either public or private open space. No **dwelling** shall be constructed on the tract, and only those **structures** that are in keeping with the tract's use as open space shall be allowed.

TRAILER: A **vehicle** without motor power designed to be drawn by a motor **vehicle** and to be used for human habitation or for carrying **persons** and property, including a mobile home or trailer coach and any self-propelled **vehicle** having a body designed for or converted to the same uses as an automobile trailer without motor power.

TRANSPORTATION/UTILITY: A facility primarily engaged in providing transportation services, including automobile **service stations** and transit stations; the generation, transmission, distribution of energy; or the collection of waste and recycled materials.

TREE: Any living woody plant characterized by one main stem or trunk and many branches, having a trunk diameter of four (4) or more inches measured twenty-four (24) inches above ground level.

UNDEVELOPED LOT: A **lot** upon which no **single-family dwelling** exists.

USABLE SIGNAL: An unscrambled signal, which when acquired or transmitted by use of a properly installed, maintained and operated **antenna**, is at least equal in sound or picture quality to that received from local commercial radio or television stations or by way of cable.

UTILITIES: Facilities providing infrastructure services to individual **lots** within the **City** through fixed wires, pipes, or lines. Such services may include the transmission or distribution of energy; the collection of sewage; the distribution of potable water; and the provision of information services such as telephone, internet, and cable through land lines.

VARIANCE : A modification of standard Development Code provisions based on special circumstances and complying with the **City's** variance criteria.

VEHICLE: An instrument capable of movement, by means of wheels, skids or runners of any kind, along roadways, paths, or other ways of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars and vans, and all forms of **trailers** or mobile homes of any size whether capable of supplying their own motor power or not, regardless whether the primary purpose of such instrument is or is not the conveyance of **persons** or objects. A vehicle includes all such instruments even if immobilized in any way and for any period of time.

WATERCOURSE: A course or route, formed by nature or modified by humans and generally consisting of a channel with a bed, banks, or sides throughout substantially all its length, along which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This definition does not include specially designed irrigation and drainage ditches, grass-lined swales, canals, stormwater runoff devices, or other courses unless they are used by salmonoids or to convey watercourses that were naturally occurring prior to construction.



CHAPTER 19.16

DEFINITIONS

WATER-DEPENDENT: A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, **marinas**, aquaculture, float plane facilities and sewer outfalls.

WATERCOURSE CORRIDOR: An area of land running the length of a **watercourse** extending twenty-five feet (25) horizontally from the centerline of a **watercourse** on each side.

WATERFRONT STRUCTURE: Docks, piers, wharves, floats, mooring **piles**, anchor buoys, **bulkheads**, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of **ordinary high water**.

WATERWARD: Any point located in Lake Washington, lakeward from the **Ordinary High Water Mark**.

WAREHOUSING: The storage of goods and materials, including facilities available to the public for a fee.

WETLANDS: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include artificial wetlands, such as irrigation and drainage ditches, grass-lined swales, landscape amenities, and detention facilities unless the artificial wetlands were created to mitigate the **alteration** of a naturally occurring wetland.

WIRELESS COMMUNICATIONS:

1. **ATTACHED WIRELESS COMMUNICATION FACILITY (ATTACHED WCF):** An **antenna** array that is attached to an existing **building** or **structure**, including **utility** poles, with any accompanying attachment **structure**, transmission cables, and an equipment cabinet which may be located either inside or outside of the attachment **building** or **structure**.
2. **MICROCELL:** An **attached WCF** which consists of **antennas** four (4) feet or less in height and with an area of not more than five hundred eighty (580) square inches in the aggregate (e.g. 1 foot diameter parabola or a 2' by 1.5' panel) as viewed from any one point, or a tubular **antenna** that is four (4) inches in diameter and no more than six (6) feet long.
3. **WIRELESS COMMUNICATION ANTENNA ARRAY (ANTENNA ARRAY):** One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional **antenna** (whip), directional **antenna** (panel), and parabolic **antenna** (dish).
4. **WIRELESS COMMUNICATIONS FACILITY (WCF):** Any unstaffed facility for the transmission and/or reception of radio frequency signals usually consisting



of **antennas**, an equipment cabinet, transmission cables, and a **support structure** to achieve the necessary elevation.

5. **WIRELESS COMMUNICATION SUPPORT STRUCTURE (SUPPORT STRUCTURE):** A **structure** designed and constructed specifically to support an **Antenna Array**, and may include a monopole tower, lattice tower, guy-wire support tower or other similar **structures**. Any **structure** which is used to attach an **Attached WCF** to an existing **building** or **structure** (hereinafter, Attachment Structure), shall be excluded from the definition of and regulations applicable to Support Structures.

YARD: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this Code, on the **lot** on which a **building** is situated, required to be kept open by the yard requirements prescribed herein.

1. **FRONT YARD:** The yard adjacent to the property line from which vehicular access is provided.
2. **REAR YARD:** The yard opposite the front yard.
3. **SIDE YARD:** The yard adjacent to the property line. All yards not otherwise designated shall be defined as a side yard.



APPENDIXES

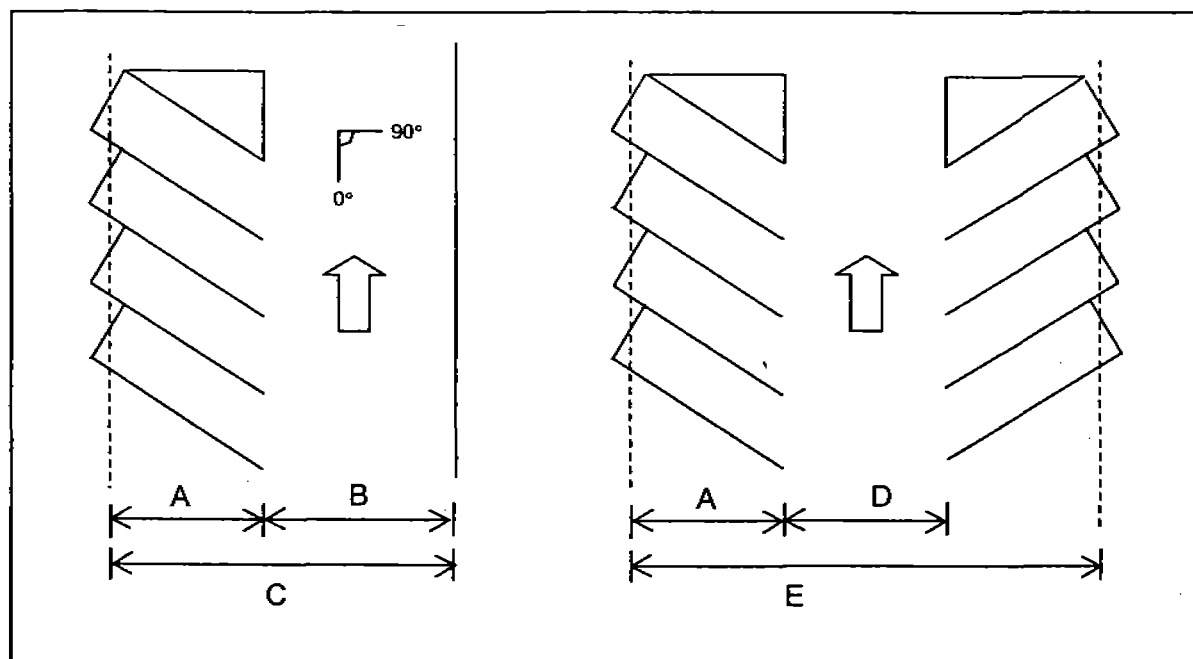
APPENDIX A: PARKING LOT DIMENSIONS

All parking areas shall conform to the following design standards unless alternative design standards are approved by the Design Commission and City Engineer.

1. One-Way Traffic

Parking Angle	Standard Stall (8.5' x 18.5')				
	A	B	C	D	E
0	8.5	15.0	23.5	15.0	32.0
30	9.5	15.0	24.5	15.0	34.0
35	10.0	15.0	25.0	15.0	35.0
40	11.0	15.0	26.0	15.0	37.0
45	12.0	15.0	27.0	15.0	39.0
50	13.0	15.0	28.0	15.0	41.0
55	14.0	15.0	29.0	15.0	43.0
60	15.0	15.0	30.0	15.0	45.0
65	16.0	16.0	32.0	16.0	48.0
70	16.5	16.5	33.0	16.5	49.5
75	17.0	17.0	34.0	17.0	51.0
80	17.5	17.5	35.0	17.5	52.5
85	18.0	18.0	36.0	18.0 <td>54.0</td>	54.0
90	18.5	18.5	37.0	18.5	55.5

Parking Angle	Compact Stalls (8' x 16')				
	A	B	C	D	E
0	8.0	15.0	23.0	15.0	31.0
30	9.0	15.0	23.0	15.0	31.0
35	9.0	15.0	24.0	15.0	33.0
40	10.0	15.0	25.0	15.0	35.0
45	11.0	15.0	26.0	15.0	37.0
50	12.0	15.0	27.0	15.0	39.0
55	13.0	15.0	28.0	15.0	41.0
60	13.0	15.0	28.0	15.0	41.0
65	14.0	15.0	29.0	15.0	43.0
70	15.5	15.0	30.0	15.0	45.0
75	15.0	15.0	30.0	15.0	45.0
80	16.0	16.0	32.0	16.0	48.0
85	16.0	16.0	32.0	16.0	48.0
90	16.0	16.0	32.0	16.0	48.0



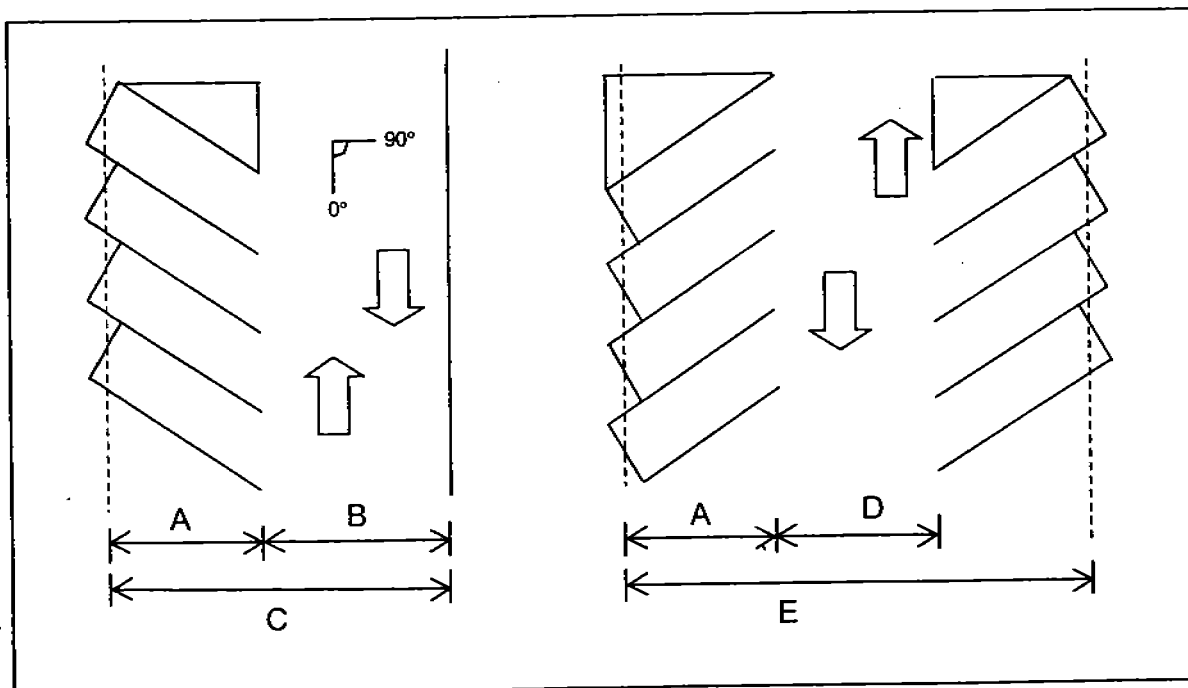


APPENDIXES

2. Two-Way Traffic

Standard Stall (8.5' x 18.5')					
Parking Angle	A	B	C	D	E
0	8.5	20.0	28.5	20.0	37.0
30	9.5	20.0	29.5	20.0	39.0
35	10.0	20.0	30.0	20.0	40.0
40	11.0	20.0	31.0	20.0	42.0
45	12.0	20.0	32.0	20.0	44.0
50	13.0	20.0	33.0	20.0	46.0
55	14.0	20.0	34.0	20.0	48.0
60	15.0	20.0	35.0	20.0	50.0
65	16.0	20.0	36.0	20.0	52.0
70	16.5	20.0	36.5	20.0	53.0
75	17.0	20.0	37.0	20.0	54.0
80	17.5	20.0	37.5	20.0	55.0
85	18.0	20.0	38.0	20.0	56.0
90	18.5	20.0	38.5	20.0	57.0

Compact Stalls (8' x 16')				
A	B	C	D	E
8.0	20.0	28.0	20.0	36.0
9.0	20.0	28.0	20.0	36.0
9.0	20.0	29.0	20.0	38.0
10.0	20.0	30.0	20.0	40.0
11.0	20.0	31.0	20.0	42.0
12.0	20.0	32.0	20.0	44.0
13.0	20.0	33.0	20.0	46.0
13.0	20.0	33.0	20.0	46.0
14.0	20.0	34.0	20.0	48.0
15.0	20.0	35.0	20.0	50.0
15.0	20.0	35.0	20.0	50.0
16.0	20.0	36.0	20.0	52.0
16.0	20.0	36.0	20.0	52.0
16.0	20.0	36.0	20.0	52.0





APPENDIXES

APPENDIX B: BASEMENT FLOOR AREA CALCULATION

The Mercer Island Development Code excludes that portion of the basement floor area from the Gross Floor Area which is below grade. That portion of the basement which will be excluded is calculated as shown.

Portion of Excluded Basement Floor Area =

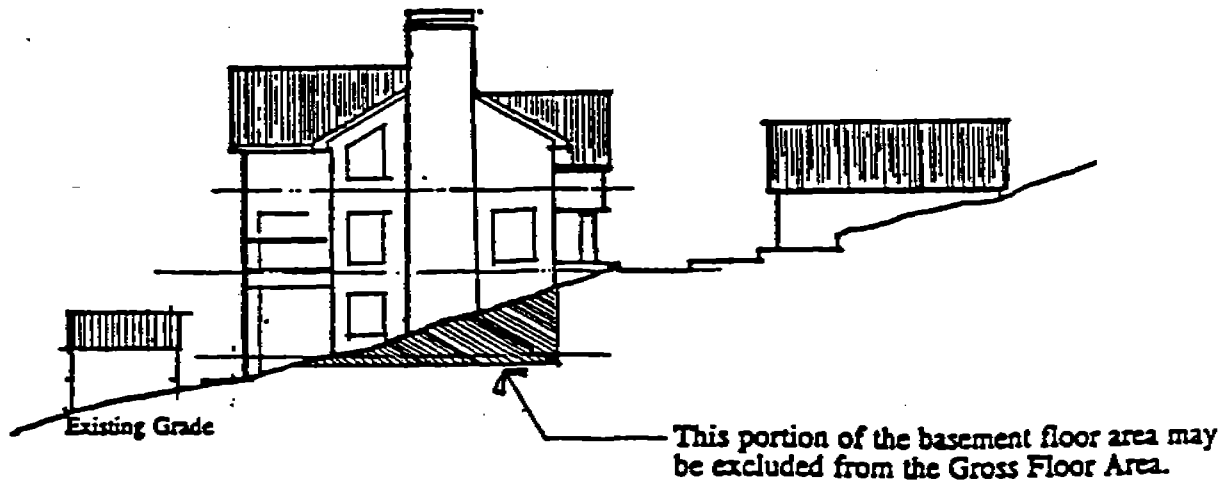
$$\frac{\text{Total Basement Area} \times \sum(\text{Wall Segment Coverage} \times \text{Wall Segment Length})}{\text{Total of all Wall Segment lengths}}$$

Where the terms are defined as follows:

TOTAL BASEMENT AREA is the total amount of all basement floor area.

WALL SEGMENT COVERAGE is the portion of an exterior wall below existing grade. It is expressed as a percentage. (Refer to example.)

WALL SEGMENT LENGTH is the horizontal length of each exterior wall in feet.





APPENDIXES

EXAMPLE OF BASEMENT FLOOR AREA CALCULATION

This example illustrates how a portion of the basement floor area may be excluded from the Gross Floor Area. In order to complete this example, the following information is needed.

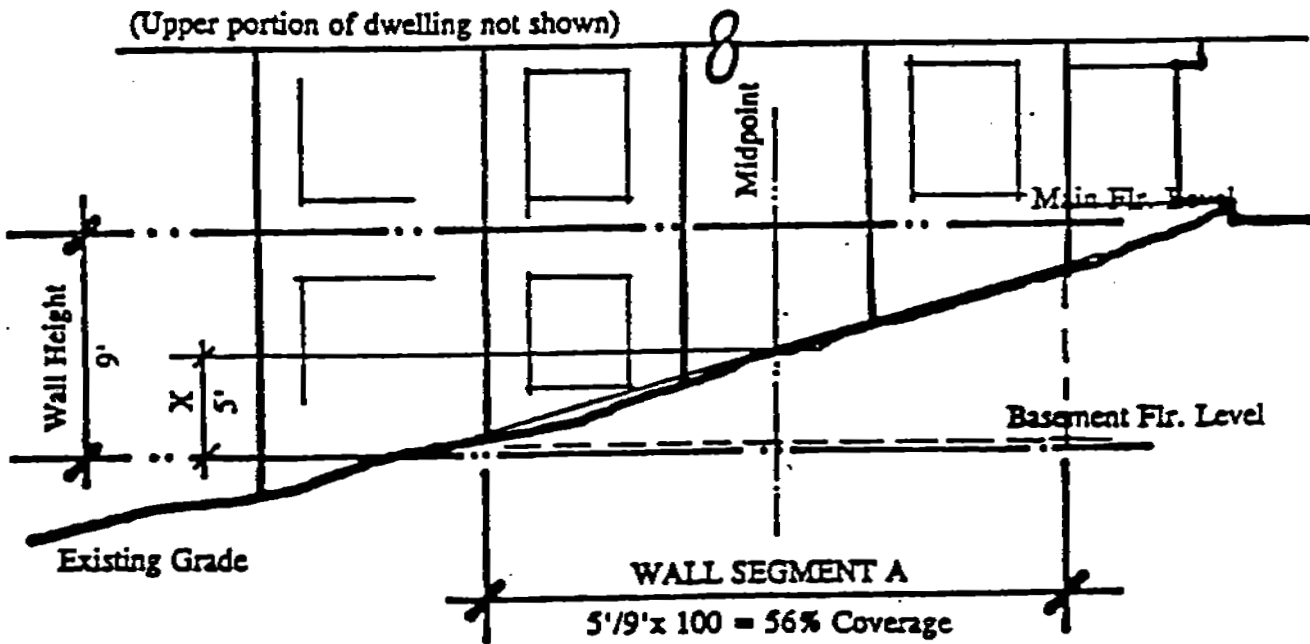
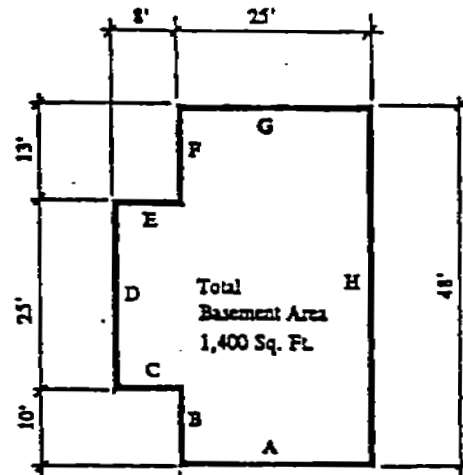
- A. A topographic map of the existing grades.
- B. Building plans showing dimensions of all exterior wall segments and floor areas.
- C. Building elevations showing the location of existing grades in relation to basement level.

Step One

Determine the number and lengths of the Wall Segments.

Step Two

Determine the Wall Segment Coverage (in %) for each Wall Segment. In most cases this will be readily apparent, for example a downhill elevation which is entirely above existing grade. In other cases where the existing contours are complex, an averaging system shall be used. (Refer to illustration.)





APPENDIXES

EXAMPLE OF BASEMENT FLOOR AREA CALCULATION (CONTINUED)

Step Three

Multiply each Wall Segment Length by the percentage of each Wall Segment Coverage and add these results together. Divide that number by the sum of all Wall Segment Lengths. This calculation will result in a percentage of basement wall which is below grade. (This calculation is most easily completed by compiling a table of the information as illustrated below.)

Table of Wall Lengths and Coverage

Wall Segment	Length x	Coverage =	Result
A	25'	56%	14' %
B	10'	0%	0' %
C	8'	0%	0' %
D	25'	0%	0' %
E	8'	0%	0' %
F	13'	0%	0' %
G	25'	60%	15' %
H	48'	100%	48' %
Totals	162'	NA	77' %

Step Four

Multiply the Total Basement Floor Area by the above percentage to determine the Excluded Basement Floor Area.

Portion of Excluded Basement Floor Area =

$$=1,400 \text{ Sq. Ft.} \times \frac{(25' \times 56\% + 10' \times 0\% + \dots + 25' \times 60\% + 48' \times 100\%)}{162'}$$

$$=1,400 \text{ Sq. Ft.} \times 47.53\%$$

$$=665.42 \text{ Sq. Ft. Excluded from the Gross Floor Area}$$



APPENDIXES

APPENDIX C: DESIGN GUIDELINES OF THE MERCER ISLAND DESIGN COMMISSION

ADOPTED MAY 14, 1973.

DESIGN GUIDELINES

Mercer Island Design Commission

Prepared By

JOYCE, COPELAND, VAUGHAN & NORDFORS

JONES & JONES

in cooperation with the

MERCER ISLAND PLANNING DEPARTMENT

5-14-73

SIGN GUIDELINES

SIGN GUIDELINES

GOAL: Guide signs to be in balance with the streetscape, natural environment and commercial structures by assuring that signs are:

- INTENT:**
1. Compatible with their surroundings.
 2. Appropriate to the type of activity to which they pertain.
 3. Expressive of the identity of individual proprietors and the community as a whole.
 4. Legible at the speed and at the distance at which they are seen.

The intent is to control and direct all signing within the private sector to assure uniform application, achievement of a desirable balanced environment. As a group, signs can give the Business District a distinctive appearance and reinforce the character of the district as a distinctive place. Regardless of a particular activity to which a sign pertains, or the personality of the proprietor, a sign should not violate the visual area in which it is located, nor should its presence trespass unduly on the view from the public right-of-way, signs should realize an expression of good architectural (or aesthetic) taste and skilled design. Form, proportion, color, material, surface treatment and position will be considered in each case.

CRITERIA: The primary area of concern of signs is in the Business District. Guidelines for signs in that area are detailed in this section following a summary of signing for other activities on the Island not located in the Business District.

1. Single family residences: Maximum one unlighted sign no larger than 200 sq. in. or one lighted sign no larger than 100 sq. in. Unlighted directional signs on properties are also allowed.
2. Public utilities, schools, recreation and park facilities: Maximum one unlighted or exterior lighted sign on each separate street on a property line not to exceed 18 sq. ft.

nor 42 inches in height above the ground.

3. Churches and Clubs: same as 2 above.
4. Subdivision entrance sign: Maximum one each unlighted or exterior lighted sign at each entrance not to exceed 6 sq. ft. nor 42 inches in height above the ground, subject to setbacks required in that zone. Use natural materials of 20 year life expectancy, landscape to complement and blend into natural surroundings. No unit masonry materials.
5. Apartments: One wall sign or ground supported sign, unlighted or exterior lighted not to exceed 20% of the signable area of the wall or 6 sq. ft. if a ground supported sign. If ground supported maximum height off ground shall be 42 inches, location subject to setback requirements.
6. Hospitals, sanitariums: same as 5.
7. Day Nurseries, Pre-schools and Resthomes: same as 2 above.
8. Licensed Practitioners: One unlighted wall sign for identification purposes only bearing only the occupant's name and occupation not to exceed 72 square inches.
9. Real Estate signs: Temporary signs located on and indicating premises which are for sale, rent or lease. One sign per street frontage not to exceed 6 sq. ft. nor 42 inches in height above the ground if a ground sign.
10. Construction Sign: Temporary ground signs erected for a construction project on the project site and maintained only while such work is in progress. One sign per street frontage not to exceed 16 sq. ft. nor 8 feet high.

BUSINESS DISTRICT SIGNS

Content of Signs

Signs should be used primarily for the purpose of identifying premises. Signs may be used to advertise products or services in designated areas but only one sign containing such content will be allowed per building or complex. To identify is to convey recognition of a particular person, enterprise or group of enterprises. To advertise is to give information about the type, product line, quality or price of goods or services offered. If a "third party" sign is displayed (that is a sign identifying an enterprise, but including a sponsoring advertisement such as Coca Cola or 7-Up), that display will be counted as the one allowable sign containing advertising content.

Types of signs

Only on-premise signs are allowed; off-premise signs are not allowed. An on-premise sign is a sign identifying the premises upon which it is located or the occupants thereof.

Signs will be either: Ground signs; signs supported by poles upright extending from the ground or an object on the ground but not attached to any part of any building, or; Building signs; either fabricated or painted wall signs, or projecting signs. A fabricated wall sign is a sign attached to or erected against or as part of a wall of a building or other structural feature and whose display surface is parallel to the face of the building. A painted wall sign is a sign painted on the wall of a structure, the portion of which is parallel to the face of the building.

Other graphic means may be used to identify enterprises and in some cases display goods and service, these are auxiliary design elements. A great deal of the character of the Business District and individual establishments may be expressed by design factors which fall in this category. The style and a subtle, useful enhancement of graphic communication (including signs) may be to a large extent determined by the attention given to these auxiliary elements. Elements included are illumination of all types, movement, color, banners, awnings, canopies, marquees, window graphics, and sidewalk displays.

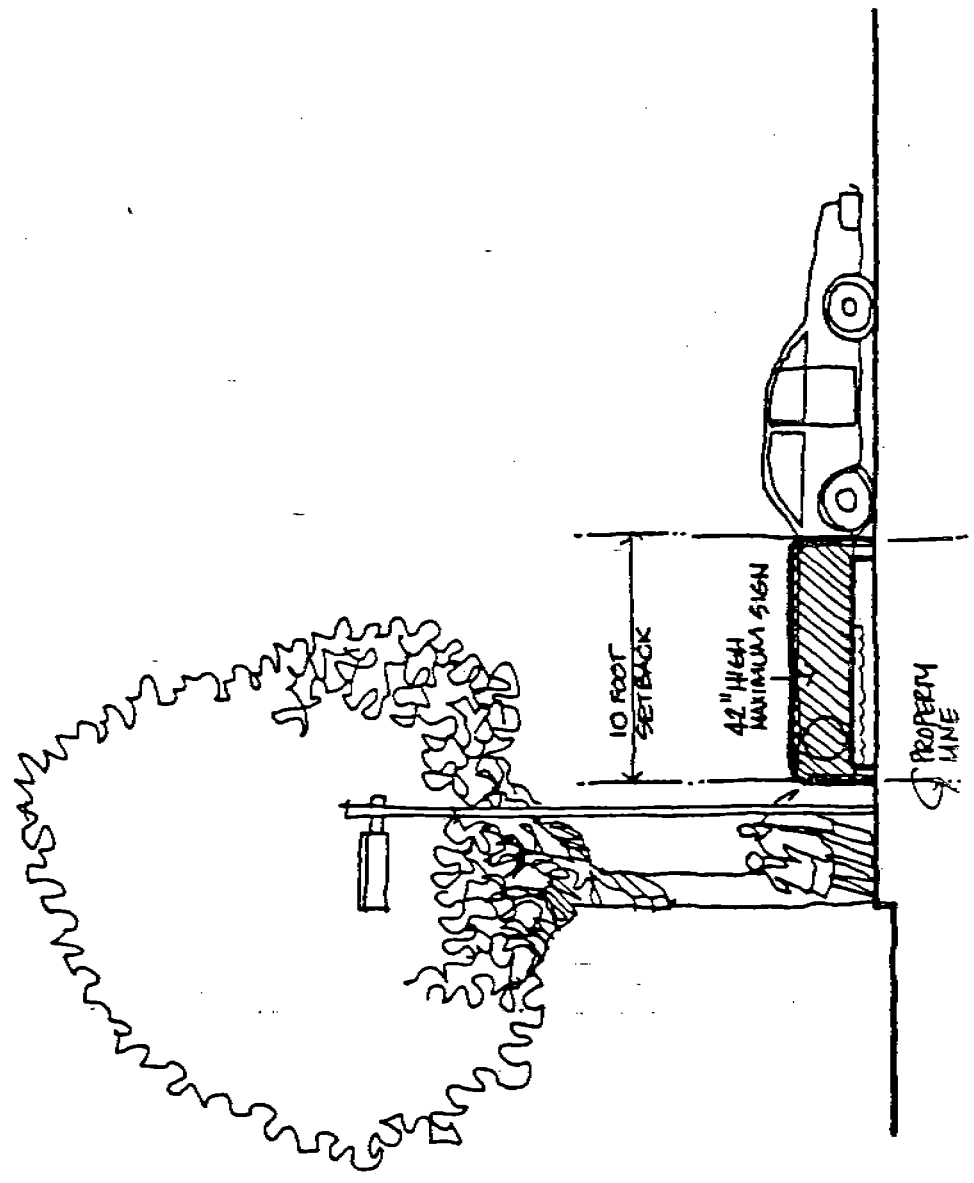
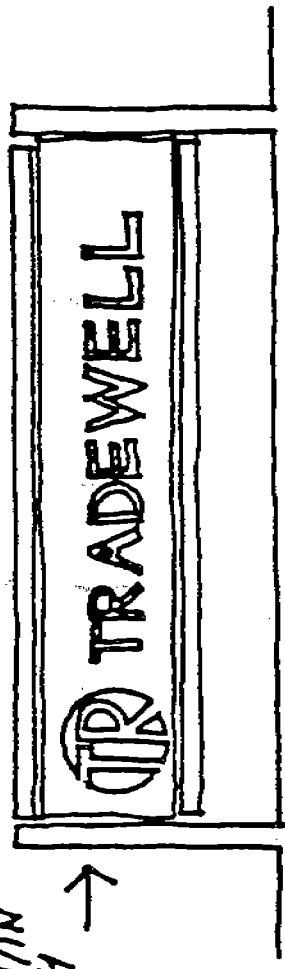
Signs will serve an individual business or groups of businesses. A sign which serves as a common or collective identification or advertisement for two or more business uses on the same premise is a joint sign. A sign which serves an individual business is an individual sign. Joint signs must identify more than one enterprise.

Sizes Of Signs

The following sections detail guidelines applicable to each type of sign. In most cases signs should be restricted to certain maximum areas and heights: Where maximum areas, heights or percentages of wall coverage are recommended the area or height will be measured from the outer perimeter including structural frames, borders and trim.

Where a sign has two or more display surfaces, the area of the largest visible outline should be measured to determine the area of the sign.

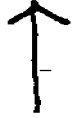
INDIVIDUAL
GROUND SIGN:
25 SF MAX
42" HT. LIMIT W/IN
10' OF PROPERTY
LINE.



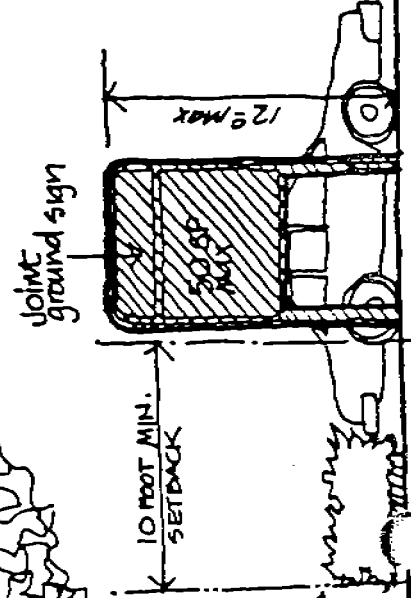
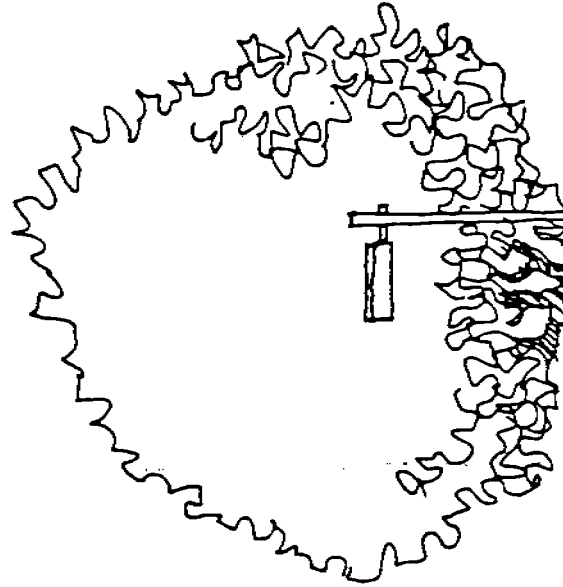
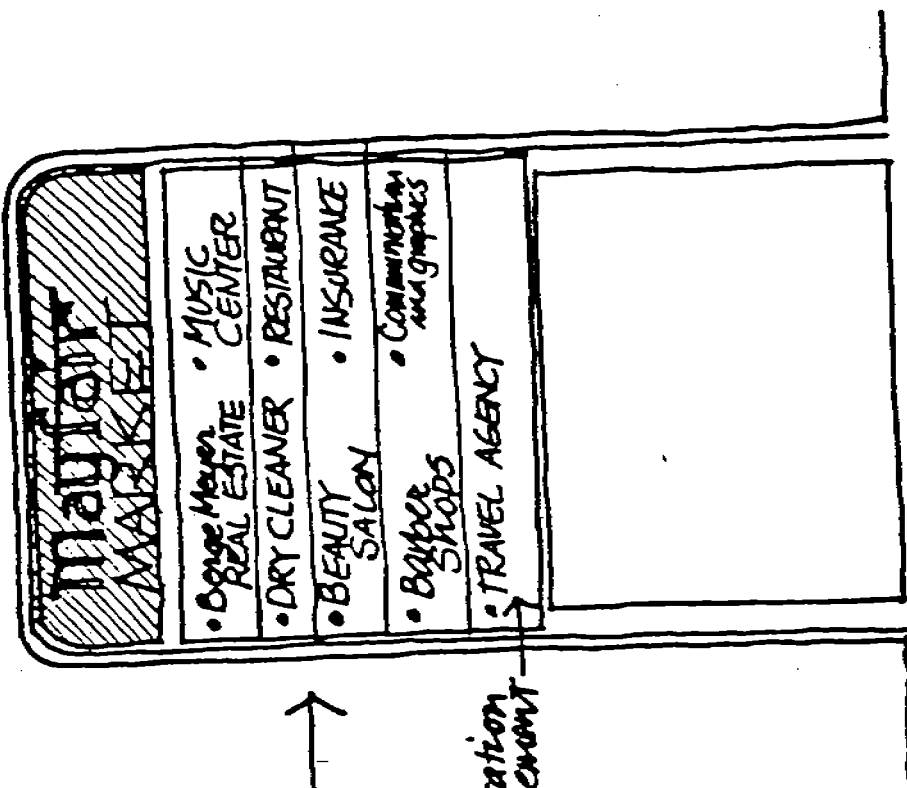
JOINT GROUND SIGN:

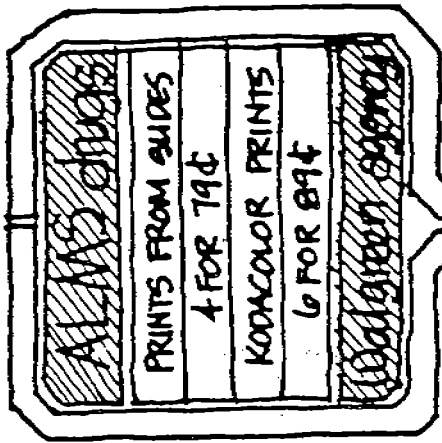
50 SF MAX
12' HT. LIMIT

ALL MESSAGES
INTEGRATED &
CONTAINED IN
ONE SIGN

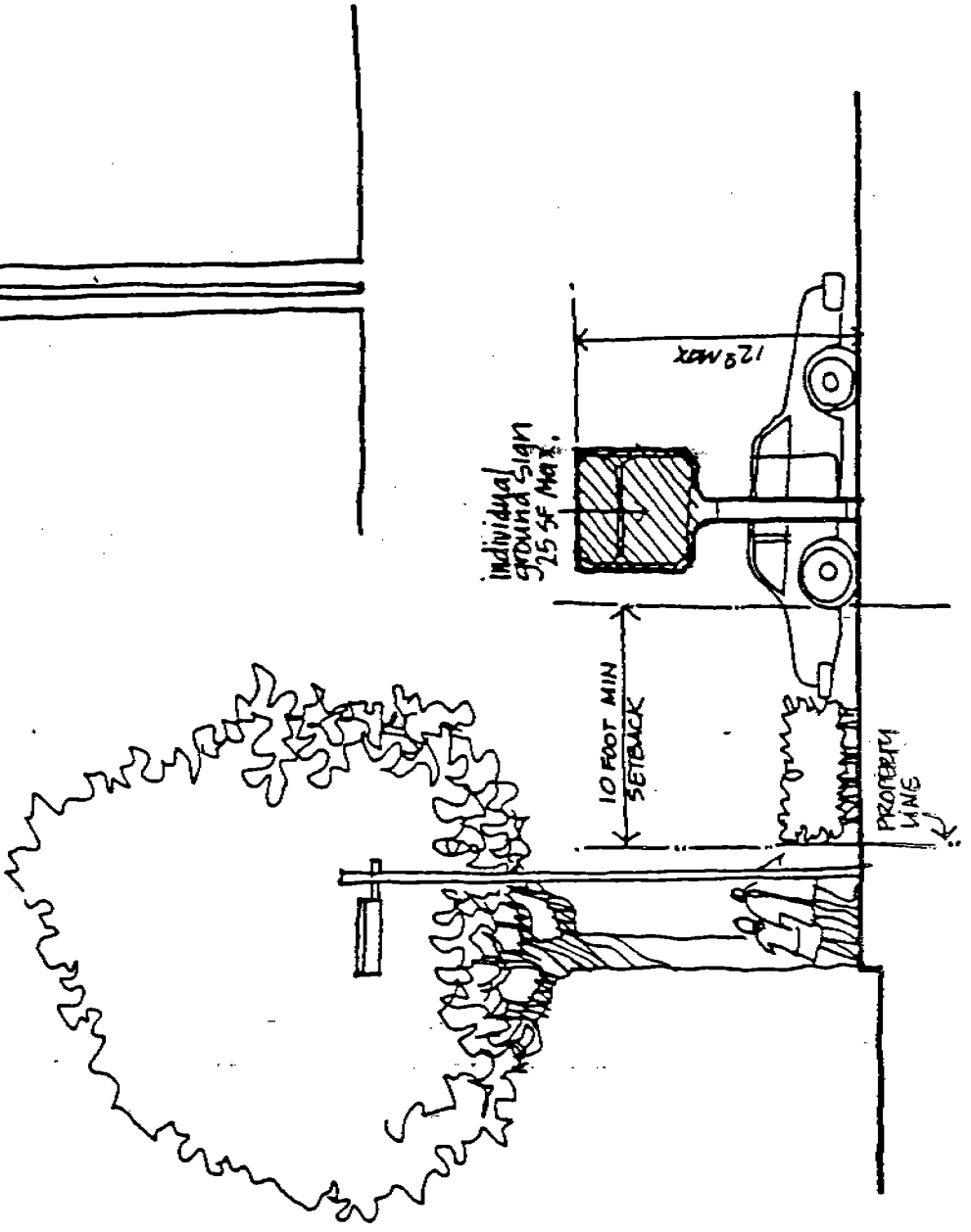


Identification
of advertisement





INDIVIDUAL
GROUND SIGN:
25 S.F. MAX.
12' HT. LIMIT
ALL MESSAGES
INTEGRATED &
CONTAINED IN
ONE SIGN.



Ground Signs

Any individual establishment not a part of a larger complex or group of establishments may display a ground supported sign provided:

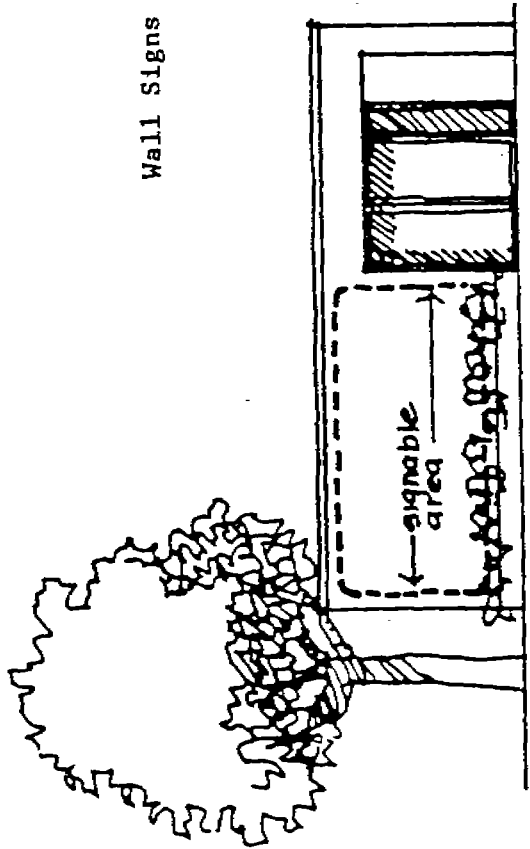
1. The establishment is accessible by car and provides parking space.
2. The building which it occupies is set back at least 25 feet from public right-of-way.
3. Ground signs may not exceed 42 inches in height within a setback of 10 feet from any property line on a street. Ground signs may not exceed 12 feet in height beyond a 10 foot setback as measured at the street elevation. In all cases height is measured from grade at the edge of the right-of-way to the top of the sign. If for reasons of unusual topography, landscape, or road curvature a height greater than that recommended is needed, a special exemption from these guidelines might be considered.
4. A joint ground sign may allocate up to 6 square feet for each enterprise included on the premise and the shopping complex as a whole. The total area of any one joint sign may not exceed that allowed for a wall mounted sign or 50 square feet which ever is less except the minimum size may be 25 square feet. When more than five enterprises are included on a premise one additional ground sign may be placed on a street front if signs are located at least 100 feet apart. If more than one sign is used it should be the same design. Individual ground signs or a joint ground sign which identifies only the shopping complex as a whole may not exceed 25 square feet. Signs 42 inches high or less may not exceed 25 square feet.
5. Ground signs should employ extensive use of symbols.
6. A building or complex may not display more than one ground sign on each street except as allowed under the special conditions described in 4. above. Under no circumstances may a building display more than one sign containing advertising content.

7. Signs displaying identification and advertisement content should be designed so that all information is integrated and contained in one design in contrast to displaying two or more separate elements on one structure.

8. Exposed areas of backs of signs should be covered to present an attractive and finished appearance.

Each sign structure should at all times include a facing of proper dimensions to conceal back bracing and frame work of structural members. During periods of repair, alteration or copy change, such facing should be removed for a maximum period of 8 consecutive hours.

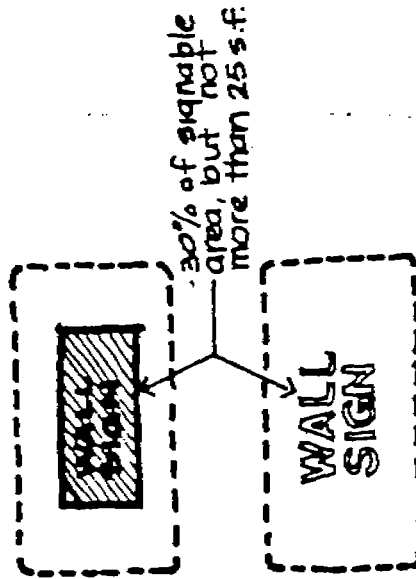
Wall Signs

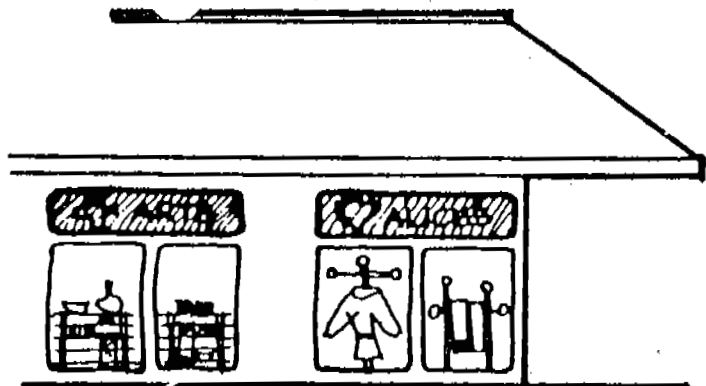


Because a sign becomes a part of the fabric of the building on which it is displayed, it is important that the correct proportion between the wall and the sign be achieved. 30 percent of the signable wall area or 50 square feet if a joint identification sign, or 25 square feet if an individual identification sign, whichever is less may be covered except where special areas are reserved for signs (see Item 6. following). In certain circumstances painted wall signs may exceed 30 percent. The "signable" wall area is a continuous portion of the building unbroken by doors or windows. It is calculated by selecting a continuous facade then drawing an imaginary rectangle within specified height limitation (see following wall sign guidelines) and computing the square foot area of this rectangle.

Wall signs are subject to the following guidelines:

1. Wall signs may be displayed by any establishment in the Business District.
2. If a sign is fabricated and consists of a "boxed" display, the total area of the display, including both copy and background must be no greater than the maximum percentage (30 percent) of signable area allowed or the maximum size display allowed.
3. If a wall sign consists of individual cut-out letters, and symbols only the total area of the letters or symbols themselves is assessed against the allowable signable area.
4. If a sign is a painted wall sign only the total area of the letters or symbols themselves is assessed against the allowable signable area unless the background contrasts strongly with the wall it is painted on and is not construed to be a part of the architecture of the building. If an applicant demonstrates to the satisfaction of the Commission that a painted wall sign is an integral part of the architecture ("super graphic") than the Commission may waive the signable area and size restrictions.
5. A wall sign may not extend above the parapet, soffit, the eave line or the roof or the window sill of the second story (except in the latter case, as allowed under 4. above).

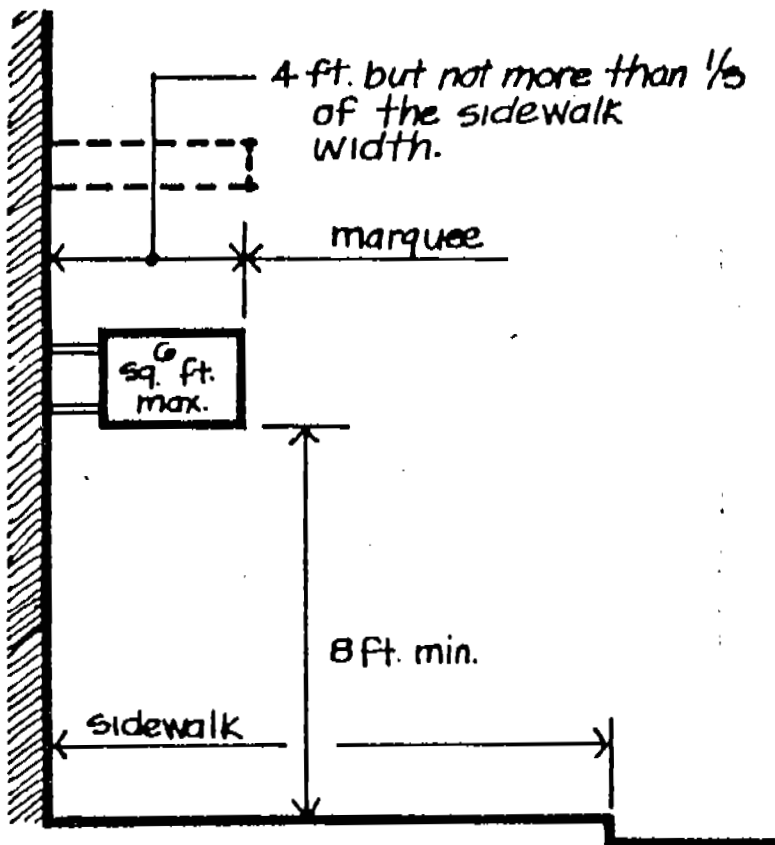




6. Many commercial structures provide space for signs above windows and below parapets or eaves usually contained by trim or a change in material. In these cases signs should be located within the confines of these spaces and evaluated for compatibility with neighboring signs on the same premise in terms of scale of letters, size, color, lighting, materials and style.

7. A wall sign should not extend more than 12 inches from the face of the wall.

Projecting Signs



Projecting signs may be displayed by any establishment in the Business District. A projecting sign may not exceed 6 square feet. In addition, projecting signs are subject to the following guidelines.

1. Projecting signs should clear sidewalks by 8 feet.
2. They should project no more than 4 feet from the building, or one-third of a public or private sidewalk width whichever is less, unless there is a permanent marquee over the sidewalk in which case a sign may project from the building the width of the marquee but not beyond.

PROJECTING SIGN

Auxiliary Design Elements

1. Illumination:

- a. Bare bulb illumination: The use of bare bulbs is restricted to establishments which would normally be associated with this light source such as eating and drinking places, amusements and recreation. Maximum wattage must not be greater than 15 watts and only clear or white bulbs should be used.
- b. Flashing and moving light: No flashing and moving lights are allowed except when out of view of all streets, parking lots and views from properties uphill as a part of a planned atmosphere appropriate to a group of enterprises.
- c. Flood lighting illumination: Graphics illuminated by flood lights or spot lights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists and pedestrians.
- d. Indirect illumination: An indirectly illuminated graphic is one which is lighted by a source not seen directly; permitted to all establishments in the District.
- e. Internal illumination: An internally illuminated graphic is one with the light source concealed or contained within the graphic itself and which becomes visible in darkness by shining through a translucent surface; permitted in all establishments in the District.
- f. Neon tube illumination: A neon graphic is one with a light source supplied by a neon tube which is bent to form letters, symbols or other shapes. Permitted to all establishments.

2. Special features: Special features referred to here (banners, awnings, canopies, etc.) are essentially pedestrian oriented and will most frequently be used in conjunction with some other type of street sign.

- a. Awnings, canopies and marquees may be used by all types of establishments. Only individual cut-out letters and/or symbols may be attached to painted stencils or otherwise placed on these devices; all other types of graphic treatment are prohibited.
 - b. Mechanical movement meaning animated or to physically revolve, move up and down or sideways. Not allowed except when out of view of all street, parking lots and views from properties uphill as a part of a planned atmosphere appropriate to a group of enterprises. Banners may be used with permission of the Commission
 - c. Permanent and temporary window graphics: These may not occupy more than 25 percent of the total area of the window in which they are displayed.
 - d. Sidewalk showcases and kiosks: These may be used with special permission of the Commission.
 - e. Auto-oriented window signs: Signs attached to the interior of a window or within 1 foot of the window which are designed to attract the attention of motorists are not allowed.
3. Abandoned signs: A sign which is located on property which becomes vacant or unoccupied for a period of 90 days or more, or which was erected for an occupant or business other than the present occupant or business, or contains content of which pertains to a time, event or purpose which no longer pertains is an abandoned sign. If the sign does not conform to the criteria described in these guidelines and/or is unrelated to the present occupant or business it must be removed by the property owner.
4. Existing signs: When a sign which does not conform to the criteria described in these guidelines and an occupant proposes modifications to an existing sign, the sign should be brought into conformance with these guidelines or removed.
5. Performance bond: The City may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the City to secure the applicant's obligation to adhere to the sign guidelines.

ARTERIAL RIGHT-OF-WAY GUIDELINES

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The rural right-of-ways are generally characterized by continuous vegetation belts, ravines, hillsides, winding roadways, group access drives, and relative freedom from infringing housing. These are the right-of-ways most highly characteristic of the Island environment and provide a unique exposure to Mercer Island for both visitors and residents. This category includes the majority of the Mercer Ways, Island Crest from SE 53rd Pl. to SE 68th, the majority of SE 53rd Pl., SE 68th east of Island Crest, and Gallagher Hill Rd.

The suburban right-of-ways pass through fairly dense residential communities and are characterized by closely adjoining housing, uniform front yard setbacks, individual driveways, and a lack of continuous vegetation buffers. This category includes SE 40th, SE 24th, 72nd SE, 78th SE, Island Crest from SE 40th to SE 53rd Pl., a portion of SE 53rd Pl., 84th SE, SE 68th and SE 72nd, SE 70th Pl., Merrimount Dr., and portions of the Mercer Ways.

The urban right-of-ways are the arterials within and adjoining the Business District. Island Crest north of SE 40th is the only right-of-way covered in this section.

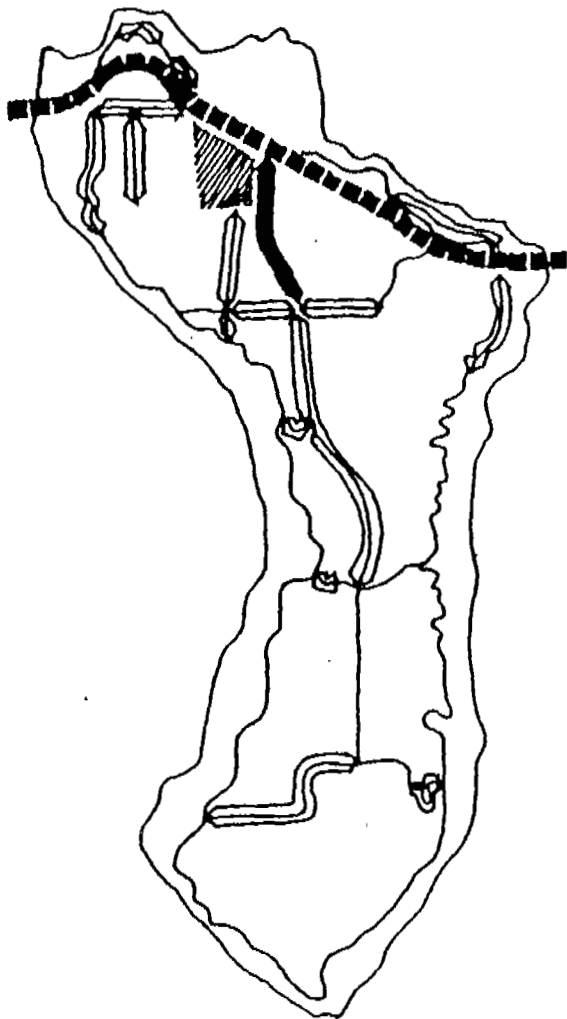
TRAILS





A. BICYCLE FACILITIES

Different needs exist for bicycles in urban right-of-ways than in rural. The volume composition and speed of vehicular traffic as well as topography generally dictate the type of system that should be provided. There are three basic types of bicycle facilities:

Shared Right-Of-Way (Class III Bikeway): a mixture of motorized vehicle and bicycle traffic in the same roadway; low vehicular volumes and speeds are a prerequisite.

Bicycle Lane (Class II Bikeway): a separately designated facility for bicycle traffic following the alignment of the roadway. The separation may be made by curbing, striping or buttons as required to insure bicycle safety.



 BUSINESS DISTRICT
 I-90
 URBAN RIGHT-OF-WAY
 SUBURBAN " "

Bicycle Path (Class I Bikeway): a facility that is separated from motorized vehicles and may or may not parallel the alignment of the roadway.

B. PEDESTRIAN FACILITIES

Pedestrian facilities exist for purposes of commuting, recreation, exercise, health and pleasure, and must accommodate a variety of uses. For example, a facility chiefly in use by children capable of quick, erratic movements needs special safety consideration. This is particularly applicable in areas where schools, parks, playgrounds, etc., are the predominant pedestrian traffic generators.

Likewise, surfacing materials must be compatible with the right-of-way, surrounding landscape, topography, and drainage conditions. Pathways may be paved, covered with gravel or wood chips, or simply left in their natural state (e.g. the pathway network along Island Crest Park owes much of its charm to its meandering, unpaved state).

There are two types of pedestrian facilities that may be implemented within the right-of-ways:

Sidewalk or Lane: adjacent to roadway, either paved (sidewalk) or unsurfaced (lane).

Path: independently aligned and generally landscaped to enhance the walkers experience.

C. JOINT BICYCLE/PEDESTRIAN FACILITIES

In areas where right-of-way widths, road conditions, or grades restrict separate bicycle/pedestrian routes, a joint facility may be implemented. It is particularly appropriate in situations where pedestrian traffic is minimal or grades are such to preclude excessive bicycle speeds. A joint facility, particularly one designed to accommodate two way bicycle traffic, may also be advantageous where excessive pavement widening may not be a desirable right-of-way improvement.

Joint Bicycle/Pedestrian Lane: following the alignment of the roadway, either directly adjacent or separated from the roadway.

Joint Bicycle/Pedestrian Path: independently aligned and separated from the roadway.

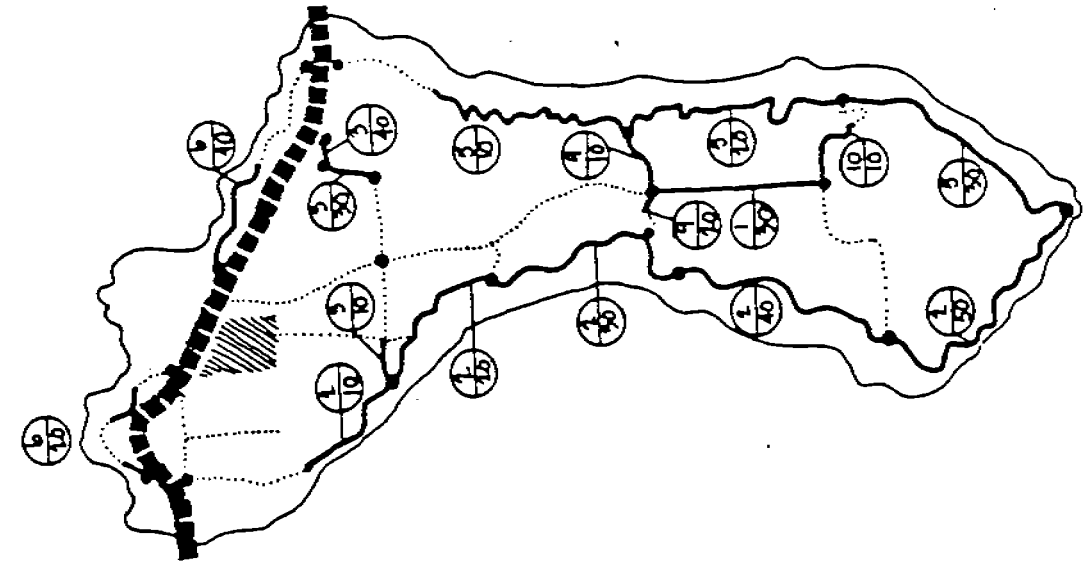
GENERAL GOALS

In order to enable a more specific consideration of the design criteria of individual right-of-ways, the general overriding considerations that are applicable to all right-of-ways are given here as reference for the more specific considerations that follow.

1. Develop right-of-ways consistent with the overall natural Island character and scale, with particular consideration given to any UAB and highway standards that may diminish the rural quality of the Island.
2. Emphasize key intersections and gateways that serve as an introduction to the Island by treating them in a manner that is representative of the best of the Island environment.
3. Develop views and vistas from the road as a means of locating and orienting the user to the Island.
4. Establish a safe and efficient system for all modes of acceptable traffic and encourage public transportation and pedestrian/bicycle facilities in appropriate locations, particularly in situations where they may serve schools and other public facilities.
5. Accommodate pedestrian/bicycle facilities by joint-use such as shared right-of-ways and joint bicycle/pedestrian facilities, with minimum widening of the paved surface.
6. Restore the Island environment and enhance the "street scene" by eventual undergrounding of utilities.
7. Provide direct and easy access to major Island "destination points".
8. Link communities, neighborhoods and facilities.
9. Provide adequate information regarding speed, location, and public destination points.
10. Discourage on-street parking except as provided by emergency regulation.

GUIDELINES

RURAL RIGHT-OF-WAYS: majority of Mercer Ways, Island Crest from SE 53rd Pl., to SE 68th, most of SE 53rd Pl., SE 68th east of Island Crest, a portion of SE 70th Pl., and Gallagher Hill Rd. For route section locations see the adjoining map.



GOAL:




Retain, restore and enhance the natural Island environment as perceived from the right-of-way.

INTENT:

1. Treat the full length of the right-of-ways as a continuous road/Island experience.
2. Emphasize and enhance views to ravines and occasional views to the Lake, Seattle and the East Shore.
3. Retain the "rural road" atmosphere and minimize further disruption of the right-of-way within the "Critical Environment Zone" as previously identified, within which the majority of these right-of-ways lie.
4. Strengthen vistas and important axes.
5. Reinforce the image of the roadway as a continuum of the landscape elements adjoining the right-of-way.

CRITERIA:

6. Prevent further infringement of buildings, fencing and street furniture elements through the use of adequate vegetation buffers, building and street furniture setbacks as well as height and size restrictions.
7. Provide adequate lighting to delineate the roadway in keeping with its intrinsic appearance.
 - 1a. Buildings should be sited to preserve the maximum natural vegetation buffer along the right-of-way.
 - 1b. Use of predominant Island plant materials is suggested to buffer structures and reinforce the vegetation belts within the right-of-way, with special attention given to the reforesting of those areas that are in need of reinforcement or are an obvious break to the continuous vegetation enclosure of the right-of way.

 BUSINESS DISTRICT
 RURAL RIGHT-OF-WAYS
 ROAD

Private easements should be considered wherever buffers within the right-of-ways are not sufficient to provide the desired roadway enclosure. The easements should be planted and maintained by the City for a period of one year.

2a. Preserve existing views and vistas at locations designated as viewpoints by limiting building sites, restricting building heights, and encouraging selective clearing and/or planting of vegetation both within the right-of-way and outside it if possible. See arterial landscape master plan.

- a. 3600 Block West Mercer Way
- b. 3662 West Mercer Way
- c. 82nd Ave. SE at West Mercer Way
- d. 7600 Block West Mercer Way
- e. 8200 Block East Mercer Way (midpoint of Avalon Dr.)

2b. Automobile turnouts should be developed at designated viewpoints to enhance the driving experience, provide for safe passing, accommodate school bus loading and emergency snow storm parking. Turnouts should be surfaced with pervious materials and, where location permits, should be left as much as possible in their natural state. Turnouts should be delineated by wood or log tire stops to prevent damage to groundcovers and low planting adjoining the roadway.

3a. Eliminate individual driveways in favor of group access drives in order to minimize disruption of roadways and vegetation.

3b. Limit the width of the road to two lanes, with additional pavement width permitted in curved sections where extra width may be required for safety purposes. Wherever possible, extend the plant materials to the pavement edge to further contain the width of the roadway.

- 4a. Strengthen vistas and important axes by selective clearing, elimination of conflicting street furniture elements such as utility poles, wiring, and fencing, and selection and planting of plant materials within the right-of-way that will heighten and emphasize the view.
- 5a. Repair all bank cuts and restore to near natural state cut and fill areas by replanting with indigenous plant material, with particular attention given to groundcovers that will help re-establish and retain slopes. Particular attention is directed to the planting and stabilization of banks along East Mercer Way. See arterial landscape master plan.
- 5b. On-street parking should be discouraged except at turnouts for designated viewpoints, trailheads, and during emergencies as stipulated by Resolution 504.
- 5c-6a. Buildings should be sited to preserve views of ravines and hillsides that are integral to the overall image and character of the right-of-way.
- 6b. Screen out all private fencing by planting buffers within the right-of-way if the fencing detracts from or is not in keeping with the overall roadway appearance.
- 6c. Screen all public utility installations visible from the right-of-way with adequate planting, and consider the use of ivy or similar vines along all chain link fencing except in specific instances where such planting may obstruct a view that contributes to the overall roadway experience and character.
- 7a. Lighting should be of a low level, more for the purposes of indicating the configuration of the roadway than for general illumination. The lighting standards should preferably be of wood and of a natural and unobtrusive finish, at a height of 12-16 feet. Lighting should occur at all intersections, at pathway/road crossings, and at private driveways wherever this is feasible without disrupting the overall spacing and sequence of the lighting. (Also see Public Signing, Lighting and Other Street Furniture.)
- 7b. Security lighting, gateway or driveway lighting should be used so as not to infringe upon the right-of-way where it may be a danger to the motorist and a hazard or nuisance to the pedestrian or bicyclist.

GOAL: Encourage use of the right-of-way as a means of providing access to the Island's ravine/open space system for recreational purposes.

INTENT: 1. Provide for bicycle and pedestrian use of the right-of-way.

2. Consider the open space trail system as an extension of the right-of-way and make it more readily accessible for public use.

CRITERIA: 1a. Maintain roadway to minimum widths as provided in 3b. above.

1b. Consider a number of bicycle turnouts along the Mercer Ways, removed from the vehicular traffic and developed in conjunction with a bicycle path system that could thus provide rest-stops for the round-Island cyclist.

1c. Insure safe pedestrian/bicycle crossings of the roadway at all intersections, and wherever topography dictates, allow for the relocation of the path from one side to the other, by signing and locating crossing within relatively straight road sections with maximum two-way visibility.

2a. Provide 1-2 car turnouts at all trailheads.

2b. Private easements should be evaluated in order to accommodate both bicyclists and pedestrians as an alternate to right-of-way use, particularly in locations where safety considerations demand segregation of traffic.

Easements should be secured on all new developments with connecting links through previously developed land obtained as opportunity arises. Easements should be obtained in keeping with the Island wide trail system.

1d-2b. Bicycle and Pedestrian Facilities:

- a. Mercer Ways: Route 2 except for northern portion of section 2/10; route 5 except for northern portion of section 5/10; portions of section 6/20 and 6/40.

It is recommended that bicycle travel be accommodated along the Mercer Ways through a separation of the bicycle facility by a minimum setback of 5 feet from the roadway wherever topography permits. In considering the facility, extra care should be given to potential disruption of the right-of-way and its adjoining landscape. In some instances a continuous, separately designated bicycle facility may be extremely difficult to implement.

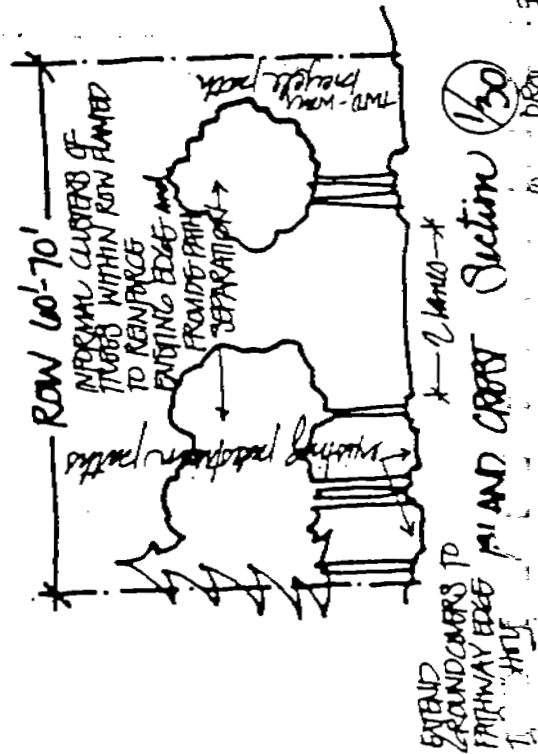
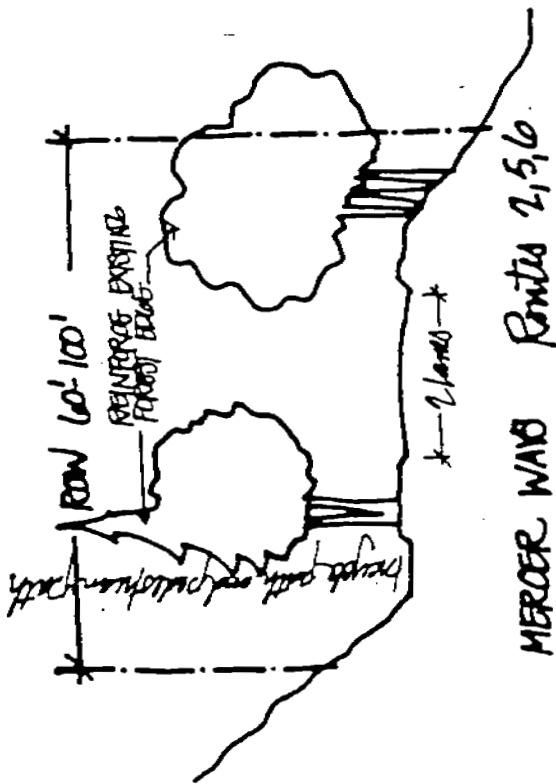
Pedestrian lanes or pedestrian use of the separated bicycle facility should be considered, particularly along those portions of the Mercer Ways where school traffic or access to public open space trails must be accommodated.

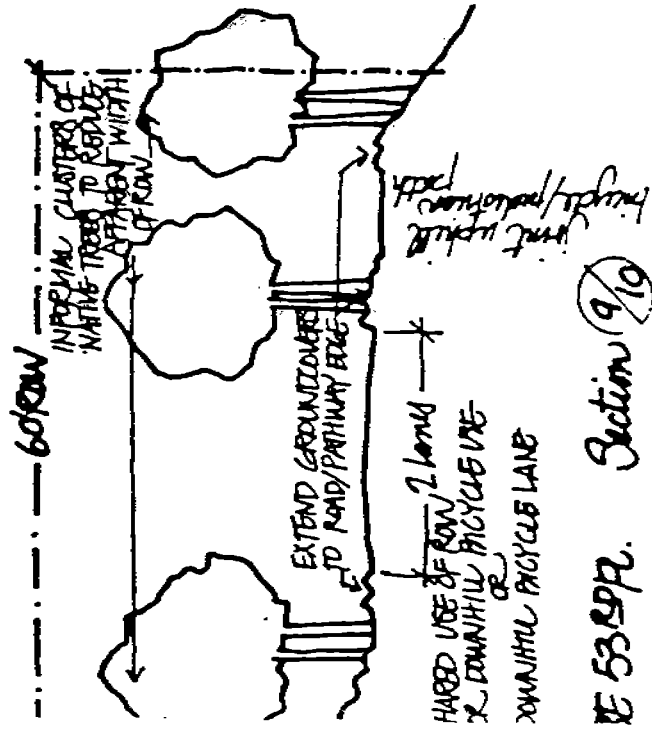
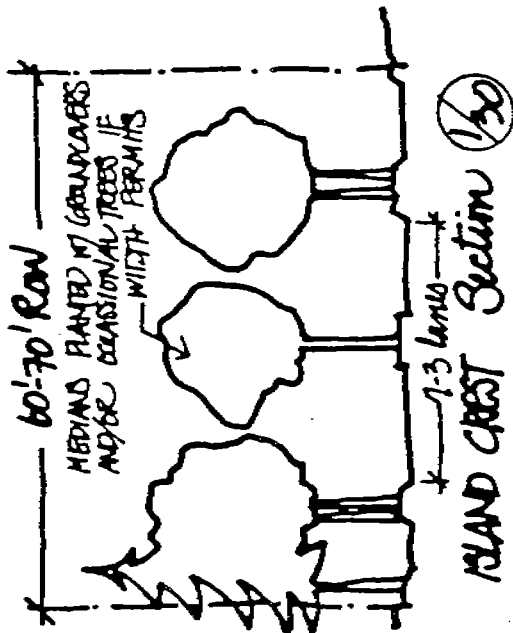
- b. Island Crest: Section 1/30.

A bicycle path could readily be implemented along the east side of Island Crest where a sufficient width of cleared right-of-way now exists to easily accommodate a two-way bicycle path. The setback from the roadway to the path should be planted with native trees and groundcovers similar to those that exist on the west side of the right-of-way.

The pedestrian path that now exists along Island Crest Park should be maintained because it is of a scale that is appropriate to the natural setting of the Island. Special care should be taken in maintaining and reinforcing the existing trees and groundcovers within this portion of the right-of-way to insure that the character of the path, which is largely dependent upon its narrow and meandering nature, is maintained.

Pedestrian paths south of SE 63rd are recommended for the east side of the right-of-way adjoining the proposed bicycle path, with the Pioneer Park edge left undisturbed.





If portions of this section of Island Crest are widened to accommodate a turning lane to cross streets, extreme care should be taken to preserve the character of the right-of-way by retaining the existing vegetation edge along Island Crest and Pioneer Parks. The roadway pavement should be kept at a minimum width and medians resulting from the turning lanes should be planted with groundcovers and perhaps occasional trees that are in keeping with the existing native materials along the western edge of the right-of-way.

c. SE 53rd Place: Route 9 except for the western portion of section 9/20.

That portion of SE 53rd Pl. east of Island Crest, section 9/10 could easily accommodate downhill bicycle traffic by means of a shared right-of-way or a bicycle lane. To insure user safety due to the relatively steep grades, a separate bicycle facility to accommodate uphill traffic should be implemented. A unique opportunity exists for such a facility along the south side of the right-of-way which adjoins one of the major Island ravines and is uninterrupted by private driveways. The uphill bicycle facility could be implemented as a joint bicycle/pedestrian path, particularly appropriate for joint use due to the slow uphill bicycle speeds.

A bicycle facility along SE 53rd Pl. due west of Island Crest, section 9/20 should be implemented to facilitate cross Island travel when this arterial is completed. Every effort should be made to retain the rural character of the upper portion of section 9/20. This should be the major consideration and for this reason a shared right-of-way along this portion of the roadway is recommended.

A minimal pedestrian lane or path is recommended along this portion of SE 53rd Pl. as a means of accommodating pedestrian school traffic to the adjoining elementary school.

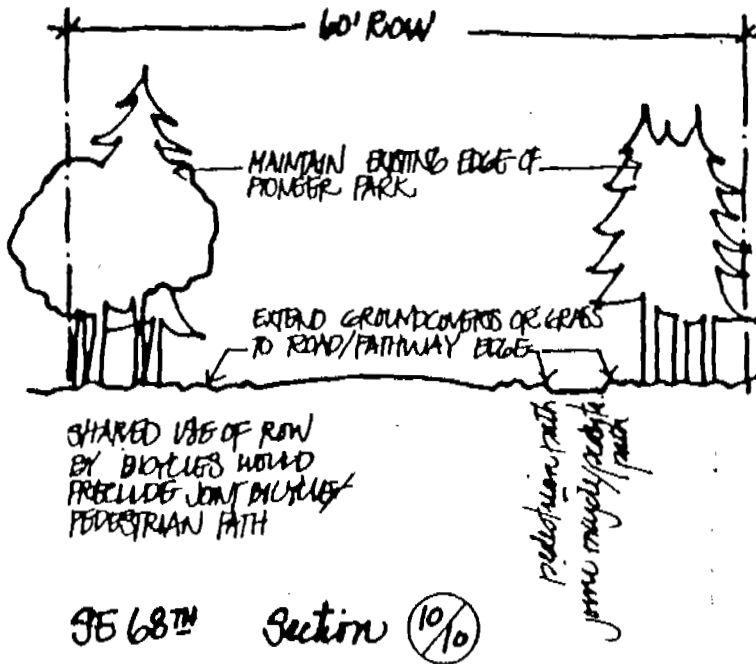
Informal clusters of native trees are recommended along this right-of-way, particularly along section 9/10 which should receive substantial tree planting in order to reduce the excessive width of the right-of-way and extend the adjoining ravine vegetation within closer proximity of the roadway. Clusters of trees should also be utilized to separate the roadway from the bicycle/pedestrian path. Groundcovers should be extended to the road and pathway edge.

With substantial planting, SE 53rd Pl. could visually become an integral part of the ravine, instead of merely skirting its edge.

d. SE 68th and SE 70th Place: The western two-thirds of section 10/10, route 10.

In order to keep the paved roadway to a minimum through this section of SE 68th adjoining Pioneer Park, a minimal bicycle path and a shared right-of-way should be adequate to serve both uphill and downhill traffic. The potential use of the easement along 92nd SE should be considered as a bicycle connection to East Mercer Way, by-passing the lower portion of SE 70th Pl.

A combination of a pedestrian lane and path along one side of the roadway or a joint use of the bicycle path should be adequate to handle pedestrian traffic, since the network of trails within Pioneer Park can be expected to carry a substantial number of trail users along this section of SE 68th. The existing forest edge of Pioneer Park should be maintained. Groundcovers or grass should be extended to the road and pathway edge.



e. Gallagher Hill Rd.: Route 3 sections 3/30 and 3/40.

Due to the fairly high volume of vehicular traffic anticipated for Gallagher Hill Rd. as a collector/distributor to the I-90 interchange, special consideration is recommended for this right-of-way in order to maintain its present rural character.

It would appear that the extension of the bicycle facility along SE 40th would be better accommodated along Mercerwood Dr., for to safely implement a facility along Gallagher Hill Rd. would mean a substantial widening of the roadway pavement, particularly in view of its steep grades.

A pedestrian pathway could easily be implemented along the western side of the right-of-way, either along its full length or only the upper portions, as a means of providing pedestrian access to potential future public easements within the adjoining ravine.

- GOAL:** Minimize disruption of the natural processes within the right-of-way.
- INTENT:**
1. Maintain and preserve natural drainage patterns that contribute to the ravine system and its vegetation.
 2. Maintain and restore the visual continuity of the ravine physiography.
 3. Control runoff, siltation and erosion.
- CRITERIA:**
- 1a. Within a period of one year, restore all scarred, retained and severely cut and/or filled areas that interfere with the natural drainage patterns.
 - 1b. Daylight culverts with extra attention given to area to be drained, groundcover type, rainfall intensity, and slope.
 - 1c-2. Plant native groundcovers on all cuts and slopes and secure with hemp matting as necessary to establish growth. Particular attention is directed to East Mercer Way. (See arterial landscape master plan.)

3a. Limit expansion and extent of paved surfaces by maintaining minimum road widths and using pervious surfacing materials for all turnouts and viewpoints or preferably leaving these unsurfaced wherever possible.

SUBURBAN RIGHT-OF-WAYS: (a) SE 40th, (b) SE 24th, (c) 72nd SE, (d) 78th SE, (e) Island Crest from SE 53rd Pl. to SE 40th, (f) SE 53rd Pl., (g) 84th SE, SE 68th and SE 72nd, (h) SE 70th Pl., (i) Merrimount Dr., (j) portions of Mercer Ways.

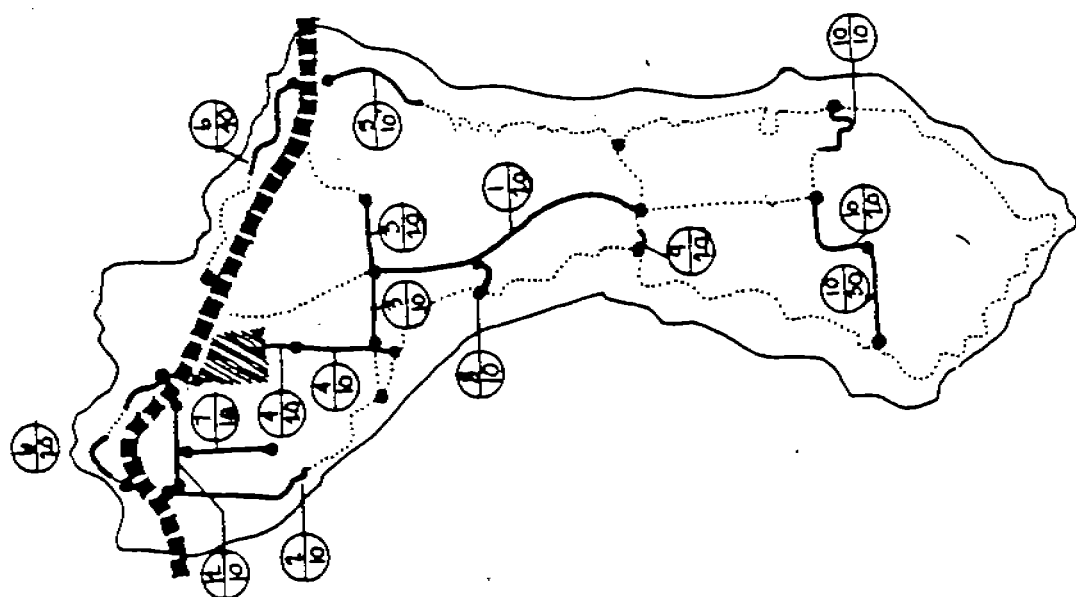
Enhance and develop the roadway as an extension of the adjoining properties within the context of the overall Island character.

1. Minimize disruption of adjoining residential community.
2. Provide for pedestrian and bicycle safety.
3. Delineate the right-of-way corridor to enhance the roadway and adjoining community.
4. Reduce the apparent width of the roadway.
5. Maintain continuity with adjoining landforms and topography.

1a. Maintain minimum safe road widths. With the exception of Island Crest and portions of SE 40th and 24th SE, the two lane arterial should be maintained as the standard for all suburban right-of-ways.

1b. Wherever possible sufficient planting should separate the roadway from the adjoining residential community to maintain the continuity of the road and provide a degree of privacy to the adjoining housing.



1c-3a. Lighting should be of an intensity to provide general illumination to the right-of-way corridor in order to delineate the roadway, enhance its landscape treatment, and provide for user safety without disrupting the adjoining community or causing an excessive area-wide lighting effect.



GOAL:

INTENT:

CRITERIA:

 BUSINESS DISTRICT
 SUBURBAN RIGHT-OF-WAYS IDENTIFIED BY SECTION NUMBER

Lighting standards should preferably be of wood or other materials with an unobtrusive finish. Standards should not exceed 22 feet in height. Additional lighting may be mounted at intersections, preferably by doubling the source on a single standard. (Also see Public Signing, Lighting and Other Street Furniture).

2a. Open drainage ditches should be converted to storm drains due to the need for bicycle and pedestrian provisions, particularly in light of the dense, single family communities adjoining the majority of these right-of-ways.

2b-3b. Obtain easements as necessary to allow for pedestrian, bicycle and vehicular separation as well as planting buffers.

3c. Private path or slope easements should be developed by the City, planted and maintained for a period of one year.

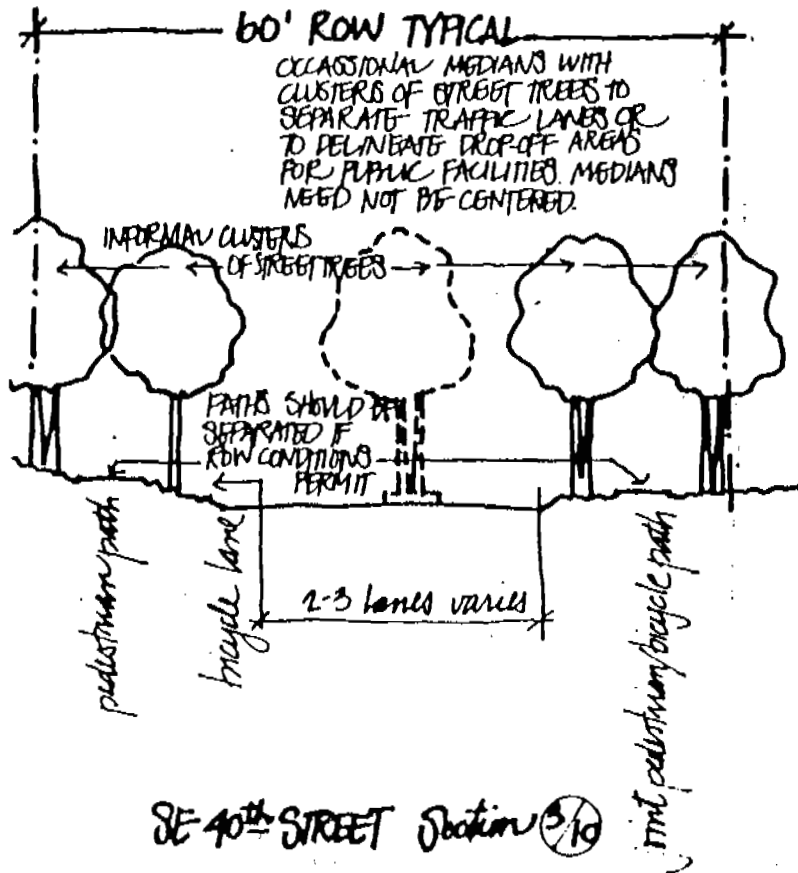
3d-4. Consider the use of street trees to delineate the roadway and reduce its apparent width, to shield the utility poles and wiring until eventual undergrounding, and to integrate the right-of-way with the adjoining community, with attention given to road visibility, particularly at intersections.

5. Repair all bank cuts and restore to near natural state, all cut and fill areas by replanting with materials that will help establish and retain slopes, are in keeping with the adjoining residential community and the natural landscape character of the Island.

RIGHT-OF-WAY DEVELOPMENT:

a. SE 40th Street: Route 3, from West Mercer Way to Gallagher Hill Rd., including sections 3/10 and 3/20.

A combination of a bicycle lane and a joint bicycle/pedestrian path or lane with maximum separation from the roadway as permitted within the existing right-of-way should be adequate to accommodate two-way bicycle travel along SE 40th from 92nd SE to 78th or 76th SE, depending upon which route is used as an access to the Business District. Private easements should be considered as a means to provide more generous facility separation and planting buffers. The unimproved portion of SE 40th should be developed in a similar manner if and when the arterial connection is extended to West Mercer Way.



Wherever right-of-way conditions or easements permit the implementation of a pedestrian path, such a facility should be considered. Where a path is not feasible a lane or a joint bicycle/pedestrian path may be implemented, with special attention given to the separation of pedestrian and downhill bicycle traffic where high bicycle speeds may be a danger to the pedestrian.

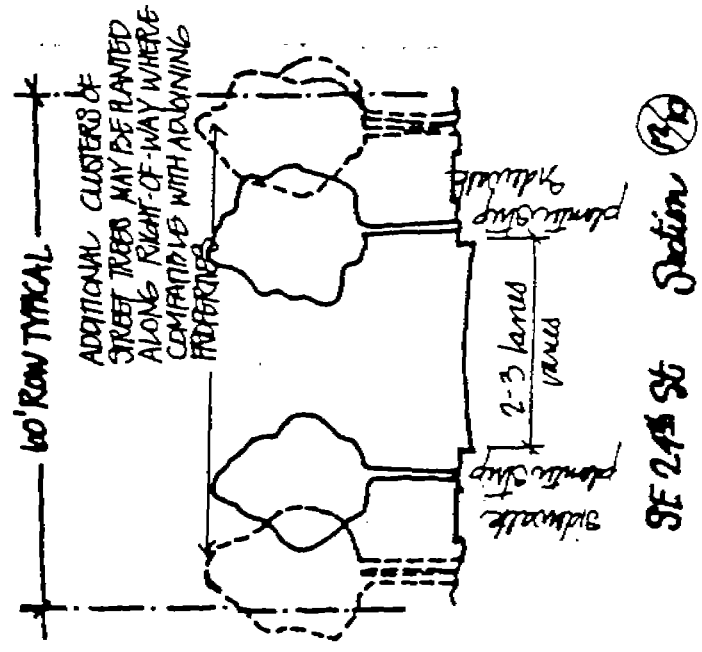
There is an opportunity along SE 40th to introduce occasional street medians which should be planted as a further means of dividing the roadway. Occasional street trees in informal cluster patterns are suggested for this right-of-way both within the median and the planting buffers between the roadway, the pedestrian and bicycle facilities, and the adjoining property. Plant materials should be of a type common to the Island, but may be contrasted with occasional groupings of flowering or ornamental trees. Special recognition should be given to the plant materials of the adjoining properties and a pleasing transition achieved from the private to the public sector wherever this is appropriate.

b. SE 24th Street: Route 12 from West Mercer Way to 76th SE.

Due to steep grades and relatively high traffic volumes, bicycle facilities are not recommended for this arterial. Pedestrian sidewalks which are suggested for both sides of the arterial may accommodate uphill bicycle traffic. An alternate bicycle route bypassing SE 24th may be implemented along 72nd SE as a means of tying into North Mercer Way.

Street trees are recommended at approximately 30 feet on center along both sides of SE 24th. Plant material should be of the standard street tree variety, such as red maple, sycamore, oak, Linden, etc.

The pavement width from 71st SE to West Mercer Way is excessive for a two lane arterial. It is recommended that the current width is maintained only to accommodate a left turn lane onto West Mercer Way with the remainder of the right-of-way devoted to planting and pedestrian facilities.

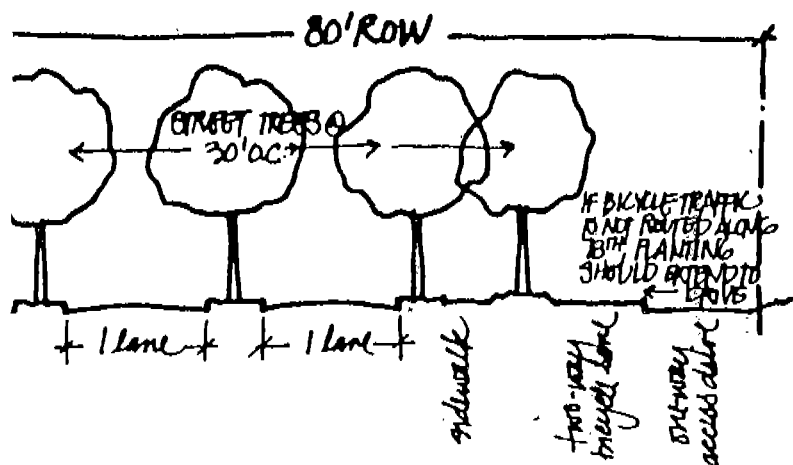


c. 72nd Ave. SE: Route 7, section 7/10.

Since closely adjoining residential properties make a separated bicycle facility along this arterial unrealistic, a shared right-of-way is recommended.

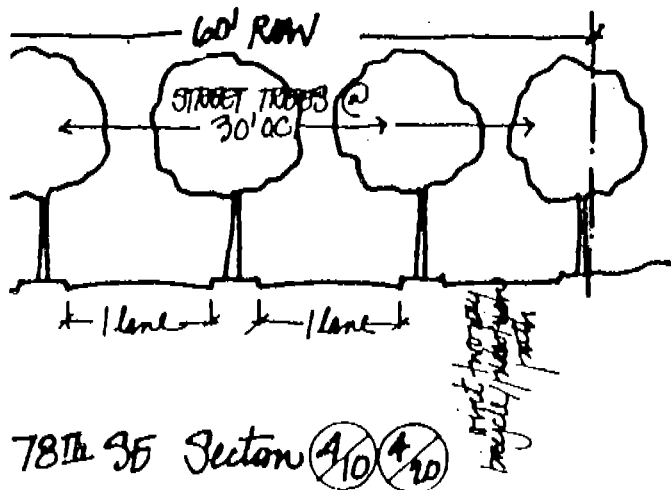
When the remaining open drainage ditches are covered, the pedestrian lanes that now adjoin the roadway are suggested for conversion to paths that are setback from the roadway by a planting buffer wherever feasible.

Informal cluster planting should be implemented within the right-of-way or easements secured for planting purposes, particularly along sections where the cover has been removed, in order to delineate the roadway and provide a measure of screening for the adjoining housing. Wherever possible cluster planting should be introduced between the roadway and the path to further enhance the walkers experience.



Special attention should be given to the use of informal cluster planting as a means of breaking up the extensive gravelled shoulders that extend from the right-of-way onto private property and are used for parking purposes by adjoining residents. Private easements should be obtained wherever additional planting would aid the streetscape, and planted by the City in conjunction with the overall right-of-way development.

d. 78th Ave. SE: Route 4, section 4/10 and that portion of section 4/20 south of SE 32nd.



Separate bicycle provision may not be necessary for 78th SE since 76th SE and SE 34th may easily be utilized as a designated shared right-of-way from SE 40th to the Business District. That portion of 78th SE from SE 34th to the Business District could be designated as a shared right-of-way or a bicycle facility could be implemented as part of the development of the Mercerdale site to provide access to the Business District from SE 34th.

If bicycle traffic is to be routed along 78th SE, it is recommended that a joint two-way bicycle/pedestrian path be implemented along the east side of the right-of-way. A separated sidewalk and bicycle lane could easily be implemented along the 80 foot portion of the right-of-way by limiting the adjoining local access drive to one-way traffic. This joint bicycle/pedestrian facility could also be implemented to accommodate a one-way bicycle route north, with use of 77th Pl. SE as a shared right-of-way to accommodate a bicycle route south.

Sidewalks along both sides of the arterial are the recommended pedestrian facilities.

That portion of SE 78th south of SE 40th could easily be utilized as a shared right-of-way to accommodate bicycle traffic from West Mercer Way to the Business District. Pedestrian lanes and planting are recommended as in c. above. An alternate facility may be a joint bicycle/pedestrian path along one side of the right-of-way.

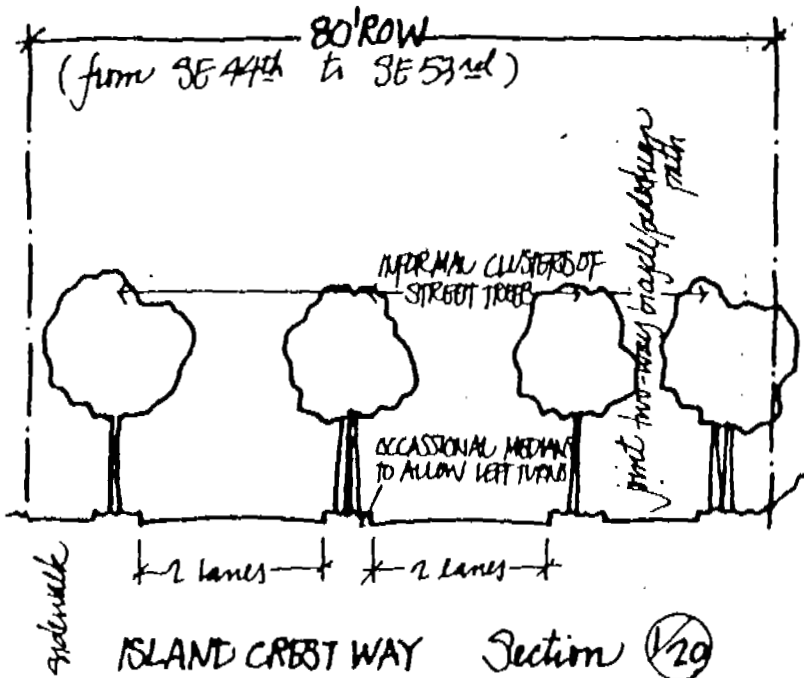
SE 78th north of SE 40th is recommended for street trees and median trees at approximately 30 feet on center. Plant materials should be an extension of the sycamores, red maples and ivy used on SE 78th within the Business District.

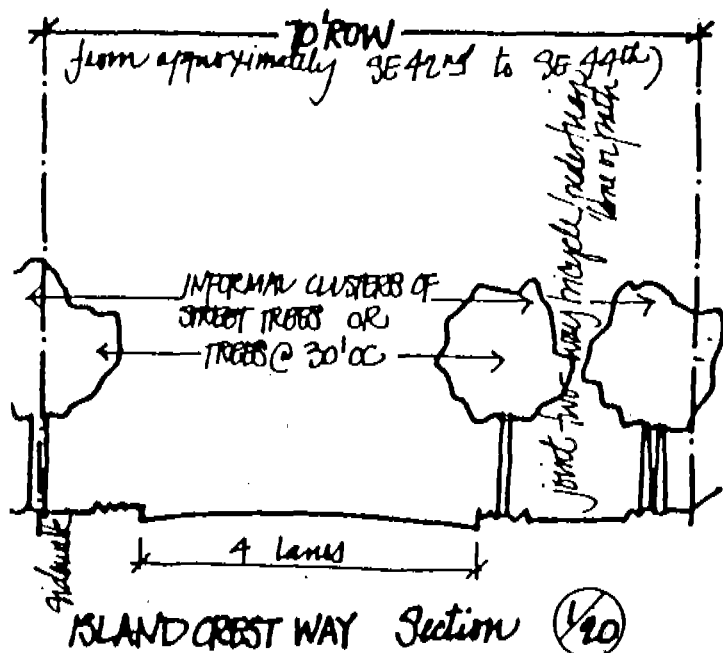
e. Island Crest Way: Route 1, section 1/20.

Due to the high traffic volume and speeds along Island Crest, a bicycle lane or path, or a joint bicycle/pedestrian lane or path is recommended. In both cases, these facilities are recommended for consolidated two-way traffic in order to minimize the pavement expanse and provide optimum right-of-way landscaping.

Present use patterns suggest that a sidewalk along the west side in combination with a two-way joint bicycle/pedestrian lane or path along the east side of the right-of-way may be sufficient to accommodate the traffic along this portion of Island Crest. This joint bicycle/pedestrian facility may not be possible north of approximately SE 42nd unless additional easements are obtained due to the existing 60 foot right-of-way. By routing the bicycle traffic along 86th SE where a joint two-way bicycle lane can be quite easily accommodated, this northern portion of the Island Crest right-of-way could be generously landscaped. The joint two-way bicycle/pedestrian facility along the east side could be developed into an informal meandering lane to accommodate not only bicycle/pedestrian traffic, but also bus stops, seating and occasional turnouts for bicycle rest stops with generous planting buffers from the roadway.

Uninterrupted median street trees are recommended along Island Crest at approximately 30 feet on center from SE 40th to approximately SE 42nd of a type mentioned in b. above, providing left turn traffic can be accommodated.





Occasional medians to allow left turns to cross-streets are feasible from Merrimount Dr. south to SE 53rd Pl. Planting is recommended to be informal clusters of trees common to the Island and complementary to the natural forest edge on the west side of the arterial.

Informal cluster planting in the planting strips is recommended for both sides of the right-of-way, with occasional groupings of ornamental or flowering trees. Plant material should be located so as to best delineate the roadway, buffer adjoining housing, and reinforce the existing vegetation.

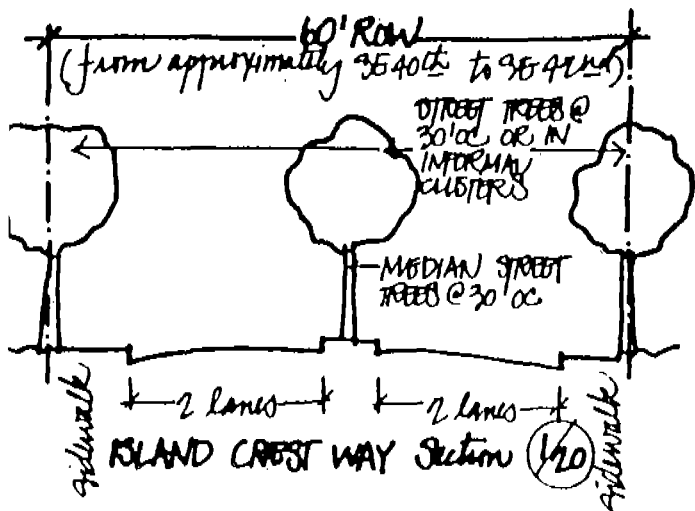
An alternate of street trees at approximately 30 feet on center should be considered from SE 40th to Merrimount Dr., in order to define the roadway along this stretch which is significantly devoid of trees, particularly along the east side. In this case, the informal cluster median planting would commence just south of Merrimount Dr.

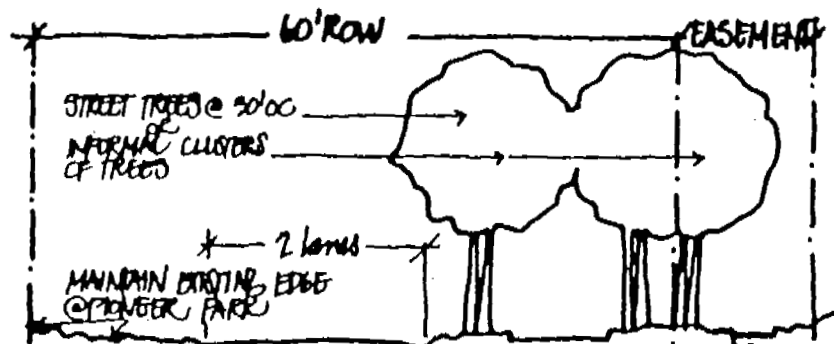
Particular attention should be given to the selection of plant material along the west edge of the right-of-way for it should reinforce the remaining natural forest edge, i.e., big leaf maple, Douglas fir, western red cedar, and bitter cherry.

Groundcovers should be native to the Island and relatively maintenance free, such as ivy, salal, and red fescue field grass. Wherever right-of-way groundcover areas adjoin private property, effort should be made to achieve a pleasing transition by the use of compatible materials or if appropriate, by the extension of the adjoining groundcover areas within the right-of-way.

f. SE 53rd Place: Route 9, western portion of section 9/20 only.

This western portion of SE 53rd Pl. should be developed in keeping with upper 53rd Pl. as a shared right-of-way or it may be developed to accommodate a bicycle path or lane. Pedestrian lanes or paths should be extended to West Mercer Way.





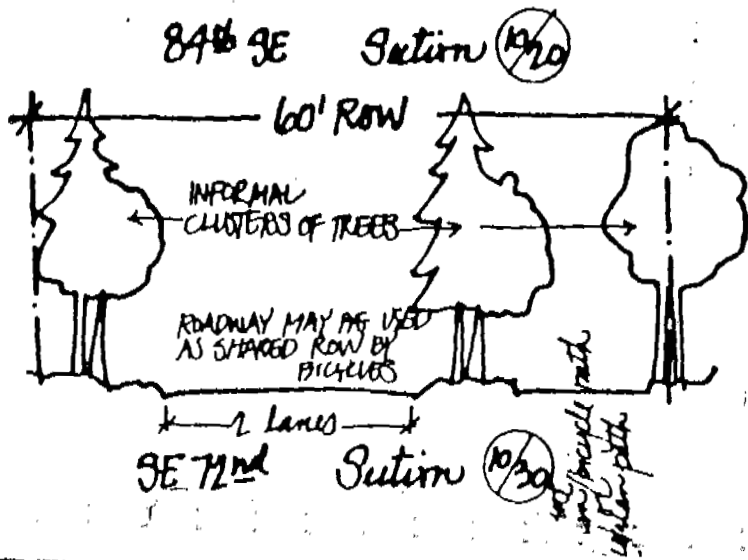
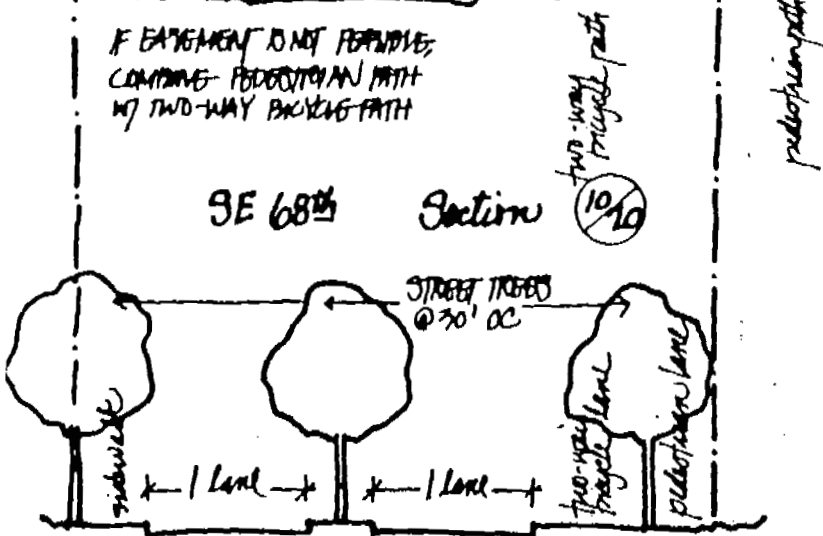
Particular care should be taken to insure that vegetation cover is restored along this right-of-way and all bank cuts properly replanted. It is recommended that informal cluster planting be utilized within the right-of-way as well as any easements obtained for planting purposes. Attention should be given to maximum screening of residential driveways in order to maintain continuity with the rural portions of 53rd Pl. to the east. Natural groundovers in keeping with adjoining properties should be extended to the edge of the pavement and pedestrian pathway or lane.

g. SE 68th Street, 84th Ave. SE and SE 72nd Street: Route 10, sections 10/20 and 10/30.

A joint bicycle /pedestrian path or separated bicycle and pedestrian paths are recommended for the south side of SE 68th, adjoining the shopping center. The former could very easily be accommodated within the right-of-way without relocation of existing roadway, whereas an easement would be necessary to implement the latter under the same conditions. The separate pathway system is recommended for consideration since it would leave the natural edge of Pioneer Park undisturbed which may in time develop into a pedestrian pathway network similar to that now existing along Island Crest Park, and it would concentrate the pedestrian/bicycle activity adjacent to the shopping center.

A joint bicycle/pedestrian lane is recommended along the east side of 84th SE, to facilitate access to the shopping center and to serve the Junior High School. This may be extended as a path or lane along the south side of SE 72nd to West Mercer Way, or an alternate may be used of an uphill bicycle/pedestrian lane with shared use of the right-of-way for downhill bicycle traffic.

Street trees are recommended for the south side of SE 68th. Trees may be at approximately 30 feet on center and of the standard street tree types as mentioned in b. above, or may be informally planted in the planting strips separating the roadway and the bicycle and pedestrian facilities in keeping with Pioneer Park. Special care should be taken to maintain and reinforce the tree cover along Pioneer Park.



Median street trees and planter strip trees are suggested along both sides of 84th SE at approximately 30 feet on center from the eastern driveway of the school to SE 68th, with ivy or native grass suggested for use as groundcover. Street trees may be planted on the property line bordering the sidewalk along the west side of 84th SE without disrupting the existing sidewalk.

SE 72nd is suggested for informal cluster planting along the strip separating the roadway and the pedestrian or bicycle/pedestrian lane along the south side. Groundcovers should be in keeping with adjoining properties as in e. above.

h. SE 70th Place: Route 10, eastern portion of section 10/10.

Along SE 70th Pl. the bicycle/pedestrian facilities should be treated as an extension of upper SE 68th, that is a shared right-of-way or a minimal bicycle path along the south side, or the alternate use of the right-of-way along 92nd SE as a means of connecting to East Mercer Way.

Pedestrian paths or lanes are suggested for lower SE 70th Pl.

Special attention is directed to lower SE 70th Pl. where much of the tree cover has been recently lost. Informal cluster planting of native trees is suggested along this portion as a means of partially screening the adjoining housing and delineating the roadway. Native groundcovers should be extended to the edge of the roadway and adjoining pedestrian paths and lanes.

i. Merrimount Drive: Route 8

A shared right-of-way, or an alternate of a bicycle lane, to accommodate downhill traffic is recommended for Merrimount Dr. A combination of pedestrian paths or lanes could be implemented along one side of the right-of-way.

Use of native materials such as big leaf maple, western red cedar, bitter cherry, etc., is recommended along this right-of-way as a means of extending the natural forest edge which now dominates at the northwest intersection with Island Crest.

Planting of native groundcovers within the right-of-way is suggested as a means of further delineating the road and pathways. These should be planted to the roadway edge.

j. Portions of Mercer Ways: Route 2, northern half of section 2/10; portions of route 6, sections 6/20 and 6/40; route 5 segment of section 5/10.

Bicycle/pedestrian facilities should be developed in keeping with the adjoining rural portions of the right-of-way with particular attention given to the need for pedestrian and bicycle paths in areas where school traffic must be accommodated.

The segments of Mercer Ways classified as suburban are lacking tree cover enclosure and are very apparent disruptions to the continuity of the rural roadway experience. Planting is of particular necessity along these segments. It should reinforce the remaining forest edge where this is appropriate and in the more developed areas such as section 2/10, informal cluster planting of native materials is recommended as in c. above.

Of particular concern is the lack of landscaping in that portion of the East Mercer right-of-way directly adjoining the Mercerwood Shore Club, which is currently entirely paved and in need of a generous planting buffer in order to screen the pavement expanse of the Club's tennis courts directly below the right-of-way.

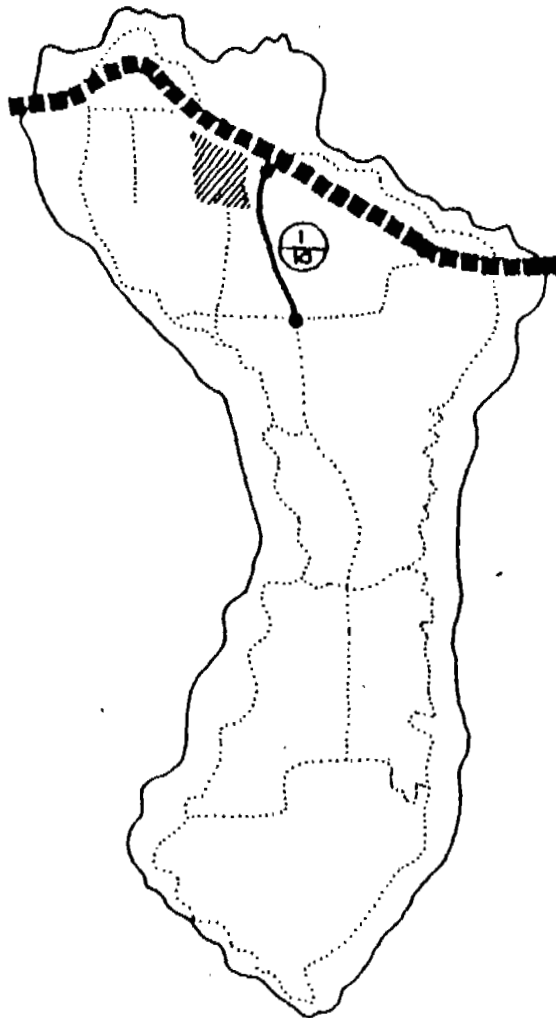
URBAN RIGHT-OF-WAYS: Island Crest from SE 40th to I-90, route 1, section 1/10. All other urban arterials are covered in the Business Section.

GOAL:

Soften and breakdown the apparent scale of the roadway in order to make it more compatible with the natural Island environment.

INTENT:

1. Retain and reinforce the natural wooded hillside perimeter as part of the bowl-like enclosure for the Business District.
2. Treat Island Crest as the major gateway to the Island.
3. Facilitate pedestrian movement to the Business District from the surrounding apartment community.

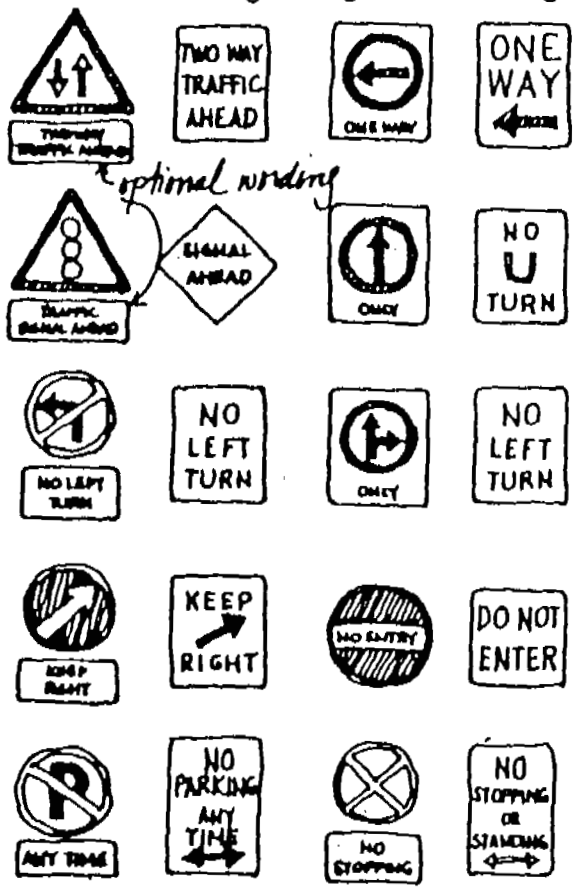


[Hatched pattern] BUSINESS DISTRICT
 [Solid line] I-90
 [Dotted line] URBAN RIGHT-OF-WAY
 IDENTIFIED BY SECTION NUMBER
 DR

PUBLIC SIGNING, LIGHTING
AND OTHER STREET FURNITURE

SYMBOLIC SIGNING

Symbolic Existing Symbolic Existing



optional wording

PUBLIC SIGNING, LIGHTING AND OTHER STREET FURNITURE

CONCEPTS

Public signing, street furniture and lighting elements should reinforce and clarify the predominantly natural, informal, residential character of the Island instead of dominating or detracting from it. Appropriate street furnishings can do much to make the Island environment more legible, expressive, pleasant and engaging, as well as establish a "sense of place" about the Island as a whole or a particular area within it. Public signing can more effectively and uniformly reveal the function, form and activities of the Island and clarify its overall environment. "Out-of-control" signing, lighting and furnishings---ones that are in conflict with the surroundings---obscure the meaning of the environment as often as they clarify it.

Public signing, street furniture and lighting should be evaluated on the basis of 1) does it detract from the overall environment and 2) does it provide the type of information which clarifies and reinforces the environment of Mercer Island and provides the necessary guidance and orientation to the user.

GUIDELINES

Public Signing

Shape and color are the primary means of distinguishing the type of message for the driver in motion. The basic shapes are 1) the circle: mandatory rules; 2) the rectangle: guidance, speed regulations, and curb usage; and 3) the diamond: warning. Two nonconforming signs are the octagonal "stop" sign and the triangular "yield" sign.

Shape combined with color indicate a specific class of message. The red circle is used for prohibiting signs, i.e., no entry, no parking, etc. The green circle is used for permitted turning rules. The yellow diamond indicates warning. Blue rectangles give local guidance and green rectangles are used for distant guidance.

The use of symbolic signs as patterned after the international traffic symbols is gaining acceptance in this country. The 1971 Manual on Uniform Traffic Control Devices shows increased reliance on symbols with minimal word use as a transition toward a more uniform and better understood system of symbolic signing. There is no doubt



GUIDANCE
SPEED REGULATION
CURB USAGE

WARNING

MANDATORY RULES

STANDARD SHAPES

CRITERIA:

1a. Consider the use of median and planter strip trees along Island Crest at approximately 30 feet on center from SE 40th to the I-90 interchange with particular care given to the appearance of the roadway from the adjoining apartment community as well as the preservation of the existing views to Lake Washington both from the roadway and the adjoining apartments.

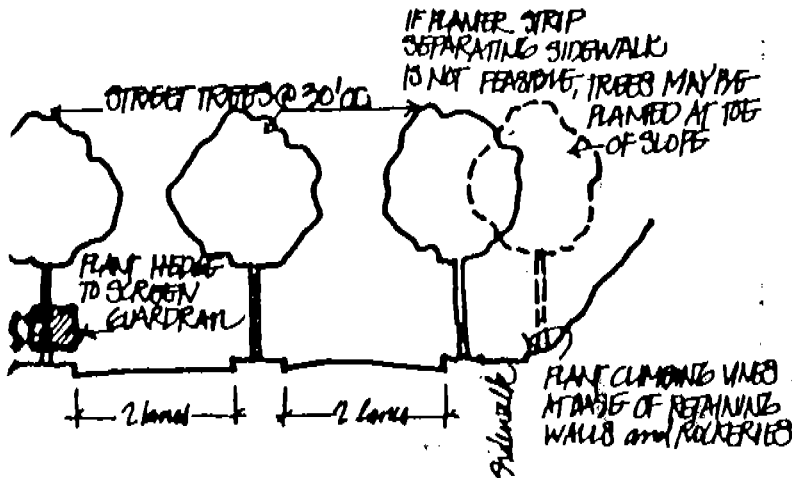
2a. Consider screening the existing guardrail along the western edge of Island Crest by plant material hedging such as laurel, holly, yew, etc.

2b. Generous plant material buffers are recommended along the I-90/Island Crest interchange just north of SE 34th, as a means of buffering the adjoining Business District and apartment community and providing a greenbelt transition zone to the street through planting proposed above.

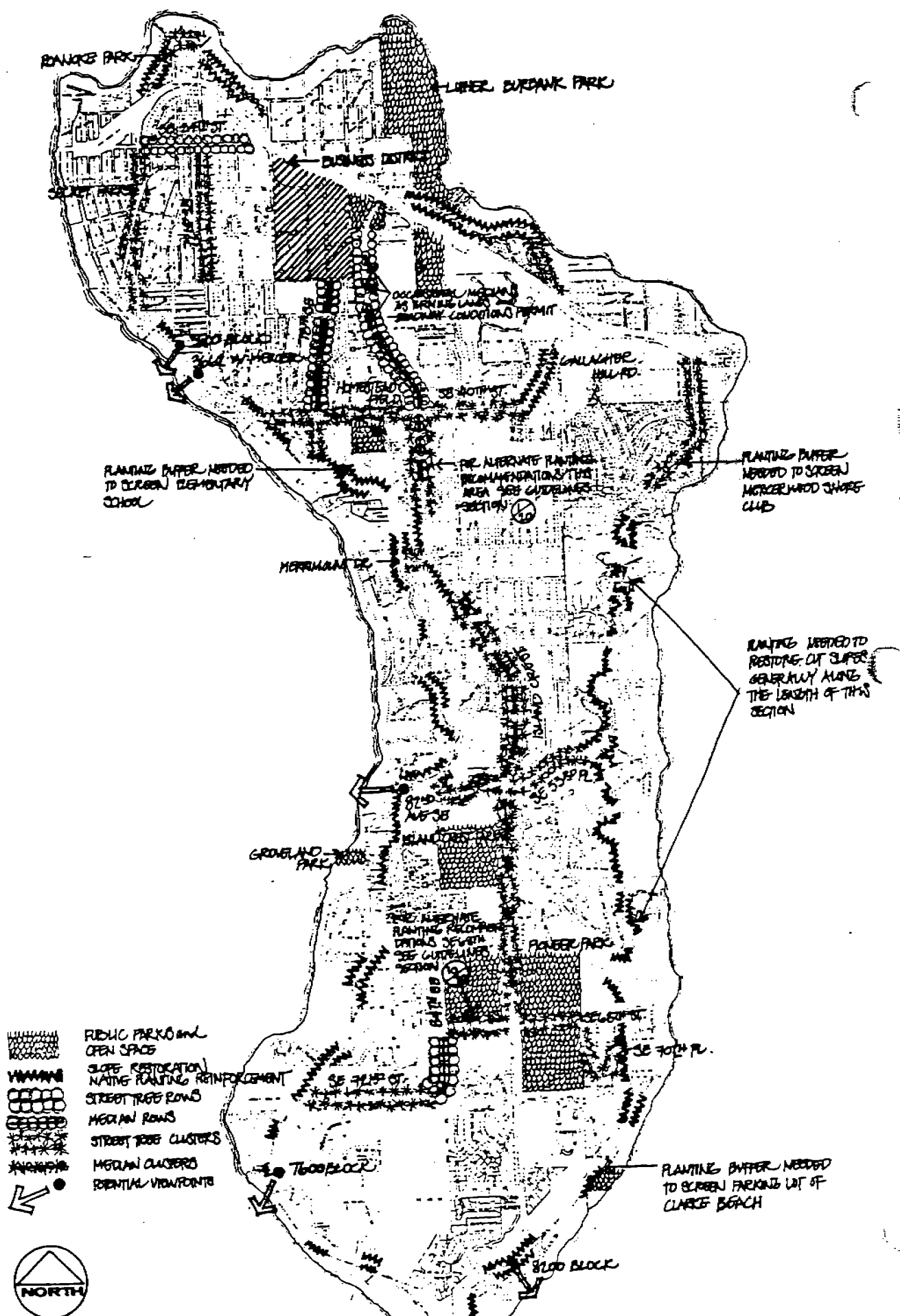
2c-3a. Maintain a narrow planter strip east of the existing sidewalk along the east side of Island Crest in order to provide a uniform planting buffer of ivy or similar vines along the rockery and retaining walls adjoining the sidewalk. Consider increasing the width of this sidewalk to 6 feet to facilitate pedestrian access to the Business District.

3b. Encourage a pedestrian crossing at SE 30th or SE 32nd as a means of providing pedestrian access to the Business District in keeping with the sidewalk-street tree concepts outlined in that section.

3c. Lighting should provide general illumination to the right-of-way corridor, be pleasing to the pedestrian, and of such intensity as to prevent area-wide lighting or disruption of the general view from the adjoining apartment community. Lighting standards should not exceed 24 feet in height and should be the same type of standard used in the Business District or compatible with it. (Also see Public Signing, Lighting and Other Street Furniture).



ISLAND CREST WAY Section (1/10)



- PUBLIC PARKS and OPEN SPACE
- SLOPE RESTORATION
- PLANTING REINFORCEMENT
- STREET TREE ROWS
- MEDIAN ROWS
- STREET TREE CLUSTERS
- MEDIAN CLUSTERS
- RESIDENTIAL VIEWPOINTS



Arterial Landscape Master Plan

Other Regulatory Signs

Other than the curb usage signs previously discussed, the major regulatory signs applicable to the Island are the stop, yield, speed limit, and turning signs. (See diagrams.) The signing for I-90 is not addressed by these guidelines.

Guide Signs

Guide signs are used to inform the motorist of interesting routes, destination, parks, trails, historic sites, etc. Because of the great familiarity of most users with the Island and its facilities, most standard guide signs are not needed on the Island and their use should be discouraged in order to maintain roadside signs to a minimum.

GUIDELINES

- GOAL:** Encourage the development and use of an overall, uniform signing system in keeping with national safety standards and representative of the Island Community that will:
- INTENT:**
1. Emphasize symbols as opposed to the worded message.
 2. Lend itself to combined or joint mounting so that the overall numbers of separate parts and separate signs may be reduced.
 3. Lend itself to a uniform system of mounting.
 4. Utilize light standards as supports for signing and light signalization where appropriate.
 5. Be legible at the speed and distance at which it is placed to be seen.
 6. Employ minimum sizes as determined by safety requirements.
- CRITERIA:** Curb Usage Signs: Curb usage signs pertain mostly to the Business District. There are various other locations on the Island where "no parking" signs are used, but they are relatively few. Bus zone symbols may be used Island wide. Stopping or standing regulations may be particularly applicable at schools and other public facilities.

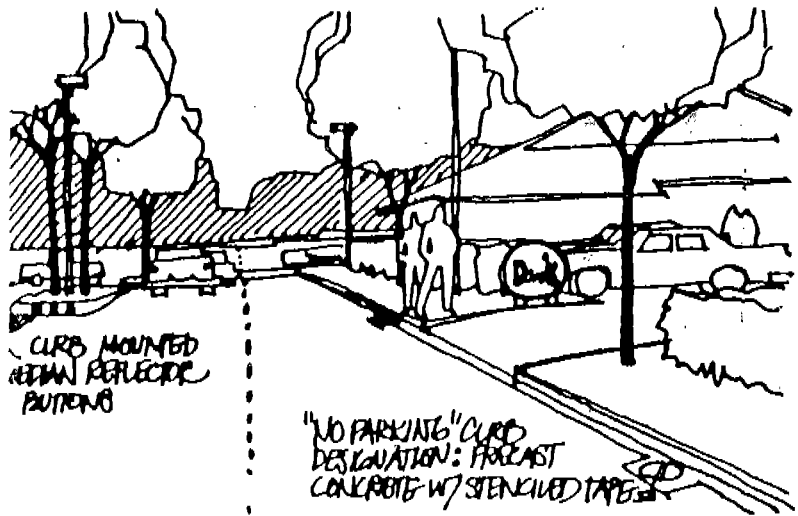
The spacing of "no parking" signs should not exceed 150 feet, and should in all cases be governed by what is a reasonable sight distance in each particular situation. "No parking" signs should be placed so that they are readily apparent from cross streets that enter in mid-block. Signs may occur at random spacing as determined by visibility and available mounting. Within the Business District, two signs per block may suffice.

Parking and other curb usage signs should be incorporated as part of the signing mounted on light standards within the Business District and in all other locations where possible in order to keep the number of upright posts at a minimum. The "no parking" sign/symbol may be the dominant element on all curb usage signs, with other uses such as truck load, bus zone, taxis only, etc., indicated by word message as part of the "no parking" sign. Symbols may be used to specifically indicate the permitted usage for a bus zone, taxi zone, etc., that are based on the open green circle which is the standard symbol signifying permitted use.

An alternative approach to posting "no parking" areas within the Business District would be to post only those limited areas where parking is allowed, providing a general "no on-street parking" sign/symbol is adequately displayed or incorporated as part of the gateway signing at key entry points to the Business District. In this case the positive green circle would be the basic symbol employed.

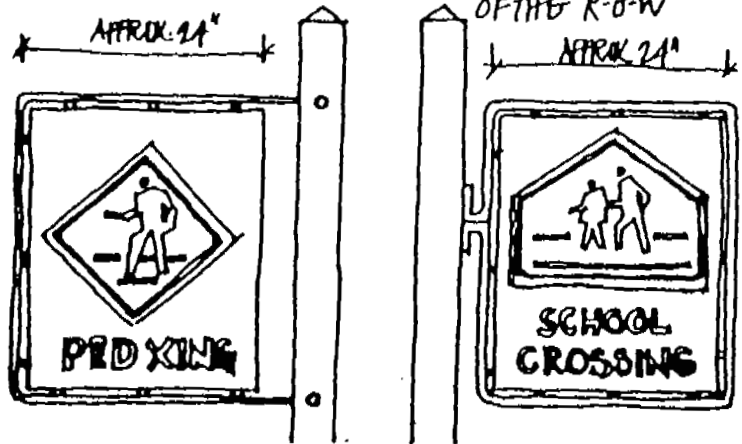
"No parking" designations within the Business District may also be incorporated by means of curb markings, striping, or by the use of the slashed red circle symbol as part of the curb shoulder. In this case the "no parking" designation should be used at approximately 40-50 foot intervals.

Reflector buttons for medians should be made a part of the curb. Use of upright reflector mounts should be discouraged.



"NO PARKING" CURB DESIGNATION AND MEDIAN REFLECTORS

WHEREVER SAFETY CONSIDERATIONS PERMIT, SIGNING SHOULD BE TWO-WAY POINTING TO SERVE BOTH SIDES OF THE R-O-W



Warning Signs: The use of warning signs should be kept to a minimum because their unnecessary use tends to lessen their impact. This is particularly true in the case of Mercer Island where the majority of motorists are very familiar with existing conditions. Low speeds, as well as a uniform, consistent, uncomplicated backdrop, such as that along the majority of the right-of-ways, present additional reasons for further reducing warning sign usage and sign size.

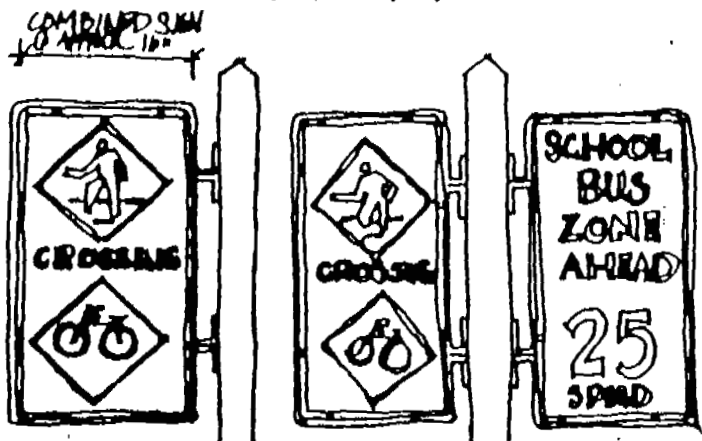
The color coding and diamond outline are of particular importance for easy identification of these signs, while the image in this case is of secondary importance.

Wherever safety considerations permit, the size of all signs and accompanying verbal guidance should be reduced in size as permitted by the Manual on Uniform Traffic Control. Use of symbols that offer greater legibility along with smaller size should be employed. Warning signs for trail crossings should be combined with actual trail signs wherever possible, particularly along the rural right-of-ways. The incorporation of the diamond warning symbol and verbal guidance message as a part of a rectangular background should be considered for it has distinct advantages for establishing a uniform mounting system and for the incorporation of additional signs.

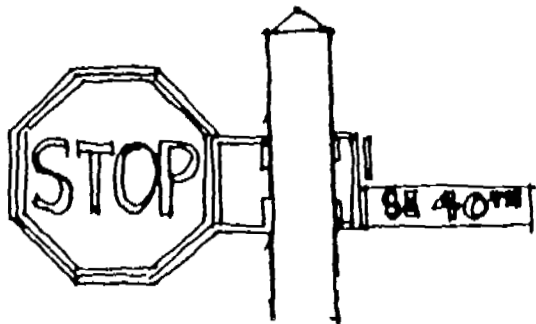
Regulatory Signs: The majority of regulatory signs are rectangular with the long axis being vertical. Two notable exceptions are the octagonal "stop" sign and the triangular "yield" sign. Minimum size standards have been established for both "stop" and "yield" signs which are permitted on low volume local streets and secondary roads. These should be employed throughout the Island.

Where their use is necessary, turning signs should employ the green circle with arrow symbol as opposed to the purely verbal black and white signs. Turn prohibition signs should employ the red circle.

Speed limit signs should be kept at minimum permitted sizes, and where permissible they should be combined with other roadside signing.



EXAMPLES OF COMBINED WARNING SIGNS



COMBINED STOP and STREET SIGNING

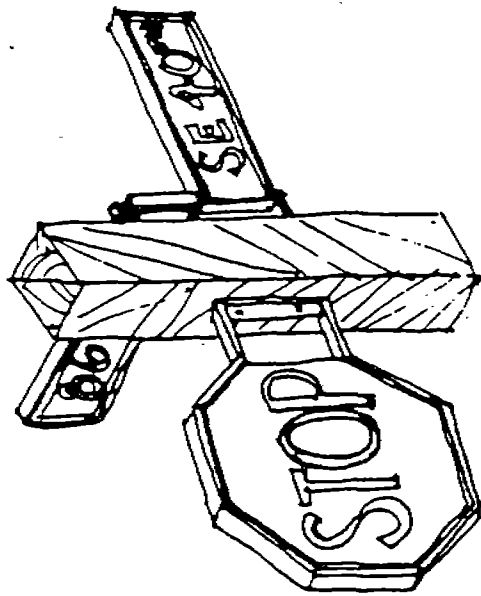
Guide Signs: The only guide sign currently in use is the bicycle route sign marking an officially designated bicycle trail. The use of these signs will most likely increase as new bicycle trails and types of facilities are developed. New symbolic signing may be developed for bicycle route markers as well as designated viewpoints or trailheads. Signing should be kept at minimum sizes, used only where essential to differentiate the facility or identify its location, and mounted jointly with other signing wherever possible.

Mounting: All signing should be uniformly mounted. Signs should be mounted in conjunction with lighting standards and should be integrated with other signing wherever possible. Signs should be mounted in conformity with height and setback requirements. Upright posts should be of wood, stained in dark or neutral colors. The back sides of all one-face reading signs and metal mounting frames should be anodized or painted to closely match the color of the wood.

Street Name Signs: A distinct, well designed system of street name signing could do much to give Mercer Island special identity. The mounting and upright post should be compatible with that used for other public signing. The letter type should be picked for legibility and clarity. Value contrast as opposed to color should be emphasized to facilitate readability. Another alternative would be to incorporate the message "dead end" or an appropriate symbol as part of the street name sign with no change in color. A graphic symbol that is representative of the Island could be incorporated into all street name signs and used consistently to graphically convey "Mercer Island" in other locations, such as the gateway signing to the Business District.

An alternate to the use of the diamond "dead end" signs could be the color coding of street name signs for those streets that terminate as dead ends. For example, all through street name signs could be dark brown with white lettering; all "dead end" name signs could be signal yellow with black lettering.

Crosswalks: The major pedestrian crosswalks within the Business District should be indicated by a differentiation of pavement as opposed to striping. The pavement should be complementary to that used for adjoining sidewalks as well as pavement within the future town square which the majority of these crossings adjoin. It is the intent that paving within the town square as well as other pedestrian precincts, be of a unit type material such as concrete pavers, brick, tile, etc.



COMBINED STOP AND STREET SIGNING

Lighting

GOAL:

Provide safety for vehicular traffic and pedestrians.

INTENT:

Provide the amount and quality of light as recommended by recognized standards while satisfying the other goals included here. Within the Business District an average of 1.2 f.c. may be used, which is the IES Handbook recommendation for "major" roadways in business districts not classified as downtowns. An average rating is not significant. The minimum level and contrast between minimum and maximum as perceived over time is more important, particularly along the rural right-of-ways. Incident light along commercial streets is a significant contributor to the amount of light perceived by the driver or pedestrian and should be considered as part of the overall light level.

CRITERIA:

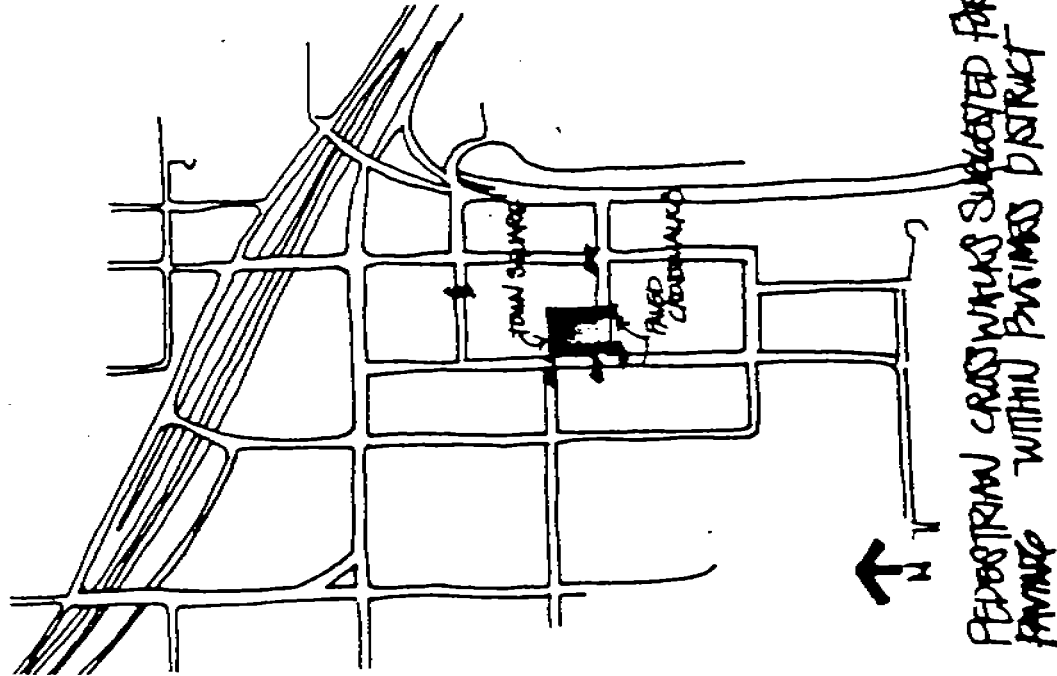
- a. Light Levels: The minimum light level provided by street lights within the Business District at a point-furthest away from the light source should not be less than .2 f.c. and the maximum should not exceed about 5 f.c., the average level of light should be approximately 1.2 f.c. to 2 f.c. including a maintenance factor of 60 percent.
- b. Increase lighting levels at intersections, crosswalks and drive-ways to 2 times minimum, that of the remainder of the street or about 4 f.c. average at intersections within the Business District. Light should be uniform at intersections and of a contrasting color to mid-block areas.

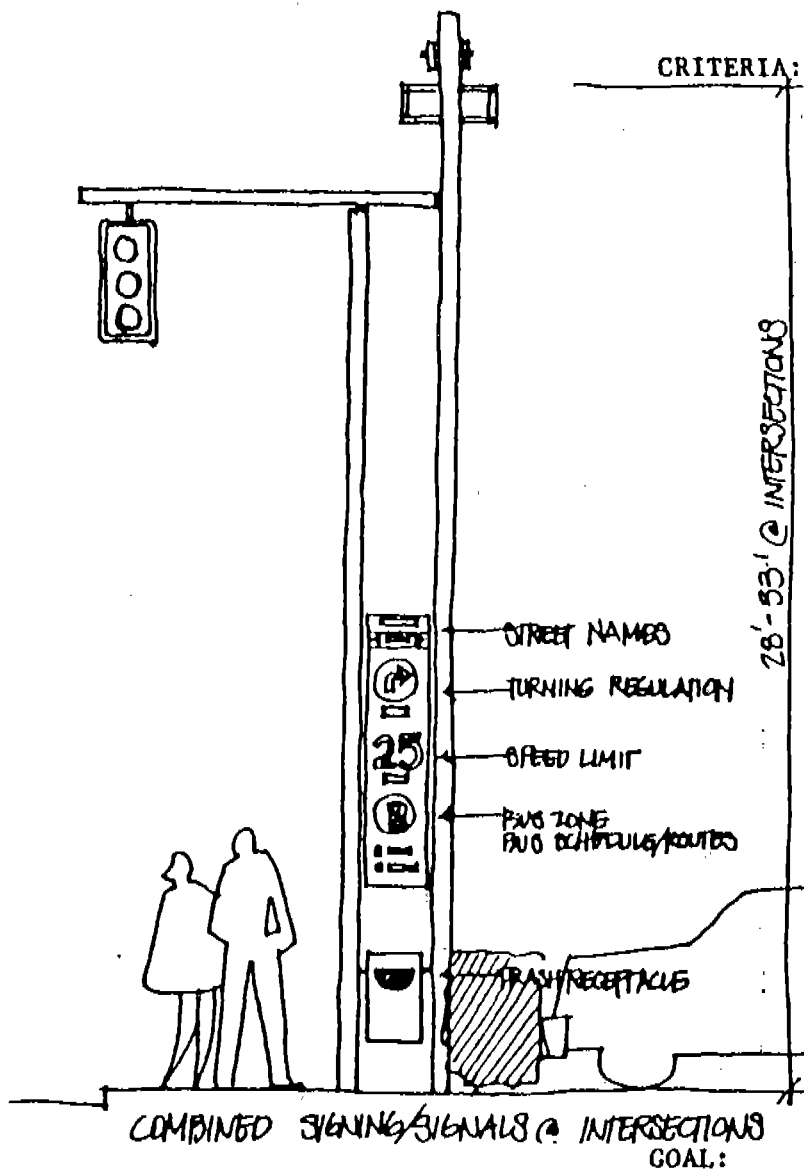
GOAL:

Enhance the directional quality of the street.

INTENT:

- 1. Give character and scale to the street and emphasize the street corridor's directional quality through lighting pattern, scale of the light standards, and increased light levels at points of increased decision making for the driver.
- 2. Reduce area wide lighting and restrict it to the corridor.
- 3. Focus on the enhancement of the landscape and reinforce one's perception of the streetscape as a continuum of related elements building a total image.





CRITERIA:

- 1a. Emphasize the street as a corridor by focusing the lighting totally on the street and pedestrian ways. Minimize spilling-over light onto adjacent properties, except at driveways.
- 1b. At intersections and along major pedestrian routes in the Business District add pedestrian lighting integrated with the street lighting system. Light fixtures should be at a comfortable height to the pedestrian, approximately 10-15 feet high.
- 1c. Emphasize the lighting at intersections by changing the color of the light to warmer tones either by changing the type of lamp or the color of the lense.
- 2. Lighting standards should be not more than 20-24 feet high between intersections and 28-33 feet high at intersections in the Business District and along urban right-of-ways. Rural right-of-way standards should not exceed 16 feet; suburban right-of-ways should not exceed 22 feet. The lighting fixtures and standards are elements of a continuum of parts constituting the streetscape including trees, signs, roadway, automobile and people, which together form a spatial territory. Subjectively, not measurably, if the lights are raised above their critical heights they go beyond the bounds of the territory, break the tension formed between parts, and dis-associate themselves from the other elements. The road user at this point no longer perceives the lights as a cooperative part of the total streetscape.

- 3a. Placement of lights should complement street tree spacing.
- 3b. Light underneath portions of the trees with approximately 10 percent up-light of the street lighting system. (This portion may be increased as the trees mature).

Relate lighting to other public elements of the street.

INTENT:

Reduce the number of competing elements in the streetscape and through integrated design, relate, in terms of common or complementary materials, systems and scale, the lighting system to traffic signals, signing and street furniture.

- CRITERIA;
- a. Combine the traffic signals on the same standard or standard system as the general intersection lighting.
 - b. Integrate signing, street signing and directional signals with the lighting standards throughout the Business District, at major intersections and at other locations if appropriate.
 - c. All light standards should be of the same material, preferably wood.
 - d. Overhead traffic signalization should be kept at a minimum.

Street Furniture

GOAL: Develop furnishings that are compatible and consistent with the surrounding "streetscape" and the overall Island environment.

- INTENT:
1. Provide appropriate street furnishings where needed.
 2. Encourage pedestrian use of the right-of-way.
 3. Enhance the street scene.

CRITERIA: The street furniture elements addressed by these guidelines are bus shelters, seating, guardrails, bollards, fire hydrants, signal control boxes, and trash receptacles.

Bus Shelters: Bus shelters should be installed at major collecting points where sufficient use justifies their location or at locations that are served by several transit routes. Joint use between public and school transit stops should be encouraged. Bus shelters should not occur on highly developed residential streets or restricted right-of-ways where they may infringe on adjoining private development. Shelters should be sited to give easy access and visibility of the right-of-way, protection from prevailing weather, rain, and sun. Seating should be incorporated as part of the shelter. For the Business District or at other major locations, appropriate trash receptacles should be provided.

The existing bus shelter in the 4800 Block of East Mercer Way is an excellent example of a rural shelter in terms of materials, scale, color, and orientation. It is of a sufficient size to provide adequate protection from the weather. It incorporates seating. Its roof form is pleasing and in keeping with residential housing, and it has a sense of overhead structure that implies "shelter". The scale and color of the structure are good due to the use of natural unit materials. The above criteria should be applied to the development of future bus shelters or a prototype shelter for the Island.

Bus stop locations within the Business District should be located to take advantage of the existing shelter and seating provided by adjoining buildings, such as the National Bank of Commerce. This particular type of pedestrian oriented street frontage development should be encouraged throughout the District, in which case the bus shelters would not be a necessity. The location of separate shelters within the Business District, as it exists, may only reinforce the preponderance of very small structures and very large parking lots.

Seating: Seating may be incorporated into the proposed joint pedestrian/bicycle paths proposed along arterials such as Island Crest Way to serve transit and school bus patrons, or as resting stops for bicyclists, pedestrians, etc. Care should be taken to locate seating sufficiently set back from the roadway and in areas where it does not conflict with adjoining development. Materials should be of wood, either natural or stained in dark or neutral colors.

Guardrails: Guardrails that are used for street ends, undeveloped right-of-ways, and other similar locations where their use is more symbolic than safety-oriented should be of wood, either natural or stained in dark or neutral colors. Reflector buttons may be incorporated as part of the guardrail for night-time visibility.

In locations where wood guardrails do not suffice because of safety requirements, a planting hedge may be employed as a visual screening device. Where screening is not feasible corten may be employed as the rail. If existing speed limits are maintained on the Island, the use of such guardrails should be limited to Island Crest Way and I-90.

Bollards: Bollards may be used for marking street ends, roadways, and undeveloped right-of-ways particularly where unimpeded pedestrian traffic is desirable. Bollards may be used as a means of separating bicycle and vehicular traffic where curbing is not appropriate, and may be employed at intersections that are crossed by bicycle paths/lanes as a means of preventing vehicle entry. Bollards should be of wood, either natural or stained in dark or neutral colors.

Bollards used for the protection of fire hydrants should be left as natural concrete with the use of reflector buttons for night-time visibility. The use of bollards to protect stop signs or other signage posts should be kept to a minimum; where bollards are absolutely essential for safety purposes, they should be treated as above.

Fire Hydrants: Hydrants should be uniformly painted. Hydrants within the Business District should be undergrounded.

Signal Control Boxes: Control boxes should be located to allow screening by planting buffers.

Trash Receptacles: Trash receptacles should be incorporated as part of the overall streetscape elements. Their main use would be in the Business District, at bus stops and shelters, and other public facilities. Receptacles should be of a size that does not dominate the streetscape elements, and should conform to the State Litter Control Law. They should be attached to existing light standards or other appropriate elements, and should be free of the ground. Metal, perforated metal, or wire mesh may be used. Color may be chosen to blend with existing street elements or used as a contrast to them.

GENERAL GUIDELINES
FOR PUBLIC, QUASI-PUBLIC,
AND MULTI-FAMILY DWELLINGS

✓

GENERAL GUIDELINES FOR PUBLIC, QUASI-PUBLIC, AND MULTI-FAMILY DWELLINGS

CONCEPTS

The guidelines relevant to the development of public and quasi-public properties, and multi-family dwellings are an outgrowth and further extension of the Design Commission Ordinance and the general criteria covered by this ordinance.

Goals group into three general categories:

The Site: landscape and site treatment and the relationship of the building to the site.

The Surroundings: relationship of building to adjoining area.

The Building: building design.

GUIDELINES

GOAL:

Conserve the existing amenities of the site and preserve its indigenous character.

INTENT:

1. Conserve the existing landforms and topographic features.
2. Maintain existing natural drainage ways.
3. Preserve, restore and reinforce natural vegetation and significant clusters of trees, shrubs, and groundcover.
4. Insure orderly development of future building sites.

CRITERIA:

1a. The existing topographic features of the site should be conserved and utilized in a manner that will contribute to the overall appearance and utility of the site development.

1b. Building development should generally occur on the least steep portions of the site in order to conserve the more fragile areas for outdoor development, landscaping or general open space use.

1c. The allowable percentage of the site to be developed should be determined on the basis of drainage ways and their support areas included within the site, with special consideration given to the inherent site capacity and its relationship to the natural Island drainage patterns.

1d. Parking lots, terraces, walkways and other paved areas should be graded to provide a stable appearance with clearly articulated grade changes that enhance the natural setting and site development. Paved areas such as courtyards, terraces, and parking lots should be relatively level. The extension of the paved surface as a means of bank stabilization or grade change should be discouraged. Paved areas should be sufficiently set back from the top of banks, slopes, and cuts to provide visual continuity with particular attention given to setback of parking lots to avoid the unsightly appearance of overhanging parked vehicles which may be visible from lower elevations.

Walkways should be graded to provide an inviting appearance. In walkways that serve as major access facilities, abrupt grade changes and excessive warping should be avoided in favor of clearly articulated grade changes such as stairs or ramps.

1e. All driveways should follow the natural terrain wherever possible, avoiding excessive cut and fill and maintaining the existing topographic features of the site.

1f-2a. Limit cut and fill areas and minimize the use of retaining walls and rockeries.

2b. Control the extent of paved surfaces by limiting allowable continuous parking lots to a maximum of 20 cars and encourage the use of pervious surfacing materials such as tan bark and gravel wherever appropriate. The parking lot configuration should complement and conform to the existing topography and those areas in excess of the 20 car-count should be separated into units and buffered by a landscaped planting buffer of not less than 10 feet. This condition does not, of course, apply to the circulation drive.

2c. Mandatory soils review should be made a part of the review process for all proposed developments with special consideration given to potential drainage and erosion hazards.

The following soils and geology summary has been compiled from the Mercer Island Environmental Factors Study and is intended to serve as a preliminary means of identifying site limitations and potential hazards.

SURFICIAL GEOLOGY CRITERIA:

GEOLOGIC UNIT: VASHON TILL (Qt): Concrete-like mixture of clay, sand, silt, and gravel.

Characteristics

Compact, dense
Low permeability
Poorly drained depressions
common
No settling
Water table varies with
topography

Concerns/Hazards

Drainage: Standing water
Runoff: Excessive
Slopes: Generally stable
Vashon Till on Vashon
Outwash, potentially
unstable
Filtration: Low yield of
ground water

The following soil series overlaying Vashon Till present additional constraints:

Alderwood series:

Drainage and erosion control

Kitsap silty loam:

Preferably controlled and highly limited development in areas with slopes above 16% due to slide and erosion control.

Bellingham silty loam:

Modified development due to high water table and poor permeability

Puget muck:

No development.

ALLUVIUM (Qa): Unconsolidated silt, sand and gravel with occasional localized peat and muck.

Characteristics

Generally poor runoff due to inherent low slopes
Water table near surface
Permeability varies
High saturation

Concerns/Hazards

Drainage: Prone to flooding along creeks
Runoff: Generally poor due to inherent low slopes
Slopes: Unstable due to high degree of saturation
Foundations: Check for presence of organic material layers which may cause irregular settling

VASHON OUTWASH (Qo): Advanced and recessional outwash composed primarily of silt, sand, gravel, and some clay.

Characteristics

Poorly sorted, uncemented
Water table near surface
High permeability
Stability generally good, but varies with slope
Minimal settling

Concern/Hazards

Drainage: Springs common at base of slope
Runoff: Poor particularly on cleared slopes
Slopes: Unstable above 30%; must have vegetation cover to absorb runoff
Erosion: Likely, due to springs at base of slope particularly if Qo overlays impermeable material

These soil series overlaying Vashon Outwash present the following constraints:

Alderwood silty loam:

Drainage and erosion control

Kitsap silty loam:

Controlled and highly limited development above slopes of 16% due to slide and erosion hazards

PRE-VASHON DEPOSITS UNDIFFERENTIATED (Q): Till, outwash, associated interglacial deposits with sorted/unsorted gravels, sand, silt and clay.

Characteristics

Due to the variation in composition other characteristics vary accordingly.

Concerns/Hazards

Drainage: Springs and seeps common
Slopes: Stability highly variable and dependent on local conditions
Groundwater: Generally under hydrostatic head

The following overlying soil series present these additional constraints:

Kitsap silty loam:

Prone to slides and erosion; slopes above 16% should not be developed

Alderwood-Kitsap loam:

Prone to erosion and drainage hazards particularly on slopes in excess of 25%

Alderwood series:

Drainage and erosion control

2d. Maintain minimum setbacks from watercourses to adjoining improvements as per Watercourse Ordinance No. 332.

2e. Consider the use of dry wells and/or holding basins where building construction or paved areas cause excessive runoff, velocity, siltation, or potential hazards of erosion.

3a. Buildings and adjoining site development should be sited to preserve significant trees, shrubs and groundcover areas.

3b. In locations where plants are prone to damage by vehicular traffic adequate protection should be given by curbing, guard rails, posts, or tree guards appropriate to the character of the site development.

3c. Cut and fill areas should not exceed 2:1 slopes. Slopes should be planted with native groundcovers using hemp matting, if necessary, to establish growth.

4a. In considering all proposed developments it should be required that the applicant provide a description of the programmatic future site and building development as well as a delineation of areas where such development or incremental development may occur.

GOAL: Minimize impact on and maintain continuity with the surrounding neighborhood.

INTENT: 1. The proposed development should be consistent with the neighborhood.

2. The proposed development should be considered in terms of its potential for enhancing the image of the neighborhood and providing amenities such as usable open space, vegetation, and off-hours parking.

3. Provide various transportation modes as means of access to the site and as an alternate to the use of the private automobile.

4. Locate all parking and service areas so as not to detract from the neighborhood or adjoining development.

CRITERIA: 1a. Site development should be planned to provide a pleasing transition from the development to the street and to adjoining properties.

1b. Buildings should be sited to preserve the maximum vegetation buffer along the public right-of-way.

Particular care should be taken to minimize the visibility of buildings, roads, and other appurtenances from ravine bottoms, slopes, trails or open space easements.

1c. Buildings should be sited to reduce potential noise disruption of adjoining neighbors by proper orientation, setbacks and planting buffers.

2a. Encourage the maximum amount of usable open space and consider its availability for compatible neighborhood use, particularly in quasi-public facilities that may not be in daily use, e.g. churches with recreational facilities, tot lots or other amenities that could be enjoyed by the neighborhood.

Recreation open space should be provided for resident use within all multi-family residential developments and wherever appropriate, pedestrian linkages should be provided as a means of joining compatible facilities by other than right-of-way connections.

2c. Outdoor congregating areas, tennis courts, play lots, swimming pools, barbecue pits, etc., should be sited so as not to infringe on adjoining properties and must be adequately screened by planting buffers, fencing or walls if they present a potential noise problem.

2d. Encourage sharing or after-hours use of the required on-site parking facilities to alleviate parking shortages where they exist, while retaining maximum open space and vegetation.

2e. Encourage phased parking wherever appropriate to serve initial site development. Reduce the extent of the paved surface by encouraging use of adjoining areas such as lawns, fields, etc., for spill-over parking facilities wherever such demand is occasional and permits this type of use.

2f. Consider lowering on-site parking requirements where access by public transportation and bicycle routes is feasible, particularly where parking requirements seriously compromise other site amenities.

2g. Consider lowering on-site parking requirements where additional usable open space is provided for recreational or passive activity, pedestrian walkways, public easements, or landscaping. Particular consideration should be given to open space that may serve as an amenity to the neighborhood as well as the immediate site.

2h. Encourage easements for public use as a means of extending the Island open space and trail system.

3a. Encourage vehicular access to all facilities of a non-single family nature from connector arterials with minimum traffic through adjoining residential streets.

3b. Increased traffic due to proposed development may not unduly disrupt the neighborhood nor increase traffic levels of the surrounding streets beyond that deemed acceptable by the Department of Public Works.

3c. Special attention and effort by the developing agency should be encouraged in order to secure public transportation as a means of access to all facilities of a non-single family nature.

4a. Screen all service areas from view either by year around planting buffers, fencing or walls and locate in areas where service activities (loading, garbage storage, etc.) will not disrupt neighbors.

4b. Screen all parking lots from view of adjoining neighbors and maintain a minimum 10 foot planting buffer on private property adjacent to all public right-of-ways.

4c. All access driveways should be limited to a maximum 10 feet for one-way and 18 feet for two-way traffic in order to avoid excessive pavement widths, provide maximum planting buffers at the right-of-way and maintain the continuity of the street.

4d. Private or public parking lots adjacent to or serving major public open space such as parks, playgrounds etc., should be sited and treated with extreme care so as not to infringe upon the open space nor detract from its quality.

4e. Parking lots should not be sited adjoining trail easements and drainage ways unless the lots directly serve the trail system.

GOAL:

Develop structures that are compatible and consistent with the natural Island environment.

INTENT:

1. Encourage use of natural as opposed to synthetic building materials that complement the existing environment.
2. Provide compatibility with the landscape and adjoining buildings.
3. Assure that structures are in scale with the Island landscape.

A design statement should be submitted to the Design Commission by the applicant that provides justification for the proposed building design in terms of the following criteria with particular emphasis placed on height, scale, material and color selection.

CRITERIA:

1-3. The height and scale of each building should be consistent with the adjoining buildings and compatible with the site. Particular care must be taken to insure scale compatibility between buildings that may serve different functions and may have varied height requirements. Of particular importance are relationships and spacing of openings, extent of continuous wall planes, and roof forms. Compatibility of style, materials and colors between adjoining buildings should be maintained wherever appropriate to the function of the building and complementary to the natural setting.

Encourage use of building materials such as wood or masonry, dark grey or neutral colors and sloping as opposed to flat roof forms in keeping with surrounding building heights. Dissuade the use of bright reflective metal trim, bright colors other than for trim, and bright plastics.

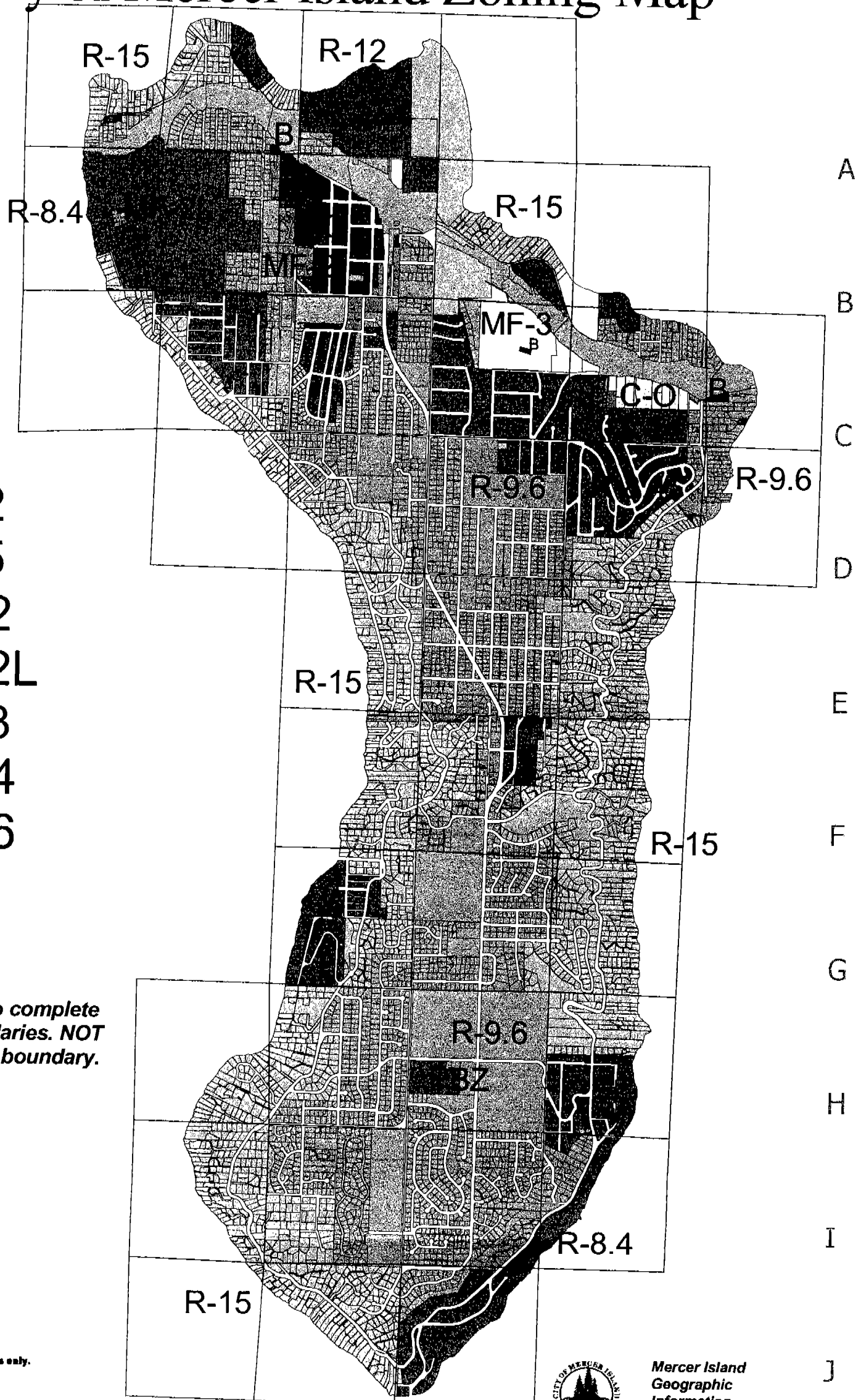
The proposed building should be expressive of the function it serves and complementary to and in scale with the site and the proposed landscape development. A pleasing balance should be obtained between the natural and developed portions of the landscape and the structure itself.

Mechanical equipment not incorporated as part of the overall design of the structure must be screened or adequately concealed with special attention given to screening from view of adjoining hillsides.


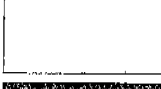



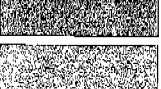






Use of chain link fencing should be discouraged. It should only be considered where planting along its base with ivy or similar climbing vines can be assured to provide complete fence coverage without introducing a visibility hazard to the motorist.


Building and night lighting should be consistent with the building function and the site development. Lighting levels should not exceed levels of adjoining developed properties.

City of Mercer Island Zoning Map



LEGEND

-  B
-  C-O
-  PBZ
-  R-12
-  R-15
-  MF-2
-  MF-2L
-  MF-3
-  R-8.4
-  R-9.6
-  TC
-  P

 *lines added to complete zoning boundaries. NOT part of parcel boundary.*

July 21, 1999
revision 5

Sources:
The underlying parcel base map is from the King County Assessor's maps which was converted to digital files in 1992 by Paget Power. Updated using non-accurate methods in 1999.

The zoning designations were transferred from Mercer Island's zoning map, 1960; updated 1990.

Disclaimers:

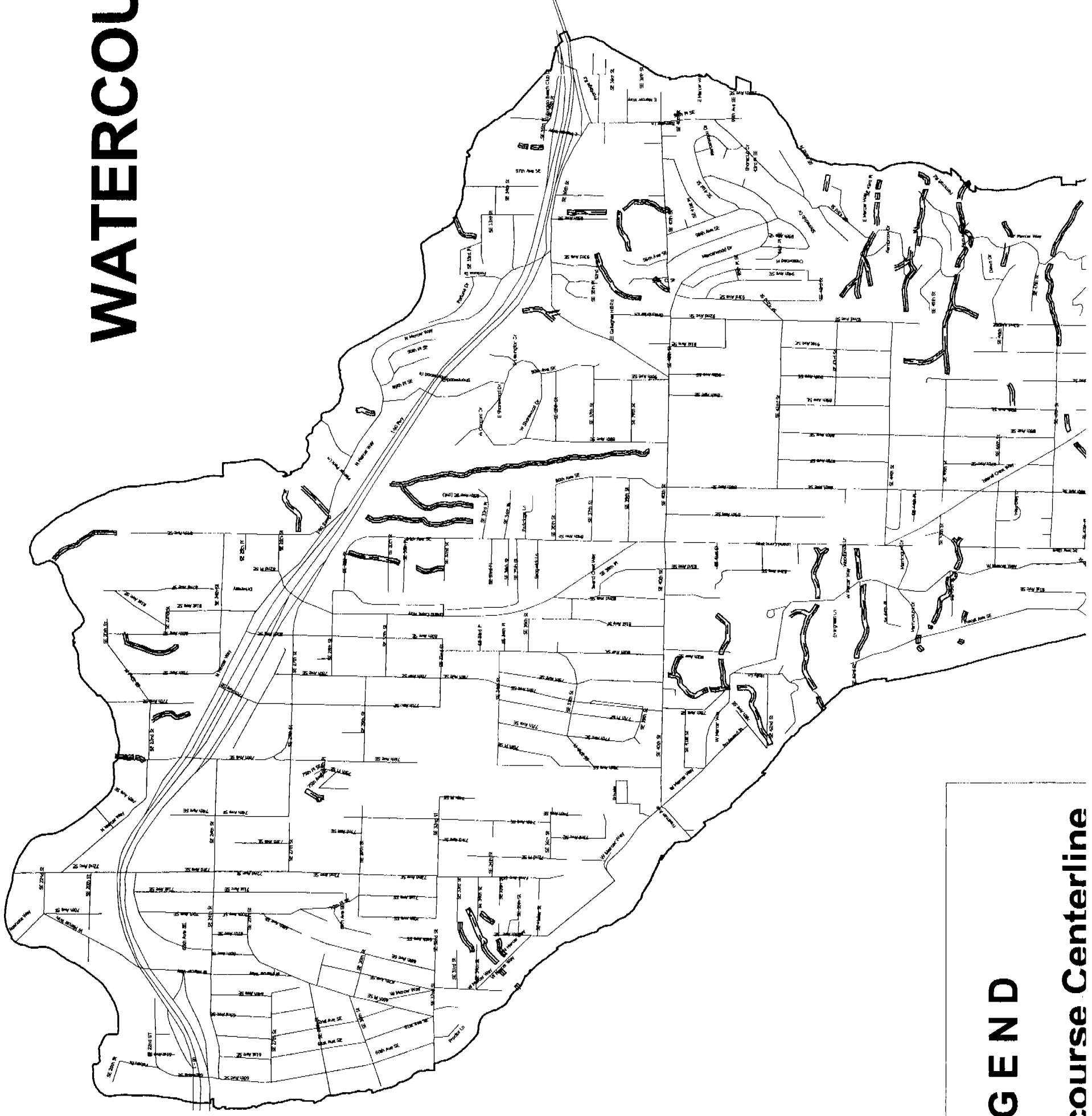
This map is not to scale.
This map should be used for planning purposes only.
Public right-of-ways may not be correct.
Street names may not be correct.

No warranties of any sort, including accuracy, accompany this product.



**Mercer Island
Geographic
Information
Systems**

WATERCOURSES



LEGEND

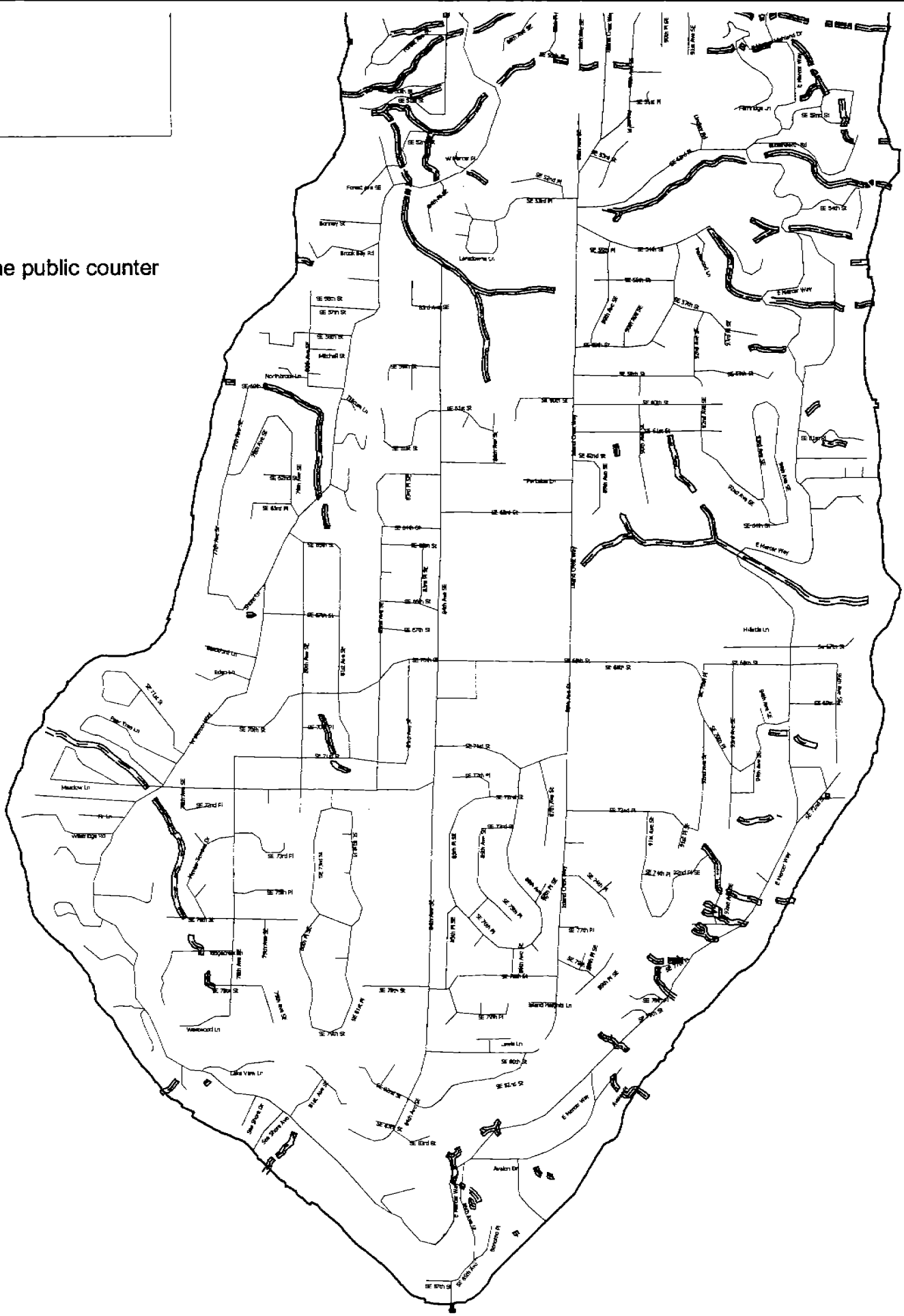
 Watercourse Centerline

 **25 foot buffer
Street**

Note:



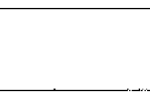
For greater detail please see the maps located at the public counter at the Mercer Island City Hall.

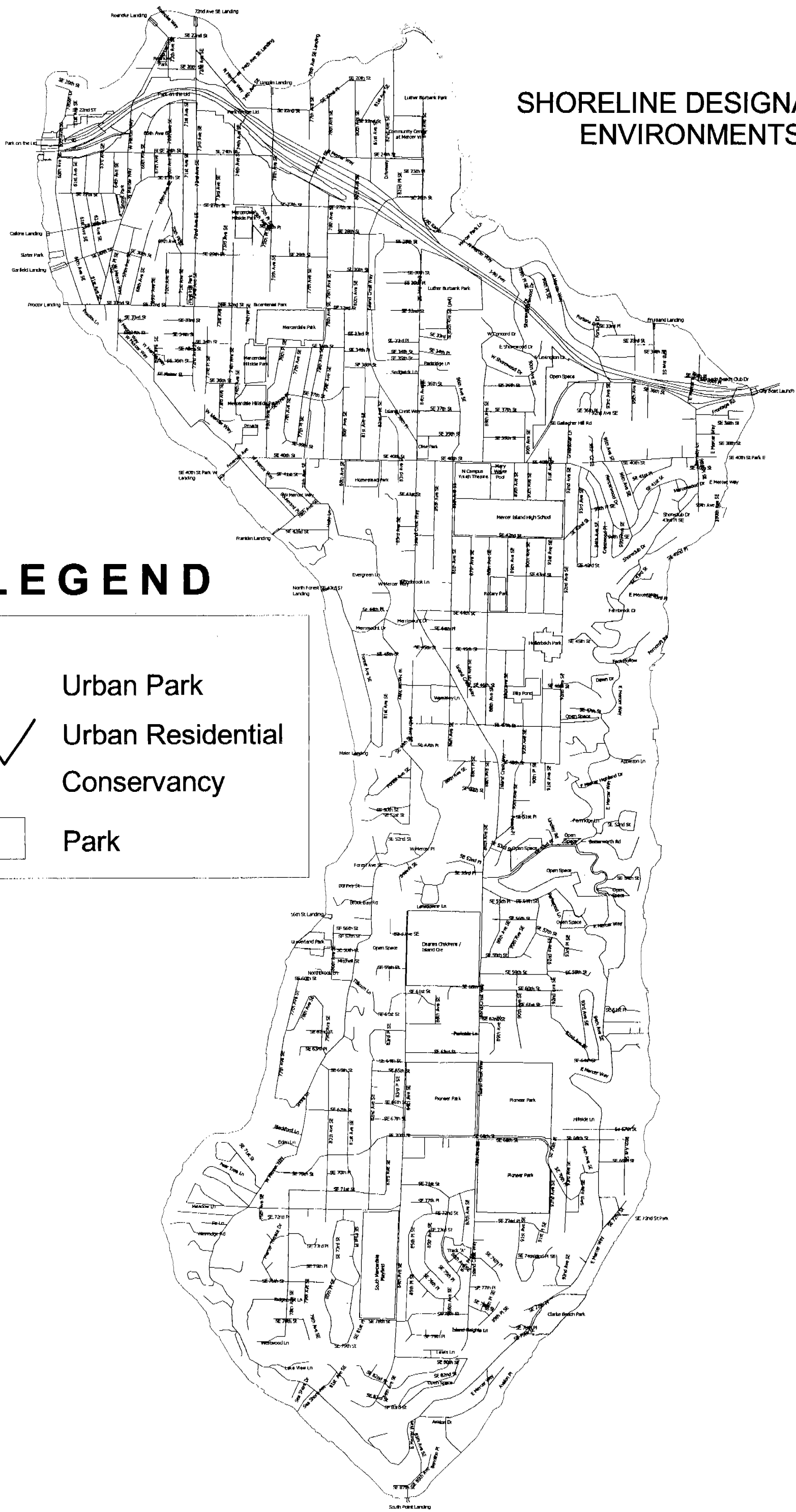
This map should be used for planning purposes only.



SHORELINE DESIGNATED ENVIRONMENTS

LEGEND

	Urban Park
	Urban Residential Conservancy
	Park



**CITY OF MERCER ISLAND
ORDINANCE NO. 02C-09**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON AMENDING ORDINANCE NO. 99C-13 TITLED "CITY OF MERCER ISLAND UNIFIED LAND DEVELOPMENT CODE", AND CODIFIED AT TITLE 19 OF THE MERCER ISLAND CITY CODE, BY REPEALING SECTION 19.02.050 RELATING TO FENCES AND RETAINING WALLS IN RESIDENTIAL ZONES AND REPLACING IT WITH A NEW SECTION 19.02.050 TITLED "FENCES, RETAINING WALLS AND ROCKERIES"; REPEALING AND REPLACING SECTION 19.02.020(C) TITLED "YARD REQUIREMENTS"; AMENDING SECTIONS 19.07.050, 19.07.080 AND 19.09.020 TO ALLOW FENCES UP TO 48" IN THE SHORELINE SETBACK; AMENDING SECTION 19.16.010 TITLED "DEFINITIONS" TO CLARIFY "YARD"; AND AMENDING SECTION 19.07.080 TO RAISE THE THRESHOLD DEVELOPMENT COST FOR EXEMPTION FROM THE SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT.

- A. The City of Mercer Island Municipal Code (MICC) contains Title 19, the Unified Land Development Code (ULDC), adopted on November 15, 1999 as Ordinance No. 99C-13;
- B. MICC 19.02.050 relating to fences and retaining walls in residential zones is being repealed and replaced with a new Section 19.02.050 titled "Fences, Retaining Walls and Rockeries";
- C. MICC section 19.02.020(C) titled "Yard Requirements" is being repealed and replaced with a new Section 19.02.050 with the same title;
- D. MICC 19.16.010 titled "Definitions" is being amended to clarify the determination of front and side yards under the definition of "Yard";
- E. MICC 19.07.050(C) titled "Shoreline areas, Site Coverage", MICC 19.07.080(D)(1) titled "Shoreline management master program, Use Regulations" and MICC 19.09.020(U) are being amended to allow fences up to 48 inches in height within the 25 foot setback from the ordinary high water mark;
- F. MICC 19.07.080(C)(2), titled "Shoreline management master program Administration and Procedures, Permits and Decisions" is being amended to make the Mercer Island Code consistent with a recent change in state law that increases the threshold development cost for exemption from the shoreline substantial development permit requirement from \$2500 to \$5000;
- G. The City's Responsible Official reviewed the proposed changes to the Residential Zoning Code under the provisions of the State Environmental Policy Act, found they

did not have any significant adverse impacts on the environment and issued a Determination of Non-Significance on August 28, 2002;

- H. The City complied with all public notice requirements for the Planning Commission public meeting and the City Council public hearing;
- I. The Mercer Island Planning Commission held its public meeting consistent with MICC 19.15.010(E) on September 18, 2002 to consider the proposed amendments;
- J. After hearing public testimony and after deliberation, the Mercer Island Planning Commission issued its recommendation to the Mercer Island City Council that it adopt the proposed amendments;
- K. The City Council held an open record hearing consistent with MICC 19.15.010(E) on October 21, 2002; and
- L. After considering all public testimony and written comments, the City Council adopts the following Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Repeal of MICC 19.02.050 "Residential, Fences and retaining walls". MICC 19.02.050 "Residential, Fences and retaining walls" shall be repealed in its entirety simultaneously with the adoption of a new MICC 19.02.050 "Residential, Fences, Retaining Walls and Rockeries".

Section 2: Adoption of MICC 19.02.050, "Residential, Fences, Retaining Walls and Rockeries". A new MICC 19.02.050 "Residential, Fences, Retaining Walls and Rockeries" is hereby adopted as follows:

MICC 19.02.050 Fences, Retaining Walls and Rockeries

- A. Location in Required Yard.** Fences, retaining walls and rockeries may be located within any required yard.
- B. Location in Street.**
 - 1. Fences.** No fence shall be located in any improved street. Fences may be allowed in unimproved public streets subject to approval of the city engineer and the granting of an encroachment agreement as required by MICC 19.06.060.
 - 2. Retaining Walls and Rockeries.** Retaining walls and rockeries may be allowed in any street subject to the approval of the city engineer and the granting of an encroachment agreement covering any public street as required by MICC 19.06.060.

C. Height Measurement.

1. **Fences.** The height of a fence is measured from the top of the fence, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence being measured.
2. **Retaining Walls and Rockeries.** The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower, directly below the retaining wall or rockery.

D. Retaining Walls and Rockeries: Requirements:

1. **Building Permit.** A building permit is required for retaining walls or rockeries over four feet in height, as determined by UBC §106.2.
2. **Engineer.** Any rockery requiring a building permit shall be designed and inspected by a licensed geotechnical engineer.
3. **Drainage control.** Drainage control of the area behind the rockery shall be provided for all rockeries.
4. **Maximum Height in Required Yard - Cut Slopes.** No retaining walls or rockeries, or any combination of retaining walls or rockeries, to the extent used to protect a cut or cuts into existing grade within any required yard, shall exceed a total of 144 inches in height. All retaining walls and/or rockeries within a required yard shall be included in calculating the maximum height of 144 inches. Such retaining walls or rockeries, or combination of retaining walls or rockeries, may be topped by a fence up to 72 inches in height or, if within that portion of any required yard that lies within 20 feet of any improved street, by a fence up to 42 inches in height.
5. **Maximum Height in Required Yard - Fill Slopes.** No retaining walls or rockeries, or any combination of retaining walls or rockeries, to the extent used to raise grade and protect a fill slope, shall exceed a total of 72 inches in height within any required yard. All retaining walls and/or rockeries within a required yard shall be included in calculating the maximum height of 72 inches. A fence or guardrail may be placed on top of such retaining wall or rockery, but in no event shall the combined height of the fence and any retaining wall or rockery exceed 72 inches. Provided; rockeries, retaining walls, fences, or any combination thereof, are limited to a maximum height of 42 inches within that portion of any required yard which lies within 20 feet of any improved street.

E. Fences.

1. **Maximum Height in Required Yard.** Fences or any combination of retaining walls, rockeries and fences are allowed to a maximum height of 72 inches within the required yards, except as provided in (D)(4) above. All fences, retaining walls and/or rockeries within a required yard shall be included in calculating the maximum height of 72 inches. Provided; fences, rockeries or retaining walls used to protect a fill, or any combination thereof, are limited to a maximum height of 42 inches within that portion of any required yard which lies within 20 feet of any improved street.
 - a. **Exception.** Open latticework or a similar architectural feature up to 18 inches above the maximum 72 inch height allowed may be constructed, provided it is

of open work design with at least 50% of its total surface area consisting of evenly distributed open spaces. This exception does not apply to any fence, rockery or retaining wall, or any combination thereof, limited to a maximum height of 42 inches; however, where the height of any fence, rockery, retaining wall, or any combination thereof is limited to 42 inches, an architectural feature of open work design as described above that is limited to the entrance of a walkway may be allowed if its total height is no greater than 90 inches.

2. **Fill/Berms.** No person shall place fill upon which to build a fence unless the total height of the fill plus the fence does not exceed the maximum height allowable for the fence without the fill.
3. **Shorelines.** Fence, rockeries and retaining walls located within any shoreland shall also comply with Chapter 19.07 MICC.

F. Fence Height Deviations. Deviations from the 42-inch height limitation set out in subsection E(1) and D(5) of this section shall be reviewed in the manner set out below:

1. For nonregulated improvements, a request for a deviation up to 72 inches shall be reviewed by the code official under the following procedure:
 - a. The applicant shall submit to the code official two copies of plot plans and elevations, drawn to scale, showing size and construction of the proposed fence, the location of all existing structures, streets, driveways, and landscaping.
 - b. The code official shall review the submitted plans with the city engineer and shall base the decision to approve or disapprove the requested deviation on factors of traffic visibility and other public and private safety considerations, lot shape, location and topography, and the nature, location and extent of adjoining public and private structures.
2. For regulated improvements, deviations shall be reviewed by the design commission under the procedures and criteria set forth in MICC 19.15.040.

G. Electric and barbed wire fences. Electric fences and barbed wire fences are not allowed.

H. Exceptions. These provisions do not apply to fences required by state law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds, or to screens used for safety measures in public recreation areas such as ballfields.

Section 3: Repeal of MICC 19.02.020(C) "Residential, Lot Requirements, Yard Requirements". MICC 19.02.020(C) "Residential, Lot Requirements, Yard Requirements" shall be repealed in its entirety simultaneously with the adoption of a new MICC 19.02.020(C) "Yard Requirements".

Section 4: Adoption of MICC 19.02.020(C), "Residential, Lot Requirements, Yard Requirements". A new MICC 19.02.020(C) "Yard Requirements" is hereby adopted as follows:

19.02.020 Lot requirements.

C. Yard Requirements.

- 1. Minimum.** Except as otherwise provided in this section, each lot shall have front, rear, and side yards not less than the depths or widths following:
 - a.** Front yard depth: 20 feet or more.
 - b.** Rear yard depth: 25 feet or more.
 - c.** Side yard depth: The sum of the side yards shall be at least 15 feet; provided, no side yard abutting an interior lot line shall be less than five feet, and no side yard abutting a street shall be less than 10 feet.

- 2. Yard Determination.**
 - a. Front Yard.** The front yard is the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the Code Official shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot.
 - i. Waterfront Lot.** On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.
 - b. Rear Yard.** The rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch.
 - c. Corner Lots.** On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard. If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.
 - d. Side Yard.** Any yards not designated as a front or rear yard shall be defined as a side yard.

- 3. Intrusions into Required Yards.**
 - a. Minor Building Elements.** Porches, chimney(s) and fireplace extensions, and unroofed, unenclosed outside stairways and decks shall not project more than three feet into any required yard. Eaves shall not protrude more than 18 inches into any required yard. Provided, no penetration shall be allowed into the minimum five-foot setback abutting an interior lot line except where an existing flat roofed house has been built to the interior side yard setback line and the roof is changed to a pitched roof with a minimum pitch of 4:12, the eaves may penetrate up to 18 inches into the side yard setback.

- b. Platforms, walks, and driveways.** Platforms, walks, and driveways not more than 30 inches above existing grade or finished grade may be located in any required yard.
- c. Fences, Retaining Walls and Rockeries.** Fences, retaining walls and rockeries are allowed in required yards as provided in MICC 19.02.050
- d. Garages and Other Accessory Buildings.** Garages and other accessory buildings are not allowed in required yards, except as provided in MICC 19.02.040.
- e. Heat Pumps, Air Compressors, Air Conditioning Units, and Other Similar Mechanical Equipment.** Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment may be located within any required yard provided they will not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within three (3) feet of any lot line.
- f. Architectural Features.** Freestanding architectural features such as columns or pedestals that designate an entrance to a walkway or driveway and do not exceed 42 inches in height are allowed in required yards.
- g. Other Structures.** Except as otherwise allowed in this subsection (3), structures over 30 inches in height from existing grade or finished grade, whichever is lower, may not be constructed in or otherwise intrude into a required yard.

Section 5: Amend Definitions. MICC 19.16.010, "Definitions," "Y" "Yards" shall be amended as follows:

Yard: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein.

1. **Front Yard:** ~~The yard adjacent to the property line from which vehicular access is provided.~~ The front yard is the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the Code Official shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot.
2. **Rear Yard:** The yard opposite the front yard.
3. **Side Yard:** ~~The yard adjacent to the property line.~~ All Any yards not otherwise designated as a front or rear yard shall be defined as a side yard.

Section 6: Amend MICC 19.07.050 "Shoreline areas". MICC 19.07.050(C), Site Coverage shall be amended as follows:

C. **Site Coverage.** The amount of impervious surfaces which will be permitted is as follows:

Distance from OHW	Impervious Surface Limitations
0-25 feet	10% - No structure(s) <u>building(s)</u> allowed
26-50 feet	30% - Structure(s) allowed

The illustration that follows the text of 19.07.080(D) shall remain unchanged.

Section 7: Amend MICC 19.07.080 “Shoreline management master program” and MICC 19.09.020 “Uniform Swimming Pool, Spa and Hot Tub Code”. MICC 19.07.080(D), Use Regulations shall be amended as follows:

D. **Use Regulations.** All development within the shoreline jurisdiction shall be in compliance with all development requirements specified in this section.

1. Table A. Requirements for Development Located Landward from the OHWM

Setbacks for All Structures (Including Fences over 30 <u>48</u> Inches High) and Parking	A*	25 feet from the OHWM and all required setbacks of the development code
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The remainder of the chart of the existing 19.07.080(D) and illustrations that follow shall remain unchanged.

MICC 19.09.020(U) shall be amended as follows:

Section 321. Fencing. Outdoor pools shall be fenced so that unsupervised children and animals cannot enter the area used by bathers. The fencing shall be a solid structure of fence material not less than ~~five~~four (~~54~~) feet in height...and all latches shall be placed at least ~~five~~ (~~5~~) feet 54 inches above the ground or shall be made inaccessible to small children from the outside.

Section 8: Amend MICC 19.07.080 “Shoreline management master program” MICC 19.07.080(C)(2)(b)(i), Administration and Procedures, Permits and Decisions, Shoreline Exemption Permit, shall be amended as follows:

C. Administration and Procedures

2. Permits and Decisions

b. **Shoreline Exemption Permit.** A shoreline exemption permit (SEP) may be granted to the following development as long as such development is in compliance with all applicable requirements of this shoreline master program, the city of Mercer Island development code and WAC 173-27-040:

(i) Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~\$2,500~~ \$5,000, if such development does not materially interfere with the normal public use of the waters or shorelines of the state.

Section 9: Severability/Validity.

The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases were unconstitutional or invalid.

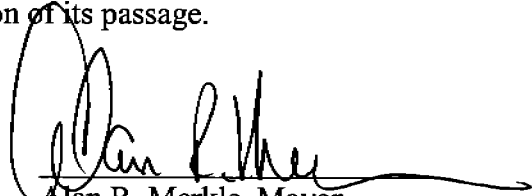
Section 10: Ratification.

Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 11: Effective Date.

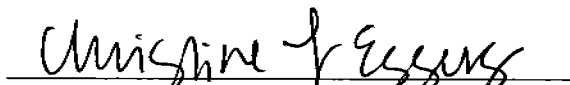
This Ordinance shall take effect and be in force thirty (30) days following passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the 21st day of October 2002, and signed in authentication of its passage.




Alan R. Merkle, Mayor

ATTEST:



Christine L. Eggers, City Clerk

Approved as to form:



Londi K. Lindell, City Attorney
Date of Publication: November 6, 2002



**CITY OF MERCER ISLAND
ORDINANCE NO. 05C-12**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON AMENDING CHAPTER 19.07 OF THE MERCER ISLAND CITY CODE, CRITICAL AREA REGULATIONS, COVERING WATERCOURSES, GEOLOGIC HAZARD AREAS, WETLANDS AND WILDLIFE HABITAT CONSERVATION AREAS, TO INCORPORATE BEST AVAILABLE SCIENCE; REPEALING SECTIONS 19.07.010, 19.07.020, 19.07.030, 19.07.040, 19.07.060 AND 19.07.070; AMENDING CHAPTER 19.16 TO ADD TECHNICAL TERMS AND LAND USE DEFINITIONS AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 36.70A.172 requires cities to include best available science in developing policies and development regulations to protect the functions and values of critical areas; and

WHEREAS, the City retained The Watershed Company, Adolfson and Associates and Michelle Lorilla, P.E., qualified consultants, with expertise in best available science, to research and evaluate the unique geologic and scientific features of the City of Mercer Island and to advise City staff on its critical areas regulations and consistency with best available science; and

WHEREAS, the public review process for the proposed critical area ordinance included five meetings in June and July of 2004 of the Critical Areas Policy and Regulation Stakeholders Forum, an ad hoc task force composed of development interests, elected and appointed officials, conservation interests and citizens, where environmental policies were reviewed and recommendations for revisions were made;

WHEREAS, the Planning Commission held a series of seven (7) public meetings to consider best available science and alternatives to the critical area ordinance; and

WHEREAS, the public review process for the critical area ordinance included a City Council Study Session on October 27, 2005 and City Council regular meetings on November 7, 2005 and November 21, 2005. with an opportunity for public comment on the critical area ordinance; and

WHEREAS, public notice was published in the Mercer Island Reporter for the September 15, 2004 and the August 17, 2005 planning commission meetings and for each City Council meeting, thus fulfilling all public noticing requirements; and

WHEREAS, the City also encouraged public participation and provided information on the critical areas ordinance update on its website (<http://www.mercer-island.wa.us>); and

WHEREAS, the Growth Management Act mandates each city in Washington to take action to review and, if necessary, revise its code to incorporate best available science by December 2005; and

WHEREAS, consistent with the Growth Management Act, the code amendments contained herein were developed using the best available science; and

WHEREAS, the critical areas ordinance allows the standard buffer requirement on wetlands and watercourses to be reduced in exchange for buffer restoration or enhancement and such improvement to the buffer is consistent with best available science; and

WHEREAS, the critical areas ordinance allows buffer averaging in watercourses to promote enhancement of degraded buffer areas consistent with best available science; and

WHEREAS, consistent with RCW 36.70A.106, state agencies received notice of Mercer Island's proposed critical areas ordinance on July 30, 2004, and comments were received regarding the wetland regulations and incorporated into the critical areas ordinance; and

WHEREAS, a State Environmental Policy Act Checklist was prepared and a Determination of Nonsignificance was issued on August 25, 2004; and NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES ORDAIN A FOLLOWS:

Section 1: Findings, Analysis and Conclusions. After reviewing the record and considering the arguments and evidence in the record and at public meetings, the City Council hereby adopts the findings, analysis and conclusions contained in the City Council staff reports dated November 7, 2005 and November 21, 2005.

Section 2: Legislative History – Adoption of Studies. The City Council hereby adopts as its legislative history and incorporates by this reference the following scientific studies: (1) Use of Best Available Science in the City of Mercer Island Critical Areas Regulations for Watercourses and Wetlands, prepared by The Watershed Company and dated July 2004; (2) City of Mercer Island Stream Typing Inventory, prepared by The Watershed Company and dated February 2003; (3) Mercer Island Stream and Stream Buffer Restoration Guidelines, prepared by The Watershed Company and dated February 2003; (4) Analysis of Geologic Hazard Areas, mapping and analysis prepared by Michelle Lorilla, P.E. during 2004, the city's consulting geotechnical engineer and (5) Use of Best Available Science in the City of Mercer Island Critical Areas Regulations for Watercourses and Wetlands and Peer Review prepared by Adolfson and Associates dated September 2005, all such studies are on file with the Mercer Island City Clerk.

Section 3: Repeal of Inconsistent Provisions. Upon adoption of the new Chapter 19.07 described in Section 5 below, the City Council hereby repeals the following sections of the Mercer Island City Code: MICC 19.07.010; MICC 19.07.020, MICC 19.07.030, MICC 19.07.040, MICC 19.07.060, and MICC 19.07.070.

Section 4: Adoption of New Definitions. The Mercer Island City Council hereby amends Chapter 19.16 of the Mercer Island City Code by adding the following new definitions or amending those existing definitions as shown by underlining to indicate new text and strikethroughs to indicate deleted text:

Alteration: Any human-induced action which adversely impacts the existing condition of the area including grading, filling, dredging, draining, channeling ~~cutting, topping, clearing,~~ relocating or removing vegetation and paving, (including construction, modifying for surface water management purposes and application of gravel) ~~Human activity that impacts the existing topography, vegetation, hydrology, or wildlife habitat.~~ *Alteration* does not include walking, passive recreation, fishing or other similar activities.

Best Available Science: Current scientific information based upon scientifically valid methods used to analyze critical areas, as defined by WAC 375-195-900 through 925, as amended.

Best management practices: The practices that use the best available technologies or techniques, to prevent or minimize the degradation of any critical area or its buffer.

Buffer: A designated area adjoining a critical area intended to protect the critical area from degradation.

Critical areas: Geologic hazard areas, critical slopes, watercourse corridors, wetlands and wildlife habitat conservation areas shorelines and publicly and privately owned passive open spaces. "Critical areas" have measurable characteristics which, when combined, create a value for or potential risk to the public health, safety, and welfare.

Critical Slope: Any slope of 30 percent or greater calculated by measuring the vertical rise over any 40-foot horizontal run. "Critical slopes" may cross property lines."

Critical Slope Hazard Area: An area consisting of a critical slope and the land that extends for 10 feet past the top and toe of the slope.

Critical area determination: An administrative action by the code official pursuant to MICC 19.15.010(E) to allow reduction or averaging of a wetland or watercourse buffer, or alteration of a steep slope.

Critical area study: A study prepared by a qualified professional on existing conditions, potential impacts and mitigation measures for a critical area, consistent with MICC 19.07.050.

Critical Tree Area: An area on a lot where trees are provided certain protections that contains any of the following:

1. A geologic hazard area;
2. A watercourse ~~corridor~~ or its buffer;

3. Wetlands or its buffer together with the area that extends 25 feet beyond the delineated wetlands edge; or
4. Protected slope area.
5. Any area protected by a dedication or limitation on a recorded plat restricting the removal of trees or vegetation such as a native growth protective easement.

Ditch: A long, narrow human-built excavation that conveys storm water or irrigation water that is not identified by the State of Washington as a classified or unclassified stream.

Enhancement or enhance: Actions performed to increase the functions of critical areas.

Erosion Hazard Areas: Those areas greater than 15 percent slope and subject to a severe risk of erosion due to wind, rain, water, slope and other natural agents including those soil types and/or areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe," or "very severe" rill and inter-rill erosion hazard.

Fish Use or Used by Fish: Those areas within a watercourse where live fish normally exist for spawning rearing and/or migration. Fish Use may be presumed to occur in 1) those reaches of watercourses that have year round flow, are accessible from Lake Washington to juvenile salmonid fish and have an average bed slope of less than 12 percent. Fish use shall not be presumed for 1) intermittent or seasonal reaches; 2) for reaches with an average bed slope of 12 percent or greater; 3) for reaches upstream from road culverts with a bottom slope of 10 percent or greater; or 4) reaches with greater than a 12-inch drop from the downstream invert of the culvert to the downstream pool elevation at ordinary high water. If the uppermost point of fish use cannot be identified with simple, nontechnical observations, then the upper extent of fish use should be determined using the best professional judgment of a qualified professional after considering actual conditions and the physical abilities and capabilities of juvenile salmonid fish.

Geologic hazard areas: An area 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.

Geotechnical Engineer: A practicing geotechnical engineer licensed as a professional engineer in the state of Washington.

Geotechnical professional: A practicing, geotechnical/civil engineer licensed as a professional civil engineer with the State of Washington, or a licensed engineering geologist with sufficient relevant training and experience as approved by the city.

Landslide Hazard Areas: Those areas subject to landslides based on a combination of geologic, topographic, and hydrologic factors, including:

- a. Areas of historic failures;
- b. Areas with all three of the following characteristics:
 - (i) Slopes steeper than fifteen percent; and

- (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- (iii) Springs or ground water seepage;
- c. Areas that have shown evidence of past movement or that are underlain or covered by mass wastage debris from past movements;
- d. Areas potentially unstable because of rapid stream incision and stream bank erosion; or
- e. Steep Slope. Any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run.

Mitigation or mitigate: The use of any or all of the following actions in a critical area:

- A. Avoiding the impact by not taking a certain action;
- B. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce the impact;
- C. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area;
- D. Minimizing or eliminating the impact over time by preservation or maintenance operations;
- E. Compensating for the impact by replacing, enhancing or providing substitute critical areas; or
- F. Monitoring the impact and taking appropriate corrective measures including any combination of the measures listed in subsections A through E above.

~~An action which minimizes the impacts of an alteration by limiting the degree or magnitude of the alteration with appropriate technology; reduces the impact of the alteration over time with preservation or maintenance techniques, or compensates for the impact of the alteration by replacing, enhancing or providing substitute critical areas.~~

Monitoring: Evaluating the impacts of alterations to critical areas and assessing the performance of required mitigation measures through the collection and analysis of data.

Native Growth Protective Easement (NGPE): An easement granted to the city for the protection of native vegetation within a critical area or buffer.

Native vegetation: Vegetation comprised of plant species which are indigenous to the Puget Sound region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

No net loss: An ecological concept whereby conservation losses in one geographic or otherwise defined area are equaled by conservation gains in function in another area.

Noxious weed: Any plant which when established is highly destructive, competitive, or difficult to control by cultural or chemical practices (see chapter 5.10 RCW). The state

noxious weed list in Chapter 16-750 WAC, as compiled by the State Noxious Weed Control Board, is the officially adopted list of noxious weeds for the city.

Qualified professional: A person who performs studies, field investigations, and plans on critical areas and has an educational background and/or relevant experience in the field, as determined by the code official.

Reasonable use: A legal concept that has been and will be articulated by federal and state courts in regulatory takings and substantive due process cases. The decision-maker must balance the public's interests against the owner's interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, the reasonable use of the property remaining to the owner and the economic loss borne by the owner. Public interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions. A reasonable use exception set forth in MICC 19.07.030(B) balances the public interests against the regulation being unduly oppressive to the property owner.

Restoration or restore: Actions performed to return a critical area to a state in which its functions approach its unaltered state as closely as possible.

Salmonid: A member of the fish family salmonidae.

Seismic Hazard Areas: Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting.

Steep Slope: Any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run. Steep slopes do not include artificially created cut slopes or rockeries.

Temporary Erosion and Sediment Control Plan: A plan that details the location and type of temporary physical, structural and/or managerial practices an applicant will use to reduce erosion, prevent pollution of water with sediment and comply with the adopted stormwater manual pursuant to MICC Chapter 19.09.

Utilities: Facilities providing infrastructure services to individual lots within the city by a public utility or private utility regulated by the state through fixed wires, pipes, or lines. Such facilities services may include water, sewer, stormwater facilities (lines, ditches, swales and outfalls) and private utilities such as natural gas lines, telecommunication lines, cable communication lines, electrical lines and other appurtenances associated with these utilities the transmission or distribution of energy; the collection of sewage; the distribution of potable water; and the provision of information services such as telephone, internet, and cable through land lines. "Utilities" do not include wireless facilities.

Watercourses: A course or route, formed by nature or modified by humans, and generally consisting of a channel with a bed, banks, or sides throughout substantially all its length, along which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This definition does not include specially designed irrigation and drainage ditches, grass-lined swales, canals, stormwater runoff devices, or other courses unless they are used by fish by salmonids or to convey waters courses that were naturally occurring prior to construction.

Watercourse Corridor: An area of land running the length of a watercourse extending 25 feet horizontally from the centerline of a watercourse on each side.

Watercourses – Year round flow: Those watercourses that do not go dry any time during water-years with normal rainfall as determined from climatological data published for the Seattle Tacoma International Airport by the National Oceanic and Atmospheric Administration or its successor agency. For the purpose of watercourse typing, watercourses with year round flow may include intermittent or seasonal reaches below the uppermost point of year round flow during normal water-years.

Watercourses - Intermittent or seasonal flow: Those watercourses that go dry or exhibit zero surface discharge at any point during water-years with normal rainfall as determined from climatological data published for the Seattle Tacoma International Airport by the National Oceanic and Atmospheric Administration or its successor agency.

If the lowermost point of either year round flow or intermittent or seasonal flow cannot be identified with simple, nontechnical observations, or if climatological data show that rainfall is significantly above normal for the water-year, then the point of flow should be determined using the best professional judgment of a qualified professional after considering actual conditions and the climatological data.

Wetlands: Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include artificial wetlands, such as irrigation and drainage ditches, grass-lined swales, canals, landscape amenities, and detention facilities or those wetlands that were unintentionally created as a result of the construction of a road or street unless the artificial wetlands were created to mitigate the alteration of a naturally occurring wetland. For identifying and delineating a regulated wetland, the city will use the Wetland Manual.

Wetland Classification System: Those categories set forth in the Washington State Wetland Rating System for Western Washington, Publication #04-06-025 dated August 2004. A summary of the classification system is provided below:

1. Category I. Category I wetlands are those that meet the following criteria:
 - a. Wetlands that are identified by scientists as high quality or high function wetlands;
 - b. Bogs larger than one-half acre;
 - c. Mature and old-growth forested wetlands larger than 1 acre; or

- d. Wetlands that are undisturbed and contain ecological attributes that are impossible to replace within a human lifetime.
2. Category II. Category II wetlands are not defined as Category I wetlands and meet the following criteria:
 - i. Wetlands that are identified by scientists as containing "sensitive" plant species;
 - ii. Bogs between one-quarter and one-half acre in size; or
 - iii. Wetlands with a moderately high level of functions.
3. Category III. Category III wetlands do not satisfy Category I or II criteria, and have a moderate level of functions. These wetlands generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources than Category II wetlands.
4. Category IV. Category IV wetlands do not satisfy Category I, II or III criteria; and have the lowest level of functions; and are often heavily disturbed.

Wetland Manual: The Washington State Wetland Identification and Delineation Manual.

Wildlife Habitat Conservation Areas: Those areas the City Council determines are necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created consistent with Title 365 WAC.

Section 5: Critical Areas Ordinance. Chapter 19.07 of the Mercer Island City Code is hereby amended to add MICC 19.07.010 through 19.07.090 as follows:

19.07.010 Purpose. These regulations are adopted for the following purposes:

- A. To designate and protect *critical areas* as mandated by chapter 36.70A RCW;
- B. To include *best available science* in developing policies to protect the functions of *critical areas* as mandated by chapter 36.70A RCW;
- C. To prevent undue hazards to public health, safety, and welfare by minimizing impacts to *critical areas*;
- D. To implement the *city's* comprehensive plan; and
- E. To respond to the goals and objectives of the Washington State Growth Management Act, while reflecting the local conditions and priorities of Mercer Island.

19.07.020 General Provisions.

- A. **Applicability.** Any *alteration* of a *critical area* or *buffer* shall meet the requirements of this chapter unless an allowed alteration or reasonable use exception applies pursuant to MICC 19.07.030.
- B. **Public Notice-Critical Area Determination.** A *critical area determination* requires public notice pursuant to MICC 19.15.020(E) and this action may be appealed to the planning commission.
- C. **Critical Area Designation and Mapping .** The approximate location and extent of *critical areas* are shown on the *city's critical area maps* (Appendix E), as now existing or hereafter amended. These maps are to be used as a reference only. The applicant is

responsible for determining the scope, extent and boundaries of any critical areas to the satisfaction of the *code official*.

- D. **Administrative Guidelines.** The *code official* may adopt administrative guidelines describing specific improvements to *critical areas* that are based on *best available science* and satisfy the *no net loss* standard described in this chapter.
- E. **Compliance with Other Federal, State or Local Laws.** All approvals under this chapter, including *critical area determinations and reasonable use exceptions*, do not modify an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, or local law or regulation.

19.07.030 Allowed Alterations and Reasonable Use Exception.

- A. **Allowed Alterations.** The following *alterations* to *critical areas* and *buffers* are allowed and the applicant is not required to comply with the other regulations of this chapter, subject to an applicant satisfying the specific conditions set forth below to the satisfaction of the *code official*; and subject further that the *code official* may require a *geotechnical report* for any *alteration* within a *geologic hazard area*:
 - 1. **Emergency actions** necessary to prevent an immediate threat to public health, safety or welfare, or that pose an immediate risk of damage to private property. After the emergency, the *code official* shall be notified of these actions within 7 days. The person or agency undertaking the action shall fully *restore* and/or *mitigate* any impacts to *critical areas and buffers* and submit complete applications to obtain all required permits and approvals following such work. The *mitigation* and *restoration* work will be completed within 180 days from issuance of required permits.
 - 2. **Operation, maintenance, renovation or repair** of existing structures, facilities and landscaping, provided there is no further intrusion or expansion into a *critical area*.
 - 3. **Minor site investigative work.** Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new access roads or significant amounts of excavation. In every case, impacts shall be *mitigated* and disturbed areas shall be *restored*.
 - 4. **Boundary Markers.** Construction or modification of navigational aids and boundary markers.
 - 5. **Existing Streets and Utilities.** Replacement, modification or reconstruction of existing *streets* and *utilities* in developed *utility* easements and in developed *streets* subject to the following:
 - a. The activity must utilize *best management practices*; and
 - b. The activity is performed to *mitigate* impacts to *critical areas* to the greatest extent reasonably feasible consistent with *best available science*.
 - 6. **New Streets, Driveways, Bridges, and Rights-of-way.** Construction of new *streets* and driveways, including pedestrian and bicycle paths, subject to the following:
 - a. Construction is consistent with *best management practices*;
 - b. The facility is designed and located to *mitigate* impacts to *critical areas* consistent with *best available science*;
 - c. Impacts to *critical areas* are *mitigated* to the greatest extent reasonably feasible so there is *no net loss* in *critical area* functions; and
 - d. The *code official* may require a *critical area study* or *restoration plan* for this allowed alteration.

- d. The *code official* may require a *critical area study* or *restoration* plan for this allowed alteration.
7. **New Utility Facilities.** New *utilities* not including substations, subject to the following:
 - a. Construction is consistent with *best management practices*;
 - b. The facility is designed and located to *mitigate* impacts to *critical areas* consistent with *best available science*;
 - c. Impacts to *critical areas* are *mitigated* to the greatest extent reasonably feasible so there is *no net loss* in *critical area* functions;
 - d. *Utilities* shall be contained within the footprint of an existing street, driveway, paved area, or *utility* crossing where possible; and
 - e. The *code official* may require a *critical area study* or *restoration* plan for this allowed alteration.
 8. **The removal of noxious weeds** with hand labor and/or light equipment provided that the appropriate erosion-control measures are used and the area is revegetated with *native vegetation*.
 9. **Public and private non-motorized trails** subject to the following:
 - a. The trail surface should be made of pervious materials, unless the *code official* determines impervious materials are necessary to ensure user safety;
 - b. Trails shall be located to *mitigate* the encroachment; and
 - c. Trails proposed to be located in a *geologic hazard area* shall be constructed in a manner that does not significantly increase the risk of *landslide* or *erosion hazard*. The *city* may require a geotechnical review pursuant to MICC 19.07.060.
 10. **Existing single-family residences may be expanded or reconstructed in buffers**, provided all of the following are met:
 - a. The applicant must demonstrate why buffer averaging or reduction pursuant to MICC 19.07.020(B) will not provide the necessary relief;
 - b. Expansion within a *buffer* is limited to 500 square feet beyond the existing footprint that existed on January 1, 2005;
 - c. The expansion is not located closer to the *critical area* than the closest point of the existing residence;
 - d. The functions of *critical areas* are preserved to the greatest extent reasonably feasible consistent with *best available science*;
 - e. Impacts to *critical areas* are *mitigated* to the greatest extent reasonably feasible so that there is *no net loss* in *critical area* functions;
 - f. Drainage capabilities are not adversely impacted; and
 - g. The *city* may require a *critical area study* or *restoration* plan for this exemption.
 11. **Conservation, preservation, restoration and/or enhancement of critical areas that does not negatively impact the functions of any critical area.** If the proposed work requires Hydraulic Project Approval from the State of Washington Department of Fisheries, the *code official* may require a *critical area study*.
 12. **Tree pruning, cutting and removal in accordance with the permit requirements of chapter 19.10 MICC, Trees.**
 13. **Alterations to Category III and IV wetlands** of low value under 2,500 square feet.

B. Reasonable Use Exception

1. **Application Process.** If the application of these regulations deny *reasonable use* of a subject property, a property owner may apply to the hearing examiner for a *reasonable use* exception pursuant to permit review, public notice and appeal procedures set forth in Chapter 19.15 MICC.
2. **Studies Required.** An application for a *reasonable use* exception shall include a *critical area study* and any other related project documents, such as permit applications to other agencies, and environmental documents prepared pursuant to the State Environmental Policy Act.
3. **Criteria:** The hearing examiner will approve the application if it satisfies all of the following criteria:
 - a. The application of these regulations deny any *reasonable use* of the property. The hearing examiner will consider the amount and percentage of lost economic value to the property owner;
 - b. No other *reasonable use* of the property has less impact on *critical areas*. The hearing examiner may consider alternative reasonable uses in considering the application;
 - c. Any *alteration to critical areas* is the minimum necessary to allow for *reasonable use* of the property;
 - d. Impacts to *critical areas* are *mitigated* to the greatest extent reasonably feasible consistent with *best available science*;
 - e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare; and
 - f. The inability of the applicant to derive *reasonable use* of the property is not the result of actions by the applicant after the effective date of this chapter.

The hearing examiner may approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the above criteria. The applicant has the burden of proof in demonstrating that the above criteria are met. Appeals of the hearing examiner's decision may be made to Washington State Superior Court.

19.07.040 Review and Construction Requirements.

- A. **Development Standards.** The applicant will comply with the general *development* standards set forth in chapter 19.09 MICC.
- B. **Native Growth Protection Areas.**
 1. *Native growth protection areas* may be used in *development* proposals for *subdivisions* and *lot line revisions* to delineate and protect contiguous *critical areas*.
 2. *Native growth protection areas* shall be designated on the face of the plat or recorded drawing in a format approved by the *city*. The designation shall include an assurance that *native vegetation* will be preserved and grant the *city* the right to enforce the terms of the restriction.
- C. **Setback Deviation.** An applicant may seek a *deviation* from required front and back *yard* setbacks pursuant to MICC 19.020.020(C)(4).
- D. **Variiances.** Variiances pursuant to MICC 19.01.070 are not available to reduce any numeric requirement of this chapter. However, the allowed *alterations* and the

- C. **Setback Deviation.** An applicant may seek a *deviation* from required front and back *yard* setbacks pursuant to MICC 19.020.020(C)(4).
- D. **Variances.** Variances pursuant to MICC 19.01.070 are not available to reduce any numeric requirement of this chapter. However, the allowed *alterations* and the *reasonable use* exception allowed pursuant to MICC 19.07.030 may result in *city* approvals with reduced numeric requirements.
- E. **Appeals.** Appeals of decisions made under the provisions of this chapter shall follow the procedures outlined in MICC 19.15.010(E) and 19.15.020(J).
- F. **Fees.** Fees shall be set forth in a schedule adopted by City Council resolution. The fee should be based on a submittal fee and the time required to review *development* applications for *alterations* within *critical areas* and *buffers*.
- G. **Hold Harmless/Indemnification Agreement and Covenant Not to Sue, Performance Guarantees, Performance Bonds, Insurance.** An applicant for a permit within a *critical area* will comply with the requirements of MICC 19.01.060, if required by the *code official*.
- H. **Erosion Control Measures.**
 - 1. A *temporary erosion and sediment control plan* shall be required for *alterations* on sites that contain *critical areas*.
 - 2. Erosion control measures shall be in place, including along the outer edge of *critical areas* prior to clearing and grading. Monitoring surface water discharge from the site during construction may be required at the discretion of the *code official*.
- I. **Timing.** All *alterations* or *mitigation* to *critical areas* shall be completed prior to the final inspection and occupancy of a project. Upon a showing of good cause, the *code official* may extend the completion period.
- J. **Maintenance and Monitoring.**
 - 1. Landscape maintenance and *monitoring* may be required for up to five (5) years from the date of project completion if the *code official* determines such condition is necessary to ensure *mitigation* success and *critical area* protection.
 - 2. Where *monitoring* reveals a significant variance from predicted impacts or a failure of protection measures, the applicant shall be responsible for appropriate corrective action, which may be subject to further *monitoring*.
- K. **Suspension of Work.** If the *alteration* does not meet *city* standards established by permit condition or applicable codes, including controls for water quality, erosion and sedimentation, the *city* may suspend further work on the site until such standards are met.

19.07.050 Critical Area Study. When a *critical area study* is required under MICC 19.07.030, .060, .070, .080 or .090, the following documents are required:

- A. Site survey.
- B. Cover sheet and site construction plan.
- C. *Mitigation* and *restoration* plan to include the following information:
 - 1. Location of existing *trees* and vegetation and proposed removal of same;
 - 2. *Mitigation* proposed including location, type, and number of replacement *trees* and vegetation;
 - 3. Delineation of *critical areas*;
 - 4. In the case of a *wildlife habitat conservation area*, identification of any known endangered or threatened species on the site;

5. Proposed grading;
6. Description of impacts to the functions of *critical areas*; and
7. Proposed *monitoring* plan.

A *mitigation* and *restoration* plan may be combined with a stormwater control management plan or other required plan. Additional requirements that apply to specific *critical areas* are located in MICC 19.07.060, *Geologic Hazard Areas*; MICC 19.07.070, *Watercourses*; MICC 19.07.080, *Wetlands* and MICC 19.07.090, *Wildlife Habitat Conservation Areas*.

- D. Stormwater and erosion control management plan consistent with chapter 15.09 MICC. Off-site measures may be required to correct impacts from the proposed *alteration*.
- E. Other technical information consistent with the above requirements, as required by the *code official*.

The *critical area study* requirement may be waived or modified if the *code official* determines that such information is not necessary for the protection of the *critical area*.

19.07.060 Geologic Hazard Areas.

- A. **Designation.** All property meeting the definition of a *geologic hazard area* is designated as a *geologic hazard area*.
- B. **Buffers.** There are no *buffers* for *geologic hazard areas* but a geotechnical report is required prior to making *alterations* in *geologic hazard areas*. This provision shall not change *development* limitations imposed by the creation of building pads under MICC 19.09.090.
- C. **Geotechnical Review.**
 1. The applicant must submit a geotechnical report concluding that the proposal can effectively *mitigate* risks of the hazard. Consistent with MICC 19.07.050, the report shall suggest appropriate design and *development* measures to *mitigate* such hazards.
 2. The *city* may require peer review of the geotechnical report by a second *qualified professional* to verify the adequacy of the information and analysis. The applicant shall bear the cost of the peer review.
 3. The *code official* may waive the requirement for a geotechnical report when the proposed *alteration* does not pose a threat to the public health, safety, and welfare, in the sole opinion of the *code official*.
- D. **Site Development.**
 1. **Development Conditions.** *Alterations of geologic hazard areas* may occur if the *code official* concludes that such *alterations*:
 - a. Will not adversely impact other *critical areas*;
 - b. Will not adversely impact (e.g. landslides, earth movement, increase surface water flows, etc) the subject property or adjacent properties;
 - c. Will *mitigate* impacts to the *geologic hazard area* consistent with *best available science* to the maximum extent reasonably possible such that the site is determined to be safe; and
 - d. Include the landscaping of all disturbed areas outside of building footprints and installation of all impervious surfaces prior to final inspection.
 2. **Statement of Risk.** *Alteration within geologic hazard areas* may occur if the *development* conditions listed above are satisfied and the *geotechnical professional*

provides a statement of risk with supporting documentation indicating that one of the following conditions can be met:

- a. The *geologic hazard area* will be modified, or the *development* has been designed so that the risk to the *lot* and adjacent property is eliminated or *mitigated* such that the site is determined to be safe;
 - b. Construction practices are proposed for the *alteration* that would render the *development* as safe as if it were not located in a *geologic hazard area*;
 - c. The *alteration* is so minor as not to pose a threat to the public health, safety and welfare; or
 - d. An evaluation of site specific subsurface conditions demonstrates that the proposed *development* is not located in a *geologic hazard area*.
3. **Development Limitations.** Within a *landslide hazard area*, the *code official* may restrict *alterations* to the minimum extent necessary for the construction and maintenance of structures and related access where such action is deemed necessary to mitigate the hazard associated with *development*.
4. **Seasonal Limitations.**
Land clearing, grading, filling, and foundation work within *geologic hazard areas* are not permitted between October 1 and April 1. The *code official* may grant a waiver to this seasonal *development* limitation if the applicant provides a geotechnical report of the site and the proposed construction activities that concludes erosion and sedimentation impacts can be effectively controlled on site consistent with adopted stormwater standards and the proposed construction work will not subject people or property, including areas offsite, to an increased risk of the hazard. As a condition of the waiver, the *code official* may require erosion control measures, *restoration* plans, and/or an indemnification/release agreement. Peer review of the geotechnical report may be required in accordance with MICC 19.07.060(C). If site activities result in erosion impacts or threaten water quality standards, the *city* may suspend further work on the site and/or require remedial action.

19.07.070 Watercourses.

- A. **Watercourses: Designation and Typing.** *Watercourses* shall be designated as Type 1, Type 2, Type 3 and Restored according to the following criteria:
1. **Type 1 Watercourse.** *Watercourses* or reaches of *watercourses used by fish*, or are downstream of areas *used by fish*.
 2. **Type 2 Watercourse.** *Watercourses* or reaches of *watercourses with year-round flow, not used by fish*.
 3. **Type 3 Watercourse.** *Watercourses* or reaches of *watercourses with intermittent or seasonal flow and not used by fish*.
 4. **Restored Watercourse.** Any Type 1, 2 or 3 *Watercourses* created from the opening of previously piped, channelized or culverted *watercourses*.
- B. **Watercourse Buffers.**
1. **Watercourse buffer widths.** Standard *buffer* widths shall be as follows, measured from the *ordinary high water mark* (OHW), or top of bank if the OHW cannot be determined through simple non-technical observations.

Watercourse Type	Standard (Base) Buffer Width (feet)	Minimum Buffer Width with Enhancement (ft)
Type 1	75	37
Type 2	50	25
Type 3	35	25
Restored	25	Determined by the <i>code official</i>

2. Reduction of buffer widths.

- a. The *code official* may allow the standard *buffer* width to be reduced to not less than the above listed minimum width in accordance with an approved *critical area study* when he/she determines that a smaller area is adequate to protect the *watercourse*, the impacts will be *mitigated* by using combinations of the below *mitigation* options, and the proposal will result in *no net loss* of *watercourse* and *buffer* functions. However, in no case shall a reduced *buffer* contain a *steep slope*.
- b. The *code official* may consider the following *mitigation* options:
 - i. Permanent removal of impervious surfaces and replacement with native vegetation;
 - ii. Installation of biofiltration/infiltration mechanisms such as bioswales, created and/or *enhanced* wetlands, or ponds supplemental to existing storm drainage and water quality requirements;
 - iii. Removal of *noxious weeds*, replanting with *native vegetation* and 5 year *monitoring*;
 - iv. Habitat *enhancement* within the *watercourse* such as log structure placement, bioengineered bank stabilization, culvert removal, improved *salmonid* passage and/or creation of side channel or backwater areas;
 - v. Use of *best management practices* (e.g. oil/water separators) for storm water quality control exceeding standard requirements;
 - vi. Installation of pervious material for driveway or road construction;
 - vii. Use of “green” roofs in accordance with the standards of the LEED Green Building Rating System;
 - viii. *Restoration* of off-site area if no on-site area is possible;
 - ix. Removal of sources of toxic material that predate the applicant’s ownership; and
 - x. Opening of previously channelized and culverted *watercourses* on or off-site.

3. Averaging of buffer widths. The *code official* may allow the standard *buffer* width to be averaged if:

- a. The proposal will result in a net improvement of *critical area* function;
- b. The proposal will include replanting of the averaged *buffer* using *native vegetation*;
- c. The total area contained in the averaged *buffers* on the *development* proposal site is not decreased below the total area that would be provided if the maximum width were not averaged;
- d. The standard *buffer* width is not reduced to a width that is less than the minimum *buffer* width at any location; and
- e. That portion of the *buffer* that has been reduced in width shall not contain a *steep slope*.

4. **Restoring Piped Watercourses.**

- a. Removal of pipes conveying *watercourses* shall only occur when the *code official* determines that the proposal will result in a net improvement of ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.
- b. Where the *buffer* of the *restored watercourse* would extend beyond a required setback the applicant shall obtain written agreement from the affected neighboring property owner. The *city* may deny a request to *restore a watercourse* if it results in *buffers* being adjusted and increased onto adjacent properties.

C. **Impervious Surfaces.** Impervious surface shall not be permitted within a *watercourse* or *watercourse buffer* except as specifically provided in this chapter.

D. **Development Standards.**

- 1. Type 3 *watercourses* may be relocated when such relocation results in equivalent or improved *watercourse* functions. Type 1 and 2 *watercourses* shall not be relocated except through the *reasonable use* exception.
- 2. Existing *watercourses* shall not be placed into culverts except as provided by the allowed *alterations* or *reasonable use* exception. When culverts are allowed, they shall be designed to *mitigate* impacts to *critical area* functions. Oversize and open bottom culverts lined with rock that maintain a semi-natural stream bed are preferred to round culverts.

19.07.080 Wetlands.

A. **Wetland Designation.** All property meeting the definition of a *wetland* in the *Wetland Manual* is designated as a *wetland*.

B. **Wetland Ratings.** *Wetlands* shall be rated as Category I, Category II, Category III or Category IV according to the *Wetland Classification System*.

C. **Wetland Buffers.**

- 1. **Standard Wetland Buffer Widths.** The following standard *buffer* widths shall be established from the outer edge of *wetland* boundaries:

Wetland Type	Standard (Base) Buffer Width (feet)	Minimum Buffer Width with Enhancement (ft)
Category I*	100	50
Category II	75	37
Category III	50	25
Category IV	35	25

* Note: There are no known Category I wetlands in the *city*.

- 2. **Reduction of Wetland Buffer Widths.** The *code official* may allow the standard *wetland buffer* width to be reduced to not less than the minimum *buffer* width in accordance with an approved *critical area study* when he/she determines that a smaller area is adequate to protect the *wetland* functions, the impacts will be *mitigated* consistent with MICC 19.07.070(B)(2), and the proposal will result in *no net loss* of *wetland* and *buffer* functions.

- 3. **Averaging of Wetland Buffer Width.** The *code official* may allow averaging of the standard *wetland buffer* widths in accordance with the criteria of MICC 19.07.070(B)(3).

- D. **Alterations.** Category III and IV *wetlands* of less than one acre in size may be *altered* if the applicant can demonstrate that the *wetland* will be *restored, enhanced, and/or* replaced with a *wetland* area of equivalent or greater function. In cases where the applicant demonstrates that a suitable on-site solution does not exist to *enhance, restore, replace* or maintain a *wetland* in its existing condition, the *city* may permit the applicant to provide off-site replacement by a *wetland* with equal or better functions. The off-site location must be in the same drainage sub-basin as the original *wetland*.

19.07.090 Wildlife Habitat Conservation Areas.

- A. **Designation.** Bald eagles are the only endangered or, threatened non-aquatic wildlife species known to inhabit Mercer Island and the *city* designates those areas used by these species for nesting, breeding, feeding and survival as *wildlife habitat conservation areas*. If other non-aquatic species are later added by the State Washington Fish and Wildlife Department as endangered or threatened as set forth in WAC 232-12-011 through 014, as amended, the city council will consider amending this section to add such species. The provisions of this section do not apply to any habitat areas which come under the jurisdiction of the *city's* shoreline master program. The *city's watercourse, wetland* and shoreline regulations in this chapter provide required protections for aquatic species.
- B. **Establishment of Buffers.** For any *wildlife habitat conservation area* located within other *critical areas* regulated in this chapter, the *buffers* for those *critical areas* shall apply except where species exist that have been identified by the State Department of Fish and Wildlife as endangered or threatened. If such species are present, the applicant shall comply with all state or federal laws in connection with any *alteration* of the *wildlife habitat conservation area* and the *code official* may require a *critical area study*.
- C. **Seasonal restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Activities may be further restricted and *buffers* may be increased during the specified season.

Section 6: Shoreline Regulations. Chapter 19.07 MICC, "Environment" shall be amended to renumber MICC 19.07.050, "Shoreline areas" to MICC 19.07.100; to renumber MICC 19.07.080, "Shoreline Management Master Program" to MICC 19.07.110 and to renumber MICC 19.07.100, "Environmental Procedures" to MICC 19.07.120.

Section 7. Setback Deviation. MICC 19.02.020, "Lot requirements" shall be amended to add a new subsection (4) under "Yard Requirements" authorizing an administrative yard setback deviation process as follows:

MICC 19.02.020(C)(4). Setback Deviation. On any *lot* with a *critical area* that makes it impractical to locate a building pad on the *lot* except by intruding into required *yards*, the *code official* shall have discretion to grant a *deviation* from *yard* setbacks for single *lots, subdivisions* and *lot line revisions*.

- A. The *city* shall provide notice of the proposed action as required by MICC 19.15.020(D) and (E).
- B. The decision to grant the *deviation* shall be pursuant to procedures contained in MICC 19.15.010(E) and MICC 19.15.020(G)(5).
- C. In granting any such *deviation*, the *code official* may require the submission of any reasonably necessary information.

- D. Setback *deviations* for *lot line revisions* shall be recorded on final approved documents.
- E. *Yard setbacks* shall not be reduced below the following minimums:
 - 1. Front and rear setbacks may not be reduced to less than ten (10) feet each;
 - 2. Side setbacks may not be reduced to less than five (5) feet.

Section 8. Property Development. Chapter 19.09 MICC, "Property Development" shall be amended to add a new MICC 19.09.010, MICC 19.09.020, MICC 19.09.090 and 19.09.100 as follows:

19.09.010 Preapplication Meeting.

- A. Preapplication meetings between the applicant, members of the applicant's project team and City staff are required for all *subdivisions* or *lot line revisions* and for building permits for projects at least 500 square feet in area and for any *alteration* of a *critical area* or *buffer*, except those alterations that are identified as allowed uses under subsections MICC 19.07.030(A)(1) through (5), (8) and (12).
- B. The preapplication meeting will include a preliminary examination of the proposed project and a review of codes as described in MICC 19.15.020(A).
- C. *City staff* are not authorized to approve any plan or design offered by the applicant at a pre-application meeting.

19.09.020 Field Markings

- A. Prior to the start of construction, the applicant shall mark the following on the site to reflect the proposed site construction plan: the location of the building footprint, *critical area(s)* boundaries, the outer extent of *yard setbacks*, areas to remain undisturbed, and *trees* and vegetation to be removed.
- B. The applicant shall maintain the field markings for *critical area(s)* and areas to remain undisturbed throughout the duration of the construction permit.
- C. The *code official* may waive the requirement for field marking when no activity is proposed within or adjacent to a *critical area*.

19.09.090 Building Pad

- A. **Designation.** New *subdivisions* must designate a *building pad* for each lot as follows:
 - 1. The applicant must determine the location of a *building pad* by considering vegetation, topography, *critical areas*, and the relationship of the proposed *building pad* to existing/proposed homes. Access to the *building pad* must be consistent with the standards for driveway access contained in MICC 19.09.040.
 - 2. *Building pads* shall not be located within *yard setbacks*, rights of way and *critical areas* or *its buffers*; provided, however, building pads may be located within *landslide hazard areas* when all of the following are met: (i) A *qualified professional* determines that the criteria of MICC 19.07.060(C), *site development*, is satisfied; (ii) *Building pads* are sited to minimize impacts to the extent reasonably feasible; and (iii) *Building pads* are not located in *steep slopes* or within ten (10) feet from the top of a *steep slope*, unless such slopes, as determined by a *qualified professional*, consist of soil types determined not to be landslide prone.
 - 3. No cross-section dimension of a *building pad* shall be less than 20 feet in width.

4. Approved *building pads* and *critical areas* shall be identified on the final recorded documents.
 5. On lots with a designated *building pad* area, building construction is limited to the designated *building pad* area.
- B. **No Designated Building Pad Area.** On lots without a designated *building pad* area, *development* shall be located outside of *critical areas* unless otherwise allowed by chapter 19.07 MICC.

19.09.100 Preferred Practices. The applicant must use reasonable best efforts to comply with the following preferred *development* practices:

1. Use common access drives and utility corridors.
2. *Development*, including roads, walkways and parking areas in *critical areas* should be avoided or if not avoided, adverse impacts to *critical areas* will be *mitigated* to the greatest extent reasonably feasible.
3. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes.

Section 9. Administration. Chapter 19.15 MICC, “Administration” shall be amended by adding the new underlined text and deleting the strikethrough lined text, as follows:

E. Summary of Actions and Authorities. The following is a nonexclusive list of the actions that the city may take under the development code, the criteria upon which those decisions are to be based, and which boards, commissions, elected officials, or city staff have authority to make the decisions and to hear appeals of those decisions.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Ministerial Actions			
Right-of-Way Permit	City engineer	Chapter 19.09 MICC	Hearing examiner
Home Business Permit	Code official	MICC 19.02.010	Hearing examiner
Special Needs Group Housing Safety Determination	Director of public safety	MICC 19.06.080 (A)	Hearing examiner
Lot Line Adjustment Permit	Code official	Chapter 19.08 MICC	Hearing examiner
Design Review – Minor Exterior Modification Outside Town Center	Code official	MICC 19.15.040, Chapters 19.11 and 19.12 MICC	Design commission
Design Review – Minor Exterior Modification in Town Center	Design commission	MICC 19.15.040, Chapters 19.11 and 19.12 MICC	Hearing examiner
Final Short Plat Approval	Code official	Chapter 19.08 MICC	Planning commission

Seasonal Development Limitation Waiver	Building official or city arborist	MICC 19.10.030, 19.07.020(B)(1)(a) <u>19.07.060(D)(4)</u>	Building board of appeals
Development code interpretations	Code official	MICC 19.15.020 (L)	Planning commission
Administrative Actions			
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner
Short Plat	Code official	Chapter 19.08 MICC	Planning commission
Variance	Code official or hearing examiner	MICC 19.15.020 (G)	Planning commission
Deviation	Code official or hearing examiner	MICC 19.15.020 (G)	Planning commission
<u>Critical Areas Lands</u> Determination	Code official	Chapter 19.07 MICC	Planning commission
Shoreline – Substantial Development Permit	Code official	MICC 19.07. 080 -110	Shoreline hearings board
Shoreline – Exemption	Code official	MICC 19.07. 080 -110	City council*
SEPA Threshold Determination	Code official	MICC 19.07. 400 -120	Planning commission
Discretionary Actions			
Conditional Use Permit	Planning commission	MICC 19.11.130 (2), 19.15.020 (G)	Hearing examiner
Reclassification (Rezone)	City council via planning commission*	MICC 19.15.020 (G)	Superior court
Design Review – Major New Construction	Design commission	MICC 19.15.040, Chapters 19.11 and 19.12 MICC	Hearing examiner
Preliminary Long Plat Approval	City council via planning commission**	Chapter 19.08 MICC	Superior court
Variance from Short Plat Acreage Limitation	Planning commission	MICC 19.08.020	City council
<u>Critical Areas Reasonable Use Exception</u>	<u>Hearing Examiner</u>	<u>MICC 19.07.030(B)</u>	<u>Planning Commission</u> <u>Superior court</u>

Street Vacation	City council via Planning commission**	MICC 19.09.070	Superior court
Watercourse Variance	Planning commission	MICC 19.07.030	City council
Shoreline Deviation	Planning commission	MICC 19.07.080	City council
Legislative Actions			
Code Amendment	City council via planning commission**	MICC 19.15.020 (G)	Superior court
Comprehensive Plan Amendment	City council via planning commission**	MICC 19.15.020 (G)	Superior court
*Final rulings granting or denying an exemption under MICC <u>19.07.070</u> are not appealable to the shoreline hearings board (SHB No. 98-60).			
**The original action is by the planning commission which holds a public meeting and makes recommendations to the city council which holds an open record hearing and makes the final decision.			

Section 10. Transmittal to State. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington Department of Community, Trade and Economic Development as required by law.

Section 11: Preparation of Final Critical Areas Ordinance. City staff are hereby directed to complete preparation of the final CAO, including correction of any typographical edits, and inclusion of appropriate graphics and illustrations.

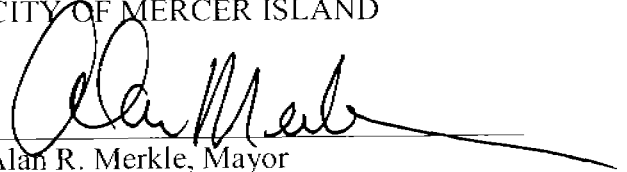
Section 12: Severability/Validity. The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases were unconstitutional or invalid.

Section 13: Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

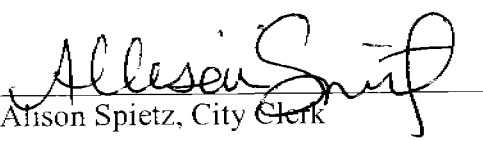
Section 14: Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage and publication.

Passed by the City Council of the City of Mercer Island, Washington at its regular meeting on the 21st of November 2005, and signed in authentication of its passage.


CITY OF MERCER ISLAND


Alan R. Merkle, Mayor

ATTEST:


Alison Spietz, City Clerk

Approved as To Form:


Londi K. Lindell, City Attorney

Date of Publication: 12/7/05

**CITY OF MERCER ISLAND
ORDINANCE NO. 08C-01**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON
AMENDING MERCER ISLAND CITY CODE TITLE 19, UNIFIED LAND
DEVELOPMENT CODE**

WHEREAS, the City of Mercer Island Municipal Code (MICC) contains Title 19, the Unified Land Development Code (ULDC), adopted on November 15, 1999 as Ordinance No. 99C-13;

WHEREAS, the City's Responsible Official reviewed the proposed amendments to the Chapter 19 under the provisions of the State Environmental Policy Act (SEPA) and issued a Determination of Non-Significance on October 3, 2007;

WHEREAS, the City complied with all public notice requirements for the Planning Commission open record public hearing and the City Council public hearing;

WHEREAS, the Mercer Island Planning Commission held an open record public hearing on November 7, 2007 consistent with ULDC 19.15.010(E) to consider the proposed amendments to Chapter 19;

WHEREAS, after hearing public testimony and deliberation, the Mercer Island Planning Commission issued a unanimous recommendation of approval of the proposed amendments to the Mercer Island City Council;

WHEREAS, the City Council held a public hearing consistent with ULDC 19.15.010(E) on December 3, 2007 and completed a first reading of this Ordinance;

WHEREAS, the City Council considered this Ordinance for second reading and adoption in January 2008; and

WHEREAS, after considering all public testimony and written comments, the City Council adopts the following Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Chapter 19.02 Residential.** MICC 19.02.010 "Single-family", 19.02.020 "Lot requirements", 19.02.030 "Accessory dwelling units" and 19.02.040 "Garages and other accessory buildings" are hereby amended as follows:

19.02.010 Single-family.

A use not permitted by this section is prohibited. Please refer to MICC 19.06.010 for other prohibited uses.

... [sections (A) through (E) remain unchanged]

19.02.020 Lot requirements.

A. Minimum Lot Area.

R-8.4: The lot area shall be at least 8,400 square feet. Lot width shall be at least 60 feet and lot depth shall be at least 80 feet.

R-9.6: The lot area shall be at least 9,600 square feet. Lot width shall be at least 75 feet and lot depth shall be at least 80 feet.

R-12: The lot area shall be at least 12,000 square feet. Lot width shall be at least 75 feet and lot depth shall be at least 80 feet.

R-15: The lot area shall be at least 15,000 square feet. Lot width shall be at least 90 feet and lot depth shall be at least 80 feet.

1. Minimum lot area requirements do not apply to any lot that came into existence before September 28, 1960; however structures may be erected on the lot only if those structures comply with all other restrictions governing the zone in which the lot is located.

2. In determining whether a lot complies with the lot area requirements, the following shall be excluded: the ~~shorelands part~~ area between lateral lines of any such lot and any part of such lot which is part of a street.

B. Street Frontage. No building will be permitted on a lot that does not front onto a street acceptable to the city as substantially complying with the standards established for streets.

C. Yard Requirements.

1. Minimum. Except as otherwise provided in this section, each lot shall have front, rear, and side yards not less than the depths or widths following:

a. Front yard depth: 20 feet or more.

b. Rear yard depth: 25 feet or more.

c. Side yard depth: The sum of the side yards shall be at least 15 feet; provided, no side yard abutting an interior lot line shall be less than five feet, and no side yard abutting a street shall be less than 10 feet.

2. Yard Determination.

a. Front Yard. The front yard is the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the code official shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot.

i. Waterfront Lot. On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.

b. Rear Yard. The rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch. If this definition does not establish a rear yard setback for irregular shaped lots, the code official may establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least ten (10) feet in length, parallel to and at a maximum distance from the front lot line.

c. Corner Lots. On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot

abutting a street shall be a side yard. If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard. This code section shall apply except as provided for in 19.08.030(F)(1).

d. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

... [the remainder of section (C) remains unchanged]

D. Lot Coverage.

1. Maximum Impervious Surface Limits for Lots. The total percentage of a lot that can be covered by impervious surfaces (including buildings) is limited by the slope of the lot for all single-family zones as follows:

Lot Slope	Lot Coverage (limit for impervious surfaces)
Less than 15%	40%*
15% to less than 30%	35%
30% to 50%	30%
Greater than 50% slope	20%

*Public and private schools, religious institutions, private clubs and public facilities (excluding public parks or designated open space) in single-family zones with slopes of less than 15 percent may be covered by the percentage of legally existing impervious surface that existed on May 1, 2006, as determined by the code official.

2. Exemptions. The following improvements will be exempt from the calculation of the maximum impervious surface limits set forth in subsection (D)(1) of this section:

a. Decks/Platforms. Decks and platforms constructed with gaps measuring one-eighth inch or greater between the boards which provide free drainage between the boards as determined by the code official shall be exempt from the calculation of maximum impervious surface limits so long as the surface below the deck or platform is not impervious.

b. Pavers. Pavers installed with a slope of five percent or less and covering no more than 10 percent of the total lot area will be calculated as only 75 percent impervious. Provided, however, that all pavers placed in driveways, private streets, access easements, parking areas and critical areas shall be considered 100 percent impervious.

c. Patios/Terraces. Uncovered patios/ terraces constructed of pavers shall be exempt from the maximum impervious surface limits.

d. Pedestrian-Oriented Walkways. Uncovered pedestrian walkways constructed with gravel or pavers not to exceed 36 inches in width shall be exempt from the maximum impervious surface limits.

e. Public Improvements. Open storm water retention/detention facilities, public rights-of-way and public pedestrian trails shall be exempt from the maximum impervious surface limits.

f. Rockeries/Retaining Walls. Rockeries and retaining walls shall be exempt from the maximum impervious surface limits.

3. Deviation. The code official may grant a deviation, allowing an additional five percent of lot coverage over the maximum requirements; provided, the applicant demonstrates through the

submittal of an application and supporting documentation that the proposal meets one of the following criteria:

- a. The proposal uses preferred practices, outlined in MICC ~~19.07.010(B)(2)~~19.09.100, which are appropriate for the lot; or
- b. The lot has a unique shape or proportions (i.e., a flag lot, with a circuitous driveway corridor); or
- c. The proposal minimizes impacts to critical areas and provides the minimum extent possible for the additional impervious surfaces.

The city shall provide notice for the proposed action as required by MICC 19.15.020 (D) and (E), Administration.

... [the remainder of section (C) remains unchanged]

... [sections (E) and (F) remain unchanged]

19.02.030 Accessory dwelling units.

... [section (A) remains unchanged]

B. Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided, the following requirements are met:

1. Owner Occupancy. Either the principal dwelling unit or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner. Owner occupancy is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year.

2. Number of Occupants. The total number of occupants in both the principal dwelling unit and accessory dwelling unit combined shall not exceed the maximum number established for a family as defined in MICC 19.16.010 plus any live-in household employees of such family.

3. Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

4. Size and Scale. The square footage of the accessory dwelling unit shall be a minimum of 220 square feet and a maximum of 900 square feet, excluding any garage area; provided, the square footage of the accessory dwelling unit shall not exceed ~~40~~ 80 percent of the total square footage of the primary dwelling unit, excluding the garage area, as it exists or as it may be modified.

5. Location. The accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure.

6. Entrances. The single-family dwelling containing the accessory dwelling unit shall have only one entrance on each front or street side of the residence except where more than one entrance existed on or before January 17, 1995.

7. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of developing an accessory dwelling unit, shall be designed consistent with the existing roof pitch, siding, and windows of the principal dwelling unit.

8. Detached Structures. Accessory dwelling units shall be permitted in a detached structure.

9. Parking. All single-family dwellings with an accessory dwelling unit shall meet the parking requirements pursuant to MICC 19.02.020(E)(1) applicable to the dwelling if it did not have such an accessory dwelling unit.

... [sections (C) through (G) remain unchanged]

19.02.040 Garages and other accessory buildings.

... [sections (A) and (B) remain unchanged]

C. Detached Accessory Building. Accessory buildings are not allowed in required yard setbacks; provided, one detached accessory building with a gross floor area of ~~420~~200 square feet or less and a height of 12 feet or less may be erected in the rear yard setback. If such an accessory building is to be located less than five feet from any property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the King County Department of Records and thereafter filed with the city.

... [sections (D) and (E) remain unchanged]

Section 2: Chapter 19.03 Multiple-Family. MICC 19.03.010 “Multiple-family” is hereby amended as follows:

19.03.010 Multiple-family.

... [sections (A) through (D) remain unchanged]

E. Building Height Limit.

1. MF-2L: No building shall exceed 24 feet or two stories in height (excluding daylight basements), whichever is less-, except appurtenances may extend to a maximum of five feet above the height allowed for the main structure.

2. MF-2, MF-3: No building shall exceed 36 feet or three stories in height, whichever is less-, except appurtenances may extend to a maximum of five feet above the height allowed for the main structure.

... [sections (F) through (H) remain unchanged]

Section 2: Chapter 19.06 General Regulations. 19.06.020 “Temporary signs” and 19.06.040 “Wireless communications” are hereby amended as follows:

19.06.020 Temporary signs.

A. General Provisions. All temporary signs in the city are subject to the following conditions:

1. Signs may not be placed on private property without permission of the owner.
2. All signs shall be unlit.
3. Signs shall not obstruct vehicular or pedestrian traffic.
4. It is the responsibility of the person posting a temporary sign to remove it.

5. Except as specified elsewhere in this section, temporary signs shall not exceed 60 inches above the ground and shall not exceed six square feet in area; provided, signs up to 16 square feet in area may be allowed subject to the issuance of a permit from the code official; further provided, both sides of an A-frame sign shall be counted in calculating the sign's area.

6. Signs in Public Rights-of-Way. Signs may not be placed on public property except for publicly owned rights-of-way. In addition to all other applicable conditions, signs placed in rights-of-way shall be subject to the following conditions:

a. Signs may be placed on rights-of-way adjacent to a single-family dwelling only with permission of the adjoining property owner.

b. Signs shall not create a traffic safety or maintenance problem, and the city may remove and dispose of any signs that do constitute a problem.

c. Signs placed on public property shall be freestanding and shall not be attached to any structure or vegetation. Signs attached to utility poles, traffic signs, street signs, or trees are specifically forbidden.

d. Signs shall be either an A-frame design or shall be attached to a stake driven into the ground well clear of tree roots, irrigation lines and any other underground vegetation or structures that could be damaged by such a stake.

e. A temporary sign, other than a political sign, may only be erected for a maximum of 90 days during any 365 day period.

... [sections (B) and (C) remain unchanged]

19.06.040 Wireless communications.

A. Town Center, Commercial/Office, Business Zone and Planned Business Zones.

1. Permitted Use. Attached WCFs are permitted in the Town Center, commercial/office, Business Zone and planned business zones. WCFs with support structures are permitted in the commercial/office and planned business zone districts, and are not permitted in the Town Center district.

a. Town Center Zone (TC). The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 15 feet. Wireless support structures are not allowed in the TC zone.

b. Commercial/Office Zone (C-O). The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 10 feet. Structures shall not be located within front yard setbacks. Structures in the side and rear yards must be set back from adjacent property a distance equal to the height of the pole. New WCFs may be located on a monopole and shall not exceed 60 feet in height.

c. Planned Business Zone (PBZ) and Business Zone (B). The height of attached WCFs shall not exceed the height of the structure it is attached to by more than 10 feet. Structures shall not be located within the setbacks. New WCFs may be located on a monopole and shall not exceed 60 feet in height.

2. Approval Process/Design Review. The approval process for WCFs in the Town Center, commercial/office and planned business zones shall be as follows:

a. Minor Exterior Modifications. An attached WCF shall be processed as a minor exterior modification with administrative review. The code official has discretion to send applications to the design commission for issues deemed significant.

b. Major New Construction. A WCF which requires a support structure shall be considered major new construction with review by the design commission.

... [sections (B) through (J) remain unchanged]

Section 3: Chapter 19.07 Environment. MICC 19.07.070 “Watercourses”, 19.07.100 “Shoreline areas”, 19.07.110 “Shoreline management master program” and 19.07.120 “Environmental procedures” are hereby amended as follows:

19.07.070 Watercourses.

... [section (A) remains unchanged]

B. Watercourse Buffers.

1. Watercourse Buffer Widths. Standard buffer widths shall be as follows, measured from the ordinary high water mark (OHW), or top of bank if the OHW cannot be determined through simple nontechnical observations.

Watercourse Type	Standard (Base) Buffer Width (feet)	Minimum Buffer Width with Enhancement (feet)
Type 1	75	37
Type 2	50	25
Type 3	35	25
Restored or Piped	25	Determined by the code official

... [the remainder of section (B) remains unchanged]

... [sections (C) through (D) remain unchanged]

19.07.100 Shoreline areas.

Shorelands directly impact water quality as surface and subsurface waters are filtered back into the lake. Additionally, shorelines are a valuable fish habitat area characterized by lake bottom conditions, erosion tendencies, and the proximity to watercourse outfalls. These may combine to provide a suitable environment for spawning fish.

A. Critical Areas Delineations.

1. A survey to determine the line of ordinary high water (OHW) shall be current to within one year of the application for single lots, short subdivisions, long subdivisions, or lot line revisions.

2. The survey may be included in the site construction plan (see MICC 19.07.060, Reports and Surveys) or waived by city staff if the OHW has been delineated by an existing bulkhead.

3. Mark the shoreline setback on the site prior to the preconstruction meeting. ~~See MICC 19.07.010(A)(3), Performance for All Development.~~

... [sections (B) through (E) remain unchanged]

19.07.110 Shoreline management master program.

... [section (A) remains unchanged]

B. Shoreline Designated Environments.

1. Designated Environments. Different areas of the city's shoreline have different natural characteristics and development patterns. As a result, three shoreline designated environments are established to regulate developments and uses consistent with the specific conditions of the designated environments and to protect resources of the Mercer Island shoreline jurisdiction.

They are:

a. Conservancy Environment. This environment constitutes large undeveloped areas with some natural constraints such as wetland conditions, containing a variety of flora and fauna. The purpose of this environment is to protect and manage the existing natural resources in order to achieve sustained resource utilization and provide recreational opportunities.

b. Urban Park. This environment consists of shoreline areas designated for public access and active and passive public recreation. It includes, but is not limited to street ends, public utilities and other publicly owned rights-of-way. The uses located in this environment should be water-dependent and designed to maintain the natural character of the shorelines.

c. Urban Residential. The purpose of this environment is to provide for residential and recreational utilization of the shorelines, compatible with the existing residential character in terms of bulk, scale and type of development.

2. Shoreline Environment Map. The map in Appendix F of this development code is the official map of the city designating the various shoreline environments and the shoreline jurisdiction within the city.

3. Permit Requirements for Shoreline Uses and Development within the Designated Environments. All proposed development within the shoreline jurisdiction shall be consistent with the regulations of this Shoreline Master Program, the Shoreline Management Act of 1971 and the Mercer Island development code. In addition all development shall conform to permit requirements of all other agencies having jurisdiction within the designated environments.

The following table specifies the shoreline uses and developments which may take place or be conducted within the designated environments. It also specifies the type of shoreline permit required and further states the necessary reviews under the State Environmental Policy Act (SEPA). The uses and developments listed in the matrix are allowed only if they are not in conflict with more restrictive regulations of the Mercer Island development code and are in compliance with the regulations specified in subsection D of this section.

Key:

CE: Categorically Exempt

SEP: Shoreline Exemption Permit

SDP: Substantial Development Permit

SEPA: Required Review under the State Environmental Policy Act

NP: Not Permitted Use

The regulations of the shoreline master program apply to all shoreline uses and development, whether or not that development is exempt from the permit requirements (CE, SEP, or SDP).

Shoreline Use	Designated Environments		
	Conservancy Environment	Urban Park Environment	Urban Residential Environment
Single-family residential and associated appurtenances	NP	NP	CE or SDP if the construction is not by an owner, lessee or contract purchaser for his/her own use or if alteration applies.
Multifamily residential	NP	NP	SDP, SEPA
Public and private recreational facilities and parks	SDP, SEPA	SDP, SEPA	SDP, SEPA
Moorage facilities (<u>including piers, docks, piles, lift stations, or buoys</u>)	SDP, SEPA	SDP, SEPA	SDP, SEPA
Commercial marinas, moorage and storage of commercial boats and ships	NP	NP	NP
Bulkheads and shoreline protective structures	SDP, SEPA	SDP, SEPA	SEP, SEPA
Breakwaters and jetties	NP	NP	NP
Utilities	SDP, SEPA	SDP, SEPA	CE, SEP or SDP, SEPA
Dredging	SDP, SEPA	SDP, SEPA	SDP, SEPA
Alterations over 250 cubic yards – outside the building footprint	SDP, SEPA	SDP, SEPA	SDP, SEPA
If a use is not listed in this matrix, it is not permitted.			

C. Administration and Procedures.

1. Administrative Responsibility. Except as otherwise stated in this section, the code official is responsible for:

- a. Administering the shoreline master program.
- b. Approving, approving with conditions or denying shoreline exemption permit, substantial development permits, variances and permit revisions in accordance with the provisions of this shoreline master program.
- c. Determining compliance with Chapter 43.21C RCW, State Environmental Policy Act.

2. Permits and Decisions. No development shall be undertaken within the shoreline jurisdiction without first obtaining a permit in accordance with the procedures established in the shoreline master program. In addition such permit shall be in compliance with permit requirements of all other agencies having jurisdiction within the shoreline designated environment.

~~a. Categorical Exemptions. Construction and normal maintenance of a single-family dwellings by the owner, lessee or contract purchaser, for his/her own use, which complies with all requirements of this shoreline master program and the city of Mercer Island development code, including appurtenances, is categorically exempt (CE) from the substantial development permit. Construction authorized under this exemption shall be located landward of the ordinary high water mark.~~

~~ba. Shoreline Exemption Permit. A shoreline exemption permit (SEP) may be granted to the following development as long as such development is in compliance with all applicable requirements of this shoreline master program, the city of Mercer Island development code and WAC 173-27-040:~~

~~i. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$5,0005,718 or as periodically revised by the Washington State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state.~~

~~ii. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts established to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Normal maintenance of single-family dwellings is categorically exempt as stated above;~~

~~iii. Construction of the normal protective bulkhead common to single-family dwellings. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single-family dwelling and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;~~

~~iv. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this section;~~

~~v. Construction or modification of navigational aids such as channel markers and anchor buoys;~~

~~vi. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family dwelling, for which the cost or fair market value, whichever is higher, does not exceed \$10,000.~~

~~vii. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.~~

If a development is exempt from the requirements of the substantial development permit, but a deviation or variance from the provisions of the shoreline master program is required, the

applicant must request said deviation or variance through the procedures established in this section.

c. Substantial Development Permit. A substantial development permit (SDP) is required for any development within a shoreline jurisdiction not covered under a categorical exemption or shoreline exemption permit. Requirements and procedures for securing a substantial development permit are established below. Compliance with all applicable federal and state regulations is also required.

d. Deviations and Deviation Criteria. The city planning commission shall have the authority to grant deviations from the regulations specified in Table B in subsection D of this section; provided, the proposed deviation:

- i. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;
- ii. Will not compromise a reasonable interest of the adjacent property owners;
- iii. Is necessary to the reasonable enjoyment of property rights of the applicant; and
- iv. Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.

e. Variances and Variance Criteria. Variances to the shoreline master program requirements are only granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In addition, in all instances the applicant for a variance shall demonstrate strict compliance with all variance criteria set out in MICC 19.15.020(G)(4) and the following additional criteria:

i. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional request for like actions in the area. For example if variances were granted to other developments in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

ii. Variance permits for development that will be located landward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes or significantly interferes with reasonable use of the property not otherwise prohibited by the master program;

(b) That the hardship in subsection (C)(2)(e)(ii)(a) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

(c) That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and

(e) That the public interest will suffer no substantial detrimental effect.

iii. Variance permits for development that will be located waterward of the ordinary high water mark may be authorized; provided, the applicant can demonstrate all of the following:

(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes reasonable use of the property not otherwise prohibited by the master program;

(b) That the proposal is consistent with the criteria established under subsections (C)(2)(e)(ii)(b) through (e) of this section; and

(c) That the public rights of navigation and use of the shorelines will not be adversely affected.

3. Permit Review Procedures.

Step 1. Application.

The applicant shall arrange a pre application meeting for all substantial development permits, deviations and variances. Upon completion of the pre-application meeting, a complete application including the required processing fees shall be filed with the City on approved forms to ensure compliance with development codes and standards. A complete application for the shoreline exemption permit (SEP), substantial development permit (SDP), or variance and SEPA checklist, if applicable, shall be filed with the city on required forms.

SEP Review Process: The city shall issue or deny the SEP within 10 calendar days of receiving the request, or after SEPA review. The city shall then send the SEP to the applicant and the Department of Ecology, pursuant to WAC 173-27-130, and to all other applicable local, state, or federal agencies.

Step 2. Public Notice.

Public notice of an application for a substantial development permit shall be made in accordance with the procedures set forth in MICC 19.15.020; provided, such notice shall be given at least 30 days before the date of final local action.

If an application is not exempt from SEPA and no prior SEPA notice has been given, the city shall publish the SEPA determination and a notice that comments on the SEPA documents may be made during the review of the SDP, deviation and variance application.

Within 30 days of the final publication, posting or mailing of the notice, whichever comes last, any interested person may submit written comments on the proposed application. The city will not make a decision on the permit until after the end of the comment period.

Step 3. Review.

The Shoreline Management Act does not require that public hearing be held on SDP and/or variance application. The technical review of SDP and/or variance must ensure that the proposal complies with the criteria of the shoreline master program, Shoreline Management Act policies and all requirements of the city of Mercer Island development code.

An open record hearing before the planning commission, as set out in MICC 19.15.020(F), shall be conducted on all deviation applications and may be conducted on the SDP or variance application when the following factors exist:

- (a) The proposed development has broad public significance; or
- (b) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or
- (c) The cost of the proposed development, exclusive of land, will exceed \$100,000.

Step 4. Decision.

After the 30-day comment period has ended, the city shall ~~within 15 days~~ decide whether to approve or deny any SDP, deviation and/or variance application, unless the applicant and any adverse parties agree in writing to an extension of time with a certain date.

The city's action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be given in writing in the form required by WAC 173-27-120 (or its successor) and mailed to the applicant, all persons who submitted written comments, the

Department of Ecology, the Washington State Attorney General, and all other applicable local, state, or federal agencies.

The city's action in approving, approving with conditions, or denying any SDP and/or deviation is final unless an appeal is filed in accordance with applicable law.

The final decision in approving, approving with conditions, or denying variance is rendered by the Department of Ecology in accordance with WAC 173-27-200, and to all other applicable local, state, or federal agencies.

Step 5. Filing.

The city's final action in approving, approving with conditions, or denying SDP, deviation and/or variance shall be filed with the Department of Ecology and Washington State Attorney General.

Step 6. Authorization to Commence Construction.

If the SDP and/or variance is approved, the applicant shall not begin construction until after the 21-day review period by the Department of Ecology is over and/or any appeals concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.

4. Time Limits of Permits. The following time limits shall apply to all shoreline exemption, substantial development, deviation and variance permits:

a. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective date of a shoreline permit. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. after the approval of the permit or the permit shall terminate.

b. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted.

5. Suspension of Permits. The city may suspend any shoreline exemption, substantial development, deviation and variance permit when the permittee has not complied with the conditions of the permit. Such noncompliance may be considered a public nuisance. The enforcement shall be in conformance with the procedures set forth in MICC 19.15.030, Enforcement.

6. Revisions. When an applicant seeks to revise a SDP, deviation and/or variance permit the

... [section (D) remains unchanged]

19.07.120 Environmental procedures.

... [sections (A) through (I) remain unchanged]

J. Determination of Categorical Exemption.

1. Upon the receipt of an application for a proposal, the receiving city department shall, and for city proposals, the initiating city department shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of action (WAC 197-11-704), and the process for determining categorical exemption (WAC 197-11-305). As required, city departments shall ensure that the total proposal is considered. If there is any question whether or not a proposal is exempt, then the responsible official shall be consulted.

2. If a proposal is exempt, none of the procedural requirements of this section apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal. The determination that a proposal is exempt shall be final and not subject to administrative review.

3. If the proposal is not categorically exempt, the city department making this determination (if different from proponent) shall notify the proponent of the proposal that it must submit an environmental checklist (or copies thereof) to the responsible official.

4. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

- a. The city shall not give authorization for:
 - i. Any nonexempt action;
 - ii. Any action that would have an adverse environmental impact; or
 - iii. Any action that would limit the choice of alternatives;
- b. A city department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
- c. A city department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.

5. The following types of construction shall be categorically exempt, except when undertaken wholly or partly on lands covered by water, or a rezone or any license governing emissions to the air or discharges to water is required:

- a. The construction or location of any residential structures of four or fewer dwelling units;
- b. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet or less of gross floor area and with associated parking facilities designed for 20 or fewer automobiles;
- c. The construction of a parking lot designed for 20 or fewer automobiles;
- d. Any landfill or excavation of ~~100~~ 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.
 - i. Pursuant to MICC 19.07.040 (B)(3), projects requiring less than 100 cubic yards of fill in a wetland area shall be exempt from review under the State Environmental Policy Act.
 - ii. Pursuant to MICC 19.07.080 (B)(3), projects in a shoreline area that involve alterations under 250 cubic yards outside the building footprint shall be exempt from review under the State Environmental Policy Act.

... [sections (K) through (S) remain unchanged]

T. Administrative Appeals.

1. Except for SEPA procedural and substantive decisions related to permits, deviations and variances issued by the code official or hearing examiner under the shoreline management provisions or any legislative actions taken by the City Council of the development code, the following shall be appealable to the planning commission under this section:

- a. The decision to issue a determination of nonsignificance rather than to require an EIS;

- b. Mitigation measures and conditions that are required as part of a determination of nonsignificance;
- c. The adequacy of an FEIS or an SEIS;
- d. Any conditions or denials of the proposed action under the authority of SEPA.

... [section (U) remains unchanged]

Section 4: Chapter 19.08 Subdivisions. MICC 19.08.010 “General provisions”, 19.08.020 “Application procedures and requirements”, 19.08.030 “Design standards” and 19.08.050 “Final plats” are hereby amended as follows:

19.08.010 General provisions.

... [sections (A) through (E) remain unchanged]

F. Vacations of long subdivisions shall be governed by RCW 58.17.212. Alterations to long subdivisions shall be governed by RCW 58.17.215. All public hearings for both vacations and alterations of long subdivisions shall be before a ~~hearing examiner~~ the Planning Commission, ~~who~~ which shall make recommendations as to the vacation or alteration to the city council.

... [section (G) remains unchanged]

19.08.020 Application procedures and requirements.

... [sections (A) and (B) remain unchanged]

C. Applicants ~~for a long subdivision~~ shall prepare a concept sketch of the proposed ~~long subdivision~~ long subdivision for the preapplication meeting required under MICC 19.079.010(A)(1), ~~Critical Areas, for all long subdivisions, short subdivisions, or lot line revisions.~~

... [sections (D) through (E) remain unchanged]

F. Preliminary Application Procedure.

1. Findings of Fact. All preliminary approvals or denials of a long subdivisions or short subdivisions shall be accompanied by written findings of fact demonstrating that:

- a. The project does or does not make appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;
- b. The public use and interest will or will not be served by approval of the project; and
- c. The project does or does not conform to applicable zoning and land use regulations.

2. Short Subdivisions and Lot Line Revisions. The code official shall grant preliminary approval for a short subdivision or lot line revision if the application is in proper form and the

project complies with the design standards set out in MICC 19.08.030, the comprehensive plan, and other applicable development standards.

3. Long Subdivisions.

a. At an open record hearing the planning commission shall review the proposed long subdivision for its conformance with the requirements of MICC 19.08.030, the comprehensive plan, and other applicable development standards.

b. The planning commission shall make a written recommendation on the long subdivision, containing findings of fact and conclusions, to the city council not later than 14 days following action by the planning commission.

c. Upon receipt of the planning commission's recommendation, the city council shall at its next public meeting set the date for the public hearing where it may adopt or reject the planning commission's recommendations.

d. Preliminary approval of long subdivision applications shall be governed by the time limits and conditions set out in MICC 19.15.020(E); except the deadline for preliminary plat approval is 90 days, unless the applicant consents to an extension of the time period.

4. Conditions for Preliminary Approval. As a condition of preliminary approval of a project, the city council in the case of a long subdivision, or the code official in the case of a short subdivision or lot line revision, may require the installation of plat improvements as provided in MICC 19.08.040 which shall be conditions precedent to final approval of the long subdivision, short subdivision, or lot line revision.

5. Expiration of Approval.

a. Once the preliminary plat for a long subdivision has been approved by the city, the applicant has five years to submit a final plat meeting all requirements of this chapter to the city council for approval.

b. Once the preliminary plat for a short subdivision has been approved by the city, the applicant has one year to submit a final plat meeting all requirements of this chapter ~~to the city council for approval~~. A plat that has not been recorded within one year after its preliminary approval shall expire, becoming null and void. The city may grant a single one-year extension, if the applicant submits the request in writing before the expiration of the preliminary approval.

c. In order to revitalize an expired preliminary plat, a new application must be submitted.

6. No Construction before Application Approval. No construction of structures, utilities, storm drainage, grading, excavation, filling, or land clearing on any land within the proposed long subdivision, short subdivision, or lot line revision shall be allowed prior to preliminary approval of the application and until the applicant has secured the permits required under the Mercer Island Municipal Code.

19.08.030 Design standards.

A. Compliance with Other Laws and Regulations. The proposed subdivision shall comply with arterial, ~~community capital facility~~, and land use elements of the comprehensive plan; all other chapters of the development code; the Shoreline Management Act; and other applicable legislation.

... [sections (B) through (F) remain unchanged]

G. Optional Standards for Development. In situations where designing a long subdivision or short subdivision to the requirements of subsections A through F of this section would substantially hinder the permanent retention of wooded or steep areas or other natural features; preclude the provision of parks, playgrounds, or other noncommercial recreational areas for neighborhood use and enjoyment; or would negatively impact the physiographic features and/or existing ground cover of the subject area, the applicant may request that the project be evaluated under the following standards:

1. The use of the land in the long subdivision or short subdivision shall be one permitted in the zone in which the long subdivision or short subdivision is located.
2. The number of lots shall not exceed the number that would otherwise be permitted within the area being subdivided, excluding the shorelands part of any such lot and any part of such lot that is part of a street.
3. An area suitable for a private or public open space tract shall be set aside for such use.
4. The lots may be of different areas, but the minimum lot area, minimum lot width, and minimum lot depth shall each be at least 75 percent of that otherwise required in the zone in which the long subdivision or short subdivision is located. In no case shall the lot area be less than 75% of that otherwise required in the zone. Lot size averaging must be incorporated if lot width or depth requirements are 75% of the minimum that would otherwise be required for the zone without utilizing the Optional Development Standards. Any designated open space or recreational tract shall not be considered a lot.
5. The ownership and use of any designated open space or recreational tract, if private, shall be shared by all property owners within the long subdivision or short subdivision. In addition, a right of entry shall be conveyed to the public to be exercised at the sole option of the city council if such area shall cease to be an open space or recreational tract.
6. The open space or recreational tract must remain in its approved configuration and be maintained in accordance with approved plans. Any deviation from the foregoing conditions must receive expressed approval from the planning commission.

19.08.050 Final plats.

A. Required Signatures.

1. Before the original or extended deadline for recording the final plat as set forth in MICC 19.08.020(F)(5), the applicant may file with the city the final plat of the proposed long subdivision, short subdivision, or lot line revision in the form prescribed by subsection C of this section.
2. The city engineer shall check the final plat and shall sign it when satisfied that it meets the requirements of subsection C of this section, adequately addresses sewage disposal and water supply, and complies with all conditions placed on the preliminary plat approval.
3. After the final plat has been signed by the city engineer, it shall go to the ~~mayor, on behalf of the city council, in the case of a long subdivision, or the code official in the case of short subdivisions and lot line revisions,~~ code official for final signature.
4. Each long subdivision plat submitted for final signature shall be accompanied by the following recommendations for approval or disapproval of the:
 - a. ~~Planning commission as to compliance with all terms of the preliminary approval of the proposed subdivision.~~
 - b. City engineer as to the requirements of subsection (A)(2) of this section. The city engineer's signature on the final plat shall constitute such recommendation.

5. Final plats ~~and final short plats~~ shall be approved, disapproved, or returned to the applicant within 30 days from the date of filing, unless the applicant consents to an extension of such time period.

B. Recording of the Final Plat.

1. ~~When all signatures have been obtained, the city will transmit the mylar via U.S. mail to King County for recording or t~~The applicant ~~may~~ shall personally deliver the mylars to King County for recording.

2. The recording of the final plat with the county department of records shall constitute the official approval of the subdivision, and lots may not be legally sold until the plat has received its recording number.

3. After the final plat has been recorded, the original plat shall be returned to the city engineer and filed as the property of the city.

C. Contents of the Final Plat. All final plats submitted to the city shall meet the requirements set out in Chapter 58.09 RCW, Chapter 332-130 WAC, and those requirements set out below.

Final plats submitted to the city shall consist of two mylars and four copies containing the information set out below. The mylars and copies shall be 18 inches by 22 inches in size, allowing one-half inch for borders. If more than one sheet is required for the mylars and copies, each sheet, including the index sheet, shall be the specified size. The index sheet must show the entire subdivision, with street and highway names and block numbers.

1. Identification and Description.

- a. Name of the long subdivision, short subdivision or lot line revision.
- b. A statement that the long subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner or owners.
- c. Location by section, township and range, or by other legal description.
- d. The name and seal of the registered engineer or the registered land surveyor.
- e. Scale shown graphically, date and north point. The scale of the final plat shall be such that all distances and bearings can be clearly and legibly shown thereon in their proper proportions. Where there is a difference between the legal and actual field distances and bearings, both distances and bearings shall be shown with the field distances and bearings shown in brackets.

f. A description of property platted which shall be the same as that recorded in preceding transfer of said property or that portion of said transfer covered by plat. Should this description be cumbersome and not technically correct, a true and exact description shall be shown upon the plat, together with original description. The correct description follow the words: "The intent of the above description is to embrace all the following described property."

g. A vicinity map showing the location of the plat relative to the surrounding area.

2. Delineation.

a. Boundary plat, based on an accurate traverse, with angular and lineal dimensions.

b. Exact location, width, and name of all streets within and adjoining the plat, and the exact location and widths of all roadways, driveways, trail easements. The name of a street shall not duplicate that of any existing street in the city, unless the platted street be a new section or continuation of the existing street.

c. True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.

d. Municipal, township, county or section lines accurately tied to the lines of the subdivision by courses and distances.

- e. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- f. All easements for rights-of-way provided for public services or utilities. Utility easements shall be designated as public or private.
- g. All lot and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to subdivisions bearing the same name may be numbered or lettered consecutively through the several additions. The square footage for each lot less vehicular easements shall be shown.
- h. Accurate location of all monuments, which shall be concrete commercial monuments four inches by four inches at top, six inches by six inches at bottom, and 16 inches long. One such monument shall be placed at each street intersection and at locations to complete a continuous line of sight and at such other locations as are required by the engineer.
- i. All plat meander lines or reference lines along bodies of water shall be established above the ordinary high water line of such water.
- j. Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purpose indicated thereon and in the dedication; and of any area to be reserved by deed covenant for common uses of all property owners.
- k. Building pads that meet the requirements of Chapter 19.07 MICC, Critical Areas, accurately shown with dimensions.
- l. Critical slopes and watercourses as identified under Chapter 19.07 MICC.
- m. Corner pins made of rebar with caps.

... [the rest of section (C) remains unchanged]

Section 5: Chapter 19.09 Property Development. MICC 19.09.010 “Preapplication meeting” and 19.09.070 “Street vacations” are hereby amended as follows:

19.09.010 Preapplication and intake screening meetings.

A. Preapplication meetings between the applicant, members of the applicant’s project team, and city staff are required for all subdivisions or lot line revisions, shoreline substantial development permits, shoreline deviations, variances, for building permits for projects at least 500-square feet in area and for any alteration of a critical area or buffer, except those alterations that are identified as allowed uses under subsections MICC 19.07.030(A)(1) through (5), (8) and (12). Preapplication meetings may be held for any other development proposal at the request of the applicant.

B. The preapplication meeting will include a preliminary examination of the proposed project and a review of codes as described in MICC 19.15.020(A). The purpose of a preapplication meeting is to provide the applicant with information that will assist in preparing a formal development application meeting City development standards and permit processing requirements.

C. City staff are not authorized to approve any plan or design offered by the applicant at a preapplication or intake meeting.

D. Intake screenings between the applicant and city staff are required for all building permits involving the following: expansion of a building footprint by 500 square feet or more; an increase in impervious surface of 500 square feet or more; or any alteration of a critical area or buffer, except those alterations that are identified as allowed uses under subsections MICC

19.07.030(A)(1) through (5), (8) and (12). Applicants are encouraged to bring their project team. The purpose of an intake screening is to resolve issues that may cause delay in processing a permit prior to formal acceptance of a permit application. The intake screening will include a preliminary examination of the proposed project and a review of any applicable codes. City staff are not authorized to approve any plan or design offered by the applicant at an intake screening.

19.09.070 Street vacations.

... [sections (A) through (C) remain unchanged]

D. City Council ~~Hearing Meeting~~– Time Fixed.

1. Petition Method. If the petition for street vacation is signed by the owners of more than two-thirds of the property abutting upon the part of the street sought to be vacated, the city council by resolution shall fix a time when the petition shall be heard by the council. The date shall not be more than 60 days nor less than 20 days after the date of the passage of such resolution.

... [section (E) remains unchanged]

F. Public Notice. Public notice of a proposed street vacation shall be made in accordance with the procedures set forth in MICC 19.15.020; provided, at least 20 days prior to the city council ~~hearing meeting~~ on the proposed street vacation, and at least 20 days prior to consideration by the planning commission, the city clerk shall issue written notice of the hearings which shall be:

1. Posted in three of the most public places in the city and in a conspicuous place on a portion of the street proposed for vacation, or at a nearby location that can be viewed by the public; and

2. Mailed to residents of property located within 300 feet of the portion of the street or alley sought to be vacated.

... [sections (G) through (L) remain unchanged]

Section 6: Chapter 19.10 Trees. MICC 19.10.040 “Criteria” is hereby amended as follows:

19.10.040 Criteria.

... [section (A) remains unchanged]

B. Trees on Private Property. When a tree permit is required to cut a tree on private property, the tree permit will be granted if it meets any of the following criteria:

1. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead trees;

2. It is necessary to enable construction work on the property to proceed and the owner has used reasonable best efforts to design and locate any improvements and perform the construction work in a manner consistent with the purposes set forth in MICC 19.10.010;

3. It is necessary to enable any person to satisfy the terms and conditions of any covenant, condition, view easement or other easement, or other restriction encumbering the lot that was recorded on or before July 31, 2001; and subject to 19.10.080(A)(2).

4. It is part of the city's forest management program or regular tree maintenance program and the city is the applicant;

5. The permit seeks to cut one of the following common, short-lived "weedy" tree species: Alder, Bitter Cherry, or Black Cottonwood; or

6. It is desirable for the enhancement of the ecosystem or slope stability based upon professional reports in form and content acceptable to the city arborist.

... [section (C) remains unchanged]

Section 7: Chapter 19.12 Design Standards for Zones Outside Town Center. MICC 19.12.060 "Screening of service and mechanical areas" is hereby amended as follows:

19.12.060 Screening of service and mechanical areas.

A. Objectives.

1. To ensure that building and site appurtenances are properly integrated into the design concept.
2. To properly screen mechanical equipment to reduce visual impacts.
3. To ensure service and truck loading areas, utility structures, and elevators are screened from public view in such a manner that they are not visible from public ways or residential areas.

B. Standards.

1. **Accessory Buildings.** Ground level outdoor storage buildings, mechanical equipment and utility vaults shall be screened from adjacent public ways.
2. **Rooftop Mechanical Equipment and Appurtenances.** All rooftop mechanical equipment shall not be visible and shall be enclosed, hidden or screened from adjacent properties, public ways and parks. Rooftop appurtenances are allowed if there is a functional need for the appurtenance and that functional need cannot be met with an appurtenance of a lesser height. This provision shall not be construed to allow building height in excess of the maximum limit. Rooftop appurtenances should be located at least 10 feet from the exterior edge of any building, and shall not cover more than 20 percent of the rooftop area. Appurtenances shall not be located on the roof of a structure unless they are hidden or camouflaged by building elements that were designed for that purpose as an integral part of the building design. All appurtenances located on the roof should be grouped together and incorporated into the roof design and thoroughly screened. The screening should be sight-obscuring, located at least 10 feet from the exterior edge of any building; and effective in obscuring the view of the appurtenances from public streets or sidewalks or residential areas surrounding the building.
3. **Meters and Mechanical Units.** Water meters, gas meters, electric meters, ground-mounted mechanical units and any other similar structures should be hidden from public view or screened.
4. **On-Site Service Areas.** All on-site service areas, loading zones, outdoor storage areas, garbage collection and recycling areas and similar activities should be located in an area not visible from public ways. Service areas should accommodate loading, trash bins, recycling facilities, storage areas, utility cabinets, utility meters, transformers, etc. Service areas should be

located and designed for easy access by service vehicles and for convenient access by all tenants. Loading activities should generally be concentrated and located where they will not create a nuisance for adjacent uses. Loading docks shall meet the standards identified in MICC 19.12.050(B)(1)(b).

5. Garbage, Recycling Collection and Utility Areas. Garbage, recycling collection and utility areas shall be enclosed and screened around their perimeter by a wall or fence at least seven feet high, concealed on the top and must have self-closing doors. If the area is adjacent to a public way or pedestrian alley, a landscaped planting strip, minimum three feet wide, shall be located on three sides of such facility.

6. Fence, Trellis and Arbor Standards. Fences, trelliswork and arbors shall meet the standards identified in MICC 19.12.040(B)(3).

7. Noise, Vapor, Heat or Fumes. With respect to all aspects of the development referred to above in this section, emissions of noise, vapor, heat or fumes should be mitigated.

Section 8: Chapter 19.15 Administration. MICC 19.15.010 “General procedures”, and 19.15.020 “Permit review procedures” are hereby amended as follows:

19.15.010 General procedures.

... [sections (A) through (D) remain unchanged]

E. Summary of Actions and Authorities. The following is a nonexclusive list of the actions that the city may take under the development code, the criteria upon which those decisions are to be based, and which boards, commissions, elected officials, or city staff have authority to make the decisions and to hear appeals of those decisions.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Ministerial Actions			
Right-of-Way Permit	City engineer	Chapter 19.09 MICC	Hearing examiner
Home Business Permit	Code official	MICC 19.02.010	Hearing examiner
Special Needs Group Housing Safety Determination	Police chief	MICC 19.06.080(A)	Hearing examiner
Lot Line Adjustment Permit	Code official	Chapter 19.08 MICC	Hearing examiner
Design Review – Minor Exterior Modification Outside Town Center	Code official	MICC 19.15.040, Chapters 19.11 and 19.12 MICC	Design commission
Design Review – Minor Exterior Modification in Town Center	Design commission	MICC 19.15.040, Chapters 19.11 and 19.12 MICC	Hearing examiner

Final Short Plat Approval	Code official	Chapter 19.08 MICC	Planning commission
Seasonal Development Limitation Waiver	Building official or city arborist	MICC 19.10.030, 19.07.060(D)(4)	Building board of appeals
Development code interpretations	Code official	MICC 19.15.020(L)	Planning commission
<u>Shoreline Exemption</u>	<u>Code official</u>	<u>MICC 19.07.010</u>	<u>Hearing Examiner*</u>
Administrative Actions			
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner
<u>Preliminary Short Plat</u>	Code official	Chapter 19.08 MICC	Planning commission
Variance	Code official or hearing examiner	MICC 19.15.020(G)	Planning commission
<u>Deviation (Except Shoreline Deviations)</u>	Code official or hearing examiner	MICC 19.15.020(G), and 19.01.070, 19.02.050.(F), 19.02.020(C)(2), 19.02.020(D)(3)	Planning commission
Critical Areas Determination	Code official	Chapter 19.07 MICC	Planning commission
Shoreline – Substantial Development Permit	Code official	MICC 19.07.110	Shoreline hearings board
Shoreline Exemption	Code official	MICC 19.07.110	City council*
SEPA Threshold Determination	Code official	MICC 19.07.120	Planning commission
<u>Short Plat Alteration and Vacations</u>	<u>Code official</u>	<u>MICC</u> <u>19.08.010(G)</u>	<u>Hearing Examiner</u>
<u>Long Plat Alteration and Vacations</u>	<u>City Council via Planning Commission</u>	<u>MICC</u> <u>19.08.010(F)</u>	<u>Superior Court</u>
Discretionary Actions			
Conditional Use Permit	Planning commission	MICC 19.11.130(2), 19.15.020(G)	Hearing examiner
Reclassification (Rezone)	City council via planning commission*	MICC 19.15.020(G)	Superior court
Design Review – Major	Design commission	MICC 19.15.040,	Hearing examiner

New Construction		Chapters 19.11 and 19.12 MICC	
Preliminary Long Plat Approval	City council via planning commission**	Chapter 19.08 MICC	Superior court
<u>Final Long Plat Approval</u>	<u>City council via code official</u>	<u>Chapter 19.08 MICC</u>	<u>Superior Court</u>
<u>Variance</u>	<u>Hearing examiner</u>	<u>MICC 19.15.020(G) and MICC 19.01.070</u>	<u>Planning Commission</u>
Variance from Short Plat Acreage Limitation	Planning commission	MICC 19.08.020	City council
Critical Areas Reasonable Use Exception	Hearing examiner	MICC 19.07.030(B)	Superior Court
Street Vacation	City council via planning commission**	MICC 19.09.070	Superior court
Shoreline Deviation	Planning commission	MICC 19.07.080	City council
<u>Shoreline Variance</u>	<u>Planning Commission</u>	<u>MICC 19.07.110(C)(2)(e)</u>	<u>State Shorelines Hearings Board</u>
Impervious Surface Variance	Hearing examiner	MICC 19.02.020(D)(4)	Superior court
Legislative Actions			
Code Amendment	City council via planning commission**	MICC 19.15.020(G)	Superior court <u>Growth Management Hearings Board</u>
Comprehensive Plan Amendment	City council via planning commission**	MICC 19.15.020(G)	Superior court <u>Growth Management Hearings Board</u>
*Final rulings granting or denying an exemption under MICC 19.07.070 <u>19.07.110</u> are not appealable to the shoreline hearings board (SHB No. 98-60).			
**The original action is by the planning commission which holds a public meeting <u>hearing</u> and makes recommendations to the city council which holds an open record hearing <u>public meeting</u> and makes the final decision.			

19.15.020 Permit review procedures.

The following are general requirements for processing a permit application under the development code. Additional or alternative requirements may exist for actions under specific code sections (see MICC 19.07.080, 19.07.100, and 19.08.020).

... [sections (A) and (B) remain unchanged]

C. Determination of Completeness.

1. The city will not accept an incomplete application. An application is complete only when all information required on the application form and all submittal items required by code have ~~has~~-been provided to the satisfaction of the code official.

2. Within 28 days after receiving a development permit application, the city shall mail or provide in person a written determination to the applicant, stating either that the application is complete or that the application is incomplete and what is necessary to make the application complete. An application shall be deemed complete if the city does not provide a written determination to the applicant stating that the application is incomplete.

3. Within 14 days after an applicant has submitted all additional information identified as being necessary for a complete application, the city shall notify the applicant whether the application is complete or what additional information is necessary.

4. If the applicant fails to provide the required information within 90 days of the determination of incompleteness, the application shall lapse. The applicant may request a refund of the application fee minus the city’s cost of determining the completeness of the application.

... [sections (D) through (L) remain unchanged]

Section 9: Chapter 19.16 Definitions. MICC 19.16.010 “Definitions” is hereby amended as follows:

19.16.010 Definitions.

Words used in singular include the plural and the plural the singular.

A

Appurtenance:

1. **Single-Family Residential:** A structure which is necessarily connected to the use and enjoyment of a single-family dwelling. An appurtenance includes but is not limited to antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, garages, decks, driveways, utilities, fences, swimming pools, hot tubs, landscaping, irrigation, grading outside the building footprint which does not exceed 250 cubic yards and other similar minor construction.

2. **Town Center and Multi Family Zones:** A subordinate element added to a structure which is necessarily connected to its use and is not intended for human habitation or for any commercial purpose, other than the mechanical needs of the building, such as areas for mechanical and elevator equipment, chimneys, antennas, communication facilities, smoke and ventilation stacks.

Average Building Elevation: The reference point on the surface topography of a lot from which building height is measured. Elevation established by averaging the elevation at existing grade ~~prior to any development activity~~. The elevation points to be averaged shall be located at the center of all exterior walls of the completed building; provided:

1. Roof overhangs and eaves, chimneys and fireplaces, unenclosed projecting wall elements (columns and fin walls), unenclosed and unroofed stairs, and porches, decks and terraces may project outside exterior walls and are not to be considered as walls.

2. If the building is circular in shape, four points, 90 degrees apart, at the exterior walls, shall be used to calculate the average building elevation.

3. For properties within the Town Center: If a new sidewalk is to be installed as the result of a new development, the midpoint elevation for those walls adjacent to the new sidewalk shall be measured from the new sidewalk elevation, rather than existing grade prior to development activity. The City Engineer shall determine the final elevation of the sidewalk.

Formula:

Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length of Individual Wall Segment) ÷ (Total Length of Wall Segments)

S

Subdivision: The division or platting of, or the act of division or platting of, land into two or more lots for the purpose of transfer of ownership, building development, or lease, whether immediate or future, and shall include all resubdivision of land.

1. Short Subdivision or Short Plat: A subdivision consisting of four or less lots on four or less acres.

2. Long Subdivision or Long Plat: A subdivision consisting of five or more lots on any number of acres or any number of lots on more than four acres.

... [all other definitions remain unchanged]

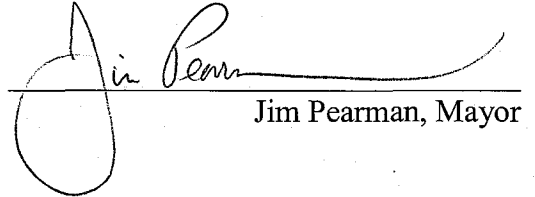
Section 10: **Severability/Validity.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases may subsequently be found by a competent authority to be unconstitutional or invalid.

Section 11: **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

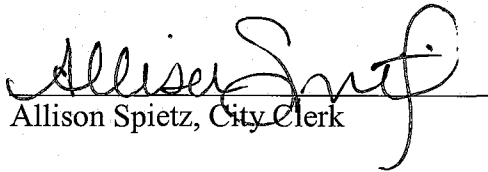
Section 12: Effective Date. This Ordinance shall take effect and be in force on 30 days after its passage and publication.

Passed by the City Council of the City of Mercer Island, Washington at its regular meeting on the 22nd day of January, 2008 and signed in authentication of its passage.

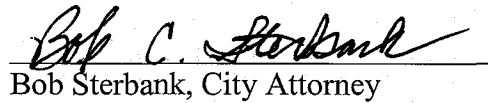
CITY OF MERCER ISLAND


Jim Pearman, Mayor

ATTEST:


Allison Spietz, City Clerk

Approved as to Form:


Bob Sterbank, City Attorney

Date of Publication: 2/6/2008



period by the Department of Ecology is over and/or any appeals concluded. The applicant shall also comply with all applicable federal, state and **City** standards for construction.

4. TIME LIMITS OF PERMITS

The following time limits shall apply to all Shoreline Exemption, **Substantial Development, Deviation and Variance** Permits:

- a. Construction or substantial progress toward construction of a **development** for which a permit has been granted must be undertaken within two (2) years after the approval of the permit or the permit shall terminate.
- b. A single extension before the end of the time limit, with prior notice to parties of record, for up to one (1) year, based on reasonable factors may be granted.

5. SUSPENSION OF PERMITS

The **City** may suspend any Shoreline Exemption, **Substantial Development, Deviation and Variance** Permit when the permittee has not complied with the conditions of the permit. Such non-compliance may be considered a public nuisance. The enforcement shall be in conformance with the procedures set forth in MICC 19.15.030, Enforcement.

6. REVISIONS

When an applicant seeks to revise a SDP, **Deviation and/or Variance** Permit the requirement of WAC 173-27-100, as amended, shall be met.

D. USE REGULATIONS

All **development** within the shoreline jurisdiction shall be in compliance with all **development** requirements specified in this section.



CHAPTER 19.07

CRITICAL LANDS

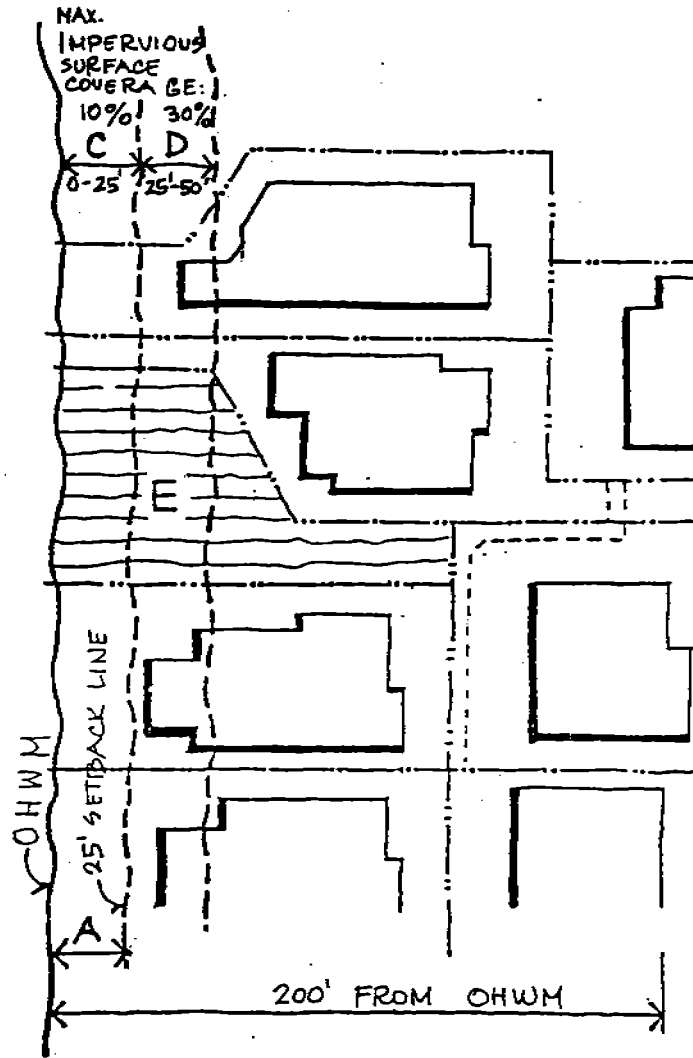
TABLE A. REQUIREMENTS FOR DEVELOPMENT LOCATED LANDWARD FROM THE OHWM

SETBACKS FOR ALL STRUCTURES (INCLUDING FENCES OVER 30" HIGH) AND PARKING	* A	25' from the OHWM and all required setbacks of the Development Code
HEIGHT LIMITS FOR ALL STRUCTURES	B	Shall be the same as height limits specified in the Development Code but shall not exceed a height of thirty-five feet above average grade level (WAC 173-27-040)
MAXIMUM IMPERVIOUS SURFACE COVERAGE	C	10%: between 0-25' from OHWM
	D	30%: between 25'-50' from OHWM
MINIMUM LAND AREA REQUIREMENTS	E	All Semi-Private, Commercial and Non-Commercial Recreational Tracts and Areas shall have min. land area: 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties and a Planning Commission approval of a site plan is required

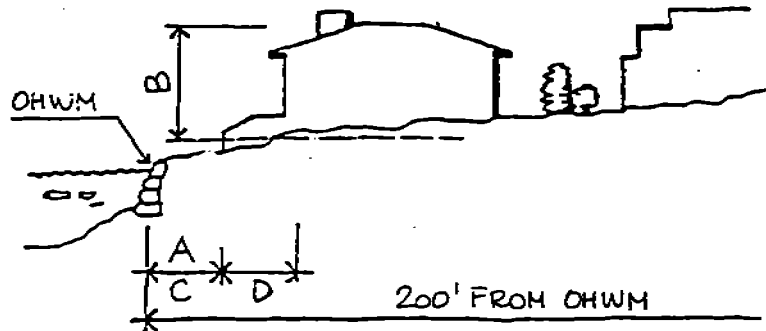
* The letters in this column refer to the Plan View and Section diagram.



PLAN VIEW



SECTION





CHAPTER 19.07

CRITICAL LANDS

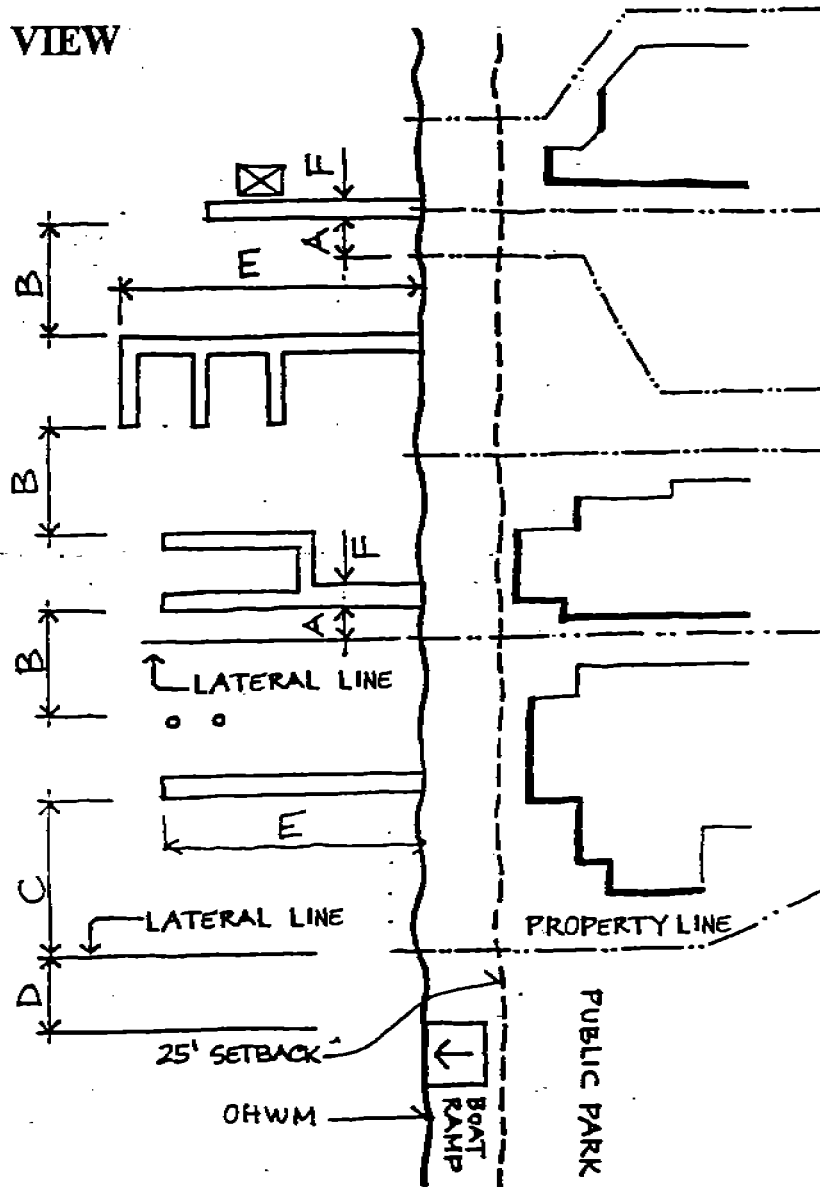
TABLE B. REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM

SETBACKS FOR ALL MOORAGE FACILITIES, COVERED MOORAGE, LIFT STATIONS AND FLOATING PLATFORMS	*	
	A	10' from the lateral line;
	B	35' from adjoining moorage structures: (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below);
	C	50' or 50% of the water frontage of the property, whichever is less, from the common boundary of the subject property Urban Park of Conservation Environment.
SETBACKS FOR BOAT RAMPS AND OTHER FACILITIES FOR LAUNCHING BOATS BY AUTO OR HAND, INCLUDING PARKING AND MANEUVERING SPACE.	D	25' from any adjacent private property line
LENGTH OR MAX. DISTANCE WATERWARD FROM THE "OHWM" FOR MOORAGE FACILITIES, COVERED MOORAGE, LIFT STATIONS AND FLOATING PLATFORMS	E	Max. 100', but in cases where water depth is less than 10' from the mean low water, length may extend up to 150' or to the point where water depth is 10' at mean low water, whichever is less
WIDTH	F	Max. 8'; does not apply to boat ramps, lift stations, or floating platforms
HEIGHT LIMITS FOR PIERS AND DOCKS	G	5' above the elevation of the OHWM
HEIGHT LIMITS FOR WALLS, HANDRAILS AND STORAGE CONTAINERS LOCATED ON PIERS	H	3' above the decking of the moorage facility
HEIGHT LIMITS FOR MOORING PILES, DIVING BOARDS AND DIVING PLATFORMS	I	10' above the elevation of the OHWM

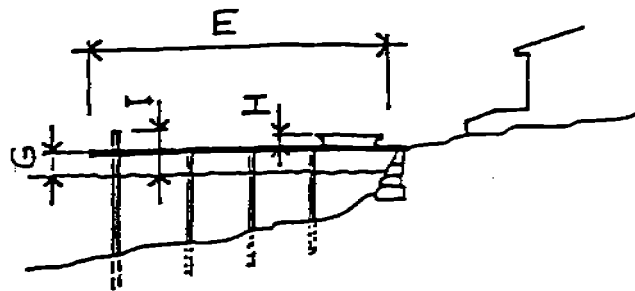
* The letters in this column refer to the Plan View and Section diagram.



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CRITICAL LANDS

TABLE B (CONT.). REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM

MINIMUM WATER FRONTAGE FOR MOORAGE FACILITY	J	Single Family lots: 40'
	K	Shared - two adjoining lots: 40' combined.
	L	Semi-private recreational tracts: 2 families: 40'; 3-5 families: 40' plus 10' for each family more than 2; 6-10 families: 70' plus 5' for each family more than 5; 11-100 families: 95' plus 2' for each family more than 10; 101+ families: 275' plus 1' for each family more than 100

* The letters in this column refer to the Plan View.

PLAN VIEW

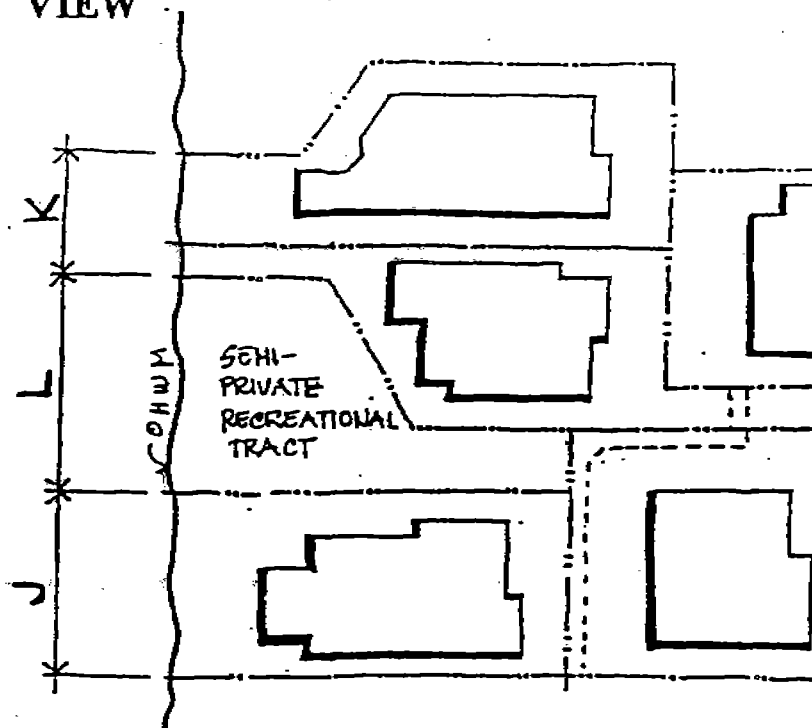
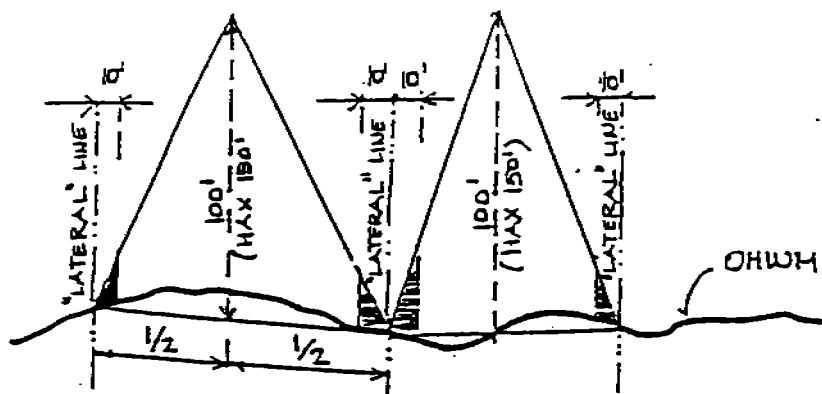




TABLE B (CONT.). REQUIREMENTS FOR MOORAGE FACILITIES AND DEVELOPMENT LOCATED WATERWARD FROM THE OHWM (CONT.)

<p>COVERED MOORAGE</p>	<p>Permitted on single-family residential lots subject to the following:</p> <ul style="list-style-type: none"> (a) Max. height above the OHWM: 20'; 20' to 25' subject to deviation process (Part C2.) (b) Location/Area Requirements: See Figure A for single-family lots Figure B for shared moorage. Outside the triangle subject to deviation process (Part C2.) (c) Building Area: 600 square feet. 50% of the permitted covered Building areas larger than 600 square feet are subject to conditional use permit within the triangle or variance outside the triangle (d) Covered Moorage shall have open sides. <p>Prohibited in semi-private recreational tracts, commercial and non-commercial recreational areas.</p>
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FIGURE A: AREA OF PERMITTED COVERED MOORAGE, INDIVIDUAL LOTS:



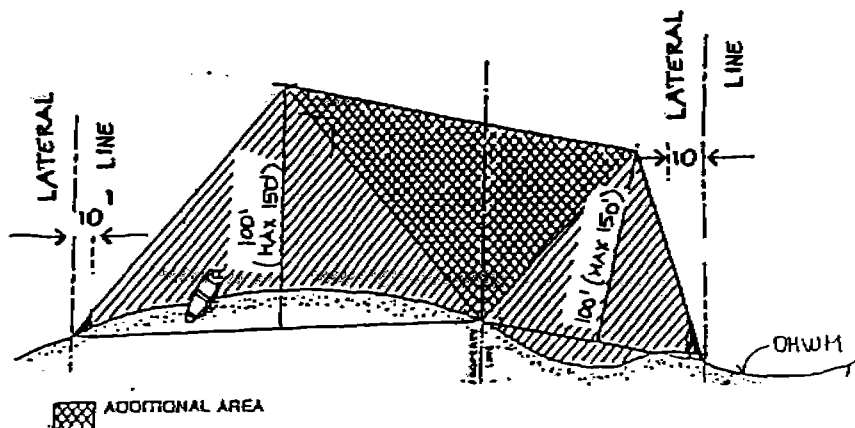
The covered portion of a moorage shall be restricted to the area lying within a triangle. The base of the triangle shall be a line drawn between the points of intersection of the property sidelines with the **ordinary high water mark**. The location of the **covered moorage** shall not extend more than 100' from the center of the base line of such triangle. In cases where water depth is less than ten (10) feet from the **mean low water**, the location of the **covered moorage** may extend up to one hundred fifty (150) from the center of the base line or to the point where water depth is ten (10) feet at **mean low water**, whichever is less. The required ten (10) foot setbacks from the side property lines shall be deducted from the triangle area.



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FIGURE B: AREA OF PERMITTED COVERED MOORAGE AND MOORAGE FACILITIES, TWO ADJOINING SINGLE-FAMILY LOTS:



Where a **covered moorage** is built pursuant to the agreement of adjoining owners of single-family lots, the **covered moorage** area shall be deemed to include, subject to limitations of such joint agreement, all of the combined areas lying within the triangles extended upon each adjoining property and the inverted triangle situated between the aforesaid triangles.

3. SINGLE-FAMILY MOORAGE FACILITIES

- a. **Moorage facilities** may be developed and used as an accessory to **dwellings** on shoreline lots with water frontage meeting or exceeding the minimum lot width requirements specified in Table A.
- b. **Piles, floats or other structures** in direct contact with water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of **structures** shall comply with all applicable state and federal regulations.

4. BULKHEADS AND SHORELINE PROTECTIVE STRUCTURES

- a. Construction and maintenance of normal protective **bulkhead** common to **single-family dwellings** requires only a Shoreline Exemption Permit; HOWEVER, if the construction of the **bulkhead** is undertaken wholly or in part on lands covered by water, such construction shall comply with the **SEPA Rules, Chapter 197-11 WAC**.
- b. **Bulkheads** shall be located generally parallel to the natural shoreline. No **filling** may be allowed **waterward** of the **ordinary high water mark**, unless there has been severe and unusual erosion within one (1) year immediately preceding the application for the **bulkhead**. In this event the **City** may allow the placement of the **bulkhead** to recover the dry land area lost by erosion.



- c. Replacement **bulkheads** may be located immediately in front of and abutting an existing **bulkhead**, but no **filling** shall be allowed **waterward** of the **ordinary high water mark**.

5. UTILITIES

- a. **Utilities** shall be placed underground and in common rights-of-way wherever economically and technically practical.
- b. Shoreline **public access** shall be encouraged on publicly owned **utility** rights-of-way, when such access will not unduly interfere with **utility** operations or endanger public health and safety. **Utility** easements on private property will not be used for **public access**, unless otherwise provided for in such easement.
- c. Restoration of the site is required upon completion of **utility** installation.
- d. Construction of **utility buildings** and **structures** require a **Conditional Use Permit**.

6. DREDGING

- a. Dredging **waterward** or **landward** of the **ordinary high water mark** shall be permitted only if navigational access has been unduly restricted or other extraordinary conditions in conjunction with **water-dependent** use, provided that the use meets all state and federal regulations.
- b. Dredging shall be the minimum necessary to accommodate the proposed use.
- c. Dredging shall utilize techniques that cause the least possible environmental and aesthetic impact.
- d. Dredging is prohibited in the following locations:
 - i. Fish spawning areas.
 - ii. In unique environments such as lake logging of the underwater forest.
- e. Disposal of dredged material shall comply with Ecology Water Quality Certification process and U.S. Army Corps of Engineers permit requirements. The location and manner of the disposal shall be approved by the **City**.