Title 19

UNIFIED LAND DEVELOPMENT CODE

Chapters:

Appendices

Chapter 19.01

GENERAL PROVISIONS

Sections:

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. (Ord. 99C-13 § 1).

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. (Ord. 99C-13 § 1).

19.01.030 Reasonable accommodation.

A. Eligibility. Any person claiming to have a handicap or disability, within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this development code pursuant to the requirement of the FHAA, or the WLAD, that reasonable accommodations be made in rules, policies, practices, or services when such accommodations may be necessary to afford persons with handicaps or disabilities equal opportunity to use and enjoy a dwelling, shall make such request for reasonable accommodation to the code official.

B. Procedure.

1. An applicant for reasonable accommodation must provide verifiable documentation of handicap or disability eligibility to the code official and describe the need for and proposed accommodation.

2. The code official shall determine what adverse land use impacts, including cumulative impacts, if any, would result from granting the proposed accommodation. This determination shall take into account the size, shape and location of the dwelling unit and lot; the traffic and parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the residents, staff and visitors; and any other circumstances determined to be relevant.

3. The applicant's need for accommodation shall be considered in light of the anticipated land use impacts, and conditions may be imposed in order to make the accommodation reasonable in light of those impacts.

4. A grant of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the code official's decision. If it is determined that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not anticipated, the code official shall rescind or modify the decision to grant reasonable accommodation.

5. The code official shall act promptly on the request for accommodation and shall not charge any fee for responding to a request for accommodation.

6. Nothing herein shall prevent the code official from granting reasonable accommodation to the full extent required by federal or state law.

7. The code official'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 21 days after the issuance of the code official's decision. (Ord. 03C-08 § 2; Ord. 99C-13 § 1).

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 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 classifica-

tion 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 midpoint of the vacated street unless the planning commission recommends and the city council decides otherwise.

H. 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. (Ord. 99C-13 § 1).

19.01.050 Nonconforming structures, sites, lots and uses.

A. General.

1. Purpose. The purpose of this section is to allow for the continuance and maintenance of legally established nonconforming structures, sites, lots and uses, and to provide standards delineating the circumstances in which nonconforming structures, sites, lots and uses must be brought into conformance with the provisions of all applicable code requirements.

2. Legal Nonconforming Status of Structures, Sites and Uses. All structures, sites and uses that lawfully existed prior to September 26, 1960, shall be considered legally nonconforming. Structures, sites and uses that were constructed or initiated after September 26, 1960, that were in conformance with all applicable code provisions in effect at the time of their creation but are not in compliance with current land use codes as a result of subsequent changes in code requirements are deemed to be legally nonconforming structures, sites and uses.

3. Illegal Nonconformance of Structures, Sites and Uses. Structures, sites and uses that were not in conformance with all applicable code provisions in effect at the time of their creation are illegal and shall be brought into compliance with all applicable provisions of this code.

4. Continuation or Loss of Legal Nonconforming Status of Structures, Sites and Uses. A structure, site or use may be maintained in legal nonconforming status as long as no new nonconformances are created, there is no expansion of any existing nonconformity, and legal nonconforming status is not lost under any of the circumstances set forth in this section. If legal nonconforming status is lost, the structure, site or use must be brought into conformance with all applicable code requirements.

5. Critical Areas. This section shall govern nonconforming structures, sites, lots and uses within any critical area, unless Chapter 19.07 MICC, Critical Lands, establishes more specific standards.

6. Application of Codes. Nothing in this section in any way supersedes the requirements of the construction codes set forth in MICC Title 17, and any other construction-related codes as adopted and amended from time to time by the city.

B. Repairs and Maintenance.

1. Ordinary Repairs and Maintenance. Ordinary repairs and maintenance of a legally nonconforming structure are permitted. In no event may any repair or maintenance result in the expansion of any existing nonconformity or the creation of any new nonconformity.

2. Decks. Repair and maintenance of a legally nonconforming deck, including total replacement, is allowed, as long as there is no increase in the legal nonconformity and no new nonconformances are created; provided, in the R-8.4 zone, any portion of a nonconforming deck that is in a side yard and less than

five feet from an interior lot line may be replaced only if the deck is reconstructed to comply with current minimum side yard requirements.

C. Interior Remodel. Interior remodeling of a legally nonconforming structure is permitted and will not result in loss of legal nonconforming status regardless of the cost or extent of the interior remodel, as long as no exterior alteration or enlargement is involved. If exterior alteration in conjunction with interior remodeling is involved, loss of legal nonconforming status will be determined pursuant to the provisions set forth in subsection D of this section.

D. Exterior Alteration or Enlargement of Nonconforming Structures.

1. Detached Single-Family Residential Structures.

a. Reconstruction Following Catastrophic Loss. Any legally nonconforming detached single-family dwelling and/or accessory building or structure that suffers a catastrophic loss shall not lose its legal nonconforming status. Such dwelling or accessory building or structure may be reconstructed regardless of the extent of damage or reconstruction cost, to re-establish the previous legal nonconformity or otherwise, as long as there is no expansion of any existing nonconformity, the reconstruction creates no new nonconformance, and a complete building permit for reconstruction is submitted to the city within 12 months of the date of the loss.

b. Intentional Exterior Alteration or Enlargement.

i. Detached Single-Family Dwelling. A legally nonconforming detached single-family dwelling may be intentionally altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of the length of the dwelling's exterior walls, excluding attached accessory buildings, are structurally altered. Any portion of the length of existing walls that are structurally altered shall be included in calculating the 40-percent threshold. In no event shall the alteration or enlargement increase any existing nonconforming aspect of the dwelling or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded. An increase in height of that portion of a structure that is legally nonconforming because it intrudes into a required yard is an increase in the nonconformity and is not allowed unless the additional height meets the current yard requirements of MICC 19.02.020(C)(1) except:

(A) A change from a flat roof to a pitched roof is allowed under MICC 19.02.020(C)(3)(a); and

(B) A height increase of a single-family dwelling and any accessory building or structure in the R-8.4 zone that is legally nonconforming because it intrudes into a minimum five-foot required side yard is allowed only if the additional height is modulated so that it is a minimum of 10 feet from the side yard property line.

ii. Accessory Buildings or Structures. A legally nonconforming attached or detached accessory building or structure, including but not limited to a carport, garage, shed, gazebo, deck or fence, may be altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of its exterior perimeter (or length in the case of a fence) is structurally altered. A wall that is shared with the main dwelling shall not be included in the calculation for the attached accessory building. In no event shall any alteration or enlargement increase any existing nonconforming aspect of the building or structure or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded.

2. Town Center.

a. Reconstruction Following Catastrophic Loss. In the Town Center, a legally nonconforming structure which suffers a catastrophic loss may be reconstructed to its previous legally nonconforming configuration and appearance if the cost of the reconstruction equals or is less than 75 percent of the structure's current King County assessed value as of the time the loss occurs and is reconstructed within the same building footprint, to the same

number of stories, and to the same square footage of the legally nonconforming damaged or destroyed structure. If the damaged or destroyed portion of the structure is reconstructed to other than its previous nonconforming configuration and appearance, the entire structure shall lose its nonconforming status and shall be required to come into conformance with current code requirements; however, minor changes in appearance that bring it into closer conformity with current code requirements shall not result in overall loss of nonconforming status. In any event, if the 75-percent threshold is exceeded, legal nonconforming status shall be lost and the structure shall be required to come into conformance with current code requirements.

b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of a structure in the Town Center is lost, and the structure shall be required to come into conformance with current code requirements, if there is any intentional exterior alteration or enlargement of a structure that costs in excess of 50 percent of the structure's current King County assessed value as of the time the initial application for such work is submitted. No structure may be altered or enlarged so as to increase the degree of nonconformity or create any new nonconformance.[1]

3. Nonconforming Structures Other Than Single-Family or in Town Center.

a. Reconstruction Following Catastrophic Loss. Any legally nonconforming structure not covered under subsections (D)(1) or (2) of this section, that suffers a catastrophic loss may be reconstructed to its previous legally nonconforming configuration regardless of the extent of damage or reconstruction cost. No structure may be reconstructed so as to increase the degree of its nonconformity or create any new nonconformance. Regulated improvements reconstructed to their previous legally nonconforming configuration shall be subject to partial design review as provided by MICC 19.12.010(D)(2); however, no condition may be imposed by the design commission or code official which would have the effect of reducing the number of units contained in a multiple-family dwelling prior to the catastrophic loss.

b. Intentional Exterior Alteration or Enlargement. Legal nonconforming status of any legally nonconforming structure not covered under subsection (D)(1) or (2) of this section is lost, and the structure and site shall be required to come into conformance with all current code requirements, including design review, if there is an intentional exterior alteration or enlargement of the structure over any three-year period that incurs construction costs in excess of 50 percent of the structure's current King County assessed value as of the time the initial application for such work is submitted; provided, application of this subsection shall not be construed to require an existing structure to be demolished or relocated, or any portion of an existing structure that is otherwise not being worked on as part of the construction to be altered or modified. If there is no current King County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the code official, shall be used as the value point of reference. No structure may be altered or enlarged so as to increase the degree of nonconformity or create any new nonconformance.

E. Abandonment of a Legally Nonconforming Structure or Use.

1. Structure. A legally nonconforming structure shall be deemed to be abandoned, and shall lose its legal nonconforming status and be required to come into conformance with current code requirements, after the structure has been unoccupied continuously for 12 months or more, unless it is listed on the state or federal register of historic buildings or meets the criteria for a historic building pursuant to Chapter 16.01 MICC.

2. Use. A legally nonconforming use shall be deemed to be abandoned and shall lose its legal nonconforming status, and any subsequent use shall be required to conform with current code requirements, after the use has

1. Code reviser's note: MICC 19.01.050(D)(2)(c) has been deleted as obsolete, per the city's request, as a scrivener's error.

been discontinued for 12 consecutive months or more.

3. Exception. A structure that has been unoccupied continuously for 12 months or more, or a use that has been discontinued for 12 consecutive months or more, shall not be deemed abandoned if the owner of the structure can provide compelling evidence, to the satisfaction of the code official, that the structure is being actively marketed for sale or the owner of the structure otherwise has a reasonably timely and viable plan for resuming occupation of the property or resuming the legally nonconforming use.

F. Nonconforming Sites.

1. Impervious Surface Coverage Limitation. A structure on a site that is legally nonconforming because the maximum allowable surface coverage has been exceeded can be increased in height (up to the maximum height permitted). No new impervious surfaces are permitted outside the footprint of an existing structure unless the site is either brought into conformance with all applicable impervious surface limitations or two square feet of legally existing impervious surface is removed for every one square foot of new impervious surface.

2. Parking Requirements. These parking requirements apply to subsections (F)(2)(a) and (c) of this section in the event of an intentional exterior alteration or enlargement, but do not apply in the event of reconstruction following a catastrophic loss. In the event of catastrophic loss, nonconforming parking may be restored to its previous legally nonconforming configuration.

a. Detached Single-family Dwelling Site. A detached single-family dwelling site that is legally nonconforming because it does not provide the number and type of parking spaces required by current code provisions shall provide parking spaces as provided by MICC 19.02.020(E)(1).

b. Town Center. A structure in the Town Center that is legally nonconforming because it does not provide the number and type of parking spaces required by current code provisions shall provide parking spaces as required by MICC 19.11.130(B)(1)(a) and subsections (I)(1) and (2) of this section, as applicable.

c. Sites Other Than for a Detached Single-Family Dwelling or in Town Center.

i. New Development and Remodels. A site other than those identified in subsections (F)(2)(a) and (b) of this section that is legally nonconforming because it does not provide the number or type of parking spaces required by current code provisions shall provide parking spaces as required by the current code provisions for the zone where the site is situated for all new development and remodels greater than 10 percent of the existing gross floor area.

ii. Change of Use. A site other than those identified in subsection (F)(2)(a) and (b) of this section that is legally nonconforming because it does not provide the number or type of parking spaces required by current code provisions shall provide parking spaces as required by the current code provisions for the zone where the site is situated whenever there is a change of use.

3. Landscaping, Open Space and Buffer Requirements. A site's landscaping, open space and buffers shall be brought into conformance with current code requirements whenever a structure or use on the site loses its legal nonconforming status. Landscaping, open spaces and buffers should be brought into conformance with current code requirements as much as is feasible whenever any changes are made to a legal nonconforming structure.

G. Nonconforming Lots.

1. Legally Nonconforming Lot. A nonconforming lot shall be deemed to be a legally nonconforming lot if the lot was legally created. In order to establish that a lot was legally created, an applicant seeking permit approval must provide:

a. A long subdivision, short subdivision or plat approved by the city of Mercer Island or King County, separately describing and creating the lot in question; or

b. A deed, contract of sale, mortgage, property tax segregation, or recorded survey separately describing and/or conveying the lot in question if the instrument was executed prior to July 18, 1960, and evidence that the

creation of the lot was consistent with all codes in effect at the time of such conveyance or recording date.

2. Illegal Nonconforming Lot. A lot which was not legally created in accordance with the laws of the local governmental entity in which it was located at the date of its creation is an illegal nonconforming lot and will not be recognized for development.

3. Minimum Requirements for Development of Legally Nonconforming Lot. In order to be used as a building site, an undeveloped legally nonconforming lot must meet the following minimum requirements:

a. The lot must exceed 3,500 square feet;

b. The lot must have a minimum width of 30 feet and a minimum depth of 50 feet;

c. The property owner must provide evidence that establishes that the lot was intended to be a building site at the time of its creation; and

d. The lot must not be subject to consolidation pursuant to subsection (G)(5) of this section.

If the owner provides proof to the satisfaction of the code official, demonstrating that the strict application of subsections (G)(3)(a) through (d) of this section prevents all reasonable use of the lot and that the owner was not involved in the creation of the legal nonconformity, such owner may be permitted to use the lot for one single-family residential dwelling, even if the lot does not meet the size, width, depth and other dimensional requirements of the zone, as long as all other applicable site, use and development standards are met or a variance from such site use or development standards has been obtained.

4. Development of Legally Nonconforming Lot. Subject to the limitations of subsections (G)(3) and (5) of this section, a legally nonconforming lot may be developed for any use allowed by the zoning district in which it is located, even though such lot does not meet the size, width, depth and other dimensional requirements of the zone, as long as all other applicable site, use and development standards are met or a variance from such site use or development standards has been obtained.

5. Consolidation. If, since the date on which it became nonconforming due to its failure to meet minimum lot size or width criteria, a legally nonconforming lot has been in the same ownership as a contiguous lot or lots, the nonconforming lot is and shall be deemed to have been combined with such contiguous lot or lots to the extent necessary to create a conforming lot and thereafter may only be used in accordance with the provisions of this code, except as specifically provided in subsection (G)(6) of this section.

6. Continuation of Developed Legally Nonconforming Lot. A legally nonconforming lot that was developed as a separate and complete building site in accordance with the applicable laws at the time of development shall maintain its legal nonconforming status even if the lot has been in the same ownership as a contiguous lot or lots; provided, if separately developed, contiguously owned legally nonconforming lots are subsequently developed as one building site, the lots shall be deemed to be consolidated and may only be used as a single lot thereafter.

7. No New Nonconformities Created. No nonconforming structure, site, lot or use shall be created as a result of the division of land or any modification of a lot line through any subdivision or lot line revision pursuant to Chapter 19.08 MICC.

H. Nonconforming Uses.

1. Change of Use. Any change from a legal nonconforming use shall be to a conforming use only; provided, the continuation of the same or similar use by the same or different owner will not result in loss of legal nonconforming status.

2. Additional Uses Prohibited. While a legal nonconforming use exists on any lot, no separate or new use may be established thereon, even though such additional use would be a conforming one.

3. Expansion of Legal Nonconforming Use. Legal nonconforming uses shall not be expanded or enlarged; however, if the code official determines that expansion or enlargement of the use or an accessory use (including

parking) or other site modifications would make the use more conforming to current code standards or is required by city ordinance, state law, or federal law and no new nonconformity is created it may be allowed. Expansion includes increasing the size of the structure in which the use occurs or enlarging the scope, volume, area or intensity of the use in a significant way.

4. Nonconforming Use Associated With Structure that Suffers Catastrophic Loss. In the event of catastrophic loss to a structure, the legal nonconforming status of any use contained in the structure shall not be lost, provided a complete building application to rebuild the structure and reestablish the nonconforming use is submitted within 12 months of the loss.

I. Change of Use – Town Center.

1. Single Tenant. If any applicant proposes a change of use on a lot used or occupied by a single tenant or use, the applicant shall meet those code provisions determined by the code official to be reasonably related and applicable to the change in use. These provisions shall apply to the entire lot. If the development is nonconforming due to the number of parking spaces provided for the existing use, any change in use which requires more parking than the previous use shall provide additional parking consistent with current code parking requirements.

2. Multi-Tenant. If any applicant proposes a change of use on a portion of a lot occupied by multiple tenants or uses, the applicant shall meet those code provisions determined by the code official to be reasonably related and applicable to the change in use. These provisions shall apply only to that geographic portion of the lot related to the use or tenant space on which the change is proposed. If the multi-tenant lot is nonconforming due to the number of parking spaces provided for the existing uses, any change in use, which requires more parking than the previous use, shall provide additional parking consistent with current code parking requirements.

J. Enforcement. The provisions of this section requiring compliance with current code requirements for any illegal nonconforming structure, site or use, for any legally nonconforming structure, site or use that loses its nonconforming status and for any structure or use that is deemed abandoned shall be enforced pursuant to the provisions of MICC 19.15.030. (Ord. 16C-06 § 3 (Exh. A); Ord. 11C-08 § 1; Ord. 04C-12 § 8; Ord. 04C-08 § 5; Ord. 03C-01 § 2).

19.01.060 Hold harmless/indemnification agreement and covenant not to sue, performance guarantees, liability protection.

A. Purpose. Prior to issuing any permit or approving any application the city may require an applicant to provide one or more of the following to protect the city from and against damages to property or injury to persons that may arise from the permitted activity, and to ensure that the applicant performs all permit conditions.

B. Hold Harmless/Indemnification Agreement and Covenant Not to Sue.

1. General. The owner of private property for which a permit application is submitted may be required to provide a hold harmless/indemnification agreement and covenant not to sue approved by the city and recorded with the King County recorder's office prior to the issuance of the permit. Said agreements shall be negotiated and in a form approved by the city attorney, and shall run with the land and be binding on the applicant and his/her successors, heirs and assigns for such period of time as shall be determined appropriate by the city official charged with issuing the permit or approving the application.

2. Permitted Activity Not in a Critical Area. A hold harmless/indemnification agreement and covenant not to sue may be required in, but not limited to, the following circumstances: adjacency of the permitted activity to roadways or structures; previous poor performance on the part of the applicant or his or her agent; overall construction costs; or when materials, methods of design or methods of construction other than those specifically prescribed by the construction codes set forth in MICC Title 17 may be used. Generally, in such

circumstances, said agreements may be required to run with the land for a period of three years from completion of the work; provided, the city may extend such period of time to ensure that such agreements are effective until the final resolution of any pending or potential claims.

3. Permitted Activity in Critical Areas. A hold harmless/indemnification agreement and covenant not to sue may be required in, but not limited to, the following circumstances: the permitted activity will take place on or may impact a watercourse, wetland, shoreline, steep slope or landslide-prone slope, or poor soil conditions or other geologic hazards may exist. Generally, in such circumstances, said agreements shall be required to run with the land without limitation as to a period of years.

C. Performance Guarantees and Liability Protection.

1. Bonding or Assignment of Funds.

a. The city may require an applicant to guarantee that activities 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.

b. Guarantees may be required for: significant construction in streets; work on public property not performed by the city; nonresidential landscaping; critical areas stabiliza-

This page left intentionally blank.

tion and restoration; permanent site restoration on nonresidential projects; and other activities if the city engineer or city attorney determines there is sufficient potential risk of property damage or injury to persons or the environment in the event the applicant fails to complete the permitted work.

c. The amount of such guarantees and the length of time for which it shall be required, shall be determined by the city official charged with issuing the permit or approving the application for which the guarantee is made.

d. The city may choose to accept such guarantees in the form of either a bond posted with the city, or through an assignment of funds in lieu of bond.

e. If 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 assignment of funds or bond and the applicant may request that said bond or said funds and any interest accrued be returned to the applicant.

f. Any rights granted to the city by this section are in addition to any other rights granted by law.

2. Insurance. Prior to issuing a permit or approving an application, the city may require the applicant to provide a certificate of general liability insurance, with limits of liability in an amount acceptable to the city attorney, from an insurance company authorized to do business in Washington, insuring against injury to persons and damage to property, and may require that the city be named as an additional insured. (Ord. 04C-12 § 9; Ord. 03C-10 § 1; Ord. 99C-13 § 1).

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. (Ord. 99C-13 § 1).

Chapter 19.02

RESIDENTIAL

Sections:

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.

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 35 feet from any abutting property and at least 45 feet from any public right-of-way.

b. Off-street parking shall be established and maintained at a minimum ratio of one parking space per classroom with high schools providing an additional one parking space per 10 students.

c. A one-fourth acre or larger playfield shall be provided in one 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 may make those improvements to the home business normally allowed for single-family residences. For a day care, play equipment and play areas are not allowed in front yards.

b. Only those persons who reside on the premises and one other person shall be permitted to engage in the business on the premises at any one time; provided, that a day care or preschool may have up to three nonresident employees on the premises at any one time. This limitation applies to all owners, managers, staff or volunteers who operate the business.

c. There shall be no exterior storage or display of materials except as otherwise allowed for single-family residences, and no sign advertising the home business located on the premises except as specifically allowed by MICC 19.12.080(B).

d. No offensive noise, vibration, smoke, dust, odor, heat or glare or excessive traffic to and from the premises shall be produced or generated by the home business.

e. The home business shall not involve the use of more than 30 percent of the gross floor area of the residence, not including the allowed basement exclusion area consistent with subsection E of this section and MICC 19.16.010(G). However, a day care or preschool may use up to 75 percent of said gross floor area.

f. No home business shall be permitted that generates parking demand that cannot be accommodated on the lots consistent with the applicable maximum impervious surface coverage limits of MICC 19.02.020(D). Parking shall be provided to handle the expected parking demand. In the case of a day care or preschool, parking for residents and employees shall occur on site; resident and employee parking shall not occur on an adjacent street.

g. The business shall not provide healthcare services, personal services, automobile repairs; serve as a restaurant, commercial stable, kennel, or place of instruction licensed as a school under state law and which will operate with more than three students at a time; or serve as a bed and breakfast without a conditional use permit as set out in subsection (C)(7) of this section. Nothing contained in this subsection (A)(5)(g) shall be interpreted to prohibit a day care.

h. A day care shall be limited to 18 children maximum (not including dependents) at a time.

6. Public park subject to 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. Major structures, ballfields and sport courts shall be located at least 20 feet from any abutting property.

d. If a permit is required for a proposed improvement, a plot, landscape and building plan showing compliance with these conditions shall be filed with the city development services group (DSG) for its approval.

7. Semi-private waterfront recreation areas for use by 10 or fewer families, subject to the conditions set out in MICC 19.07.080.

8. One accessory dwelling unit (ADU) per single-family dwelling subject to conditions set out in MICC 19.02.030.

9. Special needs group housing as provided in MICC 19.06.080.

10. Social service transitional housing, as provided in MICC 19.06.080.

11. A state-licensed day care or preschool as an accessory use, when situated at and subordinate to a legally established place of worship, public school, private school, or public facility, meeting the following requirements:

a. The number of children in attendance at any given time shall be no more than 20 percent of the legal occupancy capacity of the buildings on the site, in the aggregate.

b. Signage shall be consistent with the provisions of MICC 19.12.080(B)(3).

c. Off-street parking provided by the primary use shall be deemed sufficient for the accessory day care or preschool if at least one space per employee is provided, and either:

i. One additional parking space is provided for every five children in attendance, or

ii. Adequate pick-up and drop-off space is provided as determined by the code official.

12. Places of worship may have a stage theater program as an accessory use. Stage theater programs are defined as productions of live presentations involving the performances of actors or actresses, singers, dancers, musical groups, or artists. Stage theater programs also include related classes and instructional workshops. Adequate parking must be provided, as determined by the code official.

B. Additional Use Permitted in Zones R-9.6, R-12, and R-15. One accessory building for the housing of domestic animals and fowl, having a floor area not to exceed 36 square feet for each lot and located not less than 65 feet from any place of habitation other than the owners'; provided, the roaming area shall be fenced and located not less than 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 20 feet from any abutting property;

b. Off-street parking shall be established and maintained at a minimum ratio of one parking space for each 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 subsection (A)(4) of this section.

3. Places of worship subject to the following conditions:

a. All structures shall be located at least 35 feet from any abutting property.

b. Off-street parking shall be established and maintained at a ratio of one parking space for each five seats in the chapel, nave, sanctuary, or similar worship area.

4. Noncommercial recreational areas, subject to the conditions contained in subsection (A)(6) of this section.

5. Semi-private waterfront recreation areas for use by more than 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 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 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:

i. Demonstrated need;

ii. Location, size, shape and extent of existing development on the subject property;

iii. Nature of the surrounding neighborhood; and

iv. 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 35 feet from all abutting property.

e. Off-street parking shall be established and maintained at a ratio of one-half 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 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. Nonschool uses of school buildings, subject to the following conditions:

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 nonschool 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:

i. The school building is demolished or sold by the Mercer Island school district.

ii. 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 nonschool 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.

9. A state-licensed day care or preschool not meeting the requirements of subsection (A)(11) of this section, subject to the following conditions:

a. Off-street parking and passenger loading shall be sufficient to meet the needs of the proposed day care or preschool without causing overflow impacts onto adjacent streets.

b. Signage shall be consistent with the provisions of MICC 19.12.080(B)(3).

D. Building Height Limit. No building shall exceed 30 feet in height above the average building elevation to the top of the structure except that on the downhill side of a sloping lot the building may extend to a height of 35 feet measured from existing grade to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc.; provided, the roof ridge does not exceed 30 feet in height above the average building elevation. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure.

The formula for calculating average building elevation is as follows:

Formula:
Average Building Elevation = (Mid-point Elevation of Individual Wall Segment) x (Length of Individual Wall Segment) ÷ (Total Length of Wall Segments)

See Appendix G, Calculating Average Building Elevation.

E. Gross Floor Area.

1. The gross floor area of a single-family structure shall not exceed 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. (Ord. 15C-03 § 1; Ord. 09C-04 §§ 1, 2; Ord. 08C-01 § 1; Ord. 05C-16 § 1; Ord. 04C-08 § 9; Ord. 03C-08 § 3; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

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 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 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 MICC 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.

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 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 (C)(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.

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 19.15.020(G)(5).

c. In granting any such deviation, the code official may require the submission of any reasonably necessary information.

d. Yard setbacks shall not be reduced below the following minimums:

i. Front and rear setbacks may not be reduced to less than 10 feet each;

ii. Side setbacks may not be reduced to less than five feet.

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 60 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.

g. Residences for religious leaders located on properties used by places of worship.

i. A structure primarily used as a residence for a religious leader provided by its congregation and located on the same lot or lots as the improvements for a church, synagogue, mosque, or other place of worship shall be exempt from the maximum impervious surface limits, subject to the limitations under subsection (D)(2)(g)(ii) of this section. All impervious surface areas directly and commonly associated with the residence such as, but not limited to, the footprint of the residence, an attached or detached garage, a patio and/or deck not otherwise exempted by subsections (D)(2)(a) and (c) of this section, and a driveway not otherwise used for general access to the place of worship shall be exempt.

ii. A residence and its associated impervious improvements, as described in subsection (D)(2)(g)(i) of this section, may only be exempted if impervious coverage does not exceed 4,999 square feet of lot area, or up to 20 percent of lot area, whichever is less. For these purposes, “lot area” means the lot or lots on which the place of worship is located.

iii. Lot coverage exceeding 60 percent shall not be allowed whether by variance pursuant to this subsection D or by this exemption.

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 19.09.100, 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.

4. Variance. Public and private schools, religious institutions, private clubs and public facilities in single-family zones with slopes of less than 15 percent may request a variance to increase the impervious surface to a maximum 60 percent impervious surface and such variance application will be granted if the hearing examiner determines that the applicant has demonstrated that the following criteria are satisfied:

a. There will be no net loss of pervious surface from the existing pervious surface. No net loss will be determined by the code official and may be achieved by off-site mitigation and/or by reconstructing existing parking areas to allow stormwater penetration. This replacement will be an exception to subsection (D)(2)(b) of this section prohibiting parking areas from being considered as pervious surfaces;

b. All stormwater discharged shall be mitigated consistent with the most recent Washington State Department of Ecology Stormwater Management Manual for Western Washington, including attenuation of flow and duration. Mitigation will be required for any and all new and replaced impervious surfaces. In designing such mitigation, the use of a continuous simulation hydrologic model such as KCRTS or WWHM shall be required; event based models will not be allowed. In addition, mitigation designs shall utilize flow control best management practices (BMPs) and low impact development (LID) techniques to infiltrate, disperse and retain stormwater on site to mitigate the increased volume, flow and pollutant loading to the maximum extent feasible;

c. The director must approve a storm drainage report submitted by the applicant and prepared by a licensed civil engineer assuring the city that city infrastructure, in concert with the project design, is adequate to accommodate storm drainage from the project site, or identifying appropriate improvements to public and/or private infrastructure to assure this condition is met, at the applicant's expense;

d. A deviation under subsection (D)(3) of this section may not be combined to exceed this maximum 60 percent impervious surface coverage;

e. The hearing procedures and public notice requirements set forth in MICC 19.15.020 shall be followed in connection with this variance proceeding.

E. Parking.

1. Each single-family dwelling shall have at least three parking spaces sufficient in size to park a passenger automobile; provided, at least two of the stalls shall be covered stalls. This provision shall apply to all new construction and remodels where more than 40 percent of the length of the structure's external walls have been intentionally structurally altered; 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.

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 10 or more parking spaces shall also meet the parking lot requirements set out in Appendix A of this development code.

F. Easements. Easements shall remain unobstructed.

1. Vehicular Access Easements. No structures shall be constructed on or over any vehicular access easement. A minimum 10-

foot setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the 10-foot setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.

2. Utility and Other Easements. No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement. (Ord. 17C-02 § 1; Ord. 10C-07 § 1; Ord. 09C-17 § 1; Ord. 08C-01 § 1; Ord. 06C-05 § 1; Ord. 05C-12 § 7; Ord. 03C-01 § 3; Ord. 02C-09 § 4; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

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 principal 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 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 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.

This page left intentionally blank.

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.

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 construction codes set forth in MICC Title 17, 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 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) and (E).

3. Applicable Codes. The accessory dwelling unit shall comply with all construction codes set forth in MICC Title 17 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 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 principal 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. (Ord. 08C-01 § 1; Ord. 04C-12 § 10; Ord. 99C-13 § 1).

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 in required yard setbacks; provided, one detached accessory building with a gross floor area of 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.

D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line if the front yard of the lot, measured at the midpoint of the wall of the garage closest to the front yard property line, is more than four feet above or below the existing grade at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location. The height of such garage shall not exceed 12 feet from existing grade for that portion built within the front yard.

E. Pedestrian Walkways. Enclosed or covered pedestrian walkways may be used to connect the main building to a garage or carport. Enclosed pedestrian walkways shall not exceed six feet in width and 12 feet in height calculated from finished grade or 30 feet above average building elevation, whichever is less. (Ord. 08C-01 § 1; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

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 not exempted from permit by Section 105.2 of the Construction Administrative Code, Chapter 17.14 MICC.

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 subsection (D)(4) of this section. 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 percent 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 subsections (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. (Ord. 04C-12 § 11; Ord. 02C-09 § 2).

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 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 noncommercial recreation area shall conform to the setback regulations governing such areas.

D. All fences surrounding outdoor swimming pools shall conform to the requirements of MICC Title 17. (Ord. 04C-12 § 12; Ord. 99C-13 § 1).

Chapter 19.03

MULTIPLE-FAMILY

Sections:

19.03.010 Multiple-family.

A. Design Requirements.

1. Any development within the MF-2L or MF-2 zones shall comply with Chapter 19.12 MICC, Design Standards for Zones Outside Town Center.

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 dwelling units per building; provided, each building shall comply with the following conditions:

a. Each dwelling unit shall have one or more bedrooms.

b. The finished grade shall conceal at least one-half of the total foundation area of any daylight basement.

3. Rooming houses, as provided in MICC 19.06.080.

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 off-street parking space for every two dwelling units.

c. Nursing homes shall provide one off-street parking space for every four beds.

d. Daycare facilities shall provide one off-street parking space for each employee, with a minimum of two 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 parking space for each 75 square feet of gross floor area.

5. Hotels/motels with stores therein subject to the following conditions:

a. Off-street parking shall be established and maintained at a minimum ratio of one parking space for each sleeping unit, plus the required parking spaces for the businesses contained therein, plus one space for each full-time employee that shall be working on any single shift.

b. Business uses must be conducted and entered entirely from within the building.

6. Office uses subject to the following conditions:

a. Off-street parking shall be established and maintained at a minimum ratio of one parking space for each 300 square feet of gross floor area.

b. Business uses must be conducted and entered entirely from within the building.

c. Not more than 45 percent of the lot area shall be covered with structures.

d. Yard depths shall be:

i. Front yard depth: 20 feet or more.

ii. Side yard abutting a street: 20 feet or more.

iii. Side yard abutting interior lot lines: five feet or more.

iv. Rear yard depth: 25 feet or more.

7. Accessory Uses Permitted Outright.

a. Single-family residential accessory uses are permitted outright.

b. 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 square feet installed flat against the principal building.

c. Accessory uses customarily incidental to a principal use permitted outright in this section.

8. Rooming houses, as provided in MICC 19.06.080.

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 off-street parking space for every two dwelling units.

c. Nursing homes shall provide one off-street parking space for every four beds.

d. Daycare facilities shall provide one off-street parking space for each employee, with a minimum of two parking spaces.

4. Rooming houses, as provided in MICC 19.06.080.

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.

F. Density and Lot Requirements.

1. In the MF-2 district, the maximum allowed density is 38 dwelling units per acre.

2. In the MF-3 and MF-2L districts, the maximum allowed density is 26 units per acre.

3. Lot width shall be at least 60 feet, and lot depth shall be at least 80 feet.

4. For townhouse lots:

a. The maximum number of townhouse lots shall be determined by the density requirements in subsections (F)(1) and (2) of this section;

b. The minimum lot area shall be 1,000 square feet in the MF-2 district;

c. The minimum lot area shall be 1,500 square feet in the MF-3 and MF-2L districts;

d. The requirements of subsection (F)(3) of this section shall not apply.

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:

1. Front yard depth: 20 feet.

2. Rear yard depth: 25 feet.

3. Side yard depth: 20 feet provided the side yard depth may be reduced to 10 feet when adjacent to an MF, B, CO, PBZ or TC zone.

4. For townhouse lots:

a. The front yard depth can be reduced to 10 feet when:

i. The front yard is adjacent to a perimeter street right-of-way and a driveway is not located in the front yard; or

ii. The front yard is oriented to a front, side or rear yard on an adjoining townhouse lot.

b. No front yard depth is required when adjacent to a street right-of-way, tract or easement located internally on a development site.

c. The rear yard depth can be reduced to 10 feet when adjacent to a rear, side, or front yard on an adjoining townhouse lot.

d. No side yard is required on adjoining townhouse lots.

e. Required yards can be located in a tract or easement that is within the development site and adjacent to the lot. Nothing in this subsection (G)(4)(e) shall result in the reduction in depth, width, size or location of any of the foregoing required yards.

H. Lot Coverage. Except as otherwise provided in this section, not more than 35 percent of any lot shall be covered with structures. For townhouse developments, the lot coverage on an individual townhouse lot can exceed 35 percent provided that not more than 35 percent of

the entire development site is covered with structures. (Ord. 08C-01 § 2; Ord. 06C-04 § 1; Ord. 04C-08 § 10; Ord. 03C-08 § 4; Ord. 01C-09 § 1; Ord. 00C-01 § 1; Ord. 99C-13 § 1).

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 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 years.

4. Notwithstanding any of the minimum parking requirements set out in this subsection, 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 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 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. (Ord. 99C-13 § 1).

Chapter 19.04

COMMERCIAL

Sections:

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.

This page left intentionally blank.

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. Special needs group housing as provided in MICC 19.06.080.

17. Social service transitional housing, as provided by MICC 19.06.080.

18. 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 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: 75 feet.

b. Adjacent and parallel to SE 68th St. for 200 feet east of the intersection of SE 68th Street and 84th Avenue SE: 35 feet.

c. Beginning from a point 75 feet east of the southwest corner of the zone east to a point 345 feet from the southwest corner:

75 feet for nonresidential uses.

25 feet for residential uses.

d. The remainder of the zone: 25 feet.

Zero 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 15 percent of the PBZ shall be maintained in open space, including buffers and setbacks.

4. Sign Requirements. Signs shall conform to the applicable subsections of MICC 19.12.080, Signs.

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 percent of the total gross square footage of the subject use; provided, such area may exceed five 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 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 subsection.

6. Division of Land. The approval of a PBZ site plan as set forth in subsection 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 acres into four 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 nonresidential structure shall exceed 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 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 feet above the height allowed for the main structure.

3. Parcel Area Requirements. For all residential parcels, the average parcel size shall be 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 45 percent of the lot area and the lot coverage shall not exceed 35 percent of the lot area; provided, no residential buildings shall exceed 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:

i. Front yard depth: 20 feet;

ii. Rear yard depth: 25 feet;

iii. Side yard depth: The sum of the side yards shall not be less than 15 feet; provided, no side yard abutting an interior lot shall be less than five feet and no side yard abutting a street shall be less than 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 subsection (D)(1) 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 30.

b. The maximum number of attached units in any single building shall be four.

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 subsections 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 subsections 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.

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 Chapter 64.34 RCW (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 inch equals 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 subsection (F)(5) 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. (Ord. 04C-08 § 8; Ord. 03C-08 § 5; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19.04.020 Commercial offices.

A. Uses Permitted.

1. Government services.

2. Professional, scientific, and technical services.

3. Office uses.

4. Places of worship.

5. Civic and social organizations.

6. Mortuary services.

7. Healthcare services.

8. Care services.

9. Auxiliary uses directly related to the principal use, such as residences of watchmen or employees in training, special employee dormitories, employee cafeterias, auditoriums, service stations in connection with authorized motor pool facilities and similar uses.

10. Wireless communications facilities subject to the conditions set out in MICC 19.06.040.

11. Special needs group housing as provided in MICC 19.06.080.

12. Social service transitional housing as provided in MICC 19.06.080.

13. Public and private schools accredited or approved by the state for compulsory school attendance, subject to design commission review and the following conditions:

a. A one-fourth acre or larger playfield, play surface or open space shall be provided in one usable unit abutting or adjacent to the site.

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 assignment of funds as set out in MICC 19.01.060(C). 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 60 percent of a lot may be covered by buildings, structures, and other impervious surfaces, including outdoor storage areas, provided the exemptions for decks, pavers, patios and walkways detailed in MICC 19.02.020(D)(2) shall apply. The building footprint shall occupy no more than 35 percent of the gross lot area.

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 shall not exceed 36 feet in height.

2. Outdoor storage facilities shall not exceed 20 feet in height.

3. Rooftop building appurtenances, including but not limited to mechanical equipment, chimneys, and roof access structures, may extend up to 10 feet above the maximum building height allowed. Rooftop appurtenances shall be located at least 10 feet from the exterior edge of any building and shall not cover more than 10 percent of the rooftop area.

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 50 feet. The minimum rear yard setback shall be 50 feet. The sum of the side yards shall be at least 75 feet, with no side yard less than 25 feet; provided, however, that a minimum 50-foot setback shall be required from the property line of any adjacent property that is zoned residential or multifamily and developed for such use and no parking or driveways shall be allowed within this setback. The setbacks shall be clearly set out in the site 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. (Ord. 04C-10 § 1; Ord. 03C-10 § 5; Ord. 03C-08 § 6; Ord. 02C-07 § 1; Ord. 99C-13 § 1).

19.04.030 Town Center district – TC.

Repealed by Ord. 02C-04. (Ord. 99C-13 § 1).

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 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 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 subsection 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 parking space for every 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 parking space for each four seats. Facilities without fixed seats shall provide one parking space for every 75 square feet of gross floor area of the building.

3. Day care facilities shall provide two parking spaces, plus one parking space for each employee and shall provide adequate off-street loading and unloading 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 parking space for every 300 square feet of gross floor area of the building.

5. Government services and museums and art exhibitions shall provide one parking space for every 200 square feet of gross floor area.

6. Hotels and motels shall provide one parking space per each sleeping unit, plus one space for each full-time employee on duty on any given shift.

7. Manufacturing shall provide one parking space for every three employees with a minimum of six spaces.

8. Mortuary services shall provide one parking space for every three employees, and if funerals are held on the premises, one parking space for every four seats in the chapel.

9. Nursing homes and residential care facilities shall provide one parking space for every four beds.

10. Personal services and repair services shall provide one parking space for every 400 square feet of gross floor area of the building exclusive of storage areas, with a minimum of two spaces.

11. Places of worship shall provide one parking space for every five seats in the chapel, nave, sanctuary, or similar worship area.

12. Recreational areas shall provide one parking space for every 100 square feet of gross floor area of the building.

13. Retail use shall provide one parking space for every 400 square feet of gross floor area of the building, exclusive of storage areas, with a minimum of two spaces; provided, food stores and markets shall provide one parking space per 200 square feet of gross floor area, exclusive of storage areas.

14. Retirement homes shall provide one off-street parking space for every two dwelling units, plus one parking space for every full-time employee during any one shift.

15. Service stations with convenience stores shall provide one parking space for every 400 square feet of gross floor area of the building, exclusive of storage areas, with a minimum of two spaces. Service stations without convenience stores shall provide one space for each full-time employee on duty on any given shift plus two parking spaces for each repair stall.

16. Public and private schools shall provide at a minimum two off-street parking spaces per classroom unless additional parking spaces are deemed necessary through design commission or administrative SEPA review and shall provide adequate off-street loading and unloading facilities as determined by the city engineer.

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 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. (Ord. 04C-10 § 1; Ord. 02C-07 § 1; Ord. 99C-13 § 1).

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 300 feet of any property upon which a place of worship, school, hospital, institution, theater, or public assembly seating over 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 percent of the total gross square footage of the subject store; provided, however, that such area may exceed five 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 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. Special needs group housing, as provided in MICC 19.06.080.

15. Social service transitional housing, as provided in MICC 19.06.080.

16. Wireless communications facilities subject to the conditions set out in MICC 19.06.040.

17. Accessory uses customarily incidental to a principal use permitted outright in this section.

18. Hotels/motels and multiple-family dwellings.

19. Decorating shops.

20. Employment agencies.

21. Printing establishments and newspaper printing presses.

22. Public garages and auto repair shops.

23. Sales rooms or storerooms for motor vehicles and other articles of merchandise.

24. Telephone exchanges or telegraph offices.

25. Preschools, 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.

26. Adult entertainment, subject to the following conditions:

a. The point of public entry into the structure housing the business shall be at least 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 EIS (Volume I) for I-90; or from the property line of any property containing one or more of the following uses: single- or multiple-family dwelling, retirement home, preschool, nursery school or day care center, publicly owned park or open space, recreational area (commercial, noncommercial 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 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 Avenue SE or along primary pedestrian corridors.

d. Window or exterior displays of goods or services which depict, simulate, 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 10 feet; except, service station pump islands which shall have a setback from the street line of at least 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 stories or 36 feet, whichever is less. (Ord. 03C-08 § 7; Ord. 99C-13 § 1).

Chapter 19.05

SPECIAL PURPOSE

Sections:

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 subject to the requirements in subsection F of this section. Subsections B, C and E of this section do not apply to public schools. Uses other than public schools located on land owned by the Mercer Island School District shall comply with applicable provisions of Chapter 19.02 MICC.

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 overcrossings, lids, open space, recreation areas, linear greenbelts 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 Chapter 19.11 MICC, Town Center Development and Design Standards.

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 36 feet or three stories in height, whichever is less; provided, the height of buildings located on sites exceeding five acres may be increased by 12 feet or one story, whichever is less, for each additional two and one-half 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 Federal Aviation Administration.

2. Adequate provision for ultimate off-street parking needs.

F. Public Schools. The following requirements apply to public schools:

1.

Islander Middle School	Minimum Setback	Height Limit	Special Conditions
From public right-of-way	30 feet	Two stories, 43 feet[1]	Minimum setback of 15 feet is allowed from SE 78th Street.
From public park	15 feet	Two stories, 43 feet[1]	

From property lines abutting single-family zoned property	65 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	
Lakeridge Elementary	**Minimum Setback**	**Height Limit**	**Special Conditions**
From public right-of-way	30 feet	Two stories, 43 feet[1]	Minimum setback from SE 78th Street is 15 feet.
From west property line abutting single-family zoned property	65 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	
From all other property lines abutting single-family zoned property	45 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	

Island Park Elementary	**Minimum Setback**	**Height Limit**	**Special Conditions**
From eastern 350 feet of the northern property line abutting SE 53rd Place	45 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	The perimeter screen required by MICC 19.12.040(B)(7) along SE 53rd Place shall be a full screen.
From other public right-of-way	30 feet	Two stories, 43 feet[1]	The perimeter screen required by MICC 19.12.040(B)(7) along SE 53rd Place shall be a full screen.
From public park or internal property line	15 feet	Two stories, 43 feet[1]	
From property lines abutting single-family zoned property	45 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	
West Mercer Elementary	**Minimum Setback**	**Height Limit**	**Special Conditions**
From public right-of-way	30 feet	Two stories, 43 feet[1]	
From public park or internal property line	15 feet	Two stories, 43 feet[1]	
From west property line abutting parcel numbers 3623500187 and 3623500184	45 feet	Two stories, 43 feet[1]	

From property lines abutting other single-family zoned property	45 feet	Two stories, 30 feet Additional height is allowed up to 43 feet above average building elevation (or up to 48 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	
New Elementary School No. 4	**Minimum Setback**	**Height Limit**	**Special Conditions**
From public right-of-way	30 feet	Two stories, 43 feet[1]	
From internal property line	15 feet	Two stories, 43 feet[1]	
Mercer Island High School	**Minimum Setback**	**Height Limit**	**Special Conditions**
From public right-of-way	30 feet	Three stories, 48 feet[1] Additional height is allowed up to 53 feet above average building elevation (or up to 58 feet as allowed by Footnote 1) with an additional setback of 1.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 48 feet above average building elevation.	
From public park or internal property line	15 feet	Three stories, 53 feet[1]	

From property lines abutting single-family zoned property	45 feet	Three stories, 30 feet Additional height is allowed up to 53 feet above average building elevation (or up to 58 feet as allowed by Footnote 1) with an additional setback of 2.5 feet for each additional 1 foot in height, for the portion of the structure exceeding 30 feet above average building elevation.	

[1] Additional 5 feet in height is allowed for a roof that is enclosing mechanical equipment; roof-mounted mechanical equipment and its screening; gymnasiums; and Mercer Island High School fly-loft.

2. Impervious Surface. Maximum allowable coverage with impervious surface is 55 percent for elementary and middle schools and 63 percent for the high school mega-block. An additional five percent of impervious surface coverage is allowed if the additional coverage is synthetic turf fields that allow for water percolation; pervious concrete, pervious asphalt or pervious pavers in areas not designed for vehicular use; or pervious fire lanes not available for general public use.

3. Green Building. New, expanded and remodeled school facilities shall comply with Chapter 39.35D RCW, High Performance Public Buildings.

4. Review Process.

a. Major new construction (except portable classrooms) requires design commission review pursuant to MICC 19.15.040.

b. Minor exterior modification and portable classrooms require administrative design review pursuant to MICC 19.15.040. (Ord. 14C-09 § 1; Ord. 14C-06 §§ 1 – 3; Ord. 99C-13 § 1).

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 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 traf-

fic 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 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 subsection 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 parking space per 200 square feet of gross floor area.

2. Public elementary and middle schools shall provide a minimum of two parking spaces per classroom. Public high schools shall provide a minimum of one parking space per classroom plus an additional one parking space per 10 students. If the parking spaces that would need to be provided as specified above are in excess of the actual parking demands of the school's staff, students, and visitors, the code official may allow a reduction in minimum parking requirements based on a parking analysis prepared by a qualified professional, with the approval of the city engineer and the design commission, for projects reviewable by the design commission.

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 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. (Ord. 14C-06 § 4; Ord. 99C-13 § 1).

Chapter 19.06

GENERAL REGULATIONS

Sections:

19.06.010 Prohibited uses.

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

A. Portable toilets except for temporary encampments, 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 30 days; provided, rooms in a bed and breakfast, hotel, or motel may be leased for periods of less than 30 days. (Ord. 10C-01 § 3; Ord. 99C-13 § 1).

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.

B. Temporary Signs Allowed in All Zones.

1. Temporary, Noncommercial Signs. Temporary, noncommercial signs are allowed in all zones, subject to the conditions set out in subsection A of this section and the following conditions:

a. Except as allowed in subsection 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 real estate sign per street frontage is allowed on property being offered for sale, rent, or lease.

ii. Three real estate A-frame signs may be posted in the public right-of-way, subject to the conditions set out in subsection (A)(6) of this section, for the following purposes:

(a) Advertising a real estate open house at a single-family dwelling; provided, no more than four 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 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 signs directing the public to a garage sale may be posted in a public right-of-way subject to the conditions set out in subsection (A)(6) of this section.

ii. Garage sale signs may be posted no more than 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 subsection (A)(6) 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:

1. Banners.

a. Shall be no larger than 48 square feet; however, no business may display more than 10 square feet of banner per 10 feet of business facade as measured by that portion of the building facing the access street, up to a maximum of 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 30 days at one time, but no more than a total of 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 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 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 subsection (A)(6) of this section; provided, the sign:

a. Shall not exceed 60 inches above the ground and shall not exceed 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 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.

3. Streamers, Flags, or Pennants Attached to a String or Wire.

a. May be used a maximum of two times per year for a maximum of seven 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 are expressly prohibited. (Ord. 08C-01 § 2; Ord. 02C-05 § 7; Ord. 02C-04 § 9; Ord. 99C-13 § 1).

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 antenna shall exceed 15 feet above average building 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 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 construction codes set forth in MICC Title 17. (Ord. 04C-12 § 13; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19.06.040 Wireless communications.

A. Town Center, Commercial/Office, Business and Planned Business Zones.

1. Permitted Use. Attached WCFs are permitted in the Town Center, commercial/office, business 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/Review. Wireless communications facilities are subject to review by the code official as outlined in subsection E of this section and MICC 19.15.010(E). When there are more than six antennas at one site, the code official may deem that site full and deny additional antennas.

B. Public Institution Zone (I-90 Corridor).

1. Permitted Use. Wireless communications facilities, including antenna support structures and equipment cabinets, are permit-

ted. Facilities must meet all of the following criteria:

a. Antennas shall not project more than two 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 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 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 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/Review.

a. Wireless communications facilities are subject to review by the code official as outlined in subsection E of this section and MICC 19.15.010(E). When there are more than six antennas at one site, the code official may deem that site full and deny additional antennas.

b. No wireless communications 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. WCFs are permitted within the right-of-way boundary along Island Crest Way from SE 40th Street to SE 53rd Place and from SE 63rd to SE 68th Street. WCFs must be attached directly to and incline with existing utility poles, with minimal overhang. WCF antennas shall not exceed 96 inches in length, 12 inches in width, and 12 inches in depth. The WCF must not project over the height of the pole, but a pole with a height of up to 70 feet may replace an existing pole or a pole with a height of up to 110 feet may replace an existing pole if the WCF is being collocated with another WCF consistent with subsection F of this section. All WCFs shall be set back from adjacent residential structures by a minimum of 40 feet.

2. Approval Process/Review. WCFs in the Island Crest right-of-way must be reviewed and approved by the code official in accordance with subsection E of this section and MICC 19.15.010(E) and be approved by the city engineer. When there are more than six antennas at one site, the code official may deem that site full and deny additional antennas. 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; provided, WCFs are permitted as stated below on the following public and utility properties:

a. South Mercer Island Fire Station, 8473 SE 68th Street. Maximum height: 60 feet;

b. Puget Sound Energy Power Substation, 8477 SE 68th Street. Maximum height: 60 feet;

c. Mercer Island Water Reservoir, 4300 88th Avenue SE. Maximum height: 60 feet;

d. Island Crest Park, if the WCF is either (i) attached to an existing ballfield light standard, or (ii) attached to a new stealth designed replacement ballfield light standard located along the eastern border of Island Crest Park.

i. Maximum number of support structures: A maximum of two support structures (existing or replacement ballfield light standards) with up to three WCFs on each such support structure;

ii. Maximum height: 110 feet; and

e. Certain rights-of-way adjacent to Clise Park.

i. Maximum number of support structures: One stealth support structure with up to three WCFs on such support structure located within the rights-of-way at the intersection of Island Crest Way, 84th Avenue SE

and SE 39th Street, in a location at such intersection abutting trees and having the least visual impact while ensuring the maximum protection of mature trees.

ii. Maximum number and location of equipment cabinets: Three equipment cabinets associated with such support structure located in that portion of the SE 39th Street or 84th Avenue SE rights-of-way adjacent to Clise Park, except that if such location does not permit the proper functioning of the WCF as determined by the code official, then the equipment cabinet shall be located in the Island Crest Way right-of-way adjacent to Clise Park.

iii. Maximum height: 110 feet.

WCFs on the above properties may be attached or have a monopole structure. Except as to the Puget Sound Energy Substation referred to above, equipment cabinets shall be placed underground if physically feasible. In Island Crest Park, 84th Avenue SE or SE 39th Street right-of-way, the equipment cabinets may be placed aboveground if the parks director determines there is a significant benefit to the parks by either the retention of trees and/or vegetation or the improvement of park uses. Any aboveground equipment cabinet must be properly screened consistent with subsection (E)(3) of this section. The setback of the support structure from any adjacent residential property line shall be equal to the height of the support structure except in Island Crest Park or those rights-of-way described in subsection (D)(1)(e) of this section, where the setback of the support structure shall be 40 feet from any residential structure.

2. Approval Process/Review. Wireless communications facilities are subject to review by the code official as outlined in subsection E of this section and MICC 19.15.010(E). When there are more than six antennas at one site, the code official may deem that site full and deny additional antennas.

E. Performance Standards.

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.

4. Engineer Review. The city shall require any WCF applicant to present engineering data showing the coverage of its existing WCFs and establish that the proposed WCF is required in order to prevent a significant gap in service coverage. The city may hire an independent engineer or other telecommunications consultant to review the applicant's data. If such review is required by the city, the applicant shall pay all costs associated with the city hiring an independent engineer or consultant.

5. Priority Locations. WCFs shall be located only in the zones and properties described in this chapter and a WCF applicant shall locate any WCF in the following siting priority consistent with proper functioning of the WCF:

a. Public properties described in subsections B and D of this section;

b. Town Center, commercial/office and planned business zones described in subsection A of this section; and

c. Island Crest Way corridor described in subsection C of this section.

F. Shared Facilities and Collocation. The applicant shall collocate the WCF with an existing WCF site unless the applicant can demonstrate to the city's satisfaction that such collocation is not feasible due to radio interference, usable signal, other engineering reason, property owner's refusal to lease property, or zoning restriction. The city also encourages WCF applicants to construct and site facilities with a view toward sharing sites and structures with other utilities, and accommodating the future collocation of other future WCFs.

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 one 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; or

3. In Island Crest Park if the parks director supports the variance because there will be a significant benefit to the park by either the retention of trees and/or vegetation or improvement of park uses.

I. Removal of WCFs. If a WCF becomes obsolete or unused, it must be removed within six 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). (Ord. 11C-11 § 1; Ord. 11C-05 § 1; Ord. 08C-01 § 2; Ord. 04C-02 §§ 1, 3; Ord. 02C-10 §§ 1, 2, 3, 5; Ord. 99C-13 § 1).

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), corporation, or company 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 sidewalks and access to other adjacent businesses.

b. The business location does not obstruct the views of motorists 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 is 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; provided, that occasional, temporary business operations involving temporary structures and/or temporary right-of-way obstructions may be approved by the code official or referred to the design commission at the code official's discretion.

F. All permittees must comply with all applicable city, county, state and federal laws, including the International Fire Code.

G. Permits for ongoing commercial use on public property shall be subject to renewal annually on the date of the original permit approval. Failure to submit a renewal request within 30 days of the annual renewal date shall result in the suspension of the permit.

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."

J. The code official may require a bond or assignment of funds as set out in MICC 19.01.060(C) to ensure that public property subject to commercial use under this section is restored to its former condition immediately following cessation of the commercial use.

K. The code official may require evidence of insurance, indemnification or other measures deemed necessary and sufficient to limit the city's liability for the acts or omissions of persons, corporations, or companies seeking and obtaining permission to use public property for commercial purposes. (Ord. 08C-06 § 1; Ord. 04C-12 § 14; Ord. 99C-13 § 1).

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;

6. State that the city shall be entitled to revoke an encroachment agreement at any time, with or without cause and without penalty or liability, and that the property owner shall return the property to the same or better condi-

tion than existed prior to the encroachment; and

7. 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 assessor's 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 pursuant to MICC 19.09.060 after submitting an application to the city engineer along with the applicable fee. (Ord. 03C-09 § 2; Ord. 99C-13 § 1).

19.06.070 Bonding and insurance.

Repealed by Ord. 03C-10. (Ord. 99C-13 § 1).

19.06.080 Siting of group housing.

A. Special Needs Group Housing.

1. Permitted. Special needs group housing is permitted in all zones subject to the following conditions:

a. The facility shall meet all applicable Washington State licensing requirements.

b. The facility shall comply with all applicable construction codes set forth in MICC Title 17, including maximum occupancy restrictions.

c. Operators of housing for persons with handicaps or with familial status within the meaning of the Federal Fair Housing Amendments Act (FHAA) may not accept individuals 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.

The code official may require the operator of a special needs group home to deny housing to an individual if the police chief determines, based on the characteristics and relevant conduct of the individuals at issue, that such tenant is a direct threat to the health and safety of others, or that such individual's tenancy would result in substantial physical damage to the property of others. The police chief's determination may be appealed to the hearing examiner by the operator or tenant at issue under the appeal procedure set out in MICC 19.15.020(J).

2. Reasonable Accommodation. Reasonable accommodations shall be made to handicapped persons, pursuant to the process provided in MICC 19.01.030, when such accommodations may be necessary to afford such persons equal opportunity to use and enjoy a dwelling, as required by the FHAA.

B. Social Service Transitional Housing.

1. Permitted. Social service transitional housing is permitted in all zones when authorized by the issuance of a conditional use permit (CUP). Review of the conditional use permit application will be based upon the criteria set forth in MICC 19.15.020(G)(3) and the supplemental criteria set forth in subsection (B)(3) of this section.

2. Exceptions.

a. If the police chief determines that the safety of the intended residents in a domestic violence shelter will be compromised by CUP public notice requirements, they may be waived.

b. A domestic violence shelter is not required to comply with subsection (B)(3)(c) of this section, which requires a 600-foot setback.

c. Social service transitional housing facilities that house persons with familial status and persons with handicaps within the meaning of the FHAA is permitted in all zones pursuant to subsection A of this section, and are not required to obtain a CUP.

3. Supplemental Conditional Use Criteria.

a. A determination made by the police chief as to whether a tenant may be a threat to the health or safety of others or whether an individual's tenancy is likely to result in significant physical damage to the property of others, and, if so, whether conditions can be attached to satisfactorily control those risks.

b. The facility is at least 1,000 feet from any other facility under this classification.

c. The facility is at least 600 feet from the property line of educational or recreational facilities where children are known to congregate, including but not limited to any public park, the I-90 Trail, churches or synagogues, schools, licensed daycares, the Mercer Island Branch of the King County Library, public pools, the Mercerwood Shore Club, Mercer Island Beach Club, the Jewish Community Center, Mercer View Community Center, or the Boys and Girls Club.

d. The facility and program secures and maintains all licenses and/or approvals as required by the state or federal government.

e. The facility shall comply with all applicable construction codes set forth in MICC Title 17, including maximum occupancy restrictions.

f. The program will be operated under the authority of a reputable governing board or social service or government agency or proprietor, to whom staff are responsible and who will be available to city officials, if necessary, to resolve concerns pertaining to the facility.

g. The facility shall operate under a written management plan, including a detailed description of staffing, supervision, and security arrangements appropriate to the type and number of clients and to its hours of operation, which shall be submitted to and approved by the city prior to the first occupancy by any person intended to be served by the facility.

h. The facility has adequate off-street parking. The code official may require the applicant to submit a traffic study.

i. The city shall determine the number of dwelling units or occupancy rooms or suites permitted in the proposed facility based on the following criteria:

i. The specific nature of the occupancy and the persons that will be housed in the proposed facility.

ii. The size of the dwelling units or occupancy rooms or suites and the specific configuration of the facilities within these units, rooms, or suites.

iii. The impacts on nearby residential uses of the proposed facility.

4. Appeal. The conditional use permit decision made under subsection B of this section may be appealed pursuant to MICC 19.15.020(J).

C. Rooming Houses.

1. Permitted. Rooming houses are permitted in multifamily zones and in the Town Center unless:

a. The rooming house fails to comply with all applicable construction codes set forth in MICC Title 17, including maximum occupancy restrictions;

b. The rooming house does not have adequate off-street parking, which will be determined by a traffic study that shall be promptly provided by the rooming house owner and/or operator if requested by the code official;

c. The police chief determines that any tenant is a threat to the health or safety of others; and

d. The code official determines that the rooming house creates any significant adverse impact affecting surrounding properties; and measures which may be required by the code official to be taken by the rooming house owner and/or operator to mitigate such impacts are not promptly taken or do not satisfactorily mitigate such impacts.

2. Appeal. Determinations made by the code official pursuant to subsection C of this section may be appealed pursuant to MICC 19.15.020(L). (Ord. 06C-06 § 2; Ord. 04C-12 § 15; Ord. 03C-08 § 1).

19.06.090 Temporary encampment permit.

A. General Conditions. Temporary encampments are allowed only pursuant to a permit issued in accordance with the following conditions:

1. A temporary encampment shall be located at a place of worship. If the place of worship is not actively practicing on the site proposed for a temporary encampment, then the place of worship must comply with all other permit requirements for the underlying zone required for siting a new place of worship and temporary encampment.

2. Each lot occupied by a temporary encampment must provide or have available parking and vehicular maneuvering area.

3. The temporary encampment and the parking of any vehicles associated with a temporary encampment application shall not displace the host site's parking lot in such a way that the host site no longer meets the minimum or required parking of the principal use as required by code or previous approvals unless an alternative parking plan has been approved by the code official.

4. The temporary encampment shall be located within one-half mile of a public transit stop.

5. No temporary encampment shall operate within the city of Mercer Island for more than 90 consecutive days, except that the code official may allow up to five additional days to accommodate moving on a weekend.

6. The city shall not grant a permit for a temporary encampment that is proposed to commence on a lot or lots within one-half mile of any lot(s) that contained a temporary encampment within the last 18 months. For the purposes of this subsection, the 18 months shall be calculated from the last day of the prior temporary encampment within the one-half-mile radius. No more than one temporary encampment may be located in the city at any time.

7. All temporary encampments shall obtain, prior to occupancy of the lots, all applicable city of Mercer Island permits, licenses and other approvals (i.e., business license, building permit, administrative approvals, etc.).

8. Each site occupied by a temporary encampment shall be left free of debris, litter, or other evidence of the temporary encampment upon completion of removal of the use.

9. The applicant shall submit a complete application for a temporary encampment permit at least 75 days before any occupancy by the temporary encampment.

10. The encampment shall be limited to a maximum of 100 persons. After the encampment reaches its 100-person capacity, any individual(s) who arrive after sundown (and meet all screening criteria) will be allowed to stay for one night, after which the individual(s) will not be permitted entry until a vacancy is available. Such occurrences shall be logged and reported to the code official on a weekly basis.

11. Because of their temporary nature, temporary structures within temporary encampments shall not be required to meet the design review criteria of Chapter 19.11 or 19.12 MICC. Any permanent structures, as determined by the code official, shall meet all applicable design review criteria and receive any necessary design review permits. All temporary structures for temporary encampments shall comply with the following design criteria:

a. Temporary encampment structures shall be located a minimum of 20 feet from any property line that abuts a residential property, unless otherwise approved by the code official. All other setbacks and yards applicable to permanent structures shall apply to temporary structures related to temporary encampments;

b. A six-foot-high sight-obscuring fence, vegetative screen or other visual buffering shall be provided between the temporary encampment and any abutting residential property and the right-of-way. The fence shall provide a privacy and a visual buffering among neighboring properties in a manner and material approved by the code official. The code official shall consider existing vegetation, fencing, topographic variations and other site conditions in determining compliance with this requirement; and

c. Exterior lighting must be directed downward, away from adjoining properties, and contained within the temporary encampment.

12. No children under the age of 18 are allowed to stay overnight in a temporary encampment unless accompanied by a parent or legal guardian. If any other child under the age of 18 attempts to stay overnight at the temporary encampment, the temporary encampment managing organization shall immediately contact the Washington State Department of Social and Health Services Child Protective Services, or its successor.

13. The temporary encampment shall comply with all applicable standards of the Seattle-King County health department, or its successor.

14. The temporary encampment shall comply with all Washington State and city codes concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking and food handling and fire-resistant materials. Servicing of portable toilets and trash dumpsters is prohibited between the hours of 10:00 pm and 7:00 am on Mondays through Fridays, excluding legal holidays, and between the hours of 10:00 pm and 9:00 am on Saturdays, Sundays, and legal holidays, except in the case of bona fide emergency or under permit from the code official in case of demonstrated necessity.

15. The temporary encampment shall permit regular inspections by the city, including the police department, and King County health department to check compliance with the standards for temporary encampments. The Mercer Island fire department shall do an initial fire inspection and safety meeting at the inception of the temporary encampment.

16. All temporary encampments shall have services, such as food, water, and waste disposal, provided by a temporary encampment sponsor and supervised by a temporary encampment managing organization.

17. The managing organization and temporary encampment sponsor shall sign a hold harmless agreement for the temporary encampment.

18. The temporary encampment managing organization shall maintain a resident log for all who are residing at the temporary encampment. Such log shall be kept on site at the temporary encampment. Prospective encampment residents shall provide a verifiable form of identification when signing the log.

19. The temporary encampment sponsor and encampment managing organization shall ensure enforcement of a code of conduct at the temporary encampment site. The code of conduct shall be in substantially the following form or address the following issues:

a. Possession or use of illegal drugs is not permitted;

b. No alcohol is permitted;

c. No weapons are permitted;

d. All knives over three and one-half inches must be turned in to the encampment managing organization for safekeeping;

e. No violence is permitted;

f. No open flames are permitted;

g. No trespassing into private property in the surrounding neighborhood is permitted;

h. No littering on the temporary encampment site or in the surrounding neighborhood is permitted; and

i. No convicted sex offender shall reside in the temporary encampment.

Nothing within this section shall prohibit the encampment sponsor or encampment managing organization from imposing and enforcing additional code of conduct conditions not otherwise inconsistent with this section.

20. The temporary encampment managing organization shall obtain warrant and sex offender checks from the King County sheriff's office for all current camp residents within the seven days prior to moving to Mercer Island, as well as from all new residents checking into the temporary encampment. If said check reveals the subject is a sex offender or has an active warrant, the temporary encampment managing organization or sponsor shall immediately contact the city of Mercer Island police department. The temporary encampment sponsor shall be responsible for verifying that the warrant and sex offender checks occur, that the log of persons residing at the temporary encampment is kept and that verifiable forms of identification are being provided.

21. Upon determination that there has been a violation of any condition of approval, the code official may give written notice to the permit holder describing the alleged violation. Within seven days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the seven-day period, the code official shall sustain or revoke the permit. When a temporary encampment permit is revoked, the code official shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a temporary encampment permit will be processed pursuant to Chapter 36.70C RCW. The availability of this procedure shall be in addition to the procedures set out in MICC 19.15.030.

22. A designated smoking area shall be provided on site in the location which would result in the least impact on neighboring properties based on distance.

23. The code official may require any other condition as necessary to mitigate impacts from temporary encampments.

B. Permit Application. The applicant for a temporary encampment shall submit all of the following, unless waived by the code official:

1. General application form;

2. A site plan, which extends 50 feet beyond the proposed site's property boundaries, drawn to scale showing all of the following:

a. All existing structures;

b. Existing parking stalls;

c. Parking stalls proposed to be unavailable for parking vehicles during the temporary encampment;

d. All proposed temporary structures;

e. Proposed electrical and plumbing connections;

f. Location of trash receptacles, including trash dumpsters;

g. Location of toilets and other sanitary facilities;

h. Location and details of any proposed connection to wastewater, potable water, stormwater, electrical supply, or other public or private utility systems;

i. Proposed and existing ingress and egress;

j. Any permanent alterations on the lot to the site or structures; and

k. Designated smoking area;

3. Proposed fencing detail or typical section;

4. Written authorization from a temporary encampment sponsor on which the temporary encampment is located;

5. A hold harmless agreement, on a form approved by the city attorney, with a signature of the temporary encampment sponsor;

6. A copy of any agreements with other parties regarding use of parking, either on site or off site;

7. A copy of any agreement between the temporary encampment sponsor, temporary encampment managing organization, and any schools and/or child care services;

8. A copy of the code of conduct;

9. The applicant shall provide:

a. The date, time, and location of the required informal public meeting;

b. The name of persons representing the temporary encampment managing organization and sponsor at the informal public meeting;

c. A summary of comments provided; and

d. Copies of any documents submitted at the informal public meeting;

10. Any other information deemed necessary by the code official for the processing of a temporary encampment permit; and

11. All applicable application filing fees in an amount established by city ordinance or resolution.

C. Application Process. A temporary encampment permit is an administrative action. In addition to the requirements for the processing of administrative actions specified in Chapter 19.15 MICC, the following additional procedures shall apply:

1. Informal Public Meeting Required. The code official shall require an applicant to conduct an informal public meeting to inform citizens about a proposed temporary encampment prior to submittal of an application. Notice of the informal public meeting shall be provided in the same manner as required for notice of the application, at least 10 days prior to the informal public meeting. Prior to the informal public meeting, the temporary encampment sponsor and managing organization shall meet and confer with the Mercer Island police department regarding any proposed security measures. At the informal public meeting, a representative of the temporary encampment sponsor and managing organization shall present in writing and describe the proposed temporary encampment location, timing, site plan, code of conduct, encampment concerns, management security measures, and any input or comment received on the plan, including any comment or input from the Mercer Island police department, or comment or input from schools and/or child care services under subsection (C)(2) of this section. Copies of the agenda and other materials shall be provided by the applicant at the meeting. The meeting shall be conducted on the subject property whenever feasible.

2. Additional Mailed Notice. The requirements for mailing the notice of application set forth in Chapter 19.15 MICC shall be expanded to include owners of real property within 600 feet of the lot(s) containing the proposed temporary encampment. Prior to any application for a temporary encampment permit, the temporary encampment sponsor, or temporary encampment managing organization, shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the lot(s) proposed to contain the temporary encampment, and shall meet and confer with the operators of any properly licensed child care service within 600 feet of the boundaries of the lot(s) proposed to contain the temporary encampment. The temporary encampment sponsor and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a temporary encampment within 600 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the code official for consideration, for inclusion within the temporary encampment permit. In the event the parties fail to agree on any conditions, either party may provide the code official with a written summary of the parties'

discussions, which the code official may consider in evaluating whether the conditions for the temporary encampment permit are met, or the need for additional conditions upon the temporary encampment permit, without violating the legal rights of the temporary encampments sponsor.

D. Emergencies. The code official may waive these requirements when a catastrophic event necessitates the immediate establishment of a temporary encampment. (Ord. 10C-01 § 2).

Chapter 19.07

ENVIRONMENT

Sections:

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. (Ord. 05C-12 § 5).

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. (Ord. 05C-12 § 5).

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 seven 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.

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 nonmotorized 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 19.07.070(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.

If a project does not qualify as an allowed alteration under this section, it may be allowed through a reasonable use exception or if it is consistent with the other regulations in this chapter.

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. (Ord. 05C-12 § 5).

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 19.02.020(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 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 sed-

imentation, the city may suspend further work on the site until such standards are met. (Ord. 05C-12 § 5).

19.07.050 Critical area study.

When a critical area study is required under MICC 19.07.030, 19.07.060, 19.07.070, 19.07.080 or 19.07.090, 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 storm water 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. Storm water 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. (Ord. 05C-12 § 5).

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 storm water standards and the proposed construction work will not subject people or property, including areas off-site, 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 subsection C of this section. 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. (Ord. 05C-12 § 5).

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 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

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 five-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-site 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. (Ord. 08C-01 § 3; Ord. 05C-12 § 5).

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 (feet)
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 Widths. 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. (Ord. 05C-12 § 5).

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 232-12-014, 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. (Ord. 05C-12 § 5).

19.07.100 Shoreline areas.

Repealed by Ord. 13C-12. (Ord. 08C-01 § 3; Ord. 05C-12 § 6; Ord. 02C-09 § 6; Ord. 99C-13 § 1. Formerly 19.07.050).

19.07.110 Shoreline master program.

A. Authority and Purpose.

1. Authority. This section is adopted as part of the shoreline master program of the city. It is adopted pursuant to the authority and requirements of Chapter 90.58 RCW and Chapter 173-26 WAC.

2. Applicability. The requirements of this section apply to all uses, activities and development within the shorelands, unless specifically exempted. All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act.

3. Purpose and Intent. It is the purpose and intent of this section to achieve the shoreline master program (SMP) mandates of the state of Washington and to adopt property development standards within the shorelands that protect the health, safety, welfare, values and property interests of the city of Mercer Island and its residents.

4. Relationship with Other Mercer Island Codes and Ordinances. This section is an integrated element of the city of Mercer Island Unified Land Development Code (MICC Title 19) and other applicable development regulations contained in the Mercer Island City Code, including the storm water management regulations in MICC Title 15, and building and construction regulations in MICC Title 17. The provisions of the critical areas ordinance (MICC 19.07.010 through and including 19.07.090 as in effect on January 1, 2011) are hereby incorporated as specific regulations of the shoreline master program. To the extent this section conflicts with any other section of the Mercer Island City Code, the provisions of this section shall govern within the shorelands.

5. Relationship with Other Federal and State Law. The provisions of this section shall not relieve any responsibility to comply with other federal and state laws or permits. All work at or waterward of the OHWM may require permits from one or all of the following: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources or Washington Department of Ecology.

B. General Regulations.

1. Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and uses and structures 25 feet landward from the OHWM, which were legally created may be maintained, repaired, renovated, remodeled and completely replaced to the extent that nonconformance with the standards and regulations of this section is not increased.

2. No Net Loss Standard and Mitigation Sequencing. No development shall be approved unless the applicant demonstrates to the code official's satisfaction that the shoreline development will not create a net loss of ecological function in the shorelands.

a. Standards Presumed to Meet No Net Loss. When all individual development standards that apply to a development project do not explicitly require a determination of no net loss and the project conforms with all such standards, there is a rebuttable presumption that the project does not create a net loss of ecological function to the shorelands.

b. No Net Loss Plan. Whenever an applicant seeks a variance or conditional use permit or an applicable development standard explicitly requires a determination of no net loss of ecological function, the applicant shall provide the city with a plan that demonstrates the proposed project will not create a net loss in ecological function to the shorelands. The plan shall accomplish no net loss of ecological function by avoiding adverse ecological impacts that are not reasonably necessary to complete the project, minimizing adverse ecological impacts that are reasonably necessary to complete the project, and mitigating or offsetting any adverse impacts to ecological functions or ecosystem-wide processes caused by the project. The code official may require the plan to include reports from qualified professionals with expertise in ecological function. The plan's compliance with the no net loss requirement may be considered through the SEPA process.

i. Off-Site Mitigation Permitted. While on-site mitigation is preferred, off-site mitigation may be permitted at the discretion of the code official.

ii. Demonstration of No Net Loss Supported by a Qualified Professional. The code official may require any applicant to provide reports by qualified professionals that demonstrate to the code official's satisfaction that the applicant's proposed plan avoids a net loss in ecological function.

3. Expansion of Legal Nonconforming Structures. Expansions of legal nonconforming overwater structures and structures upland 25 feet from the OHWM are permitted; provided, that the expanded structure is constructed in compliance with this section and all other standards and provisions of the Mercer Island development regulations.

4. Shoreline Habitat and Natural Enhancements Held Harmless. In those instances where the OHWM moves further landward as a result of any action required by this section, or in accordance with permits involving a shoreline habitat and nature systems enhancement approved by the city, or a state or federal agency, the shoreline setback shall be measured from the location of the OHWM that existed immediately prior to the action or enhancement project.

C. Shoreline Map and Designations. The shoreline environmental designations map, dated March 3, 2011, as shown in Appendix F, is adopted as the official Mercer Island shoreline environmental designations map. The digital map is available in the online version of the Mercer Island City Code at http://www.mercergov.org. All shorelands within the city are designated. Different areas of the city's shorelands have different natural characteristics and development patterns. As a result, two 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 shorelands. They are:

1. Urban Park Environment. This environment consists of shoreland areas designated for public access and active and passive public recreation. The areas include, but are not limited to, parks, street ends, public utilities and other publicly owned rights-of-way. The uses located in this environment should be water-dependent and designed with no net loss to the ecological functions of the shorelands. Restoration of ecological functions is planned for these areas and is strongly encouraged. The preferred and priority use in the urban park environment is public access to, and enjoyment of, Lake Washington.

2. Urban Residential Environment. The purpose of the urban residential environment is to provide for residential and recreational utilization of the shorelands, compatible with the existing residential character in terms of bulk, scale, type of development and no net loss of ecological functions of the shorelands. The preferred and priority use in the urban residential environment is single-family residential use.

D. Use Regulations. The following tables specify the shoreline uses and developments which may take place or be conducted within the designated environments. 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 standards specified in subsection E of this section.

KEY:	
CE:	Permitted via shoreline categorically exempt
P:	Permitted use
P-1:	Uses permitted when authorized by a conditional use permit for the applicable zone shall also require a shoreline substantial development permit and a shoreline plan in compliance with MICC 19.07.110(B)(2)

KEY:
SCUP: Shoreline conditional use permit
NP: Not a permitted use

The following regulations apply to all uses and development within the shorelands, whether or not that development is exempt from the permit requirements:

Table A – Shoreland Uses Landward of the Ordinary High Water Mark

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Single-family dwelling including accessory uses and accessory structures	CE	NP
Accessory dwelling units	CE	NP
The use of a single-family dwelling as a bed and breakfast	P-1	NP
A state-licensed day care or preschool	P-1	NP
Government services, public facilities, and museums and art exhibitions	P-1	P
Public parks and open space	P	P
Private recreational areas	P	NP
Semi-private waterfront recreation areas for use by 10 or fewer families	P	NP
Semi-private waterfront recreation areas for use by more than 10 families	P-1	NP
Noncommercial recreational areas	P-1	P
Commercial recreational areas	NP	NP
Places of worship	P-1	NP
Retirement homes located on property used primarily for a place of worship	P-1	NP
Special needs group housing	P	NP
Social service transitional housing	P	NP
Public schools accredited or approved by the state for compulsory school attendance	NP	NP
Private schools accredited or approved by the state for compulsory school attendance	NP	NP
Streets and parking	P	P
Transit facilities including light rail transit facilities, transit stops, and associated parking lots	P	NP

Table A – Shoreland Uses Landward of the Ordinary High Water Mark (Continued)

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Wireless communications facilities	P	P
New hard structural shoreline stabilization	SCUP	SCUP
Soft structural shoreline stabilization	P	P
Shoreland surface modification	P	P
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
Boat ramp	P	P
Agriculture, aquaculture, forest practices and mining	NP	NP

Table B – Shoreland Uses Waterward of the Ordinary High Water Mark

SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Moorage facilities and covered moorages 600 square feet or less	P	P
Covered moorage larger than 600 square feet	SCUP	SCUP
Floating platforms	P	P
Mooring piles, diving boards and diving platforms	P	P
Boat ramp	P	P
Boat houses	NP	NP
Floating homes	NP	NP
Public access pier or boardwalk	P	P
Utilities	P	P
Public transportation facilities including roads, bridges, and transit	P	P
Transit facilities including light rail transit facilities	P	NP
Dredging and dredge material disposal	P	P
Breakwaters, jetties, and groins (except those for restoration of ecological functions)	NP	NP
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P

Table B – Shoreland Uses Waterward of the Ordinary High Water Mark (Continued)

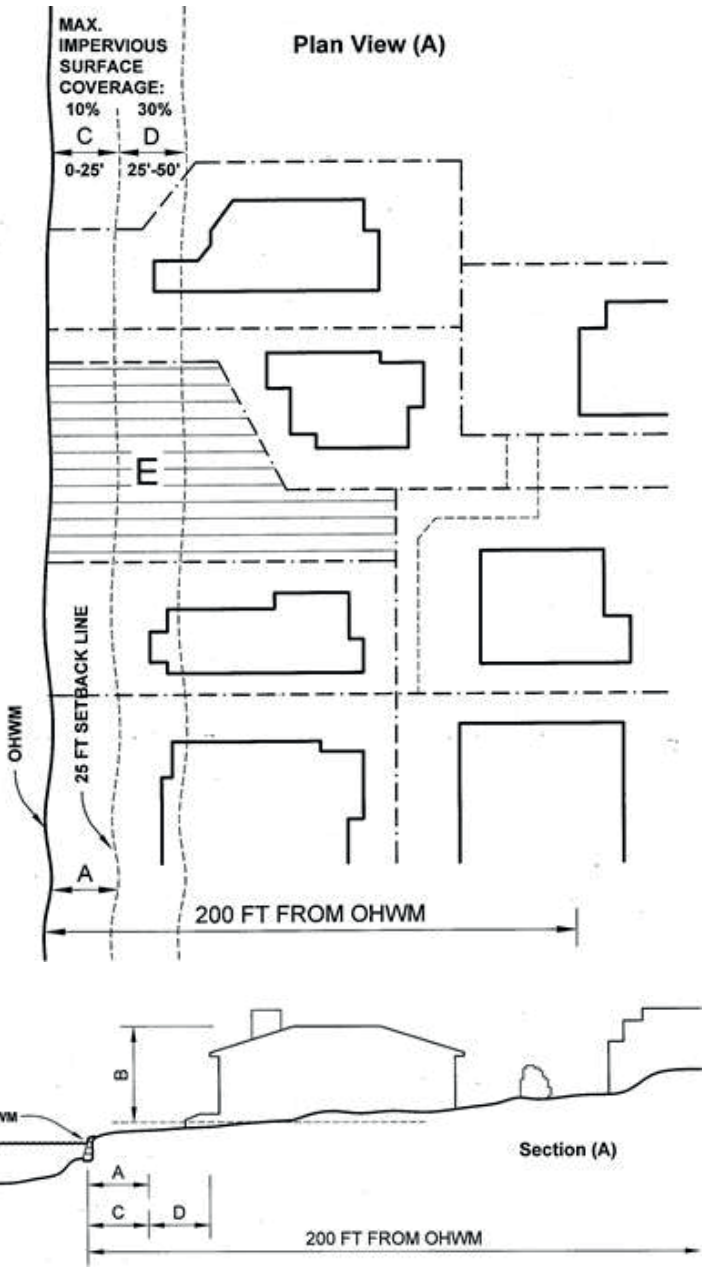
SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Notes: A use not listed in this table is not permitted within shorelands. A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.		

E. Shoreland Development Standards. All development within the shoreline jurisdiction shall be in compliance with all development requirements specified in this section.

1. Standards Landward of the OWHM. The standards in Table C shall apply to development located landward of the OHWM:

Table C. Requirements for Development Located Landward from the OHWM

Setbacks for All Structures (Including Fences over 48 Inches High) and Parking	A*	25 feet from the OHWM and all required setbacks of the development code, except light rail transit facilities. If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland's boundary
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 35 feet above average building elevation, except light rail transit facilities
Maximum Impervious Surface Coverage	C D	10%: between 0 and 25 feet from OHWM 30%: between 25 and 50 feet from OHWM
Minimum Land Area Requirements	E	All semi-private, commercial and noncommercial recreational tracts and areas shall have minimum 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
Shoreland Surface Modification		Alterations over 250 cubic yards – outside the building footprint requires SEPA
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges
*The letters in this column refer to the Plan View (A) and Section (A) diagrams.		



2. Bulkheads and Shoreline Stabilization Structures.

a. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves, and the following conditions shall apply:

i. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

ii. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the primary structure was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

iii. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

iv. Construction and maintenance of normal protective bulkhead common to single-family dwellings requires only a shoreline exemption permit, unless a report is required by the code official to ensure compliance with the above conditions; however, if the construction of the bulkhead is undertaken wholly or in part on lands covered by water, such construction shall comply with SEPA mitigation.

b. New Structures for Existing Primary Structures. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are not allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of shoreline ecological functions.

c. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. This future shoreline stabilization standard does not apply to stabilization that occurs pursuant to subsection (E)(2)(a) of this section. New structural stabilization measures in support of new non-water-dependent development, including single-family residences, shall only be allowed when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with subsection (E)(2)(h) of this section. The damage must be caused by natural processes, such as currents and waves.

iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

d. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, in compliance with subsection (E)(2)(h) of this section and building and construction codes.

e. New structural stabilization measures in support of water-dependent development shall only be allowed when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with subsection (E)(2)(h) of this section and building and construction codes.

iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

f. New structural stabilization measures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW shall only be allowed when all of the conditions below apply:

i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

ii. The erosion control structure will not result in a net loss of shoreline ecological functions.

g. 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 two years 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.

h. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

i. When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions, the following shall apply:

i. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

ii. Ensure that publicly financed or subsidized shoreline erosion control measures do not permanently restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions: WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

iii. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

j. The development of two or more dwelling units on a lot abutting the OHWM should provide joint use or community dock facilities, when feasible, rather than allow individual docks for each lot.

3. Transportation and Parking.

a. Shoreline circulation system planning shall include safe, reasonable, and adequate systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with all regulations.

b. Transportation and parking facilities shall be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

c. Where other options are available and feasible, new roads or road expansions should not be built within shorelands.

d. Parking facilities in shorelands shall be allowed only as necessary to support an authorized use.

4. Standards Waterward of the OHWM. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots. Only one noncommercial, residential moorage facility per upland residential waterfront lot authorized. The standards in Table D shall apply to development located waterward of the OHWM:

Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

Setbacks for All Moorage Facilities, Covered Moorage, and Floating Platforms	A*	10 feet from the lateral line (except where moorage facility is built pursuant to the agreement between adjoining owners as shown in Figure B below).
	B	Where a property shares a common boundary with the urban park environment, the setback shall be 50 feet from the lateral line or 50% of the water frontage of the property, whichever is less.
Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space	C	25 feet from any adjacent private property line.
Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Covered Moorage, Boatlifts and Floating Platforms	D	Maximum 100 feet, but in cases where water depth is less than 11.85 feet below OHWM, length may extend up to 150 feet or to the point where water depth is 11.85 feet at OHWM, whichever is less.
Width of moorage facilities within 30 feet waterward from the OHWM	E	Maximum 4 feet. Width may increase to 5 feet if one of the following is met: 1) Water depth is 4.85 feet or more, as measured from the OHWM; or 2) A moorage facility is required to comply with Americans with Disabilities Act (ADA) requirements; or 3) A resident of the property has a documented permanent state disability as defined in WAC 308-96B-010(5); or 4) The proposed project includes mitigation option A, B or C listed in Table E; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet waterward from the OHWM, or a site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands. Moorage facility width shall not include pilings, boat ramps and lift stations.
Width of moorage facilities more than 30 feet waterward from the OHWM	E	Maximum 6 feet wide. Moorage facility width shall not include pilings, boat ramps and lift stations.
Height Limits for Walls, Handrails and Storage Containers Located on Piers	F	3.5 feet above the surface of a dock or pier. 4 feet for ramps and gangways designed to span the area 0 feet to 30 feet from the OHWM.

Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM (Continued)

Height Limits for Mooring Piles, Diving Boards and Diving Platforms	G	10 feet above the elevation of the OHWM.
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges.
*The letters in this column refer to the Plan View (B) and Section (B) diagrams.		

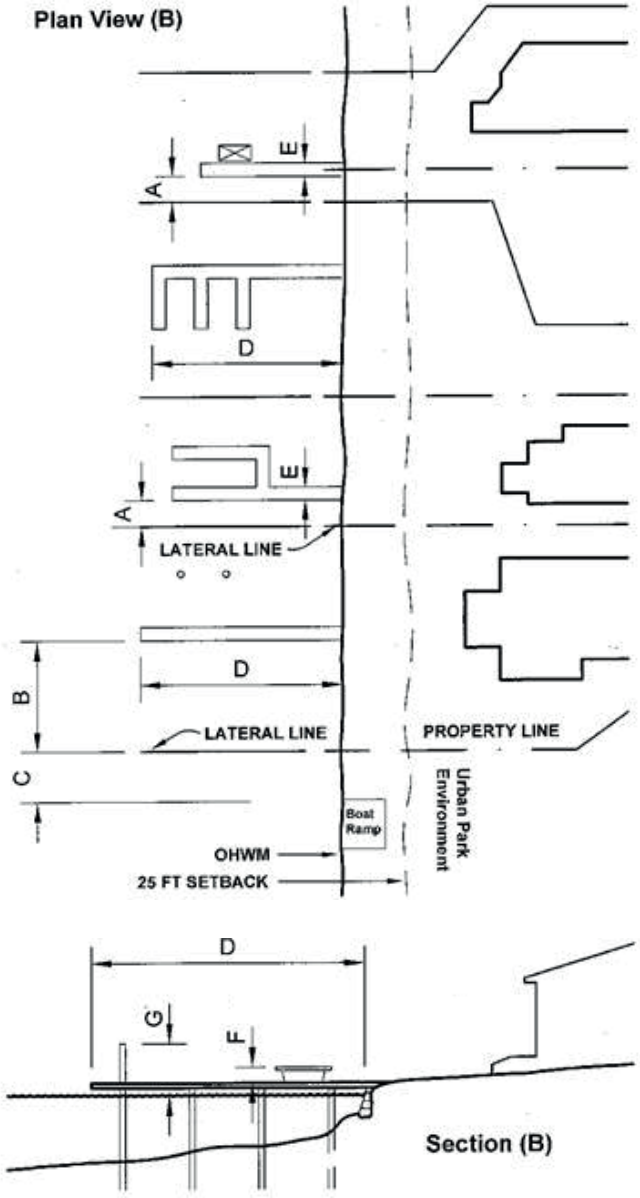


Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM (Continued)

Minimum Water Frontage for Moorage Facility	H*	Single-family lots: 40 feet.
	I	Shared – two adjoining lots: 40 feet combined.
	J	Semi-private recreational tracts: 2 families: 40 feet. 3 – 5 families: 40 feet plus 10 feet for each family more than 2. 6 – 10 families: 70 feet plus 5 feet for each family more than 5. 11 – 100 families: 95 feet plus 2 feet for each family more than 10. 101+ families: 275 feet plus 1 foot for each family more than 100.
Covered Moorage		Permitted on single-family residential lots subject to the following: (a) Maximum height above the OHWM: 16 feet; 16 to 21 feet subject to criteria of MICC 19.07.110(E)(5)(a). (b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage. (c) Building area: 600 square feet; however, a covered moorage may be built larger than 600 square feet within the triangle subject to a shoreline conditional use permit. (d) Covered moorage shall have open sides. (e) Prohibited in semi-private recreational tracts and noncommercial recreational areas. (f) Translucent canopies are required.
*The letters in this column refer to the Plan View (C).		

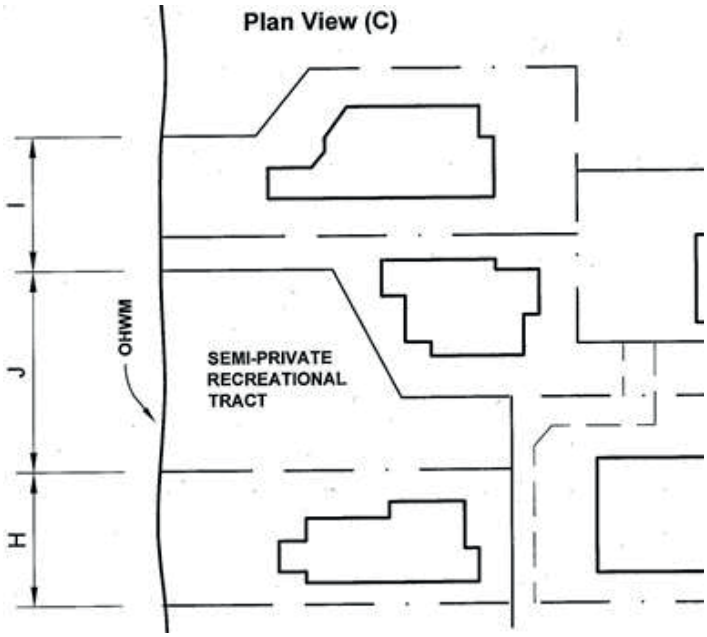


Table E. Dock Width Mitigation Options

Option A	Option B	Option C
Includes at Least One of the Following:	**Includes at Least Two of the Following:**	**Includes at Least Three of the Following:**
1. Complete removal of existing bulkhead with shoreline restoration	1. Removal of 12 feet or 30% (lineal), whichever is greater, of existing bulkhead and creation of beach cove with shoreline restoration	1. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.
2. Removal of an existing legally established boat house (A "boat house" is a covered moorage that includes walls and a roof to protect the vessel.)	2. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.	2. Removal of all existing legally established piling treated with creosote or comparably toxic compounds
3. Replacement of two or more existing legally established individual moorage facilities with a single joint use moorage facility	3. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM	3. At least a 10% net reduction of existing legally established overwater coverage within the first 30 feet waterward from OHWM
		4. Removal of all legally established individual mooring piles within the first 30 feet waterward from the OHWM

Table E. Dock Width Mitigation Options (Continued)

Option A	Option B	Option C
		5. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM

5. The covered portion of a moorage shall be restricted to the area lying within a triangle as illustrated in Figure A, except as otherwise provided in subsection (E)(5)(a) of this section. The base of the triangle shall be a line drawn between the points of intersection of the property lateral lines with the ordinary high water mark. The location of the covered moorage shall not extend more than 100 feet from the center of the base line of such triangle. In cases where water depth is less than 11.85 feet from OHWM, the location of the covered moorage may extend up to 150 feet from the center of the base line or to the point where water depth is 11.85 feet at OHWM, whichever is less. The required 10-foot setbacks from the side property lines shall be deducted from the triangle area.

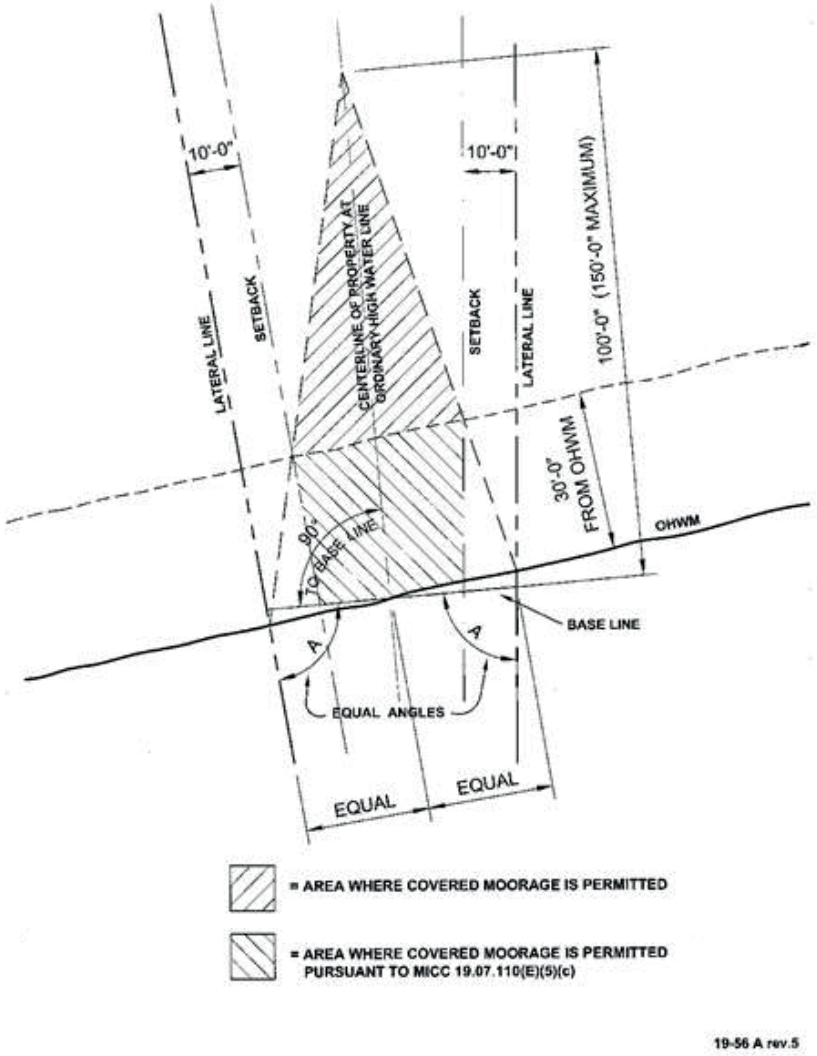
a. A covered moorage is allowed outside the triangle, or a canopy up to 21 feet in height, if the covered moorage meets all other regulations and:

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 constitute a lower impact for abutting property owners; and

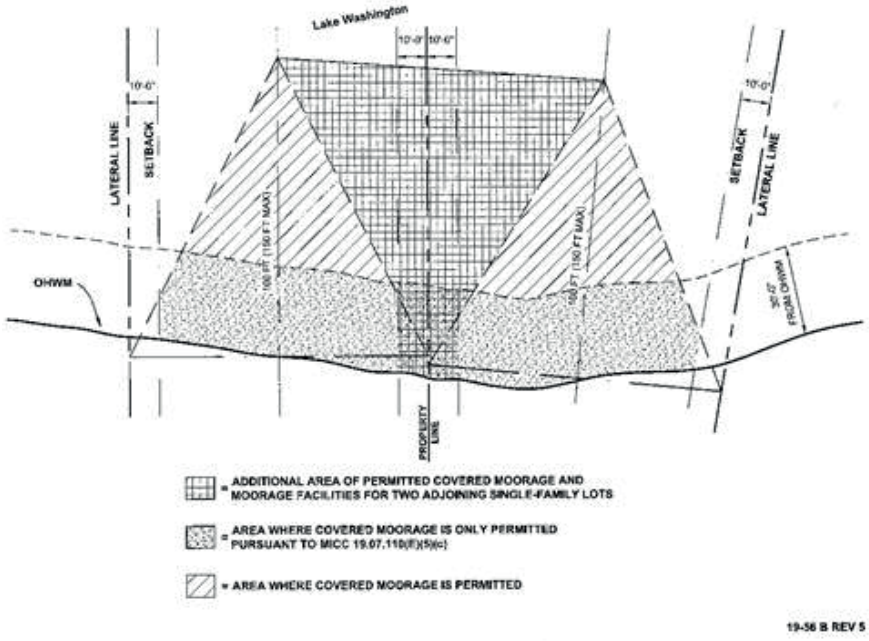
iii. Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.

Figure A: Area of Permitted Covered Moorage, Individual Lots



b. Where a covered moorage or moorage facility 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, as illustrated in Figure B below.

Figure B: Area of Permitted Covered Moorage and Moorage Facilities, Two Adjoining Single-Family Lots



c. Covered moorage is not allowed within the first 30 feet from the OHWM unless the applicant:

i. Demonstrates to the code official's satisfaction that proposed project will not create a net loss in ecological function of the shorelands; and

ii. Provides the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

6. Moorage Facilities. All permits for new and expanded moorage facility shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsections (E)(6)(a) or (b) of this section, or the "alternative development standards" in subsection (E)(6)(c) of this section.

a. Development Standards for New and Expanded Moorage Facilities. A proposed moorage facility shall be presumed to not create a net loss of ecological functions pursuant to subsection (B)(2) of this section if:

i. The surface coverage area of the moorage facility is:

(A) Four hundred eighty square feet or less for a single property owner;

(B) Seven hundred square feet or less for two residential property owners (residential); or

(C) One thousand square feet or less for three or more residential property owners;

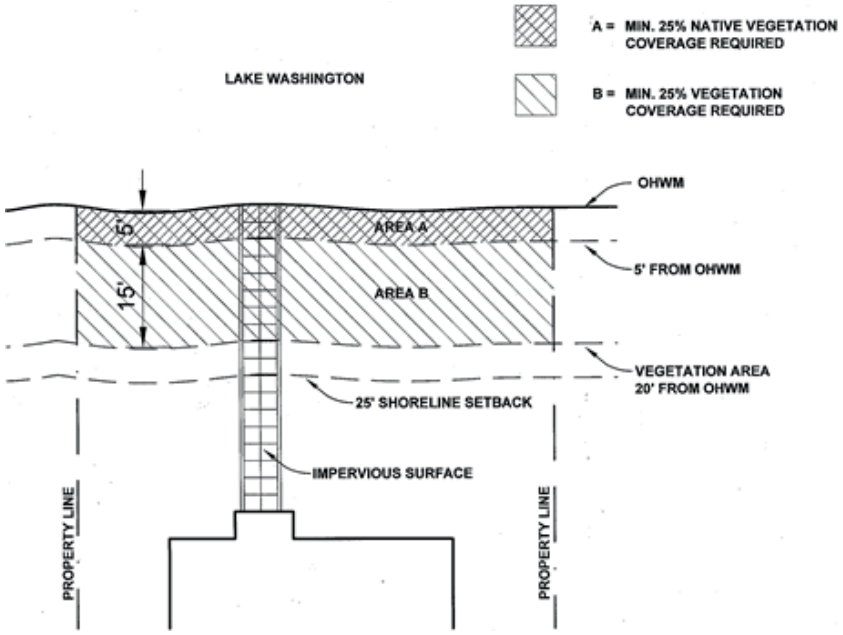
ii. Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;

iii. Vegetation. The code official approves a vegetation plan that conforms to the following:

Vegetation must be planted as provided in Figure C and as follows: Within the 25-foot shoreline setback, a 20-foot vegetation area shall be established, measured landward from the OHWM. Twenty-five percent of the area shall contain vegetation coverage. The five feet nearest the OHWM shall contain at least 25 percent native vegetation coverage. A shoreline vegetation plan shall be submitted to the city for approval. The vegetation coverage shall consist of a variety of ground cover shrubs and trees, excluding nonnative grasses.

No plants on the current King County noxious weed lists shall be planted within the shorelands.

Figure C: Vegetation Plan



iv. Only piers, ramps, and lift stations may be within the first 30 feet from the OHWM. No skirting is allowed on any structure;

v. The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet;

vi. The first in-water (nearest the OWHM) set of pilings shall be steel, 10 inches in diameter or less, and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;

vii. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentochlorophenol, creosote, CCA or comparably toxic compounds;

viii. No more than two mooring piles shall be installed per structure. Joint-use structures may have up to four mooring piles. The limits include existing mooring piles. Moorage piling shall not be installed within 30 feet of the OHWM. These piles shall be as far offshore as possible;

ix. The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife; and

x. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever

occurs first. The applicant shall take appropriate measures to ensure revegetation success.

b. Development Standards for Replacement, Repair and Maintenance of Overwater Structures, Including Moorage Facilities. The maintenance, repair and complete replacement of legally existing overwater structures is permitted; provided, that:

i. All permit requirements of federal and state agencies are met;

ii. The area, width, or length of the structure is not increased, but may be decreased;

iii. The height of any structure is not increased, but may be decreased; provided, that the height above the OHWM may be increased as provided in subsection (E)(6)(b)(ix)(B) of this section;

iv. The location of any structure is not changed unless the applicant demonstrates to the director's satisfaction that the proposed change in location results in: (A) a net gain in ecological function, and (B) a higher degree of conformity with the location standards for a new overwater structure;

v. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;

vi. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentochlorophenol, creosote, CCA or comparably toxic compounds;

vii. The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife;

viii. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success; and

ix. If more than 50 percent of the structure's exterior surface (including decking) or structural elements (including pilings) are replaced or reconstructed during the five years immediately prior to any demolition for the replacement or reconstruction, the replaced or reconstructed area of the structure must also comply with the following standards:

(A) Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;

(B) The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet; and

(C) An existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D).

c. Alternative Development Standards. The code official shall approve moorage facilities not in compliance with the development standards in subsection (E)(6)(a) or (b) of this section subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. The following requirements and all other applicable provisions in this chapter shall be met:

i. The dock must be no larger than authorized through state and federal approval;

ii. The maximum width must comply with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D);

iii. The minimum water depth must be no shallower than authorized through state and federal approval;

iv. The applicant must demonstrate to the code official's satisfaction that the proposed project will not create a net loss in ecological function of the shorelands; and

v. The applicant must provide the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

7. Breakwaters, jetties, groins, and weirs. Breakwaters, jetties, groins, weirs, and similar structures are prohibited, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201(2)(e).

8. Dredging.

a. Dredging 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 except when the applicant conclusively demonstrated that fish habitat will be significantly improved as a result of the project.

ii. In unique environments such as lake logging of the underwater forest.

e. Dredging and the 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.

9. General Requirements. The following requirements apply to the following types of activities that may be waterward and/or landward of the OHWM:

a. Critical Areas within the shorelands are regulated by MICC 19.07.010 through and including 19.07.090, as adopted in the MICC on January 1, 2011, except: MICC 19.07.030(B), Reasonable Use Exception, and 19.07.040(C), Setback Deviation, and (D), Variances.

b. Utilities.

i. Utilities shall be placed underground and in common rights-of-way wherever economically and technically practical.

ii. 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.

iii. Restoration of the site is required upon completion of utility installation.

c. Archaeological and Historic Resources.

i. If archaeological resources are uncovered during excavation, the developer and property owner shall immediately stop work and notify the city, the Office of Archaeology and Historic Preservation, and affected Indian tribes.

ii. In areas documented to contain archaeological resources by the Office of Archaeology and Historic Preservation, a site inspection or evaluation is required by a professional archaeologist in coordination with affected Indian tribes.

d. New development adding over 500 square feet of additional gross floor area or impervious surface, including the primary structures and appurtenances, shall be required to provide native vegetation coverage over 50 percent of the 20-foot vegetation area shown on Figure C. This standard shall apply to the total of all new impervious surface area added in the five years immediately prior to the construction of the gross floor area or impervious surface addition.

i. New development over 1,000 square feet of additional gross floor area or impervious surface, including the primary structures and appurtenances, shall be required to provide native vegetation coverage over 75

percent of the 20-foot vegetation area shown in Figure C.

ii. A shoreline vegetation plan shall be submitted to the city for approval.

iii. The vegetation coverage shall consist of a variety of ground cover shrubs and trees indigenous to the central Puget Sound lowland ecoregion and suitable to the specific site conditions. Existing mature trees and shrubs, but excluding noxious weeds, may be included in the coverage requirement if located in the 20-foot vegetation area shown in Figure C.

iv. No plants on the current King County noxious weed lists shall be planted within the shorelands. (Ord. 15C-02 §§ 1, 2; Ord. 13C-12 § 2).

19.07.120 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
197-11-355	Optional DNS procedure
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

This page left intentionally blank.

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
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
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.

3. DS: Determination of Significance.

4. EIS: Environmental Impact Statement.

5. FEIS: Final Environmental Impact Statement.

6. 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.

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 subsection 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 department 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 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 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.

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 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;

e. Pursuant to MICC 19.07.110(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.

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 subsection 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 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 subsection (M)(2) 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 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.

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 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 subsection (N)(5) 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 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 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 30 days after the decla-

ration 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

e. Such conditions are based on one or more policies in subsection (S)(4) 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 subsection (S)(4) 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 15.06 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. 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, 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.

2. How to Appeal. The appeal must be consolidated with any appeal that is filed on the proposal or 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 subsection, 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. (Ord. 10C-06 § 1; Ord. 08C-01 § 3; Ord. 05C-12 § 6; Ord. 03C-11 §§ 1, 2, 3; Ord. 99C-13 § 1. Formerly 19.07.100).

Chapter 19.08

SUBDIVISIONS

Sections:

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 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 lots, an alteration to the short subdivision is permitted so long as no more than four 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 the planning commission, which 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 subsection F of this section. (Ord. 08C-01 § 4; Ord. 99C-13 § 1).

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-acre limitation for purpose of permitting short subdivision of property containing more than four acres into four 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 shall prepare a concept sketch of the proposal for the preapplication meeting required under MICC 19.09.010(A).

D. Preliminary Application Contents. In addition to any documents, information, or studies required under Chapter 19.07 MICC, 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 Chapter 19.07 MICC, Environment, 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. The submitted plans shall demonstrate that a building pad has been designated for each proposed lot per MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20 feet in width.

3. Plat Certificate. Applicant shall provide a plat certificate issued by a qualified title insurance company not more than 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 1,000 feet, or approximately 2,500 feet for properties over four 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 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 30 percent must be labeled and delineated by a clearly visible hatching.

8. Detailed Grading Plan. If the grade differential on the site of the proposed project will exceed 24 inches and/or if the amount of earth to be disturbed exceeds 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 Chapter 19.07 MICC, 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 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 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 300 feet of the proposed long subdivision or the applicant's adjacent land.

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 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. 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 City Code. (Ord. 10C-07 § 2; Ord. 08C-01 § 4; Ord. 99C-13 § 1).

19.08.030 Design standards.

A. Compliance with Other Laws and Regulations. The proposed subdivision shall comply with arterial, 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.

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 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. Storm water 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.

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 Chapter 19.07 MICC 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 setback 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 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 percent of that otherwise required in the zone. Lot size averaging must be incorporated if lot width or depth requirements are 75 percent 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. (Ord. 08C-01 § 4; Ord. 99C-13 § 1).

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 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 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 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 100 percent of direct salary cost, plus 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 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. (Ord. 99C-13 § 1).

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 code official for final signature.

4. Each long subdivision plat submitted for final signature shall be accompanied by the recommendation for approval or disapproval of the 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 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. The applicant shall 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 one mylar and one copy containing the information set out below. The mylar and copy shall be 18 inches by 24 inches in size, allowing one-half inch for borders. If more than one sheet is required for the mylar and copy, 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. Critical areas as identified under Chapter 19.07 MICC.

l. Corner pins made of rebar with caps.

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 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, storm water detention facilities, retaining walls, and rockeries within the subdivision at a scale of one inch equal to 40 feet or less on a standard sheet 24 inches wide and 36 inches long.

b. Plat Certificate. A plat certificate issued by a qualified title insurance company not more than 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. (Ord. 10C-07 § 3; Ord. 10C-06 § 2; Ord. 08C-01 § 4; Ord. 99C-13 § 1).

19.08.060 Condominium conversions.

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

A. Preconversion 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 45 days of the declarant's written request therefor and the inspection report shall be issued within 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 24 months.

5. The fee for making the preconversion 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 Chapter 64.34 RCW for a condominium conversion shall contain a copy of the inspection report prepared under subsection 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 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.

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 year following the completion of such repairs. The declarant shall also deposit with the city funds equaling 10 percent of the actual cost of making such repairs, to be used to satisfy claims made under such war-

ranty. Following the expiration of the one-year warranty period, any funds remaining in such account shall be returned to the declarant.

E. Relocation Assistance.

1. Relocation assistance not to exceed $500 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 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. (Ord. 99C-13 § 1).

Chapter 19.09

PROPERTY DEVELOPMENT

Sections:

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, temporary encampments, and for any alteration of a critical area or buffer, except those alterations that are identified as allowed uses under 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 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. (Ord. 10C-01 § 4; Ord. 08C-01 § 5; Ord. 05C-12 § 8).

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. (Ord. 05C-12 § 8).

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-inch cement concrete pavement or two-inch asphaltic concrete with cement concrete curbs and gutters, rolled cement concrete curbs or thickened asphaltic concrete edges, and shall be a minimum of 16 feet in width with minimum one-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. Cement concrete curbs and thickened asphaltic concrete edges may be eliminated in conjunction with the use of low impact development storm water management techniques. Porous pavement and/or pavers may be considered acceptable pavement alternatives when approved by the city engineer. 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:

Street Designation	Right-of-Way (ft.)
Major Arterial	60 – 100
Secondary Arterial	60 – 90
Collector Arterial	50 – 66

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.

Number of Lots or Dwelling Units	Right-of-Way (ft.)
Over 20	40 – 50
11 – 20	35 – 50
6 – 10	30 – 45
3 – 5	20 – 40
1 – 2	16 – 40

b. Through Streets. Through streets shall have rights-of-way widths of 40 to 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. (Ord. 09C-17 § 2; Ord. 99C-13 § 1).

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 or more single-family dwellings shall be at least 20 feet in width. All private access roads serving less than three single-family dwellings shall be at least 16 feet in width, with at least 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 28 feet.

D. All private access roads in excess of 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 28 feet.

E. All cul-de-sacs shall be at least 70 feet in diameter; provided, cul-de-sacs providing access to three or more single-family dwellings shall be at least 90 feet in diameter.

F. Gradient.

1. No access road or driveway shall have a gradient of greater than 20 percent.

2. For all access roads and driveways with a gradient exceeding 15 percent, the road surface shall be cement concrete pavement with a brushed surface for traction. Access roads and driveways with gradients of 15 percent or less may have asphalt concrete surface. (Ord. 99C-13 § 1).

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 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 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 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 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 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 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.

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 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. (Ord. 99C-13 § 1).

19.09.060 Right-of-way use.

A. Permits.

1. It is unlawful for anyone to excavate, alter, tunnel under, obstruct, or place any structure upon any public right-of-way without first obtaining a right-of-way permit from the city, or to fail to comply with any conditions attached to such right-of-way permit.

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 activity.

3. The city engineer may attach conditions to a right-of-way permit, consistent with the provisions of this section, to ensure the public health, safety and welfare.

4. Fees for permits granted under this section shall be established by the city council and assessed in accordance with the provisions as set forth by resolution.

5. It shall be the duty of any permittee under this section to keep the permit and plans at the site of the permitted activity.

B. Indemnification, Performance Guarantees and Liability Protection.

1. Before a permit is issued, the city engineer may require that the applicant provide indemnification and/or guarantees for completion of the permitted activity and liability protection, as provided in MICC 19.01.060.

2. At the city's discretion, a permittee may establish an annual assignment of funds under MICC 19.01.060 which shall remain in force for at least one year, and which shall be funded in an amount sufficient to ensure performance of the permitted activity during the term of the assignment. If at any time the balance of the fund falls below an amount the city engineer deems sufficient, no further permits shall be issued until the permittee deposits sufficient funds into the account.

C. Routing of Traffic.

1. The permittee shall take appropriate measures to assure that during the performance of the permitted activity, 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.

D. Clearance for Fire Equipment. The permitted activity shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants; and no material or obstruction shall be placed in front of a hydrant. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions.

E. 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.

F. 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 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.

G. Protection of Adjoining Property. The permittee shall at all times and at its own expense preserve and protect from injury any adjoining property by taking 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 permitted activity and shall be responsible for all damage to public or private property resulting from its failure to properly to protect and carry out said work.

H. 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 feet wide and securely railed on each side so that foot passengers can pass over safely at all times.

I. Protective Measures. The permittee shall erect such fence, railing or barriers about the site of the permitted activity as shall prevent danger to persons using the city streets 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 work 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.

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

K. Care of Excavated Material. All material excavated from the right-of-way shall be 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 excavation or on the street, the city engineer shall have the authority to require that the permittee haul away all the excavated material. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for hauling and disposal of waste material.

L. Damage to Existing Improvements. All damage done to existing improvements during the progress of the permitted activity 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.

M. Cleanup Operations. As the permitted activity 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 permitted activity 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 permitted activity, the permittee shall at its own expense clean up and remove all refuse and unused materials of any kind resulting from the work and, upon failure to do so within 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.

N. Protection of Drainage Facilities. The permittee shall provide for the flow of all ditches, sewers or drains intercepted during the permitted activity 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, 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.

O. Tunnels. Tunnels under pavements shall not be permitted except by permission of the city engineer. Where small-diameter pipes or cables are placed under main thoroughfares, concrete streets, state highways, asphalt streets, or wherever designated by the city engineer, such work shall be done by trenchless methods such as jacking, boring casings, or directionally drilling under street surfaces unless the city engineer determines that such methods are not physically feasible.

P. Backfilling. Backfilling in any street opened or excavated pursuant to a permit issued under this section shall be compacted in accordance with city standards.

Q. Restoration of Surface.

1. The permittee shall restore the surface of all streets broken into or damaged as a result of the permitted activity 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 and sidewalks.

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 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 19.06.070 for incomplete or defective work if

discovered within 24 months from the completion of the permitted activity. The city engineer's presence during the performance of any work shall not relieve the permittee of its responsibilities under this section.

R. 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 permitted activity in accordance with the requirements of this section, or has otherwise failed to complete the 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 work. The permittee shall be liable for the actual cost thereof plus 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 permitted activity in the same condition it was prior to the work for two years after restoring it to its original condition.

S. Trenches in Pipe Laying. Except by special permission from the city engineer, no trench shall be excavated more than 250 feet in advance of pipe laying, nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that 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.

T. Prompt Completion of Work. The permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the right-of-way 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.

U. 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 permitted activity 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 24 hours a day to the end that such work may be completed as soon as possible.

V. Emergency Action. In the event of any emergency in which a pipeline, 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 pipeline, 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.

W. Dust and Debris. Each permittee shall conduct and carry out the permitted activity 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 permitted activity.

X. Preservation of Monuments. The permittee shall not disturb any survey monuments or hubs found on the line of the permitted activity until ordered to do so by the city engineer. All street monuments, property corners, benchmarks and other monuments disturbed during the progress of the work shall be

replaced at the direction of the city engineer and the cost of the same shall be paid by the permittee.

Y. Inspections.

1. The city engineer shall make such inspections as are reasonably necessary in the enforcement of this section.

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.

Z. 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 60 days after new installations, changes or replacements are made.

AA. Work by the City. An annual right-of-way use permit will be issued to the city for activities included in its annual work program that occur in public rights-of-way and affect traffic.

BB. 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 permitted activity for which a right-of-way permit is issued to any party other than the city 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 to any party other than the city or the approval of any permitted activity. (Ord. 03C-09 § 1; Ord. 99C-13 § 1).

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 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.

D. City Council 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.

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 20 days prior to the city council 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.

G. Resolution Method – Divestiture of Jurisdiction to Proceed. If 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:

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 subsection 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 subsection 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 subsection (H)(2) 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 subsection D of this section and provide public notice of the hearing as set out in subsection 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 subsection (H)(3)(b) of this section, and that the vacation is in the public interest.

I. 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.

J. 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 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.

K. 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 subsection 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 30 days of the effective date of the ordinance.

L. 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 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. (Ord. 08C-01 § 5; Ord. 99C-13 § 1).

19.09.080 Moving of buildings.

A. Permit Required. Moved buildings shall meet all applicable construction code and development code regulations. Per MICC 17.14.010, Section 102.7, moved buildings shall obtain construction permits prior to moving buildings into or within the city. Additionally, 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 right-of-way permit from the city engineer.

B. Application for Right-of-Way Permit.

1. Before a permit can be issued, an application must be submitted to the city engineer pursuant to MICC 19.09.060 at least 21 days before the proposed move.

2. Applications shall be submitted on forms provided by the city engineer, 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 city engineer.

3. The city engineer shall route copies of the application to the police department and the maintenance department for review.

C. Deposit for Expense of City. Upon receipt of an application, the city engineer 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 city engineer 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 19.01.060, an application for a right-of-way permit to move a building shall be accompanied by the following, unless waived by the city engineer:

1. A bond or funds for a set-aside account sufficient to:

a. Indemnify the city for the following:

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 liability insurance remain in full force and effect during the moving operation and hold the city harmless from all claims arising from the moving operation.

E. Conditions for Securing a Right-of-Way 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 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 subsection 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 city engineer shall refuse to issue a permit if the applicant cannot successfully demonstrate the following:

1. That application fee or deposit requirements have been complied with;

2. That the building can be moved without endangering persons or property in the city;

3. That the applicant's equipment is safe and that persons and property would not be endangered by its use;

4. That the development code would not be violated by the building in its new location;

5. Approval of the application by the police department and maintenance department shall be a condition precedent to issuance of the permit;

6. That all affected public and private utilities, including those involved with electricity, gas, telephone, cable, water and sewer have been notified of the time of the move and the route to be followed.

H. Fees and Deposits.

1. Return upon Nonissuance. Upon the refusal of the city engineer to issue a permit, the city engineer 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 city engineer shall prepare a final written statement for all expenses incurred by the city 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 city engineer 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.

I. City Engineer to Designate Street for Removal. The city engineer shall designate the streets over which the building may be moved and shall have the route approved by the police department. In making their determinations the city engineer and the police department 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 city engineer shall designate the time within which the move must be completed. If more than one day will be required to move the building, the city engineer 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 city engineer in writing of a desired change in moving date and hours as proposed in the application;

3. Notify of Damage. Notify the city engineer in writing of any and all damage done to property belonging to the city within 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 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 24 hours of such occupancy, unless an extension is granted by the city engineer;

6. Pay Expense of Officer. Pay the expense of traffic officer(s) ordered by the city engineer to accompany the movement of the building to protect the public from injury; and

7. Clear Old Premises. If the move is from a site within the city, the construction permit for the moved building shall include removal of 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 city engineer and the police department 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. (Ord. 10C-08 § 1; Ord. 06C-06 § 2; Ord. 99C-13 § 1).

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: (a) a qualified professional determines that the criteria of MICC 19.07.060(D), Site Development, is satisfied; (b) building pads are sited to minimize impacts to the extent reasonably feasible; and (c) building pads are not located in steep slopes or within 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.

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. (Ord. 10C-07 § 4; Ord. 10C-06 § 3; Ord. 05C-12 § 8).

19.09.100 Preferred practices.

The applicant must use reasonable best efforts to comply with the following preferred development practices:

A. Use common access drives and utility corridors.

B. 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.

C. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes. (Ord. 05C-12 § 8).

Chapter 19.10

TREES

Sections:

19.10.010 Purpose.

These regulations are adopted to promote the public health, safety and general welfare of the citizens of Mercer Island, including minimizing erosion, siltation and water pollution in Lake Washington, surface water and ground water runoff, risks of slides, and the need for additional storm drainage facilities; preserving trees for the reduction of noise, wind protection, slope stabilization, animal habitat, and reduction in air pollution; removing diseased or hazardous trees; implementing the city's comprehensive plan; designating and preserving historical trees; and providing for the delivery of reliable utility service, reasonable development of property and reasonable preservation or enhancement of property views. (Ord. 02C-01 § 3).

19.10.020 Permit requirements.

A. No Permit Required. Except as otherwise provided in subsection B of this section, no tree permit is required for an owner or an owner's agent to cut or prune trees located on the owner's property as follows:

1. Outside Critical Tree Area. No tree permit is required to cut any tree located outside a critical tree area;

2. Pruning. No tree permit is required to perform pruning of any tree; and

3. Size of Tree. No tree permit is required to cut any small tree.

B. Permit Required. A tree permit is required to cut a tree as follows:

1. Construction Work. A tree permit is required to cut any large tree as a result of construction work;

2. Landmark Tree/Grove. A tree permit is required to cut a landmark tree or any tree located in a landmark grove;

3. Critical Tree Area. A tree permit is required to cut any large tree located in a critical tree area;

4. Commercial Zone. A tree permit is required to cut any large tree located in a commercial zone;

5. Emergency. A tree on private property may be cut without a tree permit in an emergency situation involving immediate danger to life or property so long as the city arborist is notified within seven days of the tree having been cut, is provided such additional information as the city arborist requests in order to verify the emergency, and a tree permit is obtained within 20 days following the cutting of the tree if a tree permit is required under this section;

6. Public Tree.

a. By the City. The city is obligated to comply with the permit requirements as set forth in this chapter;

b. By Private Property Owners. No private property owner may cut or prune a public tree. A private property owner can request the city to prune a tree located on any city street subject to the conditions set forth in MICC 19.10.040(A)(2);

7. Private Utility Company. A tree permit is required for a private utility company to cut any tree. (Ord. 02C-01 § 3).

19.10.030 Seasonal development limitations.

No cutting of trees located in geologic hazard areas or protected slope areas is allowed between October 1 and April 1 unless: (i) an administrative waiver has been granted; or (ii) it is required due to an emergency situation involving immediate danger to life or property. The city arborist may grant an administrative waiver to this seasonal development limitation if the city arborist determines that such environmentally sensitive areas will not be adversely impacted by the proposed cutting and the applicant demonstrates compelling justification by a geotechnical evaluation of the site. The city arborist may require hydrology, soils and storm water retention studies, erosion control measures, restoration plans, and/or an indemnification/release agreement. (Ord. 02C-01 § 3).

19.10.040 Criteria.

A. Trees on Public Property. An application for a tree permit to cut a tree on public property or a request to have the city prune a public tree located on a city street shall be reviewed by the city arborist based upon the following conditions and criteria:

1. By the City. An annual tree permit will be issued to the city to cut any public trees necessary for public safety, removal of hazardous trees, removal of diseased or dead trees, as part of the city's forest management program or regular tree maintenance program or for construction work on public property.

2. By Private Property Owners. A private property owner may request the pruning of a public tree located on any city street if the owner demonstrates in the following order that all of the criteria are satisfied:

a. The owner establishes that the tree is located on a city street;

b. The owner submits a valid petition executed by at least 60 percent of the property owners located within a 300-foot radius of the subject tree in favor of the proposed pruning of the tree;

c. The city arborist determines that the proposed pruning can be performed without adversely affecting any critical tree areas;

d. The owner pays a fee to cover all costs associated with reviewing the pruning request; and

e. The pruning is performed by the city but at the sole cost and expense of the private property owner.

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 MICC 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.

C. Trees Cut/Pruned by Private Utility Companies. A tree permit will be issued to private utility companies to cut trees located on public or private property if necessary for public safety, removal of hazardous trees, removal of diseased or dead trees, as part of any private utility tree maintenance program approved by the city, or for construction work. Regardless of whether or not a permit is required, all cutting or pruning of trees by private utility companies shall be performed under the supervision of a certified arborist and at the sole cost and expense of the utility company. (Ord. 08C-01 § 6; Ord. 02C-01 § 3).

19.10.050 Commission review required in commercial zones.

A tree permit covering regulated improvements located in a commercial zone, that have previously received design commission approval, must first be reviewed and approved by the city's design commission prior to permit issuance by the city. (Ord. 02C-01 § 3).

19.10.060 Tree replacement.

Any trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in this section.

A. Private Utility Company. If the permit is granted to a private utility company and the property owner is unwilling to place any replacement trees on the owner's property, the private utility company shall pay to the city the amount necessary to purchase and plant replacement trees on public property necessary to mitigate the impact of the removed trees based upon arborist industry standards. Monies paid to the city for replacement trees shall be used for that purpose.

B. Species. In making a determination regarding the species of replacement trees, the city arborist shall defer to the species selected by the property owner unless the city arborist determines that the species selected is unlikely to survive for a period of at least 10 years, represents a danger or nuisance, would threaten overhead or underground utilities or would fail to provide adequate protection to any critical tree area.

C. Size. All replacement trees shall be at least six feet tall, unless a smaller size tree or shrub is approved by the city arborist.

D. Replacement Trees – Number. In making a determination regarding the number of replacement trees required, the city arborist shall apply a replacement ratio based on a sliding scale of 0:1 up to 4:1, depending upon the criteria in the following priority order:

1. Percentage of slope, slope stability, topography and general soil conditions;

2. Trunk size and canopy of tree to be cut and trunk size and canopy of replacement tree;

3. Size and shape of lot and area available to be replanted; and

4. Proximity to any critical tree area and/or the existence and retention of vegetative cover in any critical tree area.

E. Maintenance of Replacement Trees. The applicant shall maintain all replacement trees in a healthy condition for a period of two years after planting. The applicant shall be obligated

to replant any replacement tree that dies, becomes diseased or is removed during this two-year time period. (Ord. 02C-01 § 3).

19.10.070 Bald eagle and other federal and state requirements.

In addition to any requirement of this chapter, persons must comply with all applicable federal and state laws, rules and regulations including without limitation the Endangered Species Act, the Bald Eagle Protection Act and the Migratory Bird Treaty Act, as now existing or hereinafter adopted or amended. (Ord. 02C-01 § 3).

19.10.080 Permit applications.

A. Form. An application for a tree permit shall be submitted on a form provided by the city and shall include the following information:

1. General Information.

a. The applicant shall give the name, address and telephone number of the applicant and owner of the property and the street address.

b. The applicant must provide information on the proposed location, species, diameter and number of trees proposed to be cut or public tree proposed to be pruned.

c. The applicant must agree to pay all costs of cutting, pruning, removing debris, cleaning, purchasing and planting replacement trees and any traffic control needed.

2. Critical Tree Area. An application covering a tree located in a critical tree area shall include a proposed time schedule for the cutting, land restoration, implementation of erosion control and other measures that will be taken in order to prevent damage to the critical tree area.

3. Construction Work. An application covering a tree to be cut as a result of construction work shall include the following:

a. Plot Plan. Two prints of the plot plan at a scale of one inch equals 10 feet (1″ = 10′) or larger. The scale and north indicator shall be given on the plan. The plot plan shall:

i. 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;

ii. Indicate the location of existing and proposed improvements including, but not limited to, structures, driveways, ponds, the location of building (zoning) setbacks and grade changes; and

iii. Indicate the location, diameter and/or size, and species of all large trees. Trees proposed to be cut shall be identified and differentiated from those trees not being cut. For a permit involving any critical tree area, the applicant shall also identify vegetative cover that will be retained or removed.

b. Restoration/Protection Plan. An applicant shall provide a plan for protecting trees that are not intended to be cut, a plan for conducting all construction work in accordance with best construction practices and a plan for erosion control and restoration of land during and immediately following the construction period.

4. Public Trees. An application for a permit by a private utility company to cut a public tree pursuant to MICC 19.10.040(C) or by a private property owner to prune a public tree on any city street pursuant to MICC 19.10.040 (A)(2), shall include all such information as the city arborist may require in order to verify that all conditions of those sections have been satisfied. If there is a dispute as to whether a tree is located on public property or private property, the city arborist may require a survey, at the applicant's expense, that is not more than one year old indicating the boundaries of the private property and the public property.

B. City Review. The city arborist shall complete a review and make a decision within 30 days from the date a complete application is submitted unless an extension, not to exceed 20 days, is authorized by the city manager or designee.

C. Permit Expiration. Any permit granted hereunder shall expire one year from the date

of issuance. Upon a showing of good cause, a permit may be extended for one year. Any material change in plans or information from that presented with the permit application that occurs prior to the cutting requires submittal of an amended application for review and approval by the city arborist. The permit may be suspended or revoked by the city arborist because of incorrect material information supplied or any violation of the provisions of this chapter. (Ord. 02C-01 § 3).

19.10.090 Nuisance abatement.

A. Trees and vegetation which meet the definition of a nuisance shall be subject to the provisions of Chapter 8.24 MICC, Nuisance Control Code.

B. In addition to the provisions of Chapter 8.24 MICC, Nuisance Control Code, the following requirements shall apply to trees and vegetation:

1. Branches over roads shall be trimmed to a minimum of 12 feet above the road surface. (see Figure 1).

2. Branches over sidewalks shall be trimmed to a minimum of eight feet above the sidewalk and one foot behind the sidewalk (see Figure 1).

3. Street trees and other vegetation will be spaced according to the following spacing requirements to facilitate the safe flow of traffic (see Figure 2):

a. No tree plantings are allowed within a 30-foot sight triangle at any street intersection.

b. Shrubs shall not exceed 36 inches in height above the street level within this triangle.

c. Ten-foot minimum spacing shall be observed for small trees.

d. Hedges are not allowed between the sidewalk and the curb, and must be planted at least five feet behind the sidewalk.

e. Hedges must be trimmed at least three feet behind the sidewalk.

f. Plantings of trees, shrubs or hedges are not allowed between the street/road edge and a ditch. (Ord. 02C-01 § 3).

Figure 1

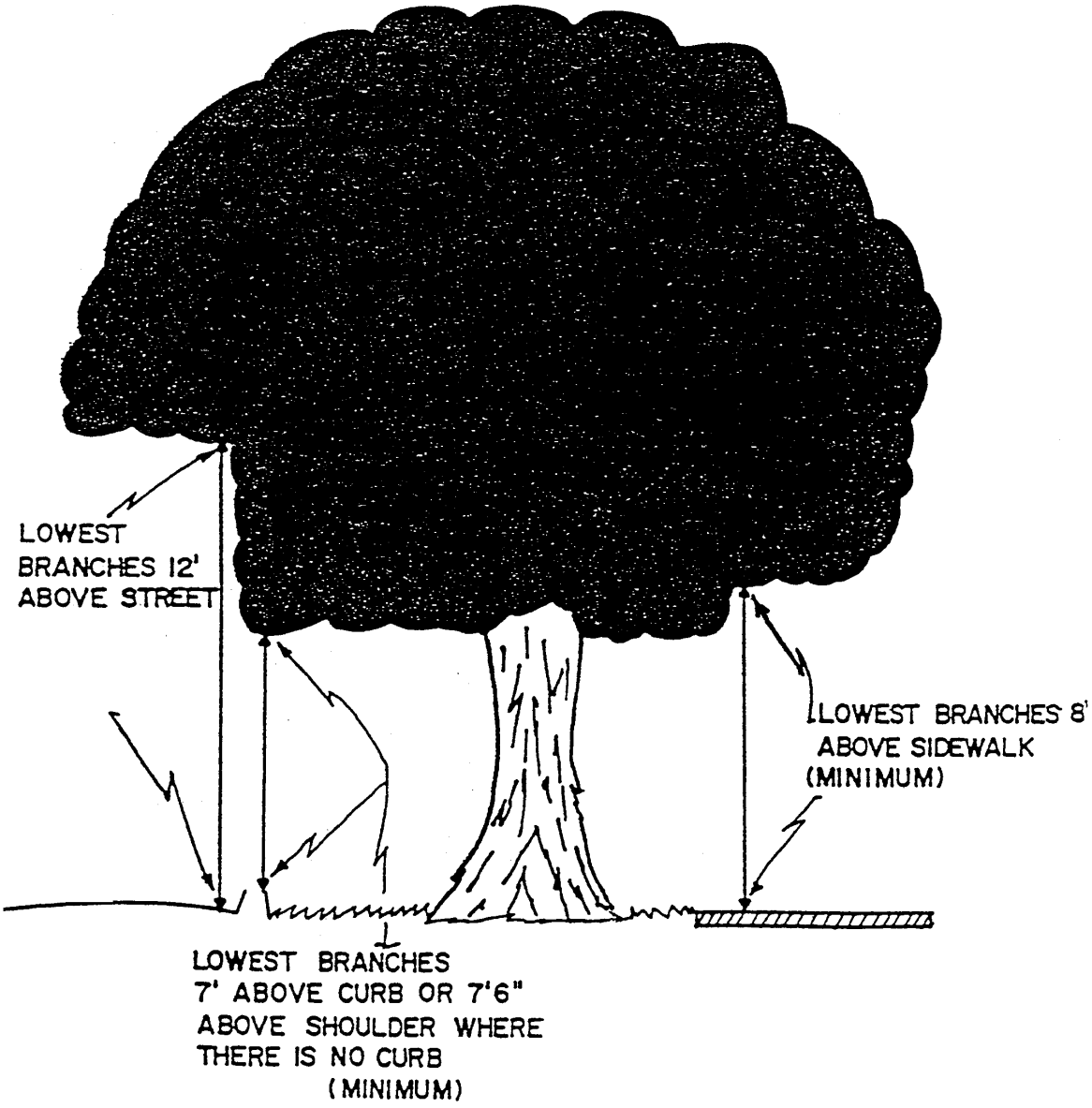
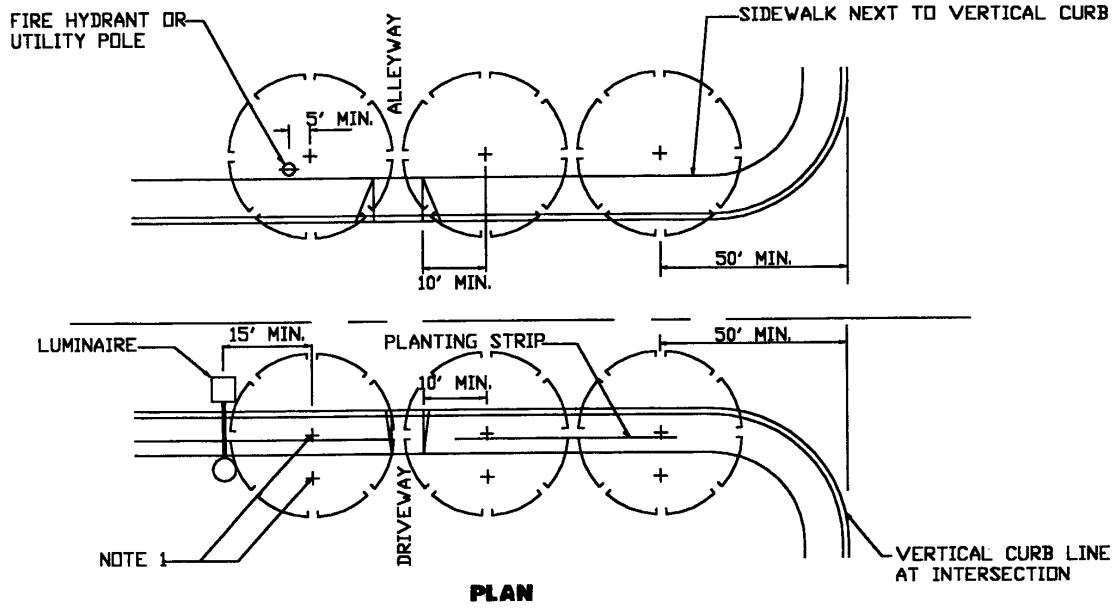

LOWEST
BRANCHES 12'
ABOVE STREET
LOWEST BRANCHES 8'
ABOVE SIDEWALK
(MINIMUM)
LOWEST BRANCHES
7' ABOVE CURB OR 7'6"
ABOVE SHOULDER WHERE
THERE IS NO CURB
(MINIMUM)

Figure 2



NOTES:

1. TREES SHALL GENERALLY BE PLANTED BACK OF THE SIDEWALK. PLANTING STRIPS WILL BE APPROVED ONLY AS PART OF A LANDSCAPING PLAN IN WHICH PLANT MAINTENANCE, LANDSCAPING PLAN IN COMPATIBILITY WITH UTILITIES, AND TRAFFIC SAFETY ARE DULY CONSIDERED.
2. IF PLANTING STRIPS ARE APPROVED:
   A. MIN. DISTANCE FROM CENTER OF ANY TREE TO NEAREST EDGE OF VERTICAL CURB SHALL BE 4 FEET.
   B. TREES SHALL BE STAKED IN A MANNER NOT TO OBSTRUCT SIDEWALK TRAFFIC.
   C. IN CASE OF BLOCK-OUTS, MIN. CLEAR SIDEWALK WIDTH SHALL BE 5 FEET IN RESIDENTIAL OR 8 FEET IN BUSINESS DISTRICTS.
3. ON BUS ROUTES, PLANS SHALL BE COORDINATED WITH METRO SERVICE PLANNING.

CITY OF MERCER ISLAND **STANDARD DETAILS** URBAN FORESTRY		
STREET TREE STANDARDS		
1-1-2000	NO SCALE	

19.10.100 Appeals.

Any person or persons aggrieved by any action or decision of city staff made pursuant to any section of this chapter, may appeal such action or decision to the planning commission in accordance with the appeal procedure set forth in MICC 19.15.020(J). (Ord. 02C-01 § 3).

19.10.110 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 chapter. (Ord. 02C-01 § 3).

19.10.120 Enforcement.

A. Violation. It is a violation of this chapter for any person to fail to comply with the requirements of this chapter.

B. Civil Penalty. The penalty for violating this chapter shall be a fine equal to up to three times the value of the damaged or cut tree or removed vegetative cover, plus the cost of reasonable remediation. Trees and other vegetation shall be appraised according to the method specified by the Council of Landscape and Tree Appraisers, most current edition. Reasonable remediation is the cost to develop a plan of remediation and 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. (Ord. 02C-01 § 3).

19.10.130 Best pruning practices.

The city arborist shall prepare and distribute educational materials describing the best practices, policies, techniques, methods and procedures for pruning trees. (Ord. 02C-01 § 3).

19.10.140 Landmark trees.

A. Designation of Landmark Trees and Landmark Groves.

1. The city shall maintain a register of landmark trees and landmark groves.

2. A property owner may propose to the city that a tree or grove of trees located on his or her private property be designated as a landmark tree or landmark grove. Any city resident may propose to the city that a tree or grove of trees located on public property be designated as a landmark tree or landmark grove. No tree or grove of trees may be designated without the approval of the property owner(s) on which the tree or grove, or any portion of the tree's branches or canopy, is located. Once such approval is given, however, it may not subsequently be withdrawn by the property owner or by a subsequent property owner.

3. Upon receipt of a proposed designation and the approval of the property owner, the city arborist shall determine whether the tree or grove satisfies the definition of landmark tree or landmark grove.

4. If the city arborist approves the proposed designation, it shall be memorialized in a covenant signed by the city and the property owner(s) and in form acceptable to the city attorney. The covenant shall require that the tree(s) or grove be maintained in a manner that is consistent with the provisions of this section. The covenant shall be recorded by the county auditor. The city shall pay recording fees. The covenant and designation shall be effective from the date of recording until such time as a tree permit has been issued for the cutting of the tree or grove of trees.

5. Upon request of a property owner, the city arborist shall provide reasonable advice and consultation on maintenance of any landmark tree or landmark grove without charge to the property owner.

B. Tree Permit Requirements.

1. A tree permit to cut a landmark tree or a tree that is in a landmark grove as a result of construction work will only be granted if the applicant has used reasonable best efforts to design and locate the project so as to avoid having to cut the landmark tree or any trees in the landmark grove.

2. A tree permit to cut a landmark tree or a tree in a landmark grove other than as a result of construction work will only be granted if the applicant demonstrates that the tree removal is necessary for safety, removal of hazardous trees, removal of diseased or dead branches or trees, or if retention of the tree or grove will have a material, adverse and unavoidable impact on the use of the property the use of the property. (Ord. 02C-01 § 3).

Chapter 19.11

TOWN CENTER DEVELOPMENT AND DESIGN STANDARDS

Sections:

19.11.010 General.

A. Applicability. This chapter establishes development and design standards for the Mercer Island Town Center (TC) zone, the location and boundaries of which are set forth in MICC 19.01.040 and Appendix D, the Mercer Island Zoning Map. The general purpose of this chapter is to implement the land use policies of the Mercer Island comprehensive plan for the area referred to as the Town Center. The development and design standards are not intended to slow or restrict development, but rather to add consistency and predictability to the permit review process.

B. User Guide. The Town Center is divided into subareas mostly for the purpose of regulating maximum height limits. A two-story height limit applies throughout the Town Center. Only by providing certain benefits to the community can a development project add additional stories up to the maximum height allowed in the particular subarea. These community benefits include affordable housing; green building features; stepping back of upper stories to reduce building mass and maintain light and air; provision of public open spaces as gathering places; and provision of through-block pedestrian connections to break up larger blocks and enhance pedestrian access.

C. Town Center Vision. The Town Center Vision found in the Mercer Island comprehensive plan is adopted herein by reference.

D. Design Vision.

1. Development and Design Standards. The development and design standards that follow are intended to enhance the Town Center for pedestrians and develop a sense of place. To accomplish this vision, new or redevelopment is encouraged to orient buildings toward the public right-of-way with buildings brought forward to the sidewalk or landscaped edge; parking placed behind buildings and in less visible areas or underground; design structures with varied mass and scale, modulation of heights and wall planes; and pedestrian through-block connections that will break up very large or long blocks for improved pedestrian circulation from one side of the block through to the other side.

2. Function. The design of buildings, structures and streetscapes within the Town Center is intended to support a built environment that is convenient and accessible to pedestrians, motorists, bicyclists and public transit users. Development should enhance the Town Center as a vibrant, healthy, mixed use downtown that serves as the city's retail, business, social, cultural and entertainment center and ensures the commercial and economic vitality of the area. New or redevelopment should increase the attractions and pedestrian amenities that bring residents to the Town Center, including local shopping, services, offices, specialty retail, restaurants, residences, festivals, special events, and entertainment. Outdoor spaces should function as social settings for a variety of experiences, adding to the comfort of life in Mercer Island, while maintaining a human scale and an ability for easy pedestrian circulation.

3. Site Features. New or redevelopment should include public amenities, such as storefronts with canopies, street trees, greenery, seating, fountains or water features, outdoor cafes, sculpture or other forms of art, and

places for gathering and lingering. The use of materials, color, texture, form and massing, proportion, public amenities, mitigation of environmental impacts, landscaping and vegetation, and architectural detail should be incorporated in the design of new or redevelopment with the purpose of supporting a human scale, pedestrian-oriented Town Center. New or redevelopment shall be coordinated and consistent with the downtown street standards.

4. Pedestrian Orientation. Pedestrian-oriented and customer intensive retail businesses and offices are encouraged to locate on the street level to promote active use of sidewalks by pedestrians, thus increasing the activity level and economic viability of the Town Center. New or redevelopment should also enhance and support a range of transportation choices and be designed to maximize opportunities for alternative modes of transportation and maintain individual mobility. Even with a healthy variety of development in the Town Center, each individual development or redevelopment project shall favor the pedestrian over the automobile in terms of site design, building placement and parking locations.

E. Scale. The design of all structures shall consider how the structure and site development will be viewed from the street and adjacent properties. Scale is not simply the size of the buildings, it is the proportion of buildings in relationship to each other, to the street and to the pedestrian environment.

F. Form. Building forms shall not present visual mass impacts that are out of proportion to the adjoining structures, or that appear from the street or sidewalk as having unmodulated visual mass. Building additions should complement the original structure in design.

G. Style. The objectives and standards do not set or encourage a particular style of architecture or design theme. However, building and site design shall be pedestrian in scale and address design features such as sloped roof lines; distinctive building shapes; integration of art, textures, and patterns; treatment of pedestrian and public spaces; interface with the public right-of-way; landscaping; signage and facade treatments. (Ord. 16C-06 § 2 (Exh. A)).

19.11.015 Town Center subareas.

A. Intent. The primary intent of establishing subareas within the Town Center is to provide differing building height standards and land uses within the Town Center. Buildings within the Town Center are limited to two stories in height unless community benefits are provided as discussed throughout this chapter. The purpose of the different height standards is to locate taller buildings on the north end of the Town Center, and step down building height through the center to the south end of Town Center, bordering Mercerdale Park.

B. Subareas Established. The following subareas have been established and are depicted on Figure 1 below.

1. TC-5 Subarea. The purpose of the TC-5 subarea is to create a focused mixed use core, oriented toward pedestrian connections and regional transit access. A broad mix of land uses is allowed. Buildings may be up to five stories in height.

2. TC-4 Subarea. The purpose of the TC-4 subarea is to be a transition between the taller buildings in the TC-5 subarea and the lower structures in the TC-3 and TCMF-3 subareas. A broad mix of land uses is allowed. Buildings may be up to four stories in height.

3. TC-4 Plus Subarea. The purpose of the TC-4 Plus subarea is to be a transition between the taller buildings in the TC-5 subarea and the TC-4 subarea. A broad mix of land uses is allowed. Buildings may be up to five stories in height with the provision of additional public open space.

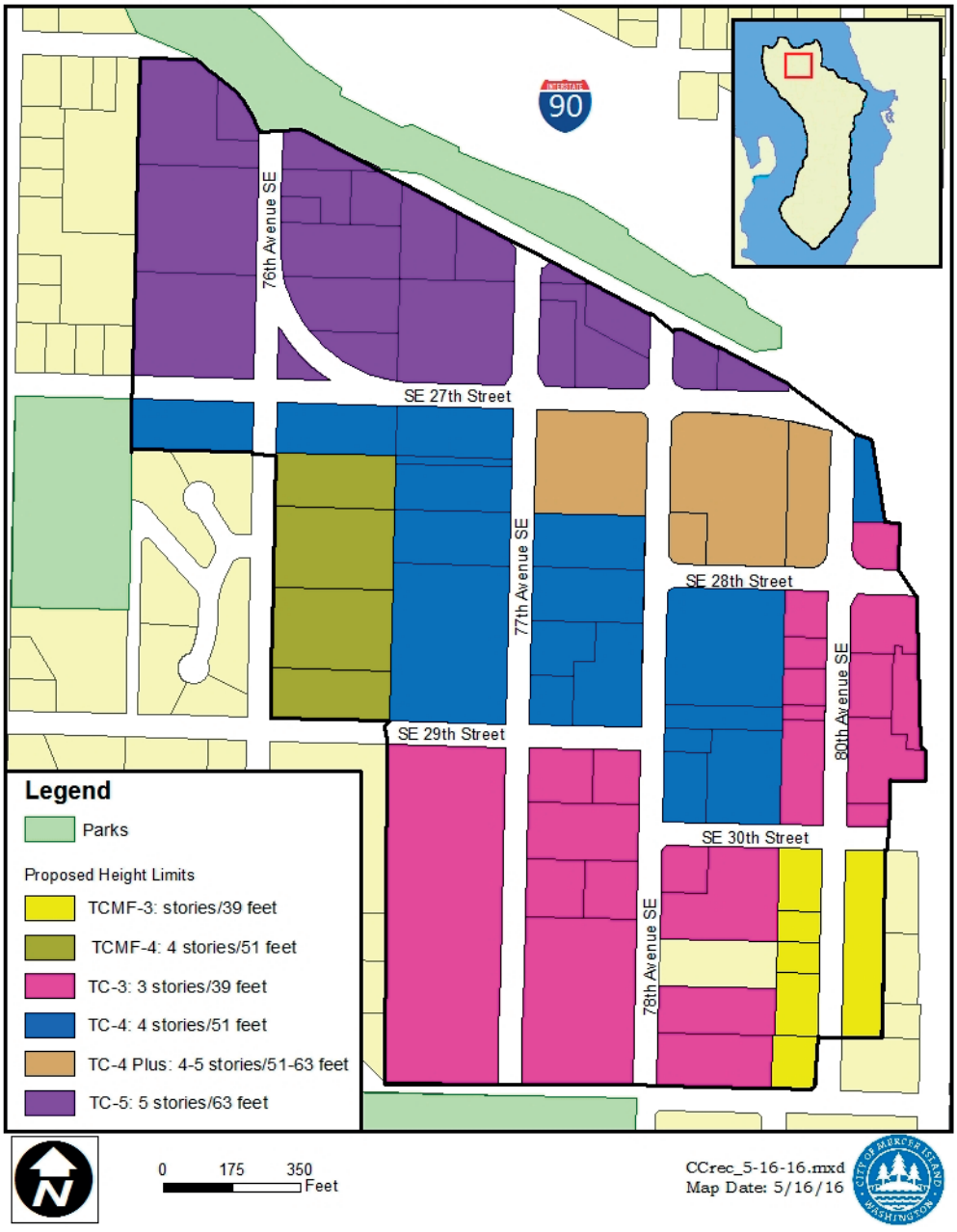
4. TC-3 Subarea. The purpose of the TC-3 subarea is to create an area of transition between the Town Center and adjacent residential neighborhoods. A broad mix of land uses is allowed. Buildings may be up to three stories in height.

5. TCMF-4 (Multifamily Residential) Subarea. The purpose of the TCMF-4 subarea is to provide for primarily multifamily residential housing of up to four stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.

6. TCMF-3 (Multifamily Residential) Subarea. The purpose of the TCMF-3 subarea is to provide for primarily multifamily residen-

tial housing of up to three stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.

Figure 1 – Subarea Map



(Ord. 16C-06 § 2 (Exh. A)).

19.11.020 Land uses.

A. Permitted and Conditional Uses.

1. Use Table by Subarea. Permitted and conditional uses are allowed in each subarea as shown in the use table below.

Use	TC-5	TC-4 TC-4 Plus	TC-3	TCMF-3	TCMF-4
Adult entertainment	C	N	N	N	N
Bar	P	P	P	N	N
Care services	P	P	P	C	C
Hotel/motel	P	P	P	C	C
Live/work units	C	C	C	P	P
Manufacturing	C	C	C	N	N
Office	P	P	P	C	C
Parking, not associated with an on-site use	C	C	C	N	N
Public facility	P	P	P	C	C
Recreation	P	P	P	C	C
Residential dwelling	P	P	P	P	P
Restaurant	P	P	P	P	P
Retail – small scale	P	P	P	P	P
Retail – large scale (> 20,000 square feet)	C	C	C	N	N
Retail – outdoors	C	C	C	N	N
Rooming houses	P	P	P	C	C
Service	P	P	P	P	P
Social service transitional housing	C	C	C	C	C
Special needs group housing	P	P	P	P	P
Transportation/utilities (including automobile service stations)	P	P	P	P	P
Warehousing	N	C	N	N	N
C – CONDITIONAL USE P – PERMITTED N – NOT ALLOWED					

2. North American Industry Classification System. Questions as to the inclusion or exclusion of a particular use shall be determined by the code official based on North American Industry Classification System (NAICS) – United States, published by the U.S. Department of Commerce.

B. Required Ground Floor Uses. Retail, restaurant or personal service uses are required along retail street frontages as shown on Figure 2.

1. If public parking is provided pursuant to MICC 19.11.130(B)(5), then the following applies:

a. A minimum of 40 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.

b. A maximum of 60 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.

c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.

2. If public parking is not provided pursuant to MICC 19.11.130(B)(5), then the following applies:

a. A minimum of 60 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.

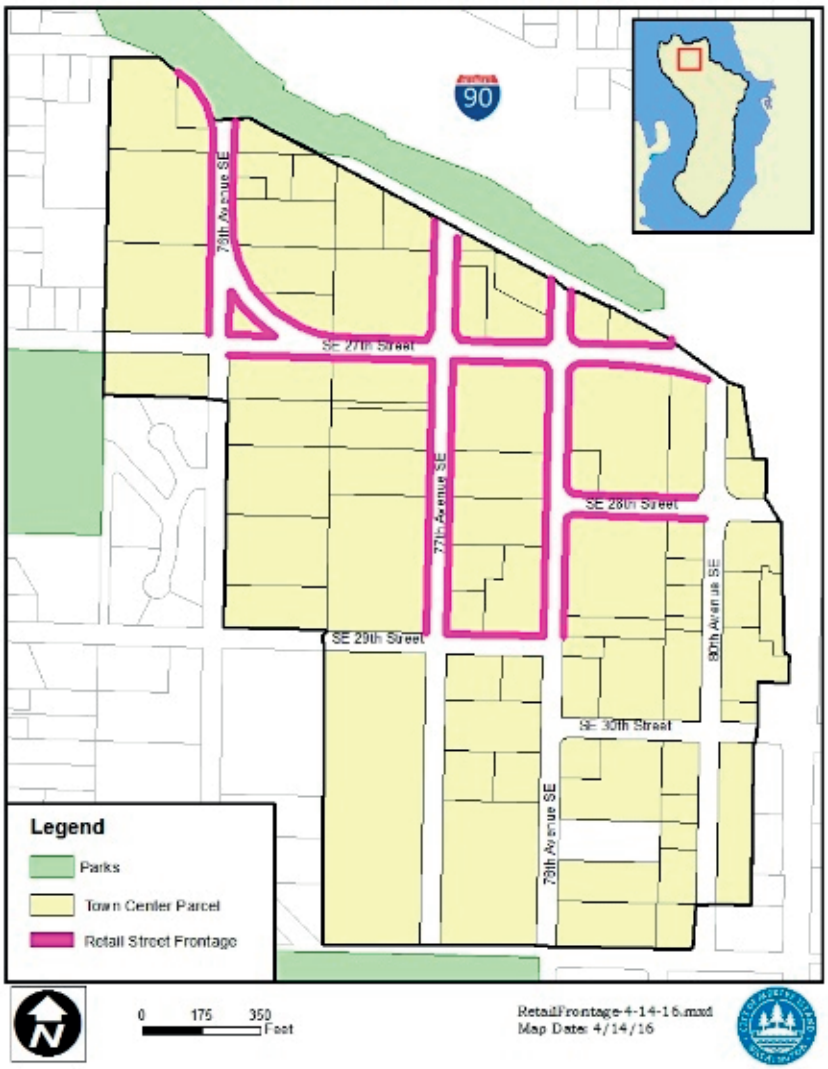
b. A maximum of 40 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.

c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.

3. No use shall occupy a continuous linear street frontage exceeding 60 feet in length. The design commission may approve up to an additional six feet in length if the use incorporates a feature to promote pedestrian activity, including but not limited to: an additional pedestrian entrance onto a sidewalk or through-block connection, or additional 10 percent transparency beyond the requirement of MICC 19.11.100(B)(1)(b).

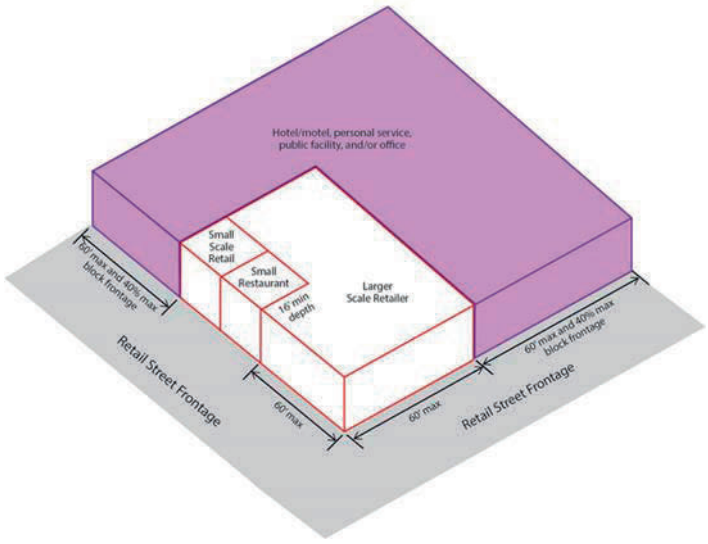
4. The minimum required depth of storefronts along retail street frontages is 16 feet.

Figure 2 – Area of Required Retail, Restaurant or Personal Services Use Along Ground Floor Street Frontages



C. Reducing continuous retail frontages through the use of smaller retail spaces is intended to encourage pedestrian friendly retail, ensure that the retail spaces are appropriately sized for small retail operators, and limit large ("box store") development. Figure 3 provides an example of how a building floor can be designed. Smaller retail spaces are provided along a street and larger nonretail space is provided in the back of the floor.

Figure 3 – Retail Frontage Standards



D. Accessory Uses.

1. Outdoor Storage and Display of Merchandise. The total area allowed for outdoor storage and/or merchandise display shall be less than five percent of the total gross square footage of the use; provided, however, that such area may exceed five percent if it is fenced, screened, and located in a manner that is acceptable to the design commission. This standard does not apply to temporary uses such as material storage during construction or street vendors.

2. Commerce on Public Property. Commerce on public property may be allowed pursuant to MICC 19.06.050.

3. Transit Facilities. Bus parking/loading space, and shelters and facilities for transit users should be integrated in the design of major new construction. Plans should be coordinated with transit providers to maximize the interface with community-wide and regional transit systems.

4. Bicycle Facilities. Parking and facilities that support bicycle use, including racks, covered and secured bike-storage areas, and in the case of office buildings, lockers and showers, should be included in the design of major new construction.

5. Utility and Equipment Cabinets. Existing or proposed utility and equipment cabinets or boxes, including wireless communication facilities, shall be placed inside a building or placed underground, if physically feasible. In the event the city determines such location is not physically feasible, the utility and equipment cabinets must be screened by fencing, landscaping and/or stealth screening technologies so that they are not visible.

E. Objectionable or Hazardous Uses. No use shall be allowed which produces excessive odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste. The standard for "excessive" shall be based on the average or normal production of these items by adjoining uses permitted in the vicinity of the proposed new use. A use is excessive if it is likely to unreasonably interfere with the ability of the adjoining property owners to utilize their property for working or living activities or if it is likely to unreasonably interfere with the ability of pedestrians and residents to remain in or enjoy the area. (Ord. 16C-06 § 2 (Exh. A)).

19.11.030 Bulk regulations.

A. Bulk Regulations by Subarea.

1. The bulk regulations for properties in the Town Center are as follows:

	TC-5	TC-4 TC-4 Plus	TC-3	TCMF-3	TCMF-4
Base Building Height Allowed	27 feet	27 feet	27 feet	27 feet	27 feet
Base Building Stories Allowed	2	2	2	2	2
Maximum Allowable Building Height	63 feet	TC-4: 51 feet TC-4 Plus: 63 feet	39 feet	39 feet	51 feet
	Up to 5 additional feet allowed for parapet and/or sloped roof.				
Maximum Allowable Building Stories	5	TC-4: 4 TC-4 Plus: 5	3	3	4
Ground Floor Height Adjacent to Streets	15 feet minimum, 27 feet maximum			n/a	n/a
Setback from Property Lines	No minimum setback required except where necessary to provide landscaping, facade modulation, through-block connection or an easement for required sidewalk width.				
Required Upper Story Setback (Average Daylight Plane)	All street frontages are subject to the average daylight plane standards described in subsection (A)(7) of this section.				

2. Base Building Height. A base building height of up to two stories (not to exceed 27 feet) shall be allowed. One-story structures located adjacent to the public right-of-way in the TC-5, TC-4, TC-4 Plus and TC-3 subareas shall be a minimum of 15 feet and may be as tall as 27 feet with approval of the design commission to ensure the taller facade provides features that ensure a pedestrian scale.

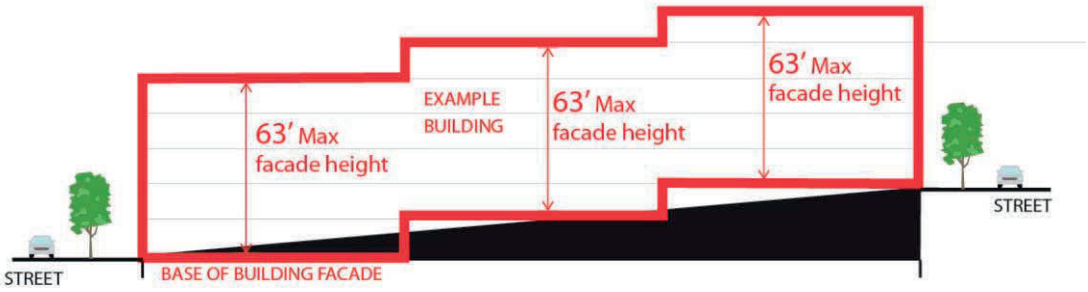
3. Calculation of Building Height.

a. The intent of the building height calculation in this section is to limit the visual mass of a building so that it does not appear to exceed the maximum height limit in subsection (A)(1) of this section.

b. The maximum allowable building height in subsection (A)(1) of this section shall be calculated as the vertical distance measured from the base of a building facade to the highest point of the roof structure excluding appurtenances. The base of the building facade shall be measured from the adjacent public sidewalk if applicable, or from the lower of existing or finished grade along building facades that are not adjacent to a public sidewalk. See Figure 4.

c. If the bases of the opposite building facades are at approximately the same elevation, then the building height at any point between the facades can never exceed the maximum permitted building height. If the bases of the opposite building facades are not at approximately the same elevation, then the building must be configured to go down in height as between the higher and lower facades in a manner similar to Figure 4 or in an equivalent manner such that the average of the building heights calculated between the facades is approximately equal to or less than the maximum permitted building height.

Figure 4 – Maximum Building Height



4. Mezzanines. A mezzanine shall not be counted as a story for determining the allowable number of stories when constructed in accordance with the requirements of the construction codes set forth in MICC Title 17.

5. Rooftop Appurtenances. Rooftop appurtenances are discouraged. If necessary, rooftop appurtenances may extend up to 10 feet above the maximum building height allowed, provided 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 together with the screening provided for below, shall not cover more than 20 percent of the rooftop area.

a. Screening of Rooftop Appurtenances. 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 located on the hillside surrounding the Town Center.

b. Wireless Communication Facilities. Wireless communication facilities (WCFs) shall be governed by MICC 19.06.040; provided, they shall be screened as required by subsection (A)(5)(a) of this section.

6. Setbacks.

a. 78th Avenue SE. All structures shall be set back so that space is provided for at least 15 feet of sidewalk between the structure and the face of the street curb, excluding locations where the curbline is interrupted by parking pockets. Additional setbacks are encouraged to provide space for more pedestrian-oriented activities and to accommodate street trees and parking pockets.

b. All Other Public Rights-of-Way. All structures shall be set back so that space is provided for at least 12 feet of sidewalk between the structure and the face of the street curb, excluding locations where the curbline is interrupted by parking pockets. Additional setbacks along SE 32nd Street are encouraged to provide space for more pedestrian-oriented activities and to accommodate street trees and parking pockets.

7. Average Daylight Plane.

a. Block frontages along streets must integrate average minimum upper level building stepbacks to:

i. Reduce the perceived scale of building facades along streets;

ii. Increase the amount of light and air to adjacent streets;

iii. Promote modulation of building facades along streets that adds variety and provides visual interest;

iv. Encourage the integration of courtyards and open space along block frontages; and

v. Allow for flexibility in the design of block frontages along streets.

b. The average minimum upper level building stepbacks shall comply with the following:

i. From a height of 25 feet at the front property line, buildings shall step back at a 45-degree angle up to the maximum height limit.

ii. Calculations for determining compliance with the average daylight plane standards shall utilize cubic volume (cubic feet) and shall consider only the first 30 feet of depth along block frontages.

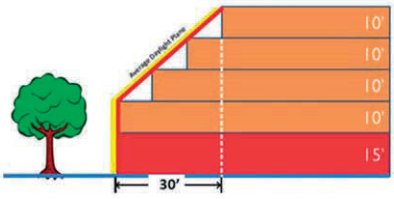
iii. Only the development site's applicable block frontage may be used to determine compliance with the provisions herein.

iv. Since the daylight plane standards above apply a minimum average, portions of block frontages may project beyond the daylight plane concept described in subsection (A)(7)(a) of this section, provided the applicable block frontage as a whole complies with the minimum average. Figure 5 illustrates the concept.

v. For each cubic foot that part of a building protrudes beyond the daylight plane ("debit"), the project must include an equivalent cubic footage of open space ("credit") either on the ground floor adjacent to the street (such as a public open space, courtyard or through-block connection), and/or by setting portions of the building facade farther back beneath the daylight plane. For the purposes of this section, the cubic feet of a portion of a building is measured from floor to the top of the roof, and along the outside of exterior walls. The cubic feet of open or credit volume is measured from finished ground level or top of roof to an imaginary line representing the daylight plane as defined in subsection (A)(7)(b)(i) of this section. The intent is that the required open space or credit volume be open to the sky; however, the design commission has discretion to allow eaves, pedestrian weather protection and landscaping within the required open space as long as the objectives in subsection (A)(7)(a) of this section are met.

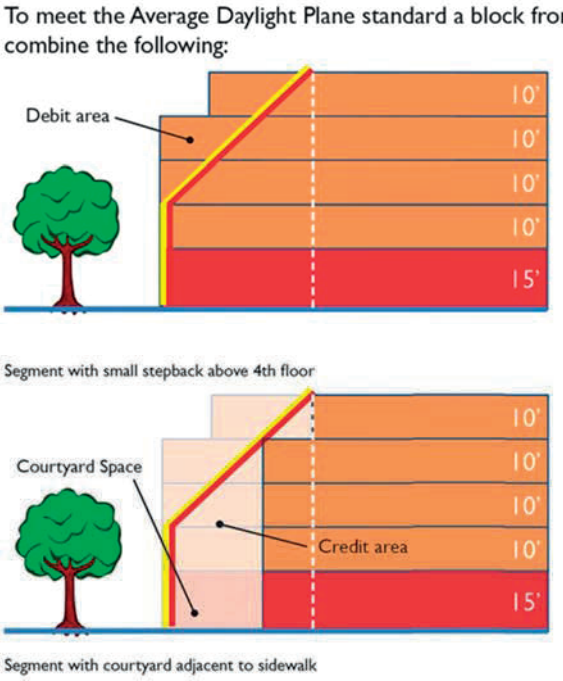
vi. Daylight plane debits and credits shall be applied on the same block frontage and cannot be transferred to other block frontages.

Figure 5 – Illustrating the Average Daylight Plane Standards



Calculations use the first 30' of property adjacent to streets to measure conformance.

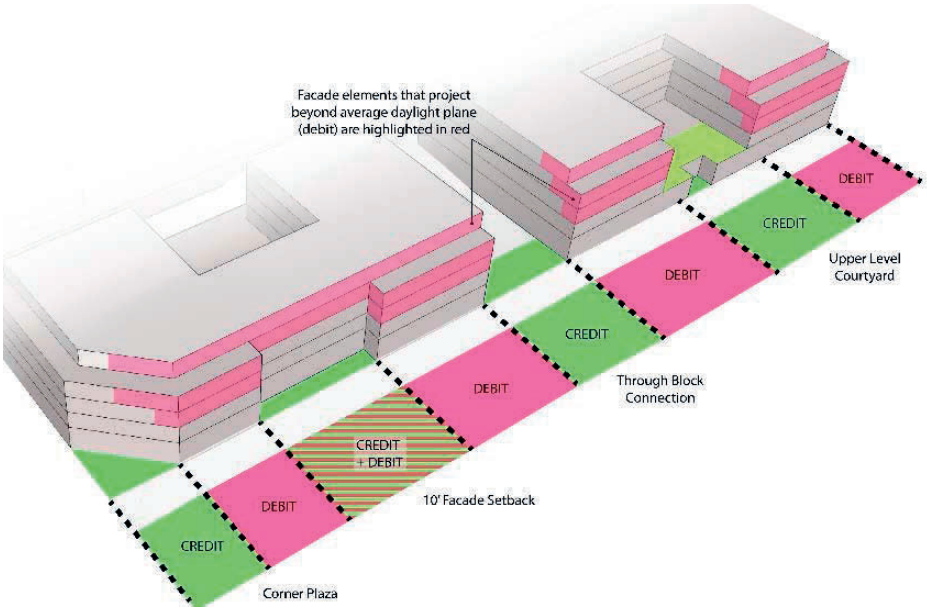
The average daylight plane extends vertically from the applicable property line 25 feet and then steps back at a 45-degree angle to help reduce the massing of buildings fronting streets.



The amount of credit volume shall exceed the debit volume to comply with the "average."

Figure 6 – An Example Development Massing Model with Block Frontages That Comply with the Average Daylight Plane Standards

Figure 6 illustrates how a development with multiple block frontages and a through-block connection could meet the average daylight plane standards. The image focuses on the foreground block frontage and illustrates that the block frontage features a combination of debit and credit volume (individual facades that project into average daylight plane are "debit" volume whereas facades that exceed the setback/stepbacks of the average daylight plane are "credit" volume.)



(Ord. 16C-06 § 2 (Exh. A)).

19.11.040 Affordable housing.

A. Purpose and Intent. The incentives and regulations offered in this section are used by the city as one means of meeting its commitment to encourage housing affordable to all economic groups, and to meet its regional share of affordable housing requirements. The purpose of this section is to: (1) implement through regulations the responsibility of the city under state law to provide for housing opportunities for all economic segments of the community, (2) help address the shortage of housing in the city for persons of moderate-income households, (3) promote development of affordable housing that would not otherwise be built in the city, and (4) offer incentives to encourage construction of affordable housing units in Town Center.

B. Affordable Housing Ratio. In order to qualify as significant affordable housing and in order to qualify for bonus building height over two stories, a development that contains dwelling units must provide affordable housing units equal to at least 10 percent of the total units in the development. The number of required affordable units shall be rounded up to the nearest whole number.

C. Affordability Level. For a three-story building the required affordable housing units must be affordable at the 70 percent of median income level for rental housing or 90 percent of median income level for ownership housing. For four- and five-story buildings, the required affordable housing units must be affordable at the 60 percent of median income level for rental housing or 90 percent of median income level for ownership housing.

D. Design Elements.

1. The affordable housing units shall generally be intermingled with all other dwelling units in the development and are not required to be located on the top story or bonus story.

2. The tenure (owner- or renter-occupied) of the affordable housing units shall be the same as the tenure of the rest of the dwelling units in the development.

3. The affordable housing units shall consist of a mix of the unit types (by number of bedrooms) that is generally proportionate to the mix of units in the overall development.

4. Affordable units may not be smaller than other units with the same number of bedrooms in the development, unless the code official determines that rooms within the affordable units provide adequate space for their intended use. In no case shall the affordable units be more than 10 percent smaller than the market-rate units having the same number of bedrooms in the development, or less than 500 square feet if a studio unit, 600 square feet if a one-bedroom unit, 800 square feet if a two-bedroom unit, 1,000 square feet if a three-bedroom unit, or 1,200 square feet if a four-bedroom unit; whichever is less.

5. The exteriors of the affordable housing units must be compatible with and comparable in quality to the rest of the dwelling units in the development and shall comply with any design standards for the underlying zoning district. The interior finish of the affordable units shall, at a minimum, be comparable to entry level rental or ownership housing in the development.

E. Availability. The affordable housing units shall be available for occupancy in a time frame comparable to the availability of the rest of the dwelling units in the development.

F. Agreement. Prior to issuance of a building permit, an agreement in form and substance acceptable to the city attorney shall be executed providing price restrictions, homebuyer or tenant qualifications and long-term affordability. The agreement shall be recorded with King County department of records and elections and shall constitute a covenant running with the land. Affordable housing units shall remain as affordable housing for a minimum of 50 years from the date of initial owner occupancy for owner affordable units and for the life of the project for rental affordable housing units. At the sole discretion of the code official, the city may approve a shorter affordability time period for owner-occupied affordable housing, not to be less than 30 years, in order to meet federal financial underwriting guidelines.

1. The agreement shall provide the city sole discretion to establish monitoring fees for the affordable units, which fees may be adjusted over time to account for inflation. The purpose of any monitoring fee is for the review and processing of documents to maintain compliance with income and affordability restrictions of the affordability agreement.

2. The city may agree, at its sole discretion, to subordinate any affordable housing regulatory agreement for affordable ownership units for the purpose of enabling the owner to obtain financing for development of the property.

G. Impact Fees. Affordable housing may be exempt from impact fees pursuant to MICC 19.17.090 (schools), 19.18.070 (parks) and 19.19.070 (transportation). (Ord. 16C-06 § 2 (Exh. A)).

19.11.050 Green building standards.

Any major new construction shall meet the LEED Gold standard. Projects that are primarily residential (at least 50 percent of the gross floor area is composed of residential uses) may instead meet the Built Green 4 Star standard. The applicant shall provide proof of LEED or Built Green certification within 180 days of issuance of a final certificate of occupancy, or such later date as may be allowed by the code official for good cause, by submitting a report analyzing the extent credits were earned toward such rating. Failure to submit a timely report regarding LEED or Built Green ratings by the date required is a violation of this code. (Ord. 16C-06 § 2 (Exh. A)).

19.11.060 Site design.

A. Minor Site Features. All major new construction regardless of its height shall have at least three minor site features that contribute to a well-balanced mix of features in that subarea as determined by the design commission. Minor site features may include, but are not limited to, the following:

1. Decorative Landmarks. Imaginative features that complement the building design and create visual focal points that give identity to an area, such as decorative clocks, special paving in pedestrian areas, art features, water features, drinking fountains, or creative designs for necessary building features or functions. Art should be integrated with the public street improvements. Examples include sculpture, murals, inlays, mosaics, friezes or bas-reliefs. The location of art shall provide for public view but not hinder pedestrian traffic.

2. Kiosks. Community-oriented kiosks, which may include bulletin boards and newsstands or racks, creatively designed and consolidated and placed in areas where large numbers of people gather, and which complement the site design and streetscape and reduces visual clutter.

3. Additional Sidewalk Setback. At least five feet of sidewalk width, in addition to the minimum sidewalk setback provided for in MICC 19.11.030(A)(6), may be provided along 78th Avenue SE, along the entire street frontage of the development site. Such additional sidewalk should be designed to provide additional pedestrian access where parking pockets narrow the sidewalk, to accommodate street trees and benches, or to create spaces for more pedestrian-oriented activities such as outdoor dining or seating.

4. Impact on Public Open Spaces. Minor site features may not occupy space in a public open space to the extent that doing so reduces the actual space that is usable by the public below the minimum required area.

B. Major Site Features. Any major new construction in the TC-5, TC-4, TC-4 Plus or TC-3 subarea which exceeds the two-story base height and that includes or abuts a preferred through-block connection location shown on Figure 7 shall include a through-block connection subject to design commission determination that such connection is feasible and achievable. Any major new construction exceeding three stories in height in the TC-5, TC-4 or TC-4 Plus subarea shall include at least one of the following major site features, subject to design commission determination that such choices contribute to a well-balanced mix of features in that subarea:

1. Through-Block Connection. Through-block pedestrian connections will qualify as a major site feature upon satisfaction of the development and design standards set forth in subsection E of this section. If the on-site area of the through-block connection does not equal or exceed three percent of the gross floor area of the development, then public open space shall also be provided so that the total area of the through-block connection and public open space equals or exceeds three percent of the gross floor area of the development.

2. Public Open Space. Public open spaces will qualify as a major site feature upon satisfaction of the development and design standards set forth in subsection D of this section.

C. Other Site Features. The design commission may approve other major or minor site features in place of those listed above consistent with the provisions of this chapter.

1. Major Site Features. Site features other than listed in subsection B of this section will only be considered as a major site feature if it is of equal or greater public benefit than one or more of the major site features listed in subsection B of this section. Underground or structured parking that supports park and ride use may be considered a major site feature. The amount of park and ride parking qualifying as a major site feature shall be determined by the design commission.

2. Minor Site Features. Examples of other minor site features include contribution to a public art or design project within close proximity to the new construction, such as the city's I-90 Artway; and/or transit-oriented development (TOD) amenities, such as facilities that support bicycle use.

D. Public Open Space. Refers to plazas, parks or other spaces intended for the use and enjoyment of the public in the Town Center zone. Public open spaces serve as public gathering spaces and, depending on their size, could accommodate a variety of public events, as well as provide space for informal gatherings and quiet activities.

1. Size. A single public open space shall be a minimum size equal to three percent of the gross floor area of the development and shall be at least 20 feet in width. For a fifth floor in the TC-4 Plus subarea, public open space shall increase to a minimum of seven and one-half percent of the gross floor area of the development. The design commission may allow a development to provide two or more public open spaces so long as the design commission determines that such multiple public open spaces will have an equal or greater public benefit and each is at least 1,500 square feet in area. The primary purpose of the public open spaces shall be as public gathering places. Other uses of public open spaces whose primary purpose is not for public gathering including but not limited to lobby entrances, stairs, and cordoned off/private outdoor restaurant seating shall not be included in calculating the minimum size of the public open spaces. Such areas shall be in addition to any area required as a minor site feature under subsection A of this section. If a development is required to provide both a public open space and a through-block connection, then the area of the through-block connection that meets the requirements of subsection E of this section shall also be counted towards the public open space requirement.

2. Design Elements.

a. Public open spaces shall be at the same level as the public sidewalk, serve as a focal point for pedestrian activity within the Town Center zone, and should be fully integrated and designed consistent with any pedestrian connection or other public amenity.

b. Public open spaces shall be designed with sufficient pedestrian amenities including seating, lighting, water features, special paving, landscaping, artwork and special recreational features, as determined by the design commission. At least two linear feet of seating surfaces per 100 square feet of space should be provided. To qualify, seating surfaces shall be a minimum of 18 inches in depth. At least half the seating should have seat backs and have surfaces made of wood, rather than metal, stone or concrete. In addition, moveable chairs may be provided and shall not be for the sole use of an adjacent retail business.

c. Pedestrian-oriented frontage is required on at least two sides unless the space is linear in design, in which case pedestrian-oriented frontage is required on at least one side.

d. At least 25 percent but not more than 60 percent of an outdoor public open space should be landscaped with shade trees, ground cover or other vegetation.

e. The public open space may not be covered by a roof, story or skybridge; provided portions of the public open space may be covered for weather protection, or be enclosed pursuant to subsection (D)(2)(f) of this section.

f. Enclosed and/or covered public open space may be approved by the design commission; provided, that the space is available for public use.

g. All city approvals or permits for any structure shall be reviewed for compatibility with the alignment of any existing or approved public open space.

3. Public Open Space Plan. The applicant shall submit a plan with a minimum scale of one-quarter inch equals one foot for the public open space which shall include a description of all landscaping; lighting; street furniture; color and materials; relationship to building frontage; specific location of the public open space; and the relationship to and coordination with any pedestrian connection or other public amenity.

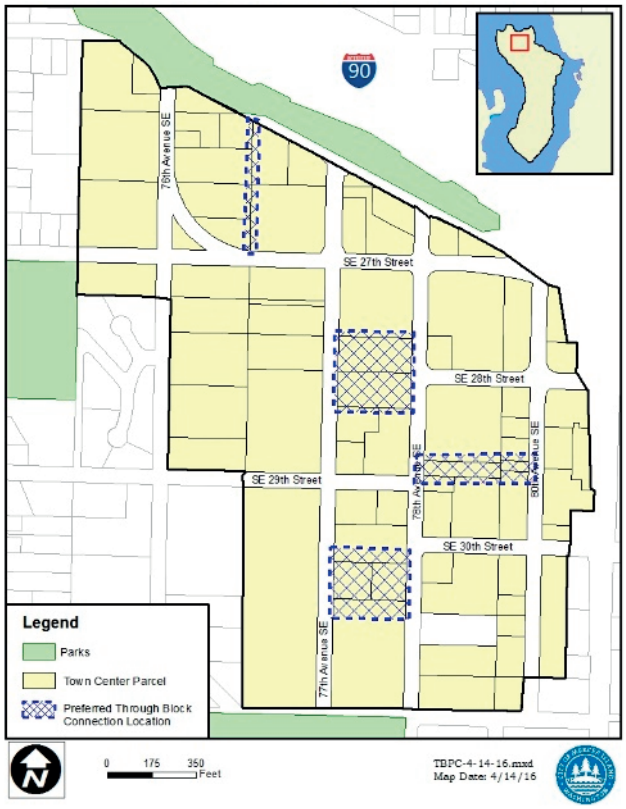
4. Public Access. The entire public open space should be open to the public 24 hours per day. Temporary closures will be allowed as necessary for maintenance purposes. Upon city approval, portions of the public open space may be separated, as required by the State of Washington Liquor and Cannabis Board or its successor agency, in order to allow outdoor seating for restaurant purposes.

E. Through-Block Pedestrian Connections. Through-block pedestrian connections are intended to provide convenient and safe public pedestrian routes through city blocks.

1. Location. Connections shall be located on the lots eligible for through-block pedestrian connections as shown on Figure 7

and in other locations based on the following criteria. The actual location of the pedestrian connection on the lot shall be determined by the design commission based upon the following criteria: (a) the connection will connect with existing or future rights-of-way, other pedestrian connections and/or public open spaces; (b) the connection has the effect of dividing a large city block approximately in the middle of such block in approximately the preferred locations shown on Figure 7; and (c) it is likely that the remainder of the subject connection will be developed in the future based upon development conditions on surrounding lots.

Figure 7 – Preferred Through-Block Pedestrian Connection Locations



2. Design Elements.

a. The connection shall be the length necessary to provide access between existing rights-of-way; provided, however, that if an applicant does not own all property necessary to make the connection, this option will still be available if an easement is provided to the city for the remainder of the connection. If the applicant cannot obtain the easement after using best efforts, the city may still approve the connection. The connection shall be a minimum of 20 feet wide unless the design commission approves a lesser width because the applicant provides other site features of equal or greater public benefit as determined by the design commission. The area devoted to a connection shall be in addition to the area devoted to any other minor site feature required pursuant to subsection A of this section. The primary purposes of the connection shall be as a means for pedestrian access between rights-of-way and secondarily as a public gathering place. Other uses, including pedestrian access to parking areas, lobby entrances, and stairs, must be secondary to and not conflict with the connection purpose and areas required for such uses shall not be included in calculating the minimum size.

b. The connection shall be at the same level as the public sidewalk and incorporate sufficient pedestrian amenities such as seating areas, landscaping, art features, water features, weather protection and pedestrian scale lighting, as determined by the design commission.

c. The connection should use special paving, such as decorative colored concrete, concrete unit brick or stone pavers and coordinated design features such as uniform treatment of signing, landscaping and lighting over the entire length of the connection. Pervious paving is encouraged.

d. At least 50 percent of the ground level building frontage shall be designed and constructed to provide occupancy by active residential or nonresidential uses.

e. Where ground level residential uses front onto the through-block connection the building must feature at least one of the public/private space transition elements described below:

i. Raised Deck or Porch Option. Provide at least a 60-square-foot porch or deck raised at least one foot above grade. The porch or deck must be at least six feet wide, measured perpendicular to the building face. A low fence, rail or planting, which is two feet to four feet high, is encouraged between the through-block connection and the deck or porch. A porch roof or weather protection is encouraged. The design should consider accessibility.

ii. Private Open Space Option. Provide a private open space at least 10 feet wide between the face of the residence and the edge of the through-block connection. The space may be paved or landscaped. A low fence, rail or planting which is two to four feet high shall be provided between the through-block connection and the open space.

iii. Landscaped Area. Provide a landscaped area at least 10 feet wide between the face of the building and the edge of the through-block connection. The plantings must reach three feet high within three years after planting.

iv. Raised Ground Floor. If the residence's ground floor is at least three feet above the grade adjacent to the building, then the landscaped area in option (iii), above, may be reduced to four feet wide.

v. Other transition design measures that adequately protect the privacy and comfort of the residential unit and the attractiveness and usefulness of the pathway at least as effectively as options (i) through (iv) above, as determined by the design commission.

Figure 8 – Acceptable Public/Private Transitional Space Design between Through-Block Connections and Ground Level Residential Units

The upper left image uses a low fence and landscaped setback. The right images use landscaped terraces and elevated ground level units. The lower left image uses a landscaped berm between the pathway and semi-private open space.

f. Where ground level nonresidential uses front onto the through-block connection the building must feature:

i. Transparent windows along 50 percent of the ground floor facade between 30 inches and 10 feet above the through-block connection.

ii. Entrances facing the through-block connection are required for each tenant adjacent to the through-block connection.

g. No more than 50 percent of through-block connection ground level frontages may be occupied by vehicle parking areas. Where surface level parking areas are adjacent to the through-block connections, landscaping and building design features shall be included to add visual interest and screen vehicles while designing for safety of pedestrians along the connection.

h. The through-block connection may not be covered by a roof or story; provided portions of the public open space may be covered for weather protection, but not enclosed, and skybridges connecting two buildings are allowed if the skybridge is less than 20 feet wide and less than 14 feet in height.

i. All city approvals or permits for any structure shall be reviewed for compatibility with the alignment of any existing or approved through-block connection.

j. The connection shall be for exclusive pedestrian use and may not be used by vehicles except as necessary for maintenance or emergency purposes. Dumpsters and other service areas shall not be located within a through-block connection, but may be totally enclosed within a building adjacent to the through-block connection.

k. The design commission may approve a connection that is not in a straight line.

Figure 9 – Examples of Acceptable Through-Block Connections

The upper left image features trees on both sides of the connection and outdoor dining area with adjacent restaurants. The upper right image features retail shops fronting onto a corridor. The lower left image features a double pathway with central lawn and adjacent townhouses. The right image features adjacent apartments with a landscaped buffer.

3. Connection Plan. The applicant shall submit a plan with a minimum scale of one-quarter inch equals one foot for the connection, which shall include a description of all of the following elements: landscaping; lighting; street furniture; color and materials; relationship to building frontage; specific location of the connection and the relationship to and coordination with any public open space.

4. Public Access. The entire connection should be open to the public 24 hours per day. Temporary closures will be allowed as necessary for maintenance purposes. Upon city approval, portions of the connection may be separated, as required by the State of Washington Liquor and Cannabis Board or its successor agency, in order to allow outdoor seating for restaurant purposes.

F. Legal Agreements Required for Public Open Space and Through-Block Pedestrian Connections. The owners of property to be used for public open space or through-block pedestrian connections shall retain fee ownership of that property and shall execute a legal agreement providing that such property is subject to a right of pedestrian use and access by the public. The agreement shall be in form and substance acceptable to the city attorney and be recorded with the King County recorder's office and the city clerk. The obligations under the agreement shall run with the land and shall terminate upon demolition of the structure for which the through-block connection or public

open space was provided. No modifications to either a public open space or through-block pedestrian connection shall be made without approval of the city other than ordinary repairs and maintenance. (Ord. 16C-06 § 2 (Exh. A)).

19.11.070 Greenery and outdoor spaces.

A. Objectives. Outdoor spaces and landscaping should be designed to achieve the design vision set forth in MICC 19.11.010. Development should provide for private open space for employees and residents. Plant materials placed in horizontal beds and on vertical walls/trellises/arbors areas should be used to frame and soften structures, to define site functions, to enhance the quality of the environment, screen undesirable views and create identity sense of place. Trees and landscaping shall be incorporated into the site design in order to soften and screen the visual impact of hard surfaces such as parking lots, service areas, and walls, as well as to enhance a sense of nature along pedestrian walkways, public rights-of-way, sidewalks and outdoor gathering places. Outdoor furniture and fixtures should be compatible with the project architecture and considered as integral elements of the landscape. Whenever possible development should include seating areas and be enhanced by such features as trees and flower displays, fountains, art and open spaces.

B. Development and Design Standards.

1. Landscaped Area Requirement. Landscaped surfaces equal to 25 percent of the development site shall be provided. All required plantings and landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy plant growth, based on local and regional best landscaping practices. The following landscaped types and credits may be used to meet the standards:

a. Ground level planting beds qualify as landscaped surfaces at a 100 percent rate. Ground level planting area that supports trees (which will require deeper soil depths) may qualify for bonus credit. Specifically, planting areas that support a large tree (height greater than 30 feet at maturity) may be counted at a 200 percent rate (includes planting area under projected dripline at maturity) and planting areas that support a medium sized tree (height greater than 15 feet at maturity) may be counted at 150 percent rate. Terraced or other raised planting surfaces qualify as landscaped surfaces at the same rates as ground level planting beds depending on the soil depth (shallow soil depths capable of supporting only ground cover plants qualify at a 50 percent rate).

b. Green Roof. Green roofs qualify as a landscaped surface at a 50 percent rate (i.e., two square feet of green roof qualifies as one square foot of landscaped area). Green roof areas supporting large shrubs and trees may qualify for bonus credit (up to a 100 percent rate) as determined by the design commission depending on the planting's visibility.

c. Green Walls/Trellises/Arbors.

i. Artistic green walls adjacent to ground level publicly accessible space with decorative patterns qualify as a landscaped surface at a 125 percent rate;

ii. Standard green walls qualify as landscaped surfaces at a 75 percent rate;

iii. Vine trellis/arbors/walls qualify as landscaped surfaces at a 50 percent rate. Planter areas must feature minimum soil depth necessary to maintain healthy vine growing conditions as determined by regional best landscaping practices.

2. Landscaping Standards.

a. Suitable Plant Species. Plant materials for required landscape surfaces shall be selected from a city approved palette of species and minimum size at time of planting. Plant materials should be native or adaptive drought-tolerant species.

b. Trees and Ground Cover.

i. Prominent trees should be preserved to the extent feasible.

ii. Trees planted within five feet of public curbs or in paved areas shall be installed with root guards and grates to prevent physical damage to sidewalks, curbs, gutters, pavement and other public or private improvements.

iii. Ground cover shall be planted to have 100 percent ground cover in two years.

iv. Any tree cutting or pruning shall be consistent with Chapter 19.10 MICC.

c. Soil Quality, Depth, and Volume. Applicants for new projects in Town Center must include the relevant provisions in construction details, based on regional best landscaping practices, including:

i. In planting beds: place three inches of compost and till to a minimum depth of eight inches.

ii. In turf areas: place one and three-quarters inches of compost and till to a minimum depth of eight inches.

iii. Scarify (loosen) subsoil four inches below amended layer to produce a minimum soil depth of 12 inches of uncompacted soil.

iv. After planting: apply two to four inches of arborist wood chip mulch to planting beds. Coarse bark mulch may be used but has fewer benefits to plants and soil.

d. Irrigation. All landscaped areas shall be provided with an approved automatic irrigation system consisting of waterlines, sprinklers designed to provide head to head coverage and to minimize overspray onto structures, walks and windows. Water conserving types of irrigation systems should be used.

e. Maintenance. All landscaping shall be maintained in good condition. Maintenance shall include regular watering, mowing, pruning, clearance of debris and weeds, removal and replacement of dead plants and the repair and replacement of irrigation systems.

3. Surface Parking Lot Landscaping. Surface parking lots shall be landscaped to reduce and break up large areas of asphalt and paving.

a. The landscape design shall be incorporated with low impact development techniques designed to manage runoff from roofs, parking lots and other impervious surfaces.

b. A minimum four-foot-wide (interior dimension) landscape bulb should be provided at the end of parking aisles.

c. A ratio of one tree for every six parking spaces should be provided throughout any surface parking lot. Of the total number of trees required, 50 percent shall be a minimum of 24-inch box in size, and 50 percent shall be a minimum of 15-gallon in size.

d. Planting areas for trees required within the parking rows of a surface parking lot should be achieved by one of the following acceptable methods:

i. A continuous landscape strip, at least four feet wide (interior dimension), between rows of parking stalls; or

ii. Tree wells, eight feet wide, resulting from the conversion of two opposing full sized parking stalls to compact stalls; or

iii. Tree wells, at least five feet square, placed diagonally between standard or compact parking stalls.

4. Landscape Screening. All grade-level parking should be physically separated from the street and visually screened from pedestrian view by landscaping. The landscaping must include shrubs and trees, be located on private property and be wide enough to maintain the plant material and screen the view but not less than three feet wide.

5. Building Entries. Building entries should be emphasized with special landscaping and/or paving in combination with lighting.

6. Building Facades. Building facade modulation and setbacks should include features such as courtyards, fountains and/or landscaping.

7. Continuity. Landscaping should provide design continuity between the neighboring properties. (Ord. 16C-06 § 2 (Exh. A)).

19.11.080 Screening.

A. Objectives. In order to obtain the design vision set forth in MICC 19.11.010, any storage, service and truck loading areas, utility structures, elevator and mechanical equipment on the ground or roof shall be screened from public view in such a manner that they are not visible from public streets, sidewalks or residential areas located on the hillside surrounding the Town Center.

B. Development and Design Standards.

1. 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 streets. Consideration should be given to developing common service courts at the interior of blocks. Service areas should accommodate loading, trash bins, recycling facilities, food scrap composting areas, 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 each tenant. Any emissions of noise, vapor, heat or fumes should be mitigated. Loading activities should generally be concentrated and located where they will not create a nuisance for adjacent uses.

2. Garbage, Recycling Collection, Composting and Utility Areas. Garbage, recycling collection, food scrap composting 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 street or pedestrian alley, a landscaped planting strip, minimum three feet wide, shall be located on three sides of such facility. Any emissions of noise, vapor, heat or fumes should be mitigated.

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. Fences. Fences should be made of masonry, ornamental metal or wood, or some combination of the three. The use of chain link, plastic or wire fencing is prohibited. (Ord. 16C-06 § 2 (Exh. A)).

19.11.090 Lighting.

A. Objectives. Lighting shall be an integral part of any new or existing development. Lighting shall contribute to the individuality, security and safety of the site design without having overpowering effects on the adjacent areas. Lighting is viewed as an important feature, for functional and security purposes, as well as to enhance the streetscape and public spaces. The design of light fixtures and their structural support should be integrated with the architectural theme and style of the main structures on the site.

B. Development and Design Standards.

1. Pedestrian-Scale Light Fixtures. Pedestrian-scale light fixtures should be incorporated into the site design to give visual variety from one building to the next and should blend with the architectural style.

2. Light Type. Lighting should use LED or similar minimum wattage light sources, which give more “natural” light. Non-color corrected low-pressure sodium and mercury vapor light sources are prohibited.

3. Building Entrances. All building entrances should be well lit to provide inviting access and safety.

4. Building-Mounted and Display Window Lights. Building-mounted lights and display window lights should contribute to lighting of walkways in pedestrian areas.

5. Parking Areas. Parking area light fixtures should be designed to confine emitted light to the parking area. The height of the light fixtures should not exceed 16 feet. The design commission shall review and determine the adequacy of lighting in parking areas based on best practices.

6. Neon Lighting. Neon lighting may be used as a lighting element; provided, that the tubes are concealed and are an integral part of the building design. Neon tubes used to outline the building are prohibited.

7. Shielding. All lighting fixtures should be shielded or located to confine light spread within the site boundaries, to the extent possible, especially when adjacent to residential uses. (Ord. 16C-06 § 2 (Exh. A)).

19.11.100 Building design.

A. Objectives. Building facades should be designed with a variety of architectural elements that suggest the building’s use and how it relates to other development in the area. Buildings should be oriented to the street frontage to enliven the street edge as well as to maximize access from the public sidewalk. Building facades should provide visual interest to pedestrians. Special care should be given to landscaping, mass and roof forms of buildings

to provide visual interest from residential areas located on the hillside surrounding the Town Center as well as from public streets or sidewalks. Street level windows, minimum building setbacks, on-street entrances, landscaping and articulated walls should be encouraged. Building facades should be designed to achieve the purpose of the development and design standards and the Town Center vision described in MICC 19.11.010. Architectural features and other amenities should be used to highlight buildings, site features and entries and add visual interest. Within the Town Center, all development shall provide elements that attract the interest of residents, shoppers and workers.

B. Development and Design Standards.

1. Fenestration.

a. Transparent Facades. Articulated, transparent facades should be created along pedestrian rights-of-way. Highly tinted or mirrored glass windows shall not be allowed. Shades, blinds or screens that prevent pedestrian view into building spaces shall not be allowed, except where required or desired for privacy in dwelling units, hotel rooms and similar residential uses.

b. Ground Floor Windows and Doors. Major new construction along 77th Avenue SE, 78th Avenue SE and SE 27th Street, within the TC-5, TC-4 and TC-4 Plus subareas, shall have at least 75 percent of the length of the ground floor facade between the height of two feet and seven feet devoted to windows and doors affording views into retail, office, or lobby space.

c. Upper Story Facades. Upper stories of buildings above two stories should maintain an expression line along the facade such as a setback, change of material, or a projection to reduce the perceived building mass. Upper story windows should be divided into individual units and not consist of a "ribbon" of glass. Upper story features such as balconies, roof decks, bay windows or upper story commercial activities should be used to visually connect upper story activity with the street.

2. Street-Facing Facade Elements. All major new construction shall include at least seven of the following elements on the street-facing facades, both on the ground floor level and on other levels, as may be deemed desirable by the design commission taking into account the nature of the development and the site.

a. Window and door treatments which embellish the facade.

b. Decorative light fixtures.

c. Unique facade treatment, such as decorative materials and design elements.

d. Decorative paving.

e. Trellises, railings, gates, grill work, or unique landscaping.

f. Flower baskets supported by ornamental brackets.

g. Recessed entrances.

h. Balconies.

i. Medallions.

j. Belt courses.

k. Decorative masonry and/or tilework.

l. Unique, handcrafted pedestrian-scaled designs.

m. Planter boxes with seasonal color.

n. Projecting metal and glass canopy.

o. Clerestories over storefront windows.

p. Other elements as approved by the design commission.

3. Major Facade Modulation. Block frontages shall include at least one of the following features (subsection (B)(3)(a), (b) or (c) of this section) at intervals no greater than 120 feet to break up the massing of the block and add visual interest. The design commission may approve modifications or alternatives to the following features if the proposed modulation is at least as aesthetically acceptable as one of the following features:

a. Vertical building modulation at least 20 feet deep and 30 feet wide. See example on Figure 10. For multi-story buildings, the modulation must extend through more than one-half of the building stories.

b. Use of a significant contrasting vertical modulated design component featuring all of the following:

i. An extension through all stories above the first story fronting on the street.

Exception: upper stories that are set back more than 10 feet horizontally from the facade are exempt.

ii. A change in building materials that effectively contrast from the rest of the facade.

iii. A modulation horizontally from the rest of the facade by an average of 24 inches.

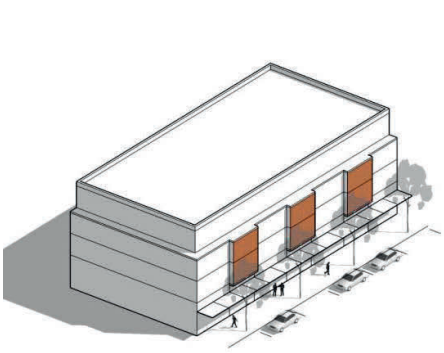
iv. A design to provide roofline modulation.

c. Building walls with contrasting articulation and roofline modulation that make it appear like two or more distinct buildings. See examples on Figure 11. To qualify for this option, these contrasting facades shall employ all of the following:

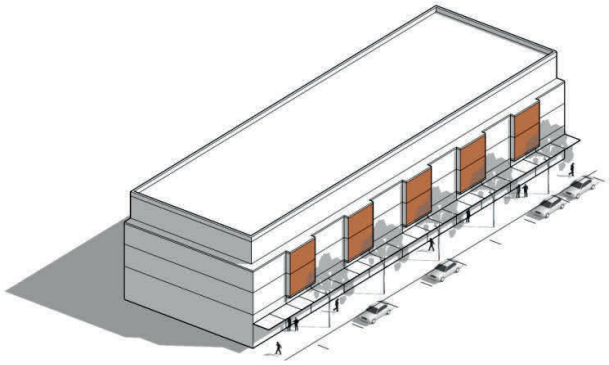
i. Different building materials and/or configuration of building materials; and

ii. Contrasting window design (sizes or configurations).

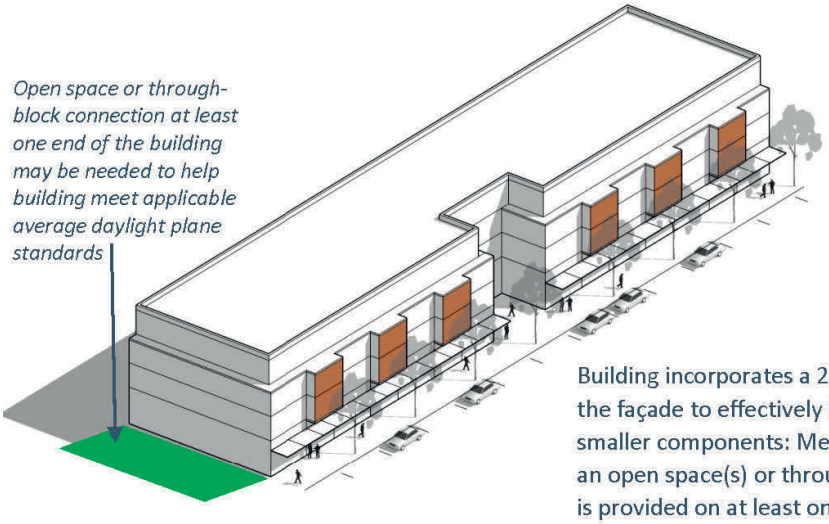
Figure 10 – Illustrating Maximum Facade Width Standards



Less than 120' wide: Meets standard.



More than 120' wide: Does not meet standard.



Less than 120' wide: Meets standard.

Building incorporates a 20'x30' courtyard along the façade to effectively break it up into smaller components: Meets standard provided an open space(s) or through block connection is provided on at least one side of the building to help it meet the average daylight plane standards*.

More than 120' wide: Does not meet standard.

Figure 11 – Facade Examples Employing Building Walls with Contrasting Articulation That Make It Appear Like Two or More Distinct Buildings

Figure 12 – Examples That Do Not Meet Maximum Facade Width Provisions

4. Minor Facade Modulation. All buildings shall include articulation features to reduce the perceived scale of large buildings and add visual interest to facades. See examples on Figure 13. At least three of the following features shall be employed at intervals no greater than 50 feet subject to design commission approval taking into account the nature of the development and the site:

a. Window fenestration patterns and/or entries;

b. Use of vertical piers/columns;

c. Change in roofline;

d. Change in building material or siding style;

e. Vertical elements such as a trellis with plants, green wall, art element;

f. Vertical building modulation of at least 12 inches in depth if tied to a change in roofline modulation or a change in building material, siding style, or color; or

g. Other design techniques approved by the design commission that reinforce a pattern of small storefronts (or residences, if residential uses are used).

Figure 13 – Minor Facade Modulation Examples

5. Walls. Untreated blank walls are prohibited. A blank wall is a wall (including building facades and retaining walls) over six feet in height, with a horizontal length greater than 15 feet that does not include a transparent window or door. Methods to treat blank walls can include but are not limited to:

a. Display windows at least 16 inches of depth to allow for changeable displays. Tack on display cases shall not qualify as a blank wall treatment.

b. A landscape planting bed at least five feet wide or a raised planter bed at least two feet high and three feet wide in front of the wall with planting materials that are sufficient to obscure or screen at least 60 percent of the wall's surface within three years.

c. A vertical trellis in front of the wall with climbing vines or plant materials.

d. A mural as approved by the design commission.

e. Special building detailing that adds visual interest at a pedestrian scale as approved by the design commission. Such detailing must use a variety of surfaces; monotonous designs will not meet the purpose of the standards.

6. Entrances. Building entrances should concentrate along the sidewalk and should be physically and visually inviting. Entrance doors shall be recessed from the facade surface to emphasize the entrance and provide a sheltered transition to the interior of the building. Special paving treatments and/or landscaping should be used to enhance the entrance. Pedestrian walkways with wheelchair ramps at least eight feet wide should be constructed between the sidewalk and building entrances.

7. Roofs. Roofs shall relate to the building facade articulations. A variety of roof types and configurations should be used to add interest and reduce the perceived building mass. Varied parapet height or roofline is encouraged. Sloping roofs are also encouraged.

8. Residential Uses on Ground Floor. Where permitted, residential uses on the ground floor shall comply with the standards in MICC 19.11.060(E)(2)(e).

9. Identity Emphasis. Public buildings, unique community structures and corner structures should have a prominent scale, emphasizing their identity.

10. Corner Lots. Buildings on corner lots should be oriented to the corner. Corner entries and/or architectural treatment should be used to emphasize the corner.

11. Franchise Design. Prototype design for franchises should use customized components consistent with the design requirements for the Town Center that achieve the purpose, intent and vision set forth in MICC 19.11.010.

12. Harmony. The elements of a building should relate logically to each other, as well as to the surrounding buildings. A single building or complex should be stylistically consistent; architectural style, materials, colors and forms should all work together.

13. Weather Protection. Specially designed all-weather features that integrate weather protection systems at the sidewalk level of buildings to protect pedestrians from

the effects of rain, wind, glare, shadow, reflection and sunlight and to make spending time outdoors feasible in all seasons. All major new construction shall have awnings, canopies, trellises, pergolas, covered arcades or all-weather features along 80 percent of a building's frontage along the retail frontages shown on Figure 2.

a. Any canopy or awning over a public sidewalk should be a permanent architectural element.

b. Any canopy or awning over a public sidewalk should project out from the building facade a minimum horizontal width of six feet and be between eight to 12 feet above grade.

c. Architectural details should not be concealed by awnings or canopies.

d. Awning shapes should relate to the shape of the facade's architectural elements. The use of traditionally shaped awnings is encouraged.

e. Vinyl or plastic awnings or canopies are prohibited.

f. All awnings or canopies shall function to protect pedestrians from rain and other weather conditions.

14. Courtyards. Courtyards are an outdoor covered or uncovered area easily accessible to the public at the same level as the public sidewalk or pedestrian connections. If a courtyard is being provided for purposes of meeting the public open space requirement in MICC 19.11.060(B), then the courtyard shall comply with the design standards for public open space in MICC 19.11.060(D). Other courtyards should:

a. Be at least 10 feet in width, with a building facade on at least one side;

b. Be covered with trees, ground cover, or other landscaping over at least 50 percent of its area;

c. Include seating, special paving material, pedestrian-scale lighting and other pedestrian furnishings;

d. Manage runoff from courtyard pavement with low impact development techniques when allowed by the code official; and

e. Not be covered by a roof, story or skybridge; except that portions of the courtyard may be covered for weather protection, but not enclosed. (Ord. 16C-06 § 2 (Exh. A)).

19.11.110 Materials and color.

A. Objectives. Textured high quality materials and colors should bring a visually interesting experience into the streetscape. Color should be carefully considered in relation to the overall design of the building and surrounding buildings. Color and materials should highlight architectural elements such as doors, windows, fascias, cornices, lintels, and sills. Variations in materials and colors should be generally limited to what is required for contrast or to accentuate architectural features. Piecemeal embellishment and frequent changes in materials should be avoided. The materials and colors selected should be consistent with the intent, purpose and vision set forth in MICC 19.11.010.

B. Development and Design Standards.

1. Building Exteriors. Building exteriors should be constructed from high quality and durable materials. It is important that the materials and colors weather well and that building exteriors need minimal maintenance.

2. Regional Focus. Materials and colors should reflect the city's regional setting.

3. Attention to All Sides. Materials and colors should be used with cohesiveness and compatibility on all sides of a building.

4. Concrete Walls. Concrete walls should be architecturally treated. The treatment may include textured concrete such as exposed aggregate, sand blasting, stamping or color coating.

5. Harmonious Range of Colors. A harmonious range of colors should be used within the Town Center. Neon or very bright colors, which have the effect of unreasonably setting the building apart from other adjacent buildings on the street, should not be used.

6. Bright Colors. Bright colors should be used only for trim and accents if the use is consistent with the building design and other design requirements.

7. Undesired Materials. Beveled metal siding, mirrored glass, and vinyl siding should not be used. EIFS, stucco and similar materials

should be limited to use as a minor building facade element.

8. Variation of Materials. A variation of building materials should be used to assist in the creation of a visually interesting experience. (Ord. 16C-06 § 2 (Exh. A)).

19.11.120 Street standards.

All major new construction abutting 77th Avenue SE or 78th Avenue SE shall improve the right-of-way adjacent to the property as required in Figure 14. Major new construction abutting all other streets shall improve the right-of-way adjacent to the property as required by the Mercer Island Town Center Streetscape Manual. The design commission may require or grant a modification to the nature or extent of any required street improvement for any of the following reasons upon recommendation by the city engineer:

A. If unusual topographic or physical conditions preclude the construction of the improvements as required; or

B. If the required improvement is part of a larger project that has been scheduled for implementation in the city's six-year capital improvement program; or

C. If angled parking is required but parallel parking would enhance pedestrian, vehicle or bicycle safety, or result in a more desirable pedestrian environment; or

D. If other unusual circumstances preclude the construction of the improvements as required.

Figure 14 – Town Center Street Standards

(Ord. 16C-06 § 2 (Exh. A)).

19.11.130 Parking, vehicular and pedestrian circulation.

A. Objectives. The Town Center should be accessible for vehicles but have an emphasis toward the needs of pedestrians. Clear, easy to understand circulation should be designed into all development to allow drivers and pedestrians to move safely on and off the site, and within it, without confusion and without disrupting on-street traffic flow. Development should maintain mobility and maximize opportunities for alternative modes of transportation in the Town Center. Placement of structures, landscaping, circulation patterns and access points should collectively seek to promote an integrated, multi-modal transportation system. The harmonious integration of pedestrian and transit user circulation should be considered in every aspect of site design. Development shall provide adequate parking with safe and convenient pedestrian access. Parking stalls shall be located within a structure, underground or behind buildings. Parking structures should not dominate the street frontage, and must blend with the building's architectural theme. Creatively designed, clean and functional pedestrian connections are encouraged to provide access through-blocks, between properties and/or to and from the public right-of-way. Parking shall be designed consistent with the urban design vision set forth in MICC 19.11.010 and complement the pedestrian activities.

B. Development and Design Standards.

1. Parking Requirements.

a. Minimum Number of Parking Stalls Required. All new development and remodels greater than 10 percent of the existing gross floor area shall provide at least the number of parking stalls set forth in the following table:

RETAIL (Stalls per gross square foot)			OFFICE (Stalls per gross square foot)			RESIDENTIAL (Stalls per unit)	
General Retail	Restaurant/ Deli/Bakery /Food	Hotel	Financial Services	Health/Barber/ Beauty	Other Professional Services		Senior
2 to 3 per 1,000	5 to 10 per 1,000	1 per guest room plus 2/3 per emp. on shift, plus 5 per 1,000 square feet of retail/office	3 to 5 per 1,000	4 to 5 per 1,000	3 to 5 per 1,000	1 to 1.4 per unit. Site specific deviations to allow less than 1 stall per unit may be allowed based on a detailed parking analysis and with approval of the code official.	0.3 to 1 per unit

LIBRARIES/MUSEUM PUBLIC BUILDINGS (Stalls per gross square foot)	ASSEMBLY OR MEETING SPACES	OTHER USES – NONSPECIFIED (Stalls per gross square foot)
3 to 5 per 1,000	1 space for 3 seats up to 1 space for 5 seats, plus 2 spaces for 3 employees	As determined by the code official

b. Determination within Range. The code official shall have the final authority to determine the number of parking stalls required within the ranges above to accommodate typical daily peak parking demand based upon the applicant's submittal of a completed site plan and detailed parking analysis.

c. Underground or Structured Parking Required. If the applicant for a mixed use project or for a residential project provides more parking than one and one-quarter spaces

per dwelling unit for any part of a project consisting of residential units or two and one-half spaces per 1,000 square feet for any part of a project that is not used for residential units, then all such additional parking shall either be underground or on the second or higher story of structured parking. This subsection shall not apply to additional parking spaces that may be required pursuant to MICC 19.01.050.

d. Parking Lot Configuration. Parking lot design shall conform to the standard stall diagrams set out in Appendix A to this title, unless alternative design standards are approved by the design commission and the city engineer. No more than 50 percent of the required off-street parking spaces for office and residential uses may be designed for accommodating compact vehicles. No more than 25 percent of the required off-street parking spaces for all other uses may be designed for accommodating compact vehicles. Such parking spaces must be clearly designated as compact stalls.

e. Shared Parking.

i. The amount of off-street parking required in subsection (B)(1)(a) of this section may be reduced by no more than 50 percent, as determined by the code official upon approval by the city engineer (and design commission for major new construction), when shared off-street parking facilities for two or more uses are proposed. A parking demand study shall be prepared by a professional traffic engineer and submitted by the applicant that documents parking demand for all land uses shall not significantly overlap and that uses will be served by adequate parking if shared parking reductions are authorized.

ii. The determination whether shared parking will be allowed shall occur at the time the shared parking is proposed and when a change of use occurs.

iii. If shared parking is requested, the parking facilities for the multiple uses shall be designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities. If off-site facilities are used, all facilities shall be connected with improved pedestrian facilities and no building or use should be more than 1,320 feet walking distance from the most remote shared parking facility.

iv. If the shared parking is on one or more different properties, a covenant or other contract for shared parking between the cooperating property owners must be approved by the code official. This covenant or contract shall be recorded with the King County department of records and elections division as a deed restriction on all properties and cannot be modified or revoked without the consent of the code official.

v. If requirements for shared parking are violated, or the parking demand for shared parking exceeds the shared parking supply, the affected property owners shall provide a remedy satisfactory to the code official or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter.

f. Access Restriction Prohibited. Restricting vehicular and pedestrian access between adjoining parking lots at the same grade is prohibited.

g. Surface Parking Lot Location.

i. Behind Structure. All surface parking lots shall be located behind building structures.

ii. No Corner Parking Lots. Parking lots shall not be located on a corner facing an intersection.

h. Design of Surface Parking and Pedestrian Access.

i. Entrances.

(a) Shared. The number of parking lot entrances, driveways and curb cuts should be minimized in favor of combined driveways and coordinated parking areas among business owners.

(b) 78th Avenue SE. Individual parking entrances and curb cuts on 78th Avenue SE should be consolidated.

ii. Pedestrian Walkways. Pedestrian walkways should be provided through all parking lots. Raised concrete pavement should be provided where the walkway traverses between parking stalls and/or is adjacent to vehicular circulation.

iii. Landscaping and Lighting. Landscaping and lighting of surface parking

lots should be in conformance with MICC 19.11.070(B)(4) and 19.11.090(B)(5).

iv. Concrete Curbs. All parking areas, landscaping areas and driveways should be surrounded by six-inch-high vertical concrete curbs.

v. Wheel Stops. All landscape and pedestrian areas should be protected from encroachment by parked cars. Wheel stops two feet wide (as measured outward from the paved or planted area) should be constructed for all nonparallel parking stalls.

vi. Amenities. Amenities such as seating and planters should be provided to encourage pedestrian circulation.

i. Design of Structured Parking.

i. Relationship to Main Building. Parking structures should be architecturally integrated or designed with an architectural theme similar to the main building.

ii. Screening. A floor of a parking structure should not face the street. If the design commission determines that there is no feasible alternative to a street-facing floor of a parking structure, then the perimeter of the floor of a parking structure facing the street should have a screening mechanism designed to shield vehicles and any mechanical appurtenances from public views.

iii. Street Side Edges. An architectural treatment, landscaping and/or space for pedestrian-oriented businesses along the street-side edges of the parking structure shall be provided.

iv. Pedestrian Access. Where possible, pedestrian elevators and stairwells serving structured parking shall be located in a public lobby space or out onto an active public street.

2. Signs and Wayfinding. Signs indicating the location of parking available to the public shall be installed as approved by the design commission and city engineer. Such signs shall be installed at the entrance to the parking lot/garage along the street and within the parking lot/garage and shall comply with parking signage standards for the Town Center approved by the design commission and city engineer.

3. Loading Space. Off-street loading space with access to a public street shall be required adjacent to or within or underneath each building. 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 the building. No part of the vehicle or vehicles using the loading space may protrude into the public right-of-way.

4. Drive-Through Facilities. Drive-through facilities and stacking lanes should not be located along the street frontage of a building that faces a right-of-way. Stacking lanes shall be designed so as to accommodate all vehicles on site, and no part of a vehicle using a drive-through facility shall protrude into the public right-of-way.

5. Public Parking. On-site public parking consistent with and complying with the requirements of this section shall be provided in any existing development desiring to provide public parking consistent with the requirements of this section and in any new mixed use or nonresidential development. Nothing contained in this section shall be deemed to prevent a building owner from designating parking spaces as being available to the public exclusively for electric vehicle charging or as being available exclusively to an operator of a car sharing service that makes vehicles available for public use. Further, this section shall be interpreted and enforced in such manner as to avoid conflict with the shared parking section in subsection (B)(1)(e) of this section.

a. All parking stalls provided for nonresidential uses, or if the primary use in the building is office then for nonoffice uses, or if the primary use of the building is hotel/motel then for non-hotel/motel uses, shall be available for public parking; provided, however, parking stalls that the code official concludes were required to be dedicated for the use of a specific tenant in accordance with a written lease provision in effect as of January 12, 2013, and which were specifically signed for that purpose on January 12, 2013, may be excluded from this requirement until the ear-

lier of the expiration, termination, modification or amendment of the lease.

b. Public parking stalls shall be available to motorists for such maximum time period as is determined by the owner, which shall not be less than two hours.

c. An owner may require that the motorist patronize at least one business in the development but otherwise the motorist will be entitled to leave the development without moving the parked vehicle, subject to the maximum time period specified by the owner as provided in subsection (B)(5)(b) of this section.

d. Once public parking is provided under this provision, it may not thereafter be eliminated unless the development changes use that does not require public parking.

e. Public parking under this provision shall not be required for a new mixed use or nonresidential development that is: (i) two stories or less, and (ii) no greater than 10 percent of the total gross floor area of all existing structures on the parcel as of October 30, 2015.

6. Repurposing of Parking Stalls.

a. Parking stalls required for nonresidential uses in a new development or existing development by the foregoing provisions of this section must be kept available exclusively to provide parking for nonresidential uses in that development, as applicable. For parking stalls required for office use, this requirement shall only apply on weekdays between 7 am and 6 pm, excluding national holidays. Up to 50 percent of such stalls designated for office use may be allocated for residential use during the hours of 6 pm and 7 am weekdays and at all times on weekends and national holidays.

b. Owners or operators of developments in which such parking stalls are located are responsible for ensuring that such parking stalls are, in fact, occupied as above required only by vehicles of persons associated with the respective uses and are not being occupied by other vehicles. Compliance with, and allowing public parking in accordance with, the provisions of subsection (B)(5) of this section or shared parking in accordance with subsection (B)(1)(e) of this section shall not be considered a violation of this exclusive use requirement. (Ord. 16C-06 § 2 (Exh. A)).

19.11.140 Signs.

A. Objectives. Signs shall be distinctive, finely crafted and designed to enhance the aesthetics of the Town Center and to improve pedestrian and motorist safety. Signs shall be designed for the purpose of identifying the business in an attractive and functional manner and to help customers find the specific business locations; they should not serve as general advertising. The size of signs shall be in proportion to the size of business store frontage. Signs shall be integrated into the building design, compatible with their surroundings and clearly inform pedestrians and motorists of business names, but should not detract from the architectural quality of individual buildings.

B. Development and Design Standards.

1. Freestanding Ground Signs.

a. Number. A building or complex may not display more than one ground sign on each street frontage.

b. Design. The sign shall be architecturally compatible with the style, materials, colors and details of the building. The sign content should be integrated in one design (in contrast to displaying two or more separate elements). Use of symbols is encouraged.

c. Size. All signs shall be:

i. Proportionate. Proportionate to the street frontage of the businesses they identify; and

ii. Maximum Size. In no case larger than:

(a) Twenty-five square feet. A maximum of 25 square feet for individual business ground signs, shopping complex identification ground signs and signs within a 10-foot setback from any property line on a street.

(b) Fifty square feet. A maximum of 50 square feet for joint ground signs (identifying more than one business): six square feet for each business included in the complex. When more than five businesses are included in the complex, one additional ground sign

may be placed on the street front, if signs are located at least 100 feet apart.

d. Maximum Height. The maximum height of any sign within 10 feet from any property line on a street shall be 42 inches. All other ground signs shall be a maximum of six feet in height. The height of a freestanding ground sign is measured from the top of the sign to the existing grade or finished grade, whichever is lower, directly below the sign being measured.

e. Backs of Signs. Exposed areas of backs of signs should be finished to present an attractive appearance.

2. Wall Signs.

a. Eligibility. A wall sign shall be granted to commercial uses occupying buildings facing the streets and are limited to one sign per business on each street frontage. Commercial uses occupying a building adjacent to a driveway shall not qualify for a second wall sign. However, a commercial use occupying a building whose only exposure is from a driveway or parking lot shall be allowed one wall sign. Businesses that demonstrate that the entry off a driveway or parking lot is used by customers shall be eligible for a wall sign.

b. Size. All signs shall be:

i. Proportionate. Proportionate to the street frontage of the businesses they identify; and

ii. Maximum Size. In no case larger than:

(a) Twenty-five square feet. Twenty-five square feet for individual business signs.

(b) Fifty square feet. Fifty square feet for joint business directory signs identifying the occupants of a commercial building and located next to the entrance.

c. Determination of Size. The sign size is measured as follows:

i. "Boxed" Displays. "Boxed" display – total area of display including the background and borders.

ii. Individual Letters and Symbols. Individual letters and symbols – total combined area of a rectangle drawn around the outer perimeter of each word and each symbol.

d. Placement. Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building, or the windowsill of the second story.

e. Signs above Window Displays. When a commercial complex provides spaces for signs above window displays, these signs should be compatible in shape, scale of letters, size, color, lighting, materials and style.

f. Design Commission Discretion. If an applicant demonstrates to the satisfaction of the design commission that a wall sign is creative, artistic and an integral part of the architecture, the commission may waive the above restrictions.

g. Master Sign Plan. When multiple signs for individual businesses are contemplated for a major construction project, a master sign plan stipulating the location and size of future signs will be required.

3. Projecting Signs.

a. Sidewalk Clearance. Projecting signs should clear the sidewalk by a minimum of eight feet.

b. Maximum Size. Projecting signs shall not be larger than six square feet.

c. Projection from Building. Signs should not project over four feet from the building unless the sign is a part of a permanent marquee or awning over the sidewalk.

d. Awnings. Awnings that incorporate a business sign shall be fabricated of opaque material and shall use reverse channel lettering. The design commission may require that an awning sign be less than the maximum area for wall signs to assure that the awning is in scale with the structure. Back-lit or internally lit awnings are prohibited.

4. Window Signs.

a. Area Limitation. Permanent and temporary window signs are limited to maximum 25 percent of the window area.

b. Integration with Window Display. Every effort should be made to integrate window signs with window display.

5. Parking Lot Signs. Signs within parking lots should be limited to those necessary for safety, identification and direction. The code official shall specify required wording

for signage identifying public parking required by MICC 19.11.130(B)(2).

6. Directional Signs.

a. Minimal Number. To avoid a cluttered appearance, only those directional signs necessary to protect the safety of pedestrians and passengers in vehicles will be allowed. The code official may, however, require directional signs as necessary to provide motorists with required information to find parking area entrances.

b. Size. These signs shall be no higher than 36 inches and no larger than four square feet.

7. Temporary Signs. Unless prohibited by this chapter, use of temporary signs in the Town Center shall be governed by MICC 19.06.020, Temporary signs.

8. Prohibited Signs.

a. Roof. Signs mounted on the roof are not permitted.

b. Moving Signs. Animated, moving, flashing, blinking, reflecting, revolving, or other similar signs or signs that incorporate these elements are prohibited.

c. Pennants and Inflated Signs. Pennants or inflated signs, balloons and figures are prohibited.

d. Vehicles. Signs attached to or painted on vehicles parked and visible from the public right-of-way are prohibited if, based on the relative amount of time the vehicle is parked rather than being used as a means for actual transportation, the vehicle's primary purpose is as a stationary sign rather than a means for actual transportation.

e. Phone Numbers. Phone numbers are prohibited from permanent, exterior signs.

9. Lighted Signs. Lighted signs shall be of high quality and durable materials, distinctive in shape, designed to enhance the architectural character of the building and use LED lights or other minimum wattage lighting, as necessary to identify the facility or establishment. Channel or punch-through letters are preferred over a sign that contains text and/or logo symbols within a single, enclosed cabinet.

10. Street Numbers.

a. Use. City-assigned street numbers should be installed on all buildings.

b. Effect on Permitted Sign Area. Street numbers will not be counted towards permitted sign area.

11. Design Commission Discretion. If an applicant demonstrates to the satisfaction of the design commission that a sign is creative, artistic and an integral part of the architecture, the commission may waive the above restrictions.

12. Master Sign Plan. When multiple signs for individual businesses are contemplated for a major construction project, a master sign plan stipulating the location and size of future signs will be required. (Ord. 16C-06 § 2 (Exh. A)).

19.11.150 Administration.

A. Design Review.

1. Authority. Design review shall be conducted by the city's design commission or code official consistent with the procedure set forth in MICC 19.15.040(F). The design commission or the code official shall review the applicability of the development and design standards and determine the project's conformance with this chapter. The degree of conformance with all of the development and design standards will vary on a project by project basis. The design commission shall review each project on the project's degree of overall conformity with the objectives, standards and the comprehensive plan. The design commission or the code official has the authority to approve, approve with conditions, or deny projects based on the criteria set forth in MICC 19.15.040(F).

2. Applicant's Responsibility. It is the responsibility of the applicant to design a project in compliance with the objectives and development and design standards of this chapter.

3. Shall/Should. When a standard uses the word "shall," the standard is mandatory. When a standard uses the word "should," the standard is mandatory unless the applicant can demonstrate, to the satisfaction of the design

commission, an equal or better means of satisfying the standard and objective.

4. Development Agreements. An applicant may request modifications to any development and design standards set forth in this chapter by requesting a development agreement consistent with RCW 36.70B.170 through 36.70B.210. All development agreements shall be in form and content acceptable to the city attorney and shall be reviewed and either approved or rejected by the city council after a public hearing pursuant to RCW 36.70B.200.

B. Conditional Use Permit Review.

1. General.

a. Intent. The intent of the conditional use permit review process is to evaluate the particular characteristics and location of certain uses relative to the development and design standards established in this chapter. The review shall determine if the proposal should be permitted after weighing the public benefit and the need for the use with the potential impacts that the use may cause.

b. Scope. The conditional use permit review process shall apply to all uses identified as requiring a conditional use permit in the chart of permitted uses set forth in MICC 19.11.020(A). No building permit, business license or other permits related to the use of the land shall be issued until final approval of the conditional use permit.

c. Review Authority. The planning commission shall conduct the conditional use permit review process and determine whether the proposed conditional use shall be allowed.

d. Process.

i. Time Frame and Procedure. Conditional use permit review shall be conducted in accordance with the timelines and procedures set forth in MICC 19.15.020, Permit review procedures, except as the notice provisions are modified below.

ii. Notice.

(a) Public notice of any proposal in the Town Center which involves a conditional use shall be posted on the project site and mailed to all property owners within 500 feet of the proposed project site.

(b) Legal notice shall be published in the official city newspaper (Chapter 2.10 MICC).

(c) The notice shall identify the general project proposal and the date, time and location of the planning commission open record hearing, and shall be provided a minimum of 10 days prior to the hearing.

iii. Written Decisions. All decisions of the planning commission shall be reduced to writing and shall include findings of fact and conclusions that support the decisions.

iv. Expiration of Approval. If the activity approved by the conditional use permit has not been exercised within two years from the date of the notice of decision setting forth the conditional use decision, or if a complete application for a building permit has not been submitted within two years from the date of the notice of the conditional use decision, or within two years from the decision on appeal from the conditional use decision, conditional use approval shall expire. The design commission or code official may grant an extension for no longer than 12 months, for good cause shown, if a written request is submitted at least 30 days prior to the expiration date. The applicant is responsible for knowledge of the expiration date.

2. Review Process.

a. Application Submittal. A complete conditional use permit application, on forms provided by the city development services group (DSG), shall be submitted at the same time as the application and materials for design review. The applicant shall provide a written narrative of the proposed conditional use and explain how the proposed use complies with the criteria for conditional use permit approval in subsection (B)(2)(e) of this section. Depending on the type of conditional use proposed, the code official may require additional information.

b. SEPA Determination. If the project is not categorically exempt pursuant to WAC 197-11-800, the city environmental official will review the SEPA environmental checklist, the proposal and other information required for a complete application to assess

the project's probable environmental impacts and issue a determination pursuant to MICC 19.07.120.

c. Acceptance. DSG staff shall determine if the required materials have been provided for review of the conditional use permit, in conjunction with the applicable design review process. If so, the application will be accepted and the process for determination of completeness and review set forth in MICC 19.15.020 shall commence.

d. Review. The planning commission shall conduct an open record hearing to consider a conditional use permit application. The commission may approve the application, or approve it with conditions, only if all of the applicable criteria set forth below are met. The planning commission shall deny the application if it finds that the applicable criteria set forth below have not been met. Conditions may be attached to assure 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. Conditional use permit application review shall be coordinated with design review as follows:

i. Major New Construction. If the conditional use permit application is part of a major new construction project, design review shall commence in accordance with the time frames and procedures set forth in MICC 19.15.040(F), except as follows: The planning commission shall review the conditional use permit application at an open record hearing after the design commission's preliminary design review at a public meeting. If the planning commission approves the conditional use permit (without or with conditions), then the planning commission will forward the project to the design commission for the final design review.

ii. Change in Use and Minor Exterior Modifications. If the conditional use permit application proposes a change in use but is not part of a major new construction project, or is part of a minor exterior modification, then design review shall proceed administratively in accordance with the provisions in MICC 19.15.040(F), and the planning commission shall review the conditional use permit application at an open record hearing. If the staff determines that the minor exterior modification should be reviewed by the design commission as provided for in MICC 19.15.040(F), then the design commission's review and decision shall be conducted at an open record hearing separate from the planning commission's open record hearing on the conditional use permit application.

e. Criteria for Approval of a Conditional Use Permit. Consistent with the applicable review process above, the planning commission shall approve, approve with conditions or deny a conditional use permit application based on finding that all of the following criteria have been met:

i. General Criteria.

(a) The proposed use complies with all the applicable development and design provisions of this chapter.

(b) The proposed use is consistent with the comprehensive plan.

(c) The proposed use is harmonious and appropriate in design, character, and appearance with the existing or intended uses within the surrounding area.

(d) The proposed use will not generate excessive fumes, odor, dust, light, radiation, or refuse that would be injurious to surrounding uses.

(e) The proposed use will not generate levels of noise that adversely impact the health, safety, or general welfare of surrounding uses.

(f) The proposed use will be served by adequate public services, including streets, fire and public safety protection, water, sewer, and storm water control, and will not adversely impact the level of service standards for such facilities.

(g) The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interest, health, safety, convenience, or welfare of the city.

ii. Additional Criteria for Approval of a Conditional Use for Adult Entertainment.

(a) The point of entry into the structure housing the adult entertainment use

shall be located at least 100 feet, measured in a straight line, from the property line of: (1) any R-zoned property; (2) any public institution zoned property; (3) any property containing one or more of the following uses: residential uses including single- or multiple-family dwellings, or residential care facilities; schools including public, private, primary or secondary, preschool, nursery school, day care; recreational uses including publicly owned park or open space, commercial or noncommercial or private recreation facility; religious institutions; public institutions; or uses which cater primarily to minors.

(b) No adult entertainment use shall be located closer than 400 feet to another adult entertainment use. Such distance shall be measured by following a straight line from the nearest point of entry into the proposed adult entertainment to the nearest point of entry into another adult entertainment use.

(c) The point of entry into adult entertainment use shall not be located along 78th Avenue SE.

(d) Signing shall be limited to words and letters only. Window or exterior displays of goods or services that depict, simulate, or are intended for use in connection with specified sexual activities as defined by Chapter 5.30 MICC are prohibited.

f. Appeal. The planning commission's decision is final unless appealed pursuant to MICC 19.15.020(J).

g. Change After Conditional Use Permit Granted.

i. Change of Ownership. Conditional use permits granted shall continue to be valid upon change of ownership of the site.

ii. Change of Use. Modifications to the use shall require an amendment to the conditional use permit and shall be subject to the above review process. (Ord. 16C-06 § 2 (Exh. A)).

Chapter 19.12

DESIGN STANDARDS FOR ZONES OUTSIDE TOWN CENTER

Sections:

19.12.010 General.

A. Applicability. This chapter establishes design standards for regulated improvements in all zones established by MICC 19.01.040, except Town Center. Design standards for Town Center are set forth in Chapter 19.11 MICC. These standards are in addition to any other standards that may be applicable to development in the zone in which the development occurs. In the PBZ, the terms of the PBZ site plan as set forth in MICC 19.04.010 shall control; provided, to the extent not inconsistent with MICC 19.04.010, the provisions of MICC 19.12.010 [excluding (D)(2)(b) and (c)], 19.12.030, 19.12.060, 19.12.070 and 19.12.080 shall apply. These design standards are not intended to slow or restrict development, but to add consistency and predictability to the permit review process.

B. Design Vision.

1. Site and Context. Non-Town Center areas are largely characterized by residential settings that are heavily vegetated, topographically diverse and enhanced with short and long-range views that are often territorial in nature. The design of new and remodeled structures should respond to this strong environmental context. Site design should maintain the natural character of the island and preserve vegetation concentrations, topography and the view opportunities that make Mercer Island special.

2. Building Design. Development of new and remodeled structures should conserve Mercer Island's special environmental characteristics, such as steep slopes, watercourses, and large concentrations of mature trees. Buildings shall be designed to be architecturally compatible with other structures in the neighborhood with respect to human scale, form and massing, and relationship to natural site features. High quality and durable materials, complementary colors, texture, and architectural detail should be incorporated into the design. Use of materials such as natural wood and stone, and design elements such as large building overhangs and window exposure to natural light, are encouraged.

3. Landscaping and Amenities. Landscaping should reflect the natural wooded character of Mercer Island and provide visual separation between different land uses. Amenities such as street trees, plantings, and other landscape design elements, including fountains or water features, and art features should be integrated into new and remodeled structures and their sites.

C. Applicant's Responsibility. It is the responsibility of the applicant to design a project in compliance with the objectives and standards of this chapter and all other regulations applicable to the zone in which the development occurs.

D. Design Review Process. Design review shall be conducted by the city's design commission or code official consistent with the process provided in MICC 19.15.040(F). The design commission or code official shall review each regulated improvement and determine each project's conformance with the applicable objectives and standards of this chapter.

1. Full Application of Design Requirements: Major New Construction. All design requirements of Chapter 19.12 MICC shall apply, except as provided in MICC 19.01.050(D)(3)(a), when there is new construction from bare ground, or intentional exterior alteration or enlargement of a structure over any three-year period that incurs construction costs in excess of 50 percent of the existing structure's current King County assessed value as of the time the initial application for such work is submitted; provided, application of Chapter 19.12 MICC shall not be construed to require an existing structure to be demolished or relocated, or any portion of an existing structure that is otherwise not being worked on as part of the construction to be altered or modified.

2. Partial Application of Design Requirements: Minor Exterior Modification. The following design requirements shall apply when there is a minor exterior modification, as defined in MICC 19.16.010:

a. MICC 19.12.030 pertaining to building design and visual interest;

b. MICC 19.12.040(B)(5), (6), (7), (8), (9) and (11) pertaining to landscape design and outdoor spaces: entrance landscaping; planting types; screen types and widths by use and location; perimeter landscape screens; surface parking lot planting; and general planting, irrigation and maintenance standards;

c. MICC 19.12.050 pertaining to vehicular and pedestrian circulation;

d. MICC 19.12.060 pertaining to screening of service and mechanical areas;

e. MICC 19.12.070 pertaining to lighting;

f. MICC 19.12.080 pertaining to signs;

The design requirements pertaining to structures shall be applied only to that portion of an existing structure that undergoes minor exterior modification and shall not require any portion of an existing structure that is otherwise not being worked on as part of the construction to be altered or modified.

3. Value Measure When Structure Has No Assessed Value. For purposes of determining when a project will be considered major new construction or minor exterior modification, and the threshold for application of design requirements as set forth in subsections (D)(1) and (2) of this section, if there is no current King County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the code official, shall be used as the value point of reference.

E. Shall/Should. When a standard uses the word "shall," the standard is mandatory. When a standard uses the word "should," the standard is mandatory unless the applicant can demonstrate, to the satisfaction of the design commission or code official, an equal or better means of satisfying the standard and objective.

F. Development Agreements. An applicant may request modifications to any design and development standards set forth in this chapter by requesting a development agreement consistent with RCW 36.70B.170 through 36.70B.210. All development agreements shall be in form and content acceptable to the city attorney and will be reviewed and either approved or rejected by the city council after a public hearing pursuant to RCW 36.70B.200. (Ord. 04C-08 § 1).

19.12.020 Site features and context.

A. Objectives.

1. To encourage design that respects natural landforms, mature trees, and sensitive areas and uses them to provide project identity.

2. To ensure site design is approached in a systematic and unified manner that takes advantage of inherent opportunities and complies with specific standards for building location and orientation.

3. To link open space and recreation areas, where feasible, with public open space, parks, and trails.

4. To encourage building and site designs that use natural elements which link new or modified development to the neighborhood.

5. To promote functional and visual compatibility and better transitions between different uses, adjacent neighborhoods, and between development and natural features.

B. Standards.

1. Site Features.

a. Landforms. Design and layout of the site should incorporate natural landforms such as trees, topography and water courses into proposed developments. Cut and fill should be minimized and preservation of mature trees should be maximized, particularly adjacent to project boundaries and steep slopes. Natural contours should be respected and retained where feasible.

2. Sloped or Hillside Development.

a. Building development should generally occur on the least steep portions of the site in order to conserve the more fragile areas for landscaping or general open space.

b. Structures built on substantial slopes or hillsides should be designed to minimize their visual impact on surrounding areas. Ridgelines of major slopes should not be broken by structures or loss of vegetative cover. Acceptable methods to integrate structures into the hillside include, but are not limited to, height control, stepped construction, muted earth tone colors, and tree preservation.

c. Building Orientation. Buildings should respond in design to a prominent feature, such as a corner location, a street or the lake. Buildings and site design should provide inviting entry orientation. Buildings should not turn their backs to the street.

3. Relationship of Buildings to Site.

a. Site Design. Site design and architectural style shall be pedestrian in scale and address interface with public rights-of-way, vehicular and pedestrian circulation.

b. Architectural Context. New development should reflect important design elements of existing structures in the neighborhood, including but not limited to, roof forms, materials and colors.

c. Multiple Structures. Variable siting of individual buildings, heights of buildings, and building modulation should be used in order to provide variety in site and specific building design.

d. Transitions to Neighborhoods. Proposed developments should transition with and not overpower adjoining permitted land uses through modulation of building facades, use of established setbacks, and installation of landscape buffers. Building designs should step down to lower heights adjacent to surrounding buildings.

e. Decorative Landmarks. Imaginative exterior features that complement and are integrated into the building design and create visual focal points that give identity to an area, such as special paving in pedestrian areas, art

features, decorative clocks, or water features should be provided. (Ord. 04C-08 § 1).

19.12.030 Building design and visual interest.

A. Objectives.

1. To ensure high quality materials and finishes are used to bring a visually interesting experience to the streetscape.

2. To ensure that building design is based on a strong, unified, coherent, and aesthetically pleasing architectural concept.

3. To not restrict the design to a particular style.

4. To ensure that new buildings are appropriately designed for the site, maintain human scale, and enhance the architectural character of the neighborhood.

5. To ensure buildings are detailed, provide visual interest, do not have blank walls and that large buildings are modulated and articulated to reduce their apparent mass and scale.

6. To ensure high quality and durable buildings which will help to maintain and protect property values.

B. Standards.

1. Scale, Form and Mass. Scale, form, massing, building proportions, spacing of windows and doorways, roof silhouette, facade orientations, and style of architecture shall have a unified character and, as to commercial, regulated residential and regulated public facilities, recognize pedestrian needs.

a. Scale. Building scale should be proportional to other adjacent buildings, the street edge and, as to commercial, regulated residential and regulated public facilities, to the pedestrian environment.

b. Form and Mass. Building forms should not present visual mass or bulk impacts that are out of proportion to adjacent structures, or that appear from the public way or surrounding properties as having unmodulated visual bulk.

2. Building Facades – Visual Interest.

a. Facade Modulation. Building facade modulation shall break up the overall bulk and mass of the exterior of buildings and structures. Such modulation should always be addressed on the horizontal plane and the vertical plane. Large or massive buildings should integrate features along their facades that are visible from the public right-of-way, pedestrian routes and nearby structures to reduce the apparent building mass and achieve an architectural scale consonant with other nearby structures.

b. Modulation Guidelines.

i. Horizontal building facade modulation should occur at no less than every 50 feet of wall length. Forms of both vertical and horizontal building modulation may include, but are not limited to: facade indentations and extrusions; actual building separation; connecting atriums, courtyards and plazas; variable roof forms and overhangs; and decks and balconies.

ii. Building facades visible from public ways and public spaces should be stepped back or projected forward at intervals to provide a minimum of 40 percent overall facade modulation.

c. Ground Level Facades. Blank walls at the ground level that may be visible from a public view should be avoided. Ground level facades should create visual interest by utilizing features such as windows, wall articulation, arcades, trellises or other plant features.

d. Fenestration. Fenestration should be integrated in the overall building design and should provide variety in facade treatment.

e. Horizontal Variation and Emphasis. Building facades should be made more visually interesting through the use of reveals, medallions, belt courses, decorative tile work, clerestory windows, or other design features. The scale of the detail should reflect the scale of the building.

f. Signs. Building design should allow space for a wall sign, consistent with the provisions of MICC 19.12.080, Signs, if it is anticipated that a wall sign will be used.

3. Building Articulation. Design shall articulate building facades by use of variations of color, materials or patterns, or arrangement of facade elements that are proportional to the scale of the building. Architectural details that are used to articulate the structure may include

reveals, battens, and other three dimensional details that create shadow lines and break up the flat surfaces of the facade.

a. Tripartite Articulation. Tripartite building articulation (building top, middle, and base) should be used to create human scale and architectural interest.

b. Fenestration. Fenestration should be used in facades visible from public ways and public spaces visible from public ways for architectural interest and human scale. Windows should be articulated with treatments such as mullions or recesses and complementary articulation around doorways and balconies should be used.

c. Architectural Elements. The mass of long or large scale buildings should be made more visually interesting by incorporating architectural elements, such as arcades, balconies, bay windows, dormers, and/or columns.

d. Upper Story Setback. Upper stories should be set back to reduce the apparent bulk of a building and promote human scale. When buildings are adjacent to single-family residential dwellings, upper story setbacks shall be provided from property lines.

4. Materials and Color.

a. Durable Building Exteriors. Building exteriors should be constructed from high quality and durable materials that will weather well and need minimal maintenance.

b. Consistency and Continuity of Design. Materials and colors generally should be used with consistency on all sides of a building.

c. Material and Color Variation. Color and materials should highlight architectural elements such as doors, windows, fascias, cornices, lintels, sills and changes in building planes. Variations in materials and colors should generally be limited to what is required for contrast or to accentuate architectural features.

d. Concrete Walls. Concrete walls should be architecturally treated. The enhancement may include textured concrete such as exposed aggregate, sand blasting, stamping or color coating.

e. Bright Colors. Bright colors should be used only for trim and accents. Bright colors may be approved if the use is consistent with the building design and other design requirements. Fluorescent colors are prohibited.

5. Building Entrances.

a. Architectural Features and Design. Special design attention should be given to the primary building entrance(s). A primary entrance should be consistent with overall building design, but made visually distinct from the rest of the building facade through architectural features. Examples include recessed entrances, entrances which roof forms that protrude from the building facade, and decorative awnings, canopies, porte-cocheres, and covered walkways.

b. Entrance Connections. The primary entrance to a building should be easy to recognize and should be visible from the public way and/or physically connected to the public way with walkways. Landscaping should reinforce the importance of the entrance as a gathering place and create visual and physical connections to other portions of the site and to vehicular and pedestrian access points.

6. Rooflines.

a. Roofline Variation, Interest, and Detail. Roofline variation, interest, and detail shall be used to reduce perceived building height and mass and increase compatibility with smaller scale and/or residential development. Roofline variation, interest and detail may be achieved through use of roofline features such as dormers, stepped roofs, and gables that reinforce a modulation or articulation interval, incorporation of a variety of vertical dimensions, such as multiplaned and intersecting rooflines, or flat-roofed designs that include architectural details such as cornices and decorative facings.

b. Roofline Variation, Numeric Standard. Roof line variation shall occur on all multifamily structures with roof lines which exceed 50 feet in length, and on all commercial, office or public structures which exceed 70 feet in length. Roof line variation shall be achieved using one or more of the following methods:

i. Vertical off-set ridge or cornice line;

ii. Horizontal off-set ridge or cornice line;

iii. Variations of roof pitch between 5:12 and 12:12; or

iv. Any other approved technique which achieves the intent of this section.

7. Additional Standards for Buildings Containing Residential Units. Buildings containing residential units should incorporate the following additional design elements to make them residential in character:

a. Bay windows, dormers, patios or decks;

b. Base articulation such as plinths; or

c. Other techniques approved by the design commission which make the building residential in character.

8. Corporate Design. Building and site design for chain or franchise businesses should use customized components consistent with the objectives and standards of this chapter. Specific icons or trademarks of a company may be used, but the overall design of the building and site must represent a development compatible with the neighborhood including its colors, materials, textures and treatment of design.

9. All-Weather Features. All-weather features at the sidewalk, courtyard or public gathering space areas of commercial and regulated public facilities, such as awnings, canopies, covered walkways, trellises, or covered patios, should be provided to make spending time outdoors feasible in all seasons.

10. Public schools should respect privacy for adjacent residential properties by providing appropriate screening and placement of windows in buildings. Distance from residential property lines should also be considered when determining the appropriate amount of screening and the type and placement of windows. (Ord. 14C-06 § 5; Ord. 04C-08 § 1).

19.12.040 Landscape design and outdoor spaces.

A. Objectives.

1. To ensure that landscape design reinforces the natural and wooded character of Mercer Island, complements the site, the architecture of site structures and paved areas, while enhancing the visual appearance of the neighborhood.

2. To ensure that landscape design is based on a strong, unified, coherent, and aesthetically pleasing landscape concept.

3. To ensure that landscape plantings, earth forms, and outdoor spaces are designed to provide a transition between each other and between the built and natural environment.

4. To ensure suitable natural vegetation and landforms, particularly mature trees and topography, are preserved where feasible and integrated into the overall landscape design. Significant trees and tree stands should be maintained in lieu of using new plantings.

5. To provide a vegetated screen between dissimilar uses, to screen surface parking areas from adjacent uses and public rights-of-way.

6. To ensure planting designs include a suitable combination of trees, shrubs, groundcovers, vines, and herbaceous material; include a combination of deciduous and evergreen plant material; emphasize native plant material; provide drought tolerant species; and exclude invasive species.

B. Standards. Any quantitative standards contained in MICC 19.12.040(B) that specify types of plant material, quantities, spacing, and planting area widths are not intended to dictate a rigid and formal landscape. The applicant should incorporate the quantitative standards into a quality landscape and planting design that meets the stated objectives and standards of this section.

1. Landscape Area. Landscape design shall address all areas of a site not covered by structures or used by automobiles. Landscape areas include open space, plantings, patios, plazas, pedestrian ways, trails, and other outdoor spaces. Surface parking lot planting and screening are required as set forth in MICC 19.12.040(B)(7), (8) and (9). Design review,

however, shall be primarily concerned with: (a) areas of a site that require landscaping in order to address the impact of development on adjoining properties or public ways; and (b) parts of the development that are visible from adjoining properties or public ways.

2. Outdoor Spaces. Outdoor spaces should be designed at a human scale and include hardscape spaces, spaces created by plant materials and combinations of the two.

a. Strategically placed and useable pedestrian areas such as courtyards, plazas, outdoor seating or other gathering places should be provided for commercial, regulated residential and public facilities.

b. On-site recreation areas appropriate to the users should be provided for residential and public projects.

c. The design of outdoor spaces should combine necessary site functions, such as storm water detention, with open space and visual interest areas.

3. Architectural Features. The design of landscape architectural features should be in scale with and complement the architecture of site structures and the visual character of the neighborhood.

a. Use of architectural screens, arbors, trelliswork, art features, fountains and paving treatments such as wood, brick, stone, gravel and/or other similar methods and materials should be used in conjunction with native plant materials or in place of plant materials where planting opportunities are limited.

b. Fences should be made of ornamental metal or wood, masonry, or some combination of the three. The use of razor wire, barbed wire, chain link, plastic or wire fencing is prohibited if it will be visible from a public way or adjacent properties, unless there are security requirements which cannot feasibly be addressed by other means.

c. Fences should not create the effect of walled compounds that are isolated from adjacent developments and public ways.

4. Minimum Landscape Area Requirements.

a. Total Landscaped Area. The following minimum areas shall be landscaped:

i. Single-Family Residential (SF). For nonresidential uses in single-family residential zones (SF), a minimum of 35 percent of the gross lot area of shall be landscaped.

ii. Multifamily Residential (MF). In multifamily residential zones (MF-2, MF-2L, MF-3), a minimum of 40 percent of the gross lot area shall be landscaped.

iii. Planned Business Zone (PBZ). In the planned business zone (PBZ) landscape area requirements shall be as set forth in MICC 19.04.010.

iv. Commercial Office (CO). In commercial office (CO) zones, a minimum of 40 percent of the gross lot area shall be landscaped.

v. Business (B). In business (B) zones, a minimum of 25 percent of the gross lot area shall be landscaped; provided, for fuel stations, a minimum of 10 percent of the gross lot area shall be landscaped.

b. Impervious Surfaces. For all zones, area landscaped by impervious surfaces should constitute no more than 25 percent of the total required landscape area; provided, for multifamily residential zones, area landscaped by impervious surfaces should constitute no more than 10 percent of the total required landscape area.

5. Entrance Landscaping. For commercial and regulated public facilities, landscaping at entrances should frame an outdoor space near the entrance and reinforce this important building feature as a gathering place.

6. Planting Material, Types and Design. The following planting types should be used:

a. Native or northwest-adapted plants should be used for all open space and buffer locations and drought tolerant plantings should be used in a majority of plantings.

b. New plantings should complement existing species native to the Pacific Northwest.

c. Ground cover should be used to ensure planting areas are attractive, minimize maintenance and the potential for encroachment of invasive plant material. Ground cover should be planted and spaced to achieve total coverage within three years after installation.

7. Perimeter Screen Types and Widths by Use and Location.

a. Required Screen Types and Widths. The following screen types and widths should be used:

Use	Adjacent to	Screen Type and Width		
		Full	Partial	Filtered
Institutional Use or Public Facility	Public Way		20 feet[1, 2]	
Public Schools	Public Way		20 feet[1]	
	Single-Family Residential	20 feet[1, 3, 4]		
Utility Development	Public Way		10 feet	
Commercial or Multifamily outside of C-O Zone	Public Way			10 feet
All uses inside of C-O Zone	Public Way		20 feet	
Commercial, Institutional, Utility or Public Facility	Residential (Single or Multifamily)	20 feet[1]		
	Institutional, Commercial, Utility, Public Facility		10 feet	
	Public Park	20 feet		
Multifamily Development	Single-Family Residential		20 feet	
	Multifamily Residential		10 feet	
	Institutional, Commercial, Utility, or Public Facility		10 feet	
	Public Park	20 feet		
All other private uses	Public Park	20 feet		

[1]Breaks in full or partial screen planting may be allowed for institutional and public facilities to create focal points, preserve views, and highlight the prominence of important buildings.

[2]Perimeter landscape requirements may be modified if necessary to enable an existing public facility to make safety-related improvements to a legally nonconforming parking lot.

[3]School bus and student loading and unloading and primary parking areas located 100 feet or less from an abutting single-family zoned property shall provide a 30-foot-wide full screen. The number of trees required in the 30-foot-wide full screen area shall be 1.25 times the number otherwise required for a full screen. The design commission may modify screening width, location, height and number of trees to avoid casting shadows on adjacent residential properties or to accommodate existing storm detention systems and utilities.

[4]Owners of adjacent single-family zoned property shall be consulted on perimeter screen design and planting materials.

b. Perimeter Width Averaging. Averaging of screen widths may be allowed, if the objectives of this section, the minimum landscape area requirements set forth in MICC 19.12.040(B)(4) and the following criteria are met:

i. Plant material is clustered to more effectively screen parking areas and structures; and

ii. Significant trees are retained.

8. Perimeter Landscape Screens. Perimeter landscape screens should be consistent with the following definitions of screen types.

Where existing undergrowth will be retained, the shrub and ground cover requirements for all screen types may be adjusted, provided the objectives of this section are met.

a. Full Screen. A full screen provides a dense vegetated separation between dissimilar uses on adjacent properties. A full screen should block views from adjacent properties as seen at the pedestrian eye level in all seasons within three years of installation. The number of trees provided shall be proportionate to one tree for every 10 feet of landscape perimeter length.

b. Partial Screen. A partial screen provides a moderate vegetated separation between uses on adjacent properties and intermittent views to adjacent properties. A partial screen shall provide the desired screening function as seen at the pedestrian eye level in all seasons within three years of installation. The number of trees provided shall be proportionate to one tree for every 20 feet of landscape perimeter length.

c. Filtered Screen. A filtered screen should provide in all seasons and within three years of installation a lightly vegetated visual separation between uses on adjacent properties and allow visual access to adjacent properties. When compared to the other screen types, a filtered screen should be characterized by more open spaces, light filtration and transparency through the plant material forming the screen.

9. Surface Parking Lot Planting. Surface parking lot planting is required in addition to required perimeter landscape screens. The requirements for surface parking lot planting for new parking lots with fewer than 20 spaces and for additions or remodels may be waived or modified if the applicant can demonstrate that these standards would reduce the amount of parking below the minimum required for the site.

a. Standards by Location. Surface parking lots not located adjacent to public rights-of-way should provide one tree for every six parking stalls. Surface parking lots located in the front of buildings or adjacent to public rights-of-way should provide one tree for every four parking stalls. Trees should be at least six feet high at the time of planting. All lots should have planting areas at the end of parking aisles.

b. Common Standards for Surface Parking Lot Planting. The following standards apply to all surface parking lot planting:

i. Shrubs. Shrubs should be maintained at a maximum three feet height within surface parking lots so views between vehicles and pedestrians will not be blocked. Irregular spacing and clustering is encouraged; however, the minimum number of shrubs shall be determined by assuming shrubs are planted on three foot centers throughout the entire planting area. Where vehicle headlights may project onto neighboring properties, shrubs shall be spaced to provide a continuous planting buffer.

ii. Planting Islands or Strips. Planting islands or strips should have an area of at least 80 square feet and a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.

iii. Tree Location. In parking lots, trees should be planted no closer than four feet from pavement edges where vehicles overhang planted areas. Curb stops may be used to proportionally decrease this distance.

iv. Narrow Planting Strips and Parking Spaces. Narrow parking lot islands or peninsulas and planting strips shall not be planted in sod. Location of wider parking spaces adjacent to islands is suggested to reduce damage to plant materials.

v. Clustering of New Plant Material. Clustering of new plant material within surface parking lots may be approved if the objectives of this section are met.

10. Landscape Grading Standards.

a. Slopes in Planting Areas. Graded slopes in planting areas should not exceed a 3(Horizontal): 1(Vertical) slope, in order to decrease erosion potential and to facilitate maintenance. Graded slopes planted with grass should not exceed a 4(H): 1(V) slope.

b. Erosion Control. On ungraded slopes equal to or greater than 2(H): 1(V), erosion control netting or alternative procedures shall be used to prevent erosion.

c. Guidelines. The obligation to install plants, shrubs and ground cover includes the obligation to utilize soil, planting practices and irrigation equipment that maximize the likelihood of their long-term survival.

11. General Planting, Irrigation and Maintenance Standards. The following standards apply to the planting requirements set forth above:

a. Coverage. Planting areas should be completely covered with trees, shrubs, flowers, mulched areas, and/or ground covers.

b. Berms and Landforms. Earth berms and landforms in combination with shrubs and trees may be used to achieve the initial planting height requirement.

c. Minimum Width. All planting areas should be a minimum of five feet in width. Planting areas should be wider wherever possible.

d. Sight Clearance. At intersections, plantings shall not create sight obstructions that may compromise pedestrian or traffic safety.

e. Planting Coverage. All required planting areas should extend to the ditch slope, curb line, street edge, or area of sidewalk.

f. Curbs Required. Permanent curbs or structural barriers/dividers should enclose planting areas in vehicle use areas except when draining runoff from pavement to planting areas functioning as rain gardens or other low impact development facilities. Wheel stops should also be used to protect planting areas from damage due to cars overhanging the curb.

g. Plantings Near Utilities. Trees shall not be planted within eight feet of a water or sewer pipeline. Shrubs shall be at least four feet from hydrants. A full screen will be required to screen above-ground utilities from adjacent uses and public rights-of-way. Perimeter plantings shall be clustered in areas to screen structures, utility structures, loading areas, trash enclosures, storage areas and mechanical equipment. This subsection shall not apply to utilities, structures, loading areas, enclosures or equipment unless the utility, structure, loading area, enclosure or equipment is being added as part of the regulated improvement being reviewed.

h. Drainage. Planting areas shall be provided with adequate drainage.

i. Maintenance Requirements. All required landscaping shall be maintained in good condition. Plant material should be cared for in a way that allows their natural form to be maintained, even when the plant reaches maturity. Performance guarantees to ensure maintenance or required landscaping may be required pursuant to MICC 19.01.060. (Ord. 14C-06 § 6; Ord. 10C-06 § 4; Ord. 09C-17 § 6; Ord. 04C-08 § 1).

19.12.050 Vehicular and pedestrian circulation.

A. Objectives.

1. To create an attractive street edge and unified streetscape, to encourage pedestrian activity in commercial areas, stimulate business, maintain adequate public safety, and create a sense of community.

2. To provide for safe and efficient parking and loading areas while minimizing their visual and noise impacts.

3. To provide safe and efficient pedestrian connections within and between projects and the public way to enhance safety and circulation.

B. Standards.

1. Vehicular Circulation Characteristics.

a. Parking Lot Design. Parking areas should be designed for efficient and safe ingress and egress by vehicles and should not inhibit safe pedestrian movement or circulation. Parking lot design should be subordinate to the overall site design and should be located behind new buildings when appropriate and physically feasible. Below grade parking is also encouraged. Planting strips should be incorporated between parking aisles in new and expanded parking lots where space permits. Parking lot development standards, such as stall and aisle dimensions, are contained in Appendix A.

b. Loading Docks. Proposed development of features such as loading docks, and other features designed to support activities with a substantial likelihood of generating significant noise should be designed with noise

attenuation walls and sited in a manner to limit impacts to adjacent properties and pedestrian areas.

2. Pedestrian Circulation Characteristics.

a. Pedestrian Improvements. All developments shall provide for pedestrian access including pedestrian walkways, sidewalks, and/or paths. Areas for sitting and gathering should be provided as an integral part of regulated public facilities, regulated residential and commercial building design. Pedestrian improvements should be separated from vehicular areas by physical barriers such as curbs or landscaping. This requirement for new parking lots with fewer than 20 spaces and for additions or remodels may be waived or modified where the applicant can demonstrate that these standards would reduce the amount of parking below what would be required for the site.

b. On-Site Circulation for Regulated Public Facilities and Commercial Buildings. Proposed development should be linked to existing and planned walkways and trails. Entrances of all buildings should be linked to each other and to public ways and parking lots. Where possible and feasible, the pedestrian

This page left intentionally blank.

system shall connect to paths or sidewalks on neighboring properties. (Ord. 04C-08 § 1).

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. (Ord. 08C-01 § 7; Ord. 04C-08 § 1).

19.12.070 Lighting.

A. Objectives.

1. To regulate exterior lighting in order to avoid unsafe and unpleasant conditions as the result of poorly designed or installed exterior lighting.

2. To discourage excessive lighting that negatively impacts adjacent land uses.

3. To protect low and moderate density residential zones from the negative impacts associated with institutional, mixed-use, and commercial exterior lighting.

4. To create a safe environment during hours of darkness.

5. To ensure lighting is an integral part of any new or existing development. Lighting shall contribute to the individuality, security and safety of the site design without having overpowering effects on the adjacent areas.

6. To ensure lighting is viewed as an important feature for functional and security purposes and that the design of light fixtures and their structural support is integrated with the architectural theme and style of the main structures on the site.

B. Standards.

1. Architectural Elements. Lighting should be designed as an integral architectural element of the building and site.

2. Function and Security. On-site lighting shall be sufficient for pedestrian, bicyclist, and vehicular safety. Building entrances should be well lit to provide inviting access and safety. Building-mounted lights and window lights should contribute to lighting of walkways in pedestrian areas.

3. Lighting Height. Freestanding, parking area, and building-mounted light fixtures shall not exceed 16 feet in height, including any standard or base.

4. Shielding. All exterior lighting fixtures shall be shielded or located to confine light spread within the site boundaries. Full cut-off fixtures should be used. The use of unshielded incandescent lighting fixtures less than 160 watts and any unshielded lighting less than 50 watts may be allowed. Parking area light fixtures shall be designed to confine emitted light to the parking area.

5. Uplighting of Structures and Signs.

a. Residential Zones. Structures in residential zones shall not be illuminated by uplighting. Limited uplighting of signs and plantings in residential zones may be approved provided there is no glare or spillover lighting off the site boundaries.

b. Nonresidential Zones. Structures, signs, and plantings in nonresidential zones may be illuminated by uplighting, provided there is no glare or spillover lighting off the site boundaries.

6. Light Type. Lighting should use low wattage color-corrected sodium light sources, which give more "natural" light. Metal halide, quartz, neon and mercury vapor lighting are prohibited in residential zones. High pressure sodium lights may only be used as street lights and must be fully shielded. (Ord. 04C-08 § 1).

19.12.080 Signs.

A. Objectives.

1. Signs shall be distinctive in shape, of high quality and durable materials, designed to enhance the architectural character of the building and use the minimum wattage necessary to identify the facility or establishment. Channel or punch-through letters are preferred over a sign that contains the text and/or logo symbols within a single, enclosed cabinet.

2. Signs shall be designed for the purpose of identifying the facility or establishment in an attractive and functional manner and to help customers find the specific establishment and location; signs in residential zones should not serve as general advertising.

3. The size of signs shall be proportional to the size of the building and site.

4. Signs shall be integrated into both the site design and building design, shall be compatible with their residential, office, or business, or public park or open space surroundings, and clearly inform viewers of building or activity use, but shall not detract from the architectural quality of individual buildings or park surroundings.

B. Standards.

1. Freestanding Ground Signs Outside Residential Zones.

a. Number. An individual building or a building complex outside residential zones may display one ground sign on each street frontage.

b. Design. The sign shall be architecturally compatible with the style, materials, colors and details of the building or complex. Use of symbols is encouraged.

c. Size. All signs shall be:

i. Proportionate. Proportionate to the street frontage of the use they identify; and

ii. Maximum Size. In no case shall a freestanding ground sign be larger than:

(A) Twenty-Five Square Feet. Twenty-five square feet for single-tenant building ground signs and complex identification ground signs. Such signs may be allowed in front or side yard setbacks; or

(B) Forty Square Feet. Forty square feet for joint tenant ground signs (identifying more than one facility or establishment within a building or building complex) with six square feet maximum for any one establishment included in a building or building complex; provided, joint tenant ground signs shall be restricted to a maximum of 25 square feet if located within front or side yard setbacks.

d. Maximum Height. The maximum height of any sign within 10 feet from any property line facing a street shall be 42 inches. All other ground signs shall be no higher than six feet.

e. Backs of Signs. Exposed areas of backs of signs should be finished with appropriate color, material or texture to present an attractive appearance relative to the building material, color and texture.

2. Wall Signs Outside Residential Zones.

a. Number and Eligibility. An individual building or a building complex outside residential zones may display one wall sign on each street frontage. A business or other use occupying a building whose only entrance is from a driveway or parking lot shall be allowed one wall sign facing that driveway or parking lot.

b. Size. All signs shall be:

i. Proportionate. Proportionate to the street frontage of the use they identify; and

ii. Maximum Size. In no case shall a wall sign be larger than:

(A) Twenty-Five Square Feet. Twenty-five square feet for any individual business or other use; or

(B) Forty Square Feet. Forty square feet for joint tenant directory signs identifying the occupants of a building or a building complex and located next to the entrance.

c. Determination of Size. The sign size shall be measured as follows:

i. Boxed Sign Displays: Total area of a boxed sign display, including the background and borders.

ii. Individual Letters and Symbols: Total combined area of a rectangle drawn around the outer perimeter of each word and each symbol.

d. Placement. Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building, or the windowsill of the second story. Wall signs shall be integrated with the overall building and site design.

e. Master Signage Plan. When multiple signs for individual businesses in one building or multiple buildings in a complex are contemplated, a master signage plan stipulating the location and size of allowed signs shall be required.

3. Signs for Non-Single-Family-Dwelling Uses in Residential Zones. One wall sign and one freestanding ground sign are permitted on each separate public street frontage for non-single-family-dwelling uses in residential zones, such as apartment buildings, hospitals, assisted living and retirement facilities, churches, clubs, public facilities, schools, day cares, pre-schools, park and recreation facilities, assembly halls, libraries, pools or stadiums. A wall sign may be unlighted or exterior lighted, not to exceed 12 square feet. A freestanding ground sign shall be no larger than 18 square feet and shall not exceed a maximum height of 42 inches above grade. The location of any freestanding ground sign shall be subject to all setback requirements for the zone in which the sign is located.

4. Signs for Licensed Practitioners or Service Operators in Residential Zones. Licensed practitioners or service operators in residential zones shall be permitted one unlighted window or wall sign for identification purposes only, bearing only the occupant's name and occupation, not to exceed 72 square inches.

5. Parking Lot Signs. Signs within parking lots should be limited to those necessary for safety and identification. Any required signs for individual stalls should be marked on the pavement. Freestanding or wall-mounted

signs should not be permitted, with the exception of ADA handicapped accessible parking signs.

6. Directional Signs.

a. Minimal Number. To address safety concerns and avoid a cluttered appearance, only those directional signs necessary to protect the safety of pedestrians and vehicle occupants shall be allowed.

b. Size and Height. Directional signs shall be no larger than three square feet and no higher than 36 inches above grade.

7. Temporary Signs. Unless prohibited by this chapter, use of temporary signs shall be governed by MICC 19.06.020, Temporary Signs.

8. Street Numbers.

a. Use. City-assigned street numbers should be installed on all buildings.

b. Effect on Permitted Sign Area. Street numbers will not be counted towards permitted sign area.

c. Size. Street numbers for any building or building complex shall be no smaller than six inches in height.

9. Prohibited Signs.

a. Roof. Signs mounted on the roof are prohibited.

b. Projecting Signs. Projecting signs are prohibited in all zones other than the PBZ. Within the PBZ, projecting signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(3)(b).

c. Window Signs. Window signs are prohibited in all zones other than the PBZ, except as provided above in MICC 19.12.080(B)(4). Within the PBZ, window signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(4).

d. Inflated Signs. Inflated signs, balloons and figures are prohibited.

e. Internally Lit Signs. Internally lit signs are prohibited in all zones other than the PBZ. Within the PBZ, lighted signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(9).

f. Neon. Neon signs are prohibited.

g. Portable. Portable signs, such as signs on trailers, are prohibited. This standard is not intended to prohibit A-frame signs as allowed pursuant to MICC 19.06.020, Temporary Signs.

h. Flashing, Moving or Animated Signs, Etc. Flashing, moving, animated, blinking, reflecting, revolving, or other similar signs or signs that incorporate these elements are prohibited.

i. Off-Premises Signs. Off-premises signs (signs related to a building, business, tenant or establishment not located on the same premises as the sign) are prohibited.

j. Vehicles. Signs attached to or painted on vehicles parked and visible from the public right-of-way are prohibited if, based on the relative amount of time the vehicle is parked rather than being used as a means for actual transportation, the vehicle's primary purpose is as a stationary sign rather than a means for actual transportation.

k. Vending Machines. Vending machines, such as soft drink or snack machines, shall not be placed where they are visible from the public right-of-way.

10. Signs for Public Schools in Public Institution Zones. One wall sign and one freestanding ground sign are permitted for each public school. A wall sign shall not exceed 12 square feet. A freestanding ground sign shall not exceed 18 square feet and shall not exceed a maximum height of 42 inches above grade. A freestanding ground sign shall be set back a minimum of 10 feet from a public right-of-way and 35 feet from abutting properties. Wall and freestanding ground signs shall not have internal lighting, except for an electronic readerboard.

11. Electronic Readerboards. A public school may have no more than one electronic readerboard. This electronic readerboard shall count as the wall sign or freestanding ground sign allowed by MICC 19.12.080(B)(10). Electronic readerboards shall comply with the following:

a. Electronic readerboards shall be designed and placed to minimize light and glare from being visible to adjacent residential properties.

b. Electronic readerboards shall dim during twilight and night hours to reduce glare.

c. Electronic readerboards shall be turned off between 10 pm and 7 am.

d. The display shall include only static text and/or static graphics. No moving graphics, animations such as flying or fading, video, or blinking/pulsing/strobe effects are allowed.

e. Each message and/or graphic shall be displayed for at least 10 seconds. The change from one message/graphic to the next may utilize a scrolling or wipe effect, but the effect shall take no more than one second to complete.

f. Electronic readerboards shall display any message deemed necessary by the City of Mercer Island Emergency Operations Center (EOC) upon request by the EOC. The display of any such message shall be exempt from the requirements of subsections (B)(11)(c) and (B)(11)(e) of this section. (Ord. 14C-06 § 7; Ord. 04C-08 § 1).

This page left intentionally blank.

Chapter 19.15

ADMINISTRATION

Sections:

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 Chapter 3.46 MICC. In general, the planning commission is the designated planning agency for the city (see Chapter 35A.63 RCW). 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 Chapter 3.34 MICC 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 Appeals. The role of the building board of appeals in administering the construction codes is governed by Chapter 3.28 MICC. In general, the building board of appeals is responsible for hearing appeals of interpretations or application of the construction codes set forth in MICC Title 17.

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, except for the International Fire 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 code official is responsible for administration and interpretation of the International Fire Code.

6. Hearing Examiner. The role of the hearing examiner in administering the development code is governed by Chapter 3.40 MICC.

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 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 with a Construction Valuation (as defined by MICC 17.14.010) Less Than $100,000	Code official	Chapters 19.11 and 19.12 MICC, MICC 19.15.040	Design commission
Design Review – Minor Exterior Modification in Town Center with a Construction Valuation (as defined by MICC 17.14.010) $100,000 or Greater	Design commission	Chapters 19.11 and 19.12 MICC, MICC 19.15.040	Hearing examiner

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
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
Shoreline Exemption	Code official	MICC 19.07.110 and 19.15.020(G)(6)(c)(i)	Hearing examiner[1]
Administrative Actions			
Accessory Dwelling Unit Permit	Code official	MICC 19.02.030	Hearing examiner
Preliminary Short Plat	Code official	Chapter 19.08 MICC	Planning commission
Deviation	Code official	MICC 19.15.020(G), 19.01.070, 19.02.050(F), 19.02.020(C)(4) and (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 and 19.15.020(G)(6)	Shoreline hearings board
SEPA Threshold Determination	Code official	MICC 19.07.120	Planning commission
Short Plat Alteration and Vacations	Code official	MICC 19.08.010(G)	Hearing examiner
Long Plat Alteration and Vacations	City council via planning commission	MICC 19.08.010(F)	Superior court
Temporary Encampment	Code official	MICC 19.06.090	Superior court
Wireless Communications Facility	Code official	MICC 19.06.040	Hearing examiner
Wireless Communications Facility Height Variance	Code official	MICC 19.01.070, 19.06.040(H) and 19.15.020(G)	Hearing examiner
Minimum Parking Requirement Variances for MF, PBZ, C-O, B and P Zones	Code official via design commission and city engineer	MICC 19.01.070, 19.03.020(B)(4), 19.04.040(B)(9), 19.05.020(B)(9) and 19.15.020(G)	Hearing examiner

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
Discretionary Actions			
Conditional Use Permit	Planning commission	MICC 19.11.150(B), 19.15.020(G)	Hearing examiner
Reclassification (Rezone)	City council via planning commission[2]	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[2]	Chapter 19.08 MICC	Superior court
Final Long Plat Approval	City council via code official	Chapter 19.08 MICC	Superior court
Variance	Hearing examiner	MICC 19.15.020(G), 19.01.070	Superior court
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[2]	MICC 19.09.070	Superior court
Shoreline Conditional Use Permit	Code official and Department of Ecology[3]	MICC 19.15.020(G)(6)	State Shorelines Hearings Board
Shoreline Variance	Code official and Department of Ecology[3]	MICC 19.15.020(G)(6)	State Shorelines Hearings Board
Impervious Surface Variance	Hearing examiner	MICC 19.02.020(D)(4)	Superior court
Legislative Actions			
Code Amendment	City council via planning commission[2]	MICC 19.15.020(G)	Growth management hearings board
Comprehensive Plan Amendment	City council via planning commission[2]	MICC 19.15.020(G)	Growth management hearings board

[1]Final rulings granting or denying an exemption under MICC 19.15.020(G)(6) are not appealable to the shoreline hearings board (SHB No. 98-60).

[2]The original action is by the planning commission which holds a public hearing and makes recommendations to the city council which holds a public meeting and makes the final decision.

ACTION	DECISION AUTHORITY	CRITERIA	APPEAL AUTHORITY
[3]Must be approved by the city of Mercer Island prior to review by DOE per WAC 173-27-200 and RCW 90.58.140(10).			

(Ord. 13C-12 § 5; Ord. 11C-05 § 2; Ord. 11C-04 § 2; Ord. 10C-06 § 5; Ord. 10C-01 § 5; Ord. 08C-01 § 8; Ord. 06C-06 § 2; Ord. 06C-05 § 2; Ord. 05C-12 § 9; Ord. 04C-12 § 16; Ord. 04C-08 § 3; Ord. 03C-08 §§ 9, 10; Ord. 02C-04 § 5; Ord. 02C-01 § 6; Ord. 99C-13 § 1).

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, 19.07.110, and 19.08.020).

A. Preapplication. 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 only when all information required on the application form and all submittal items required by code have 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.

D. Notice of Application.

1. Within 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 14 days nor more than 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 15 days prior to the hearing; and

b. Issue any threshold determination required under MICC 19.07.120 at least 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 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 19.07.110 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;

i. Critical lands determination; and

j. Seasonal development limitation waiver.

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 10 days prior to any required open record hearing. If no such hearing is required, public notice shall be provided 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 nonlegal 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 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. Only one open record hearing shall be required prior to action on all discretionary and legislative actions except design review and street vacations.

2. Open record hearings shall be conducted in accordance with the 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.

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.

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. 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; and:

i. There exists obvious technical error in the information contained in the comprehensive plan; or

ii. The amendment addresses changing circumstances of the city as a whole.

b. If the amendment is directed at a specific property, the following additional findings shall be determined:

i. The amendment is compatible with the adjacent land use and development pattern;

ii. The property is suitable for development in conformance with the standards under the potential zoning; and

iii. 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, groundcover, 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.

6. Shoreline Permits Administration and Procedures.

a. Administrative Responsibility. Except as otherwise stated in this section, the code official is responsible for:

i. Administering shoreline permits.

ii. Approving, approving with conditions or denying shoreline exemption permits, substantial development permits, shoreline conditional use permits, shoreline variances and permit revisions in accordance with applicable provisions.

iii. Determining compliance with the State Environmental Policy Act.

iv. No development shall be undertaken within the shorelands without first obtaining a shoreline exemption permit, substantial development permit, conditional use permit, and/or a variance permit in accordance with all applicable procedures unless it qualifies under a categorical exemption. In addition, such permit shall be in compliance with permit requirements of all other agencies having jurisdiction within the shorelands. Compliance with all applicable federal and state regulations is also required.

b. Shoreline Categorical Exemption Decision Criteria and Process. Any development that qualifies as being a shoreline categorical exemption, as specified in MICC 19.07.110, shall not require a shoreline permit, but must still meet all requirements of the Mercer Island Unified Land Development Code.

c. Shoreline Exemption Permit Decision Criteria and Process.

i. Shoreline Exemption Permit Application Criteria. A shoreline exemption permit may be granted to the following development as long as such development is in compliance with all applicable requirements of the Mercer Island Unified Land Development Code and any of the following:

(A) Any development of which the total cost or fair market value, whichever is higher, does not exceed $6,416 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; or

(B) 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, including com-

plete replacement of legally existing structures. Normal maintenance of single-family dwellings is categorically exempt as stated above; or

(C) 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; or

(D) 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; or

(E) Construction or modification of navigational aids such as channel markers and anchor buoys; or

(F) 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; or

(G) Any project with a certification from the governor pursuant to Chapter 80.50 RCW; or

(H) Projects for the restoration of ecological functions.

ii. Shoreline Exemption Permit Application Process. The city shall issue or deny the shoreline exemption permit within 10 calendar days of receiving a complete application, or 10 days after issuance of a DNS, MDNS or EIS if SEPA review is required. The city shall send the shoreline permit decisions to the applicant and all applicable local, state, or federal agencies as required by state or federal law.

d. Substantial Development Permit Application Decision Criteria and Process. A substantial development permit (SDP) is required for any development within shorelands not qualifying as being subject to a categorical exemption or shoreline exemption permit. Requirements and procedures for securing a substantial development permit are established below.

i. SDP Application Decision Criteria. All requirements of the Mercer Island Unified Land Development Code shall apply to the approval of a shoreline development permit.

ii. SDP Application Process. The applicant shall attend a preapplication meeting prior to submittal of a substantial development permit. Upon completion of the preapplication meeting, a complete application, filing fees and SEPA checklist, if applicable, shall be filed with the city on approved forms to ensure compliance with development codes and standards.

(A) Once a complete application has been submitted, public notice of an application for a substantial development permit shall be made in accordance with the procedures set forth in the Mercer Island Uniform Land Development Code for administrative actions; provided, such notice shall be given at least 30 days before the date of final action by the city. The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or request a copy of the decision(s) to the city within 30 days from the last date the notice is published. If a hearing is to be held on an application, notices of such hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(B) 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. An open record hearing before the code official, as set out in subsection F of this section, shall be conducted on the shore-

line substantial development permits when the following factors exist:

(1) The proposed development has broad public significance; or

(2) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or

(3) At the discretion of the code official.

(C) The technical review of shoreline substantial development permits must ensure that the proposal complies with the criteria of the Shoreline Management Act policies and all requirements of the city of Mercer Island Unified Land Development Code.

(D) The city's action in approving, approving with conditions, or denying any substantial development permit or shoreline exemption is final unless an appeal is filed in accordance with applicable laws. The city shall send the shoreline permit decisions to the applicant, the Department of Ecology, the Washington State Attorney General and to all other applicable local, state, or federal agencies.

(E) The applicant shall not begin construction until after 21 days from the date of receipt by the Department of Ecology and Attorney General and/or any appeals are concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.

e. Shoreline Conditional Use Permit Application Decision Criteria and Process. The purpose of a shoreline conditional use permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use, special conditions may be attached to the permit by the city of Mercer Island or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and the applicable city regulations.

i. Shoreline Conditional Use Permit Application Decision Criteria. All requirements of the Mercer Island Unified Land Development Code shall apply to the approval of a shoreline conditional use permit. Uses that require a shoreline conditional use permit may be authorized; provided, that the applicant demonstrates all of the following:

(A) That the proposed use is consistent with the policies of RCW 90.58.020 and the Mercer Island Uniform Land Development Code;

(B) That the proposed use will not detrimentally interfere with the normal public use of shorelands within the "urban park environment" shoreline environment designation;

(C) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses allowed for the area by the Mercer Island Uniform Land Development Code;

(D) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

(E) That the public interest suffers no substantial detrimental effect.

(F) In applying the above criteria when reviewing shoreline conditional use applications, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the shoreline conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

ii. Shoreline Conditional Use Permit Application Process. The applicant shall attend a preapplication meeting prior to submittal of a shoreline conditional use permit. Upon completion of the preapplication meeting, a complete application, filing fees and SEPA checklist, if applicable, shall be filed with the city on approved forms to ensure compliance with development codes and standards.

(A) Once a complete application has been submitted, public notice of an application for a shoreline conditional use permit shall be made in accordance with the procedures set forth in the Mercer Island Uniform

Land Development Code for discretionary actions; provided, such notice shall be given at least 30 days before the date of decision by the city.

The notices shall include a statement that any person desiring to submit written comments concerning the application, receive notice of and participate in any hearings, or desiring to receive notification of the final decision concerning the application as expeditiously as possible after the issuance of the decision may submit the comments or request a copy of the decision(s) to the city within 30 days of the last date the notice is published, and any appeal rights.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(B) 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.

(C) The technical review of shoreline conditional use permit must ensure that the proposal complies with the criteria of the Shoreline Management Act policies and all requirements of the city of Mercer Island Unified Land Development Code. An open record hearing before the code official, as set out in subsection F of this section, shall be conducted on the shoreline conditional use permits when the following factors exist:

(1) The proposed development has broad public significance; or

(2) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or

(3) At the discretion of the code official.

(D) The final decision in approving, approving with conditions, or denying a shoreline conditional use permit is rendered by the Department of Ecology in accordance with WAC 173-27-200, and all other applicable local, state, or federal laws. The city shall send the shoreline permit decision to the applicant, the Department of Ecology, the Washington State Attorney General and to all other applicable local, state, or federal agencies.

(E) The applicant shall not begin construction until after 21 days from the date of receipt by the Department of Ecology and Attorney General and/or any appeals are concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.

f. Shoreline Variance Permit Decision Criteria and Process.

i. Shoreline Variance Criteria. Shoreline variances are strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable regulations where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the regulations will impose unnecessary hardships on the applicant or thwarting of the policy enumerated in RCW 90.58.020. Shoreline variances for use regulations are prohibited. In addition, in all instances the applicant for a shoreline variance shall demonstrate strict compliance with all variance criteria set out in subsection (G)(4) of this section and the following additional criteria:

(A) In the granting of all shoreline variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline variances were granted to other developments in the area where similar circumstances exist, the total of the shoreline variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

(B) Shoreline variance permits for development that will be located landward of the ordinary high water mark, and/or landward of any associated wetland, may be authorized; provided, the applicant can demonstrate all of the following:

(1) That the strict application of the bulk, dimensional or performance standards set forth in the applicable regulations

precludes or significantly interferes with reasonable use of the property not otherwise prohibited;

(2) That the hardship in this subsection (G)(6)(f)(i) 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 applicable regulations, and not, for example, from deed restrictions or the applicant's own actions;

(3) That the design of the project is compatible with other authorized uses in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(4) That the requested shoreline 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

(5) That the public interest will suffer no substantial detrimental effect.

(C) Shoreline variance permits for development that will be located waterward of the ordinary high water mark or within any associated wetland may be authorized; provided, the applicant can demonstrate all of the following:

(1) That the strict application of the bulk, dimensional or performance standards set forth in the applicable regulations precludes reasonable use of the property;

(2) That the proposal is consistent with the criteria established under subsections (G)(6)(f)(i)(B)(1) through (5) of this section; and

(3) That the public rights of navigation and use of the shorelines will not be adversely affected.

ii. Shoreline Variance Permit Application Process. The applicant shall attend a preapplication meeting prior to submittal of a shoreline variance. Upon completion of the preapplication meeting, a complete application, filing fees and SEPA checklist, if applicable, shall be filed with the city on approved forms to ensure compliance with development codes and standards.

(A) Once a complete application has been submitted, public notice of an application for a shoreline variance shall be made in accordance with the procedures set forth in the Mercer Island Uniform Land Development Code for discretionary actions; provided, such notice shall be given at least 30 days before the date of decision by the city.

The notices shall include a statement that any person desiring to submit written comments concerning the application, receive notice of and participate in any hearings, or desiring to receive notification of the final decision concerning the application as expeditiously as possible after the issuance of the decision may submit the comments or request a copy of the decision(s) to the city within 30 days of the last date the notice is published, and any appeal rights.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(B) 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.

(C) The technical review of shoreline variance permit must ensure that the proposal complies with the criteria of the Shoreline Management Act policies and all requirements of the city of Mercer Island Unified Land Development Code. An open record hearing before the code official, as set out in subsection F of this section, shall be conducted on the shoreline variance permits when the following factors exist:

(1) The proposed development has broad public significance; or

(2) Within the 30-day comment period, 10 or more interested citizens file a written request for a public hearing; or

(3) At the discretion of the code official.

(D) The final decision in approving, approving with conditions, or denying a shoreline conditional use permit is rendered by the Department of Ecology in accordance with WAC 173-27-200, and all other applicable

local, state, or federal agencies. The city shall send the shoreline permit decision to the applicant, the Department of Ecology, the Washington State Attorney General and to all other applicable local, state, or federal agencies.

(E) The applicant shall not begin construction until after 21 days from the date of receipt by the Department of Ecology and Attorney General and/or any appeals are concluded. The applicant shall also comply with all applicable federal, state and city standards for construction.

iii. The reasonable use exemption provided in MICC 19.07.030(B) does not apply in the shorelands. The provision of reasonable use in the shorelands shall be accomplished through a shoreline variance.

g. Time Limits of Permits. The following time limits shall apply to all shoreline exemption, substantial development, shoreline conditional use permits and shoreline variance permits:

i. 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. Where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development 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.

ii. 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, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.

h. Appeals. Appeals to any shoreline permit decision, except shoreline exemption permits, shall be in accordance with RCW 90.58.180. Appeals to shoreline exemptions permits shall be filed in accordance with subsection J of this section.

i. Suspension of Permits. The city may suspend any shoreline exemption permit, substantial development permit, shoreline conditional use permit, or shoreline 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.

j. Revisions. When an applicant seeks to revise a substantial development permit, shoreline conditional use permit and/or shoreline variance permit, the requirement of WAC 173-27-100, as amended, shall be met.

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 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 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 biweekly DSG bulletin.

I. Optional Consolidated Permit Processing.

1. An application that involves two or more permits 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 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).

4. Public notice of an appeal shall be provided in the manner specified in subsection 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:

i. Reverse the decision.

ii. Modify the decision and approve it as modified.

iii. Remand the decision back to the decision maker for further consideration.

e. If the hearing body finds that none of the procedural or factual bases 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 30 days from the last day 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 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 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. (Ord. 16C-13 § 1; amended during 3/15 supplement; Ord. 13C-12 § 6; Ord. 10C-06 § 6; Ord. 08C-01 § 8; Ord. 02C-04 § 7; Ord. 02C-01 § 6; Ord. 99C-13 § 1).

19.15.030 Enforcement.

A. Violations.

1. It is a violation of the development code, MICC Title 19, 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 authoriza-

This page left intentionally blank.

tions 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 con-

dition 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.

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 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 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 noncompliance 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 dollars ($50) for the first day of noncompliance after the compliance date set in the notice.

b. Seventy-five dollars ($75) for the second day of noncompliance after the compliance date set in the notice.

c. One hundred dollars ($100) for the third and each following additional day of noncompliance 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 noncriminal 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 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 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 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 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 $1,000 or be imprisoned in the city jail for a term not exceeding 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 noncompliance shall not exceed $5,000 or one 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. (Ord. 99C-13 § 1).

19.15.040 Design commission.

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, aes-

thetic, 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. A design commission is established as provided for in Chapter 3.34 MICC.

C. 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.

D. Powers of the Commission.

1. No building permit or other required permit shall be issued by the city for any major new construction or minor exterior modification of any regulated improvement without prior approval of the design commission or code official as authorized pursuant to MICC 19.15.010(E).

2. The design commission or code official may require a bond or assignment of funds as set out in MICC 19.01.060(C) to secure the installation and maintenance of landscaping, screens, 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 major 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 major capital improvements at the completion of the design development phase. 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 or code official shall complete its review and make its decision and/or recommendations pursuant to the process set forth in subsection F of this section, and the review an decision and/or recommendations shall be based upon the design objectives and standards set forth in subsection G of this section, with such amendments as may be made from time to time.

E. 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 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.

3. The design commission shall act as the appeal authority for design review decisions made by the code official for minor exterior modifications.

F. Design Review Procedure.

1. General.

a. Intent. The intent of the design review process is to ensure that regulated development in all land use zones complies with design objectives and standards established in Chapters 19.11 and 19.12 MICC.

b. Scope. No building permit or other required permit shall be issued by the city for any major new construction or minor exterior modification of any regulated improvement without prior approval of the design commission or code official as authorized pursuant to MICC 19.15.010(E). Deviations from a plan approved by the design commission or code official shall be permitted only upon the filing and approval of an amended plan. In no instance shall the design commission's or code official's action conflict with the city's development code or other applicable city ordinances or with state or federal requirements.

c. Review Authority.

i. Major New Construction. The design commission shall conduct the design review and make compliance determinations regarding major new construction.

ii. Minor Exterior Modifications. The design commission or the code official shall conduct the design review and make compliance determinations regarding minor exterior modifications to existing structures and sites.

d. Process.

i. Time Frame and Procedure. Design review shall be conducted in accordance with the timelines and procedures set forth in MICC 19.15.020, Permit review procedures. Design review is not subject to the one open record hearing requirement or consolidated permit review processing.

ii. Written Recommendations. All decisions of the design commission and code official shall be reduced to writing and shall include findings of fact and conclusions that support the decisions.

iii. Expiration of Approvals. If the applicant has not submitted a complete application for a building permit within two years from the date of the notice of the final design review decision, or within two years from the decision on appeal from the final design review decision, design review approval shall expire. The design commission or code official may grant an extension for no longer than 12 months, for good cause shown, if a written request is submitted at least 30 days prior to the expiration date. The applicant is responsible for knowledge of the expiration date.

2. Review Process for Major New Construction.

a. Scope of Review. Design review of major new construction shall include new structures, new additions, remodeled structures, and site plan layout, and other improvements such as paving and landscaping when they are made in conjunction with changes to a structure.

b. Presubmittal Concept Review.

i. Required: Predesign Meeting. A predesign meeting must be scheduled with staff from the development services group (DSG) prior to formal project development and application. The applicant may present schematic sketches and a general outline of the proposed project. This meeting will allow city staff to acquaint the applicant with the design standards, submittal requirements, and the application procedures and provide early input on the proposed project.

ii. Optional: Study Session. In addition to the predesign meeting, an applicant may meet with the design commission or code official in a study session to discuss project concepts before the plans are fully developed. At this session, which will be open to the public, the applicant should provide information regarding its site, the intended mix of uses, and how it will fit into the focus area objectives. The commission may provide feedback to be considered in the design of the project.

c. Preliminary Design Review Submittal.

i. Preapplication Meeting. A complete application on forms provided by the development services group (DSG) and all materials pertaining to the project shall be submitted at a formal preapplication meeting with DSG staff. A preapplication meeting shall not be required if the applicant is only seeking an

exemption from formal design review pursuant to MICC 19.15.040(F)(3)(a).

ii. Materials. All applications for preliminary design review shall contain all information and materials deemed necessary by DSG staff to determine if the proposal complies with this chapter. Such materials may include a site survey; site plans; elevations; sections; architectural plans; roof plans; renderings and/or models; landscaping plan; parking plan; color and materials board; vicinity maps; site photographs; SEPA checklist; traffic study; pedestrian and vehicle circulation plans; and written narrative describing the project proposal and detailing how the project is meeting the applicable design objectives and standards established in Chapters 19.11 or 19.12 MICC. Submittal of lighting and sign master plans may be deferred to final design review.

iii. Acceptance. DSG staff shall determine if the required materials have been provided for preliminary design review. If so, the application will be accepted and the process for determination of completeness and review set forth in MICC 19.15.020 shall commence.

d. SEPA Determination. The city environmental official will review the SEPA environmental checklist (if one is required), the project proposal and other information required for a complete application to assess the project's probable environmental impacts and issue a determination pursuant to MICC 19.07.120. Any SEPA appeal shall be pursuant to MICC 19.07.120. The design commission's decision on the preliminary plans shall represent an action on the proposal for SEPA appeal purposes.

e. Preliminary Design Commission Review.

i. Public Meeting. The design commission shall hold a public meeting to consider the completed preliminary design review application. The design commission may approve, approve with conditions or deny an application or continue the meeting. The commission may identify additional submittal items required for the final design review.

ii. Additional Requirements. If additional submittal items are required, or the preliminary design application is approved with conditions, the conditions must be addressed and any additional items must be submitted at least 21 days prior to the final design commission review.

f. Final Design Commission Review.

i. Submittal of Final Plan. All materials pertaining to the final plan shall be submitted a minimum of 21 days prior to the design commission final review hearing date. The final plans shall be in substantial conformity with approved preliminary plans.

ii. Open Record Hearing. The design commission shall hold an open record hearing to consider the final proposal, at the conclusion of which it may approve, approve with conditions, deny the proposed final plans, or continue the hearing.

g. Appeal. Only the final design commission review decision may be appealed, in a closed record appeal, pursuant to MICC 19.15.020(J).

3. Review Process for Minor Exterior Modification.

a. Scope of Review. Design review of minor exterior modifications shall include review of exterior modifications to any existing structures including paint, material, minor roof or facade changes, new additions, landscaping changes, and site plan modifications that do not qualify as major new construction or are undertaken independently from modification of an existing structure, and new or modified signs.

The code official shall have the authority to determine if a minor exterior modification is not significant, and therefore does not require formal design review, based on factors such as the scope, location, context and visibility of the change or modification. The code official may determine that formal design review is not required for minor exterior modifications including, but not limited to: repainting structures to similar colors; relocating, modifying or adding mechanical equipment; reorganization of portions of parking lots involving less than five spaces; modifications to existing signs pertaining to sign locations or

minor changes to color or text; modifications to locations of existing lighting; or minor changes to existing, approved landscaping. There shall be a rebuttable presumption of nonsignificance, and therefore no requirement of a formal design review, if all of the following conditions are met: (1) the cost of the work does not exceed 15 percent of the structure's current King County assessed value as of the time the initial application for the work is submitted, (2) there is no additional structure or parking lot, or any enlargement of or addition to an existing structure or parking lot, (3) the work does not cause the landscape area to fall below or further below the minimum landscape area requirements in MICC 19.12.040(B)(4), (4) the work does not remove or diminish an existing perimeter landscape screen, (5) the work does not include new or additional service or mechanical areas referred to in MICC 19.12.060, and (6) the work does not include additional exterior lighting or a new or enlarged exterior sign. If there is no current King County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the code official, shall be used as the value point of reference.

b. Application Submittal. A development application, accompanied by supporting materials, shall be submitted to the city, on a form provided by the development services group (DSG), for any proposed minor exterior modification. DSG staff shall meet with the applicant prior to submission of the application to determine, depending on the scope of the project, what supporting materials are required. Such materials may include site survey; site plans; elevations; sections; architectural plans; roof plans; renderings and/or models; landscaping plan; lighting plan, sign master plan, parking plan; color and material samples; vicinity maps; site photographs; SEPA checklist; traffic study; pedestrian and vehicle circulation plans; and written narrative describing the project proposal and detailing how the project is meeting the applicable design objectives and standards set forth in subsection G of this section. No applicant shall be required to provide materials unless they are both necessary for design review and reflect a change in, or consequence of a change in, the existing development. For the purpose of making a determination of nonsignificance under MICC 19.15.040(F)(3)(a) under circumstances where the project is presumed to be nonsignificant as therein provided, the code official shall only require the submittal of materials demonstrating the entitlement to the presumption and the absence of other material impacts.

c. Review. The designated DSG staff shall determine administratively if the proposal is in compliance with the requirements of this chapter and may approve, approve with conditions, or deny the application. Staff has the discretion to send any minor exterior modification proposal to the design commission for review and decision at an open record hearing.

d. Appeal. The code official's or design commission's decision is final unless appealed pursuant to MICC 19.15.020(J).

4. Criteria for Design Review Decisions. Following the applicable review process above, the design commission or code official shall deny an application if it finds that all the following criteria have not been met, or approve an application, or approve it with conditions, based on finding that all the following criteria have been met:

a. The proposal conforms with the applicable design objectives and standards of the design requirements for the zone in which the improvement is located, as set forth in subsection G of this section:

i. In the Town Center, particular attention shall be given to whether:

(A) The proposal meets the requirements for additional building height, if the proposal is for a building greater than two stories; and

(B) The proposal adheres to the required parking standards and a parking plan has been provided that demonstrates that the proposal meets the objectives of MICC 19.11.130.

b. The proposal is consistent with the comprehensive plan.

c. The proposal does not increase the project's degree of nonconformity.

G. Design Objectives and Standards.

1. Town Center. Design objectives and standards for regulated improvements within the Town Center are set forth in Chapter 19.11 MICC.

2. Zones Outside Town Center. Design objectives and standards for regulated improvements in all zones outside the Town Center are set forth in Chapter 19.12 MICC.

H. Appeals. Appeals shall be consistent with the appeal procedures specified in MICC 19.15.020(J). (Amended during 3/15 supplement; Ord. 11C-04 § 3; Ord. 04C-08 § 4; Ord. 03C-10 § 6; Ord. 03C-06 § 4; Ord. 02C-04 § 4; Ord. 99C-13 § 1).

19.15.050 Comprehensive plan amendments.

A. Purpose. The Growth Management Act (GMA), Chapter 36.70A RCW, requires that the city include within its development regulations a procedure for any interested person to suggest plan amendments. The suggested amendments will be docketed for consideration. The purpose of this section is to establish a procedure for amending the city's comprehensive plan text and maps. Amendments to the comprehensive plan are the means by which the city may modify its 20-year plan for land use, development or growth policies in response to changing city needs or circumstances. All plan amendments will be reviewed in accordance with the GMA and other applicable state laws, the countywide planning policies, the adopted city of Mercer Island comprehensive plan, and applicable capital facilities plans.

B. Application Requirements. Proposed amendment requests may be submitted by the public, city manager, city department directors or by majority vote of the city council, planning commission or other city board or commission. Proposed amendments submitted by the public shall be accompanied by application forms required by this title and by the code official and the filing fees established by resolution. All application forms for amendments to the comprehensive plan shall include a detailed description of the proposed amendment in nontechnical terms.

C. Frequency of Amendments.

1. Periodic Review. The comprehensive plan shall be subject to continuing review and evaluation by the city ("periodic review"). The city shall take legislative action to review and, if needed, revise its comprehensive plan to ensure the plan complies with the requirements of the GMA according to the deadlines established in RCW 36.70A.130.

2. Annual Amendment Cycle. Updates, proposed amendments, or revisions to the comprehensive plan may be considered by the city council no more frequently than once every calendar year as established in this section (the "annual amendment cycle"). During a year when periodic review of the comprehensive plan is required under RCW 36.70A.130, the annual amendment cycle and the periodic review shall be combined.

3. More frequent amendments may be allowed under the circumstances set forth within RCW 36.70A.130(2). Amendments processed outside of the annual amendment cycle under RCW 36.70A.130(2) may be initiated by action of the city council. The city council shall specify the scope of the amendment, identify the projected completion date, and identify and, if necessary, fund resources necessary to accomplish the work. Amendments allowed to be processed outside of the annual amendment cycle are not subject to the docketing process outlined within subsection D of this section.

D. Docketing of Proposed Amendments. For purpose of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan in a manner that will ensure such suggested changes will be considered by the city and will be available for review by the public. The following process will be used to create the docket:

1. Preliminary Docket Review. By September 1, the city will issue notice of the annual comprehensive plan amendment cycle for the following calendar year. The amendment request deadline is October 1. Proposed amendment requests received after October 1

will not be considered for the following year's comprehensive plan amendment process but will be held for the next eligible comprehensive plan amendment process.

a. The code official shall compile and maintain for public review a list of suggested amendments and identified deficiencies as received throughout the year.

b. The code official shall review all complete and timely filed applications proposing amendments to the comprehensive plan and place these applications on the preliminary docket along with other city-initiated amendments to the comprehensive plan.

c. The planning commission shall review the preliminary docket at a public meeting and make a recommendation on the preliminary docket to the city council each year.

d. The city council shall review the preliminary docket at a public meeting. By December 31, the city council shall establish the final docket based on the criteria in subsection E of this section. Once approved, the final docket defines the work plan and resource needs for the following year's comprehensive plan amendments.

2. Final Docket Review.

a. Placement on the final docket does not mean a proposed amendment will be approved. The purpose of the final docket is to allow for further analysis and consideration by the city.

b. All items on the final docket shall be considered concurrently so that the cumulative effect of the various proposals can be ascertained. Proposed amendments may be considered at separate meetings or hearings, so long as the final action taken considers the cumulative effect of all proposed amendments to the comprehensive plan.

c. The code official shall review and assess the items placed on the final docket and prepare a staff report including recommendations for each proposed amendment. The code official shall be responsible for developing an environmental review of the combined impacts of all proposed amendments on the final docket, except that applicants seeking a site-specific amendment shall be responsible for submittal of a SEPA environmental checklist and supporting information. The code official may require an applicant to pay for peer review and/or additional resources needed to review the proposal. The code official shall set a date for consideration of the final docket by the planning commission and timely transmit the staff report(s) prior to the scheduled date.

d. The planning commission shall review the proposed amendments contained in the final docket based on the criteria set forth in MICC 19.15.020(G)(1). The planning commission shall hold at least one public hearing on the proposed amendments. The planning commission shall make a recommendation on the proposed amendments and transmit the recommendation to the city council.

e. After issuance of the planning commission's recommendation, the code official shall set a date for consideration of the final docket by the city council. The city council shall review the proposed amendments taking into consideration the recommendations of the planning commission and code official. The city council may deny, approve, or modify the planning commission's recommendations consistent with the criteria set forth in MICC 19.15.020(G)(1). The city council's establishment of a final docket of proposed amendments is not appealable.

f. The planning commission and the city council may hold additional public hearings, meetings, or workshops as warranted by the proposed amendments.

E. Docketing Criteria. The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:

1. The request has been filed in a timely manner, and either:

a. State law requires, or a decision of a court or administrative agency has directed, such a change; or

b. All of the following criteria are met:

i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan;

ii. The city can provide the resources, including staff and budget, neces-

sary to review the proposal, or resources can be provided by an applicant for an amendment;

iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;

iv. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city's vision; and

v. The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.

F. Combined Comprehensive Plan Amendment and Rezone. In cases where both a comprehensive plan amendment and a rezone are required, both shall be considered together, and all public notice must reflect the dual nature of the request.

G. Expansion of Land Use Map Amendment. The city may propose to expand the geographic scope of an amendment to the comprehensive plan land use map to allow for consideration of adjacent property, similarly situated property, or area-wide impacts. The following criteria shall be used in determining whether to expand the geographic scope of a proposed land use map amendment:

1. The effect of the proposed amendment on the surrounding area or city;

2. The effect of the proposed amendment on the land use and circulation pattern of the surrounding area or city; and

3. The effect of the proposed amendment on the future development of the surrounding area or city. (Ord. 16C-13 § 2).

Chapter 19.16

DEFINITIONS

Sections:

19.16.010 Definitions.

Words used in the singular include the plural and the plural the singular.

Definitions prefaced with (SMP) are applicable only to the shoreline master program, MICC 19.07.110.

A

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 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 more than five feet and is not attached to the main building by a structure other than a fence or a pedestrian walkway.

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 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 panorams, peep shows, entertainment studios or topless or nude dancing are included in this definition.

3. Merchandise: Shall include, but is not limited to, the following: 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. Panorams 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: As defined and regulated by Chapter 70.128 RCW, an adult family home is the regular family abode of a person or persons who are providing personal care, special care, and room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

Affordable Housing Unit: A dwelling unit reserved for occupancy by eligible households and having monthly housing expenses to the occupant no greater than 30 percent of a given monthly household income, adjusted for household size, as follows:

1. Low-Income: For owner-occupied housing, 50 percent of the King County median income, and for renter-occupied housing, 50 percent of the King County median income.

2. Moderate-Income: For owner-occupied housing, 90 percent of the King County median income. For renter-occupied housing, 60 percent of the King County median income.

Pursuant to the authority of RCW 36.70A.540, the city finds that the higher income levels specified in the definition of affordable housing in this chapter, rather than those stated in the definition of "low income households" in RCW 36.70A.540, are needed to address local housing market conditions in the city.

3. King County Median Income: The median family income for the Seattle-Bellevue, WA HUD Metro FMR Area as most recently published by the United States

Department of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended. In the event that HUD no longer publishes median family income figures for King County, the city may estimate the King County median income in such manner as the city shall determine.

4. Eligible Household: One or more adults and their dependents who certify that their annual household income does not exceed the applicable percent of the King County median income, adjusted for household size, and who certify that they meet all qualifications for eligibility, including any requirements for recertification on income eligibility.

5. Housing Expense: In the case of renter-occupied housing, rent, tenant-paid utilities, one parking space, and other tenant expenses required for the dwelling unit; and in the case of owner-occupied housing, mortgage, mortgage insurance, property taxes, property insurance, and homeowner's dues.

Alteration: Any human-induced action which adversely impacts the existing condition of the area, including grading, filling, dredging, draining, channeling and paving (including construction and application of gravel). "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" includes, 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:

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 Multifamily 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.

Assisted Living Facilities: Residences for the frail, sick or elderly, excluding special needs group housing, that provide rooms, meals, personal care and supervision of self-administered medication. Other services, such as recreational activities and transportation, may also be provided.

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. 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)

B

Bar: A premises 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.

Bed and Breakfast: A single-family dwelling in which public lodging and meals may be provided to guests for periods of 30 days or less.

Best Available Science: Current scientific information based upon scientifically valid methods used to analyze critical areas, as defined by WAC 375-195-900 through 375-195-925, as amended.

Best Construction Practices: Methods, techniques and/or procedures developed by the city arborist to protect trees being retained during construction work from damage.

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.

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.

Block Frontage: "Block frontage" refers to all property fronting on one side of a street that is between intersecting streets, or that is between a street and a required through-block connection. An intercepting street or required through-block connection determines only the boundary of the block frontage on the side of the street in which it intercepts.

Boat Ramp: An inclined structure upon which a watercraft is raised or pulled onto land or a dock.

Boatlift: A structure or device used to raise a watercraft above the waterline for secure moorage purposes.

Breakwater: A protective structure usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action.

Buffer: A designated area adjoining a critical area intended to protect the critical area from degradation.

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:

1. Outside of the Town Center: The vertical distance measured from the average building elevation to the highest point of the roof structure excluding appurtenances. A mezzanine shall not be counted as a story for determining the allowable number of stories when constructed in accordance with the requirements of the construction codes set forth in MICC Title 17.

2. Within the Town Center: Building height within the Town Center (TC) zone shall be calculated pursuant to MICC 19.11.030(A).

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.

C

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 than in special needs group housing. 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, assisted living facilities and retirement homes.

Carport: A covered parking area or an accessory portion of the main building, entirely open on two or more sides, which is used for parking or storage of private vehicles, trailers and boats, by the occupants of the primary building.

Catastrophic Loss: A loss which occurs as a result of accidental fire, storm, earthquake or any other natural disaster, or an act of vandalism, terrorism or war.

City: The city of Mercer Island, Washington.

City Arborist: The person designated by the code official to administer the provisions of Chapter 19.10 MICC.

City Department: Any division, subdivision or organizational unit of the city established by ordinance, rule or order.

City Street: "City street" means and includes the right-of-way of every principal arterial, secondary arterial, collector arterial or local street or portion thereof, which has been improved for and is used for vehicular travel within the city limits.

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 groundcover 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.

Commercial Zone: Any area located within a Town Center, business, planned business or multifamily zone, or any area located on property in a single-family zone containing a nonresidential use.

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.

Conifer Trees: Trees that are called evergreen, stay green all year, have needles or scales for leaves, and produce 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.*

Construction Costs: Construction costs shall mean all costs included in the average price per square foot of a building as set forth in the current Mercer Island Building Valuation Data Table on file with the code official.

Construction Work: Any construction or reconstruction creating more than 500 square feet of new impervious surface. Trees are considered cut as a result of construction work if done during the construction work, two years prior to commencement of the work or two years following completion of the work. For these purposes, commencement of the work shall be the date the initial permit for the work

is issued by the city, and completion of the work shall be the date the city finals a building permit.

Covered Moorage: A pier, dock, boatlift, series of piles, or other structure intended for moorage over which a roof or canopy is erected.

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 Areas: Geologic hazard areas, watercourses, wetlands and wildlife habitat conservation areas.

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 or its buffer;
3. Wetlands or their buffer; or
4. Protected slope area.

Crown: The leaves and branches of a tree from the lowest branch on the trunk to the top.

Crown Cleaning: The removal of dead, dying, diseased, crowded, weakly attached, low-vigor branches, and watersprouts from a tree's crown.

Crown Raising: The removal of the lower branches of a tree in order to provide a height of up to eight feet for pedestrian clearance, up to 14 feet for equestrian clearance and up to 16 feet for vehicular clearance or such other increased height as deemed appropriate for clearance by the city arborist.

Crown Thinning: The selective removal of branches not to exceed more than 25 percent of the leaf surface to increase light penetration and air movement, and to reduce weight.

Crown Topping: The removal of the upper portion of the crown of a tree by cutting back young shoots to a bud or older branches or trunk to a stub or lateral branch not sufficiently large enough to assume the terminal role.

Cut or Cutting: The intentional cutting of a tree to the ground (excluding acts of nature), any practice or act which is likely to result in the death of or significant damage to the tree or any other removal of a part of a tree that does not qualify as pruning.

D

Day Care: A business that provides personal care, education and/or supervision of minor children age 12 or under for a fee or other consideration for periods lasting less than 24 hours.

Daylight Plane: "Daylight plane" refers to an inclined plane beginning at a stated height at the street-facing property line or edge of through-block connection above the grade of the sidewalk or through-block connection and extending into the site at a stated upward angle up to the maximum height limit consistent with MICC 19.11.030(A)(7)(b) and Figure 5.

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.

Diameter: The circumference of a tree divided by pi (3.14) and measured at a point four and one-half feet above the ground.

Dish Antenna: A parabolic antenna greater than 24 inches in diameter intended to send or receive signals to or from orbiting satellites or other communications systems.

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.

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 (ADU)").

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.

4. Single-Family Dwelling – 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 Dwelling – Semi-Detached: 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.

E

Easement: A grant of one or more of the property rights or privileges by the property owner to and/or for use or protection of a portion of land, by the public, a corporation or another person or entity, that runs with the land.

Ecological Functions or Shoreline Functions: The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecosystem-Wide Processes: The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

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.

Existing Grade: The surface level at any point on the lot prior to alteration of the ground surface.

F

Facade: Any exterior wall of a structure, including projections from and attachments to the wall. Projections and attachments include balconies, decks, porches, chimneys, unenclosed corridors and similar projections.

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, persons with familial status and persons with handicaps within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. Sections 3602(h) and (k) will not be counted as unrelated persons. The limitation on the number of unrelated residents set forth in this definition shall not prohibit the city from making reasonable accommodations, as required by the FHAA, 42 U.S.C. Section 3604(f)(3)(B) and as provided in MICC

19.01.030. The term "family" shall exclude unrelated persons who are not also handicapped or have familial status within the meaning of the FHAA who live together in social service transitional housing or special needs group housing.

Feasible (SMP): An action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (1) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (2) the action provides a reasonable likelihood of achieving its intended purpose; and (3) the action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

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.

Fill (SMP): The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

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.

Fish Use or Used by Fish: Those areas within a watercourse where live fish normally exist for spawning rearing and/or migration.

This page left intentionally blank.

"Fish use" may be presumed to occur in 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.

Floating Home: A single-family dwelling unit constructed on a float, which is moored, anchored or otherwise secured in waters.

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 24-hour-a-day basis to one or more, but not more than four, 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.

Foster Family Home, Large: At least two persons providing state-licensed foster care on a 24-hour-a-day basis to five or six 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.

G

Garage: An accessory building or an accessory portion of the main building designed and/or used customarily for parking or storage of vehicles, trailers, and boats by the occupants of the main building, which does not meet the definition of a carport.

Geologic Hazard Areas: Areas susceptible to erosion, sliding, earthquake, or other geological events based on a combination of slope (gradient or aspect), soils, geologic material, hydrology, vegetation, or alterations, including landslide hazard areas, erosion hazard areas and seismic hazard areas.

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.

Geotechnical Report or Geotechnical Analysis (SMP): A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

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.

1. The gross floor area of a single-family dwelling shall include:

a. The main building, including but not limited to attached accessory buildings.

b. All garages and covered parking areas, and detached accessory buildings with a gross floor area over 120 square feet.

c. That portion of a basement which projects above existing grade as defined and calculated in Appendix B of this development code.

2. In the Town Center, gross floor area is the area included within the surrounding exterior finish wall surface of a building, excluding courtyards and parking surfaces.

Groundcover: Small plants such as salal, ferns, mosses, grasses or other types of vegetation which normally cover the ground and includes trees less than four inches in diameter measured at 24 inches above the ground level.

H

Handicaps, Persons With:

1. A person who has a physical or mental impairment which substantially limits one or more of such person's major life activities; or

2. A person with a record of having such an impairment; or

3. 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.

Hard Structural Shoreline Stabilization: Shore erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces that are located at or waterward of ordinary high water, as well as those structures located on average within five feet landward of OHWM. These include bulkheads, rip-rap, groins, retaining walls and similar structures.

Hazardous Tree: Any tree that receives an 11 or 12 rating under the International Society of Arboricultural rating method set forth in Hazard Tree Analysis for Urban Areas (copies of this manual are available form the city arborist) and may also mean any tree that receives a 9 or 10 rating, at the discretion of the city arborist.

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 nondangerous 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.

I

Impervious Surfaces: Includes without limitation the following:

1. Buildings – the footprint of the building and structures including all eaves;

2. Vehicular use – driveways, streets, parking areas and other areas, whether constructed of gravel, pavers, pavement, concrete or other material, that can reasonably allow vehicular travel;

3. Sidewalks – paved pedestrian walkways, sidewalks and bike paths;

4. Recreation facilities – decks, patios, porches, tennis courts, sport courts, pools, hot tubs, and other similar recreational facilities;

5. Miscellaneous – any other structure or hard surface which either prevents or retards the entry of water into the soil mantle as under

natural conditions prior to development, or causes water to run off the surface in greater quantities or at an increased rate of flow from present flow rate under natural conditions prior to development.

J

Jetty: A barrier used to protect areas from accumulations of excess sediment.

K

Kennel:

1. Any lot on which six or more dogs, cats, or other small animals over the age of four 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 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.

L

Landmark Grove: A healthy grove of trees satisfying one or more of the following criteria and having been designated as a landmark grove under MICC 19.10.140:

1. The grove is relatively mature and is of a rare or unusual nature containing trees that are distinctive either due to size, shape, species, age or exceptional beauty;

2. The grove is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along a ridge line; or

3. The grove has a documented association with a historical figure, property or significant historical event.

Landmark Tree: Any healthy tree satisfying one or more of the following criteria and having been designated as a landmark tree under MICC 19.10.140:

1. The tree has a diameter of 36 inches or greater;

2. The tree has a distinctive size, shape or location, or is of a distinctive species or age;

3. The tree possesses exceptional beauty;

4. The tree is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along a ridge line; or

5. The tree has a documented association with a historical figure, property or significant historical event.

Landslide Hazard Areas: Those areas subject to landslides based on a combination of geologic, topographic, and hydrologic factors, including:

1. Areas of historic failures;

2. Areas with all three of the following characteristics:

a. Slopes steeper than 15 percent; and

b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage;

3. Areas that have shown evidence of past movement or that are underlain or covered by mass wastage debris from past movements;

4. Areas potentially unstable because of rapid stream incision and stream bank erosion; or

5. Steep Slope. Any slope of 40 percent or greater calculated by measuring the vertical rise over any 30-foot horizontal run.

Landward: Any point located inland from the ordinary high water mark.

Large (Regulated) Tree: Any conifer tree that is six feet tall or more or any deciduous tree with a diameter of more than six inches.

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.

Lift Station (Boat Hoist): A structure or device used to raise a watercraft above the waterline for secure moorage purposes.

Light Rail Facilities: A public rail transit line, including all ancillary facilities such as transit power substations, that operates at grade level, above grade level, on a bridge or in a tunnel and that provides high capacity, regional transit service owned or operated by a regional transit authority authorized under Chapter 81.112 RCW. A regional light rail transit system will be designed to cross I-90 right-of-way.

Lot: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built upon as a unit.

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 on Lake Washington.

Lot, Conforming: A lot that conforms with the applicable zoning ordinance standards as to size, width, depth and other dimensional regulations.

Lot Depth: For lots with exactly one front lot line, one rear lot line, and two side lot lines, lot depth is the distance as measured from the midpoint of the front property line to the midpoint of the rear property line. For all other lots, lot depth is determined by the mean average distance measured from the front lot line to the rear lot line. To calculate mean average distance, draw lines perpendicular to the front property line at two-foot intervals. The lengths of the perpendicular lines, which extend through the building pad to the rear lot line, shall be added together and the sum of the lengths shall be divided by the total number of perpendicular lines.

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.

Lot, Nonconforming: See Nonconforming Lot.

Lot Width: For lots with exactly one front lot line, one rear lot line, and two side lot lines, lot width is the distance between the two midpoints of side lot lines. For all other lots, lot width is determined by a lot width circle within the boundaries of the lot; provided, that no access easements are included within the lot width circle.

Lots, Contiguous: Contiguous lots are two or more lots that share a common property line; 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 roadway, utility and/or similar easement is commonly owned or controlled.

M

Major New Construction: Construction from bare ground or an enlargement or alteration that changes the exterior of an existing structure that costs in excess of 50 percent of the structure's assessed value. Single-family development is excluded from this definition.

Major Site Feature: The public development amenities listed in MICC 19.11.060(B) that an applicant of major new construction in the Town Center must provide in order to be allowed building height over the base building height of two stories.

Manufacturing: An establishment engaged in the mechanical or chemical transformation of materials or substances into new products. Uses which create or involve the production of hazardous materials or objectionable noise, odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse or water-carried waste are not allowed. Manufacturing uses are limited to 10,000 square feet or less of gross floor area.

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 reason-

ably necessary for the design commission to make an informed decision about development of the site.

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 feet lower than ordinary high water.

Minor Exterior Modification: Any exterior modification to an existing development or site that does not constitute major new construction.

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-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.

Minor Site Feature: The public development amenities listed in MICC 19.11.060(A) that an applicant of major new construction in the Town Center must include regardless of the building's height.

Mitigation or mitigate: The use of any or all of the following actions in a critical area:

1. Avoiding the impact by not taking a certain action;

2. 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;

3. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area;

4. Minimizing or eliminating the impact over time by preservation or maintenance operations;

5. Compensating for the impact by replacing, enhancing or providing substitute critical areas; or

6. Monitoring the impact and taking appropriate corrective measures including any combination of the measures listed in subsections (1) through (5) of this definition.

Mixed Use: Development with a variety of complementary and integrated uses, such as, but not to limited to, residential, office, retail, public, or recreation.

Monitoring: Evaluating the impacts of alterations to critical areas and assessing the performance of required mitigation measures through the collection and analysis of data.

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 internment 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.

N

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 identified by the Washington Native Plant Society or the United States Department of Agriculture as being native to Washington State. 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.

Nonconforming Lot: A lot that has less than the minimum area, width and depth required by the current code for the zone in which the lot is located.

Nonconforming Site, Legal: A developed building site that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements that were in effect regarding site development at the time it was developed but no longer conforms to the cur-

rent regulations of the zone in which it is situated due to subsequent changes in code requirements.

Nonconforming Structure, Legal: A structure that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements in effect at the time it was constructed but no longer conforms to the current regulations of the zone in which it is situated due to subsequent changes in code requirements.

Nonconforming Use, Legal. The use of a structure, site or of land that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements in effect at the time it was commenced but no longer conforms to the current regulations of the zone in which it is situated due to subsequent changes in code requirements.

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.

Nursing Home: An establishment as defined, regulated and licensed by Chapter 18.51 RCW that provides care to persons who through illness or infirmity are not capable of caring for themselves.

O

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 Mark (OHWM): 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 of Ecology; provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water, or as amended by the state. To determine OHWM for a shoreline armoring project, a site-specific determination by a qualified professional is required. For determination of OHWM for measuring building setbacks, the OHWM corresponds with a lake elevation of 18.6 feet above sea level, when based on North American Vertical Datum of 1988 (NAVD 88).

Ordinary Repairs and Maintenance: An activity in response to the effects of aging or ordinary use, wear and tear that restores the character, scope, size, footprint or design of a serviceable area, structure, or land use to its previously existing, authorized or undamaged condition; however, this is not intended to allow total replacement, substitution or reconstruction of a nonconforming structure. Activities that change the character, size, footprint or scope of a project beyond the original shall not be considered ordinary repairs and maintenance and shall result in loss of nonconforming status.

P

Parking: A public or private area, under, within or outside a building or structure, designed and used for parking motor vehicles including parking lots, garages, and driveways. For the purposes of this definition only:

1. "Parking structure" shall mean a building or structure consisting of more than one level and used for the temporary parking and storage of motor vehicles.

2. "Underground parking" shall mean the location of that portion of the parking structure located below the existing grade of the ground abutting the structure.

Patio Home: A single-family dwelling on a separate parcel with open spaces on three sides and with a court.

Pavers: A paver or pavement that allows rain and/or surface water runoff to pass through it and reduce runoff from a site and surrounding areas. Pavers include porous pavement, porous pavers, and permeable interlocking concrete pavement as described in the Washington State Department of Ecology Stormwater Management Manual, as now exists or hereafter amended.

Pedestrian-Oriented Uses: Uses that stimulate pedestrian activity along the sidewalk frontage of a building. Uses include, but are not limited to, small scale retail, restaurants and theaters.

Pedestrian Walkway: A walkway used exclusively for pedestrian trafficway, which may be covered or enclosed.

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, spas, fitness centers and nail salons.

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.

Private Property: Any property other than public property.

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.

Protected Slope Area: Any area within a 40-foot radius of the base of the subject tree if there is any point within that area that is at least 12 feet higher or lower than the base of the tree.

Prune or Pruning: The pruning of a tree through crown thinning, crown cleaning, windowing or crown raising but not including crown topping of trees or any other practice or act which is likely to result in the death of or significant damage to the tree.

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.

Public Property: 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 ground around public buildings but excludes Interstate 90 and any property owned by the state of Washington.

Public Tree: Any tree located on public property.

Q

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.

R

Reasonable Use: A legal concept that has been and will be articulated by federal and state courts in regulatory takings and substan-

tive due process cases. The decisionmaker 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.

Recreation: In the Town Center, recreation includes a place designed and equipped for the conduct of leisure-time activities or sports.

Recreational Area: For single-family and multifamily residential zones, 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. Noncommercial Recreational Area: A recreational area maintained and operated by a nonprofit 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; or

3. Wireless communications structures, including associated support structures and equipment cabinets.

Repair Services: The repair and maintenance of personal and household goods, including locksmithing, appliance repair, furniture reupholstery, and shoe repair.

Replacement Tree: Any tree that is planted in order to satisfy the tree replacement requirements of a tree permit.

Residential Care Facility: A facility, licensed by the state that cares for at least five but not more than 15 people with functional disabilities, that has not been licensed as an adult family home pursuant to Chapter 70.128 RCW.

Residential Dwelling: A home, abode or place that is used for human habitation.

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.

Restoration of Ecological Functions (SMP): The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

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.

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 20,000 square feet or less.

2. Large Scale Retail: A retail establishment occupying more than 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.

Right-of-way: Land acquired by reservation, dedication, prescription or condemnation, and intended to be used by a road, sidewalk, utility line or other similar public use.

Riprap: Hard angular carry rock or other similar materials used for erosion control and/or land or bank stabilization.

Rooming House: A home or other facility, other than special needs group housing or social service transitional housing as provided in MICC 19.06.080(A) and (B), that provides room or room and board to seven or more persons unrelated to the operator, and does not include persons with handicaps or persons with familial status within the meaning of the FHAA.

S

Salmonid: A member of the fish family Salmonidae.

Scale: The height, width and general proportions of a structure or features of a structure in relationship to its surroundings. Human or pedestrian scale is building form or site design that is intimate, comfortable and understandable from the perspective of an individual walking.

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.

Senior Citizen Housing: Dwelling units which are used exclusively for housing persons 60 years of age and older.

SEPA Rules: Chapter 197-11 WAC adopted by the Department of Ecology, as now or hereafter amended.

Service: An establishment primarily engaged in providing assistance as opposed to products. Examples include but are not limited to personal services, business, financial and insurance services, mortuary services, tailors, healthcare services, educational services, repair services, amusement services, membership organizations, and other 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 convenience store retailing.

Shared Pier: A dock or pier which is shared by two or more waterfront lots.

Shorelands: Lake Washington, its underlying land, associated wetlands, and those lands extending landward 200 feet from its ordinary high water mark (OHWM).

Shoreline Areas and Shoreline Jurisdiction: All “shorelines of the state” and “shorelands” as defined in RCW 90.58.030.

Shoreline Master Program: The comprehensive use plan for a described area, the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020 and the applicable guidelines. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under Chapter 90.58 RCW shall be considered an element of the county’s or city’s

comprehensive plan. All other portions of the shoreline master program for a county or city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the county's or city's development regulations.

Shrub: Any living woody plant species characterized by having multiple vertical or semiupright branches originating at or near the ground and is known to achieve a typical mature height of less than 15 feet. Species include without limitation, rhododendrons, pyramidalis, laurel, boxwood and other ornamental shrubs.

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.[1]

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 shortest horizontal distance between these two points.

Small Tree: Any conifer tree that is less than six feet tall or any deciduous tree with a diameter of six inches or less.

Social Service Transitional Housing: Noninstitutional group housing facilities for unrelated persons, other than special needs group housing or rooming houses, that are privately or publicly operated, including those facilities required to be licensed by the state or federal governments as well as those that may not be required to be licensed, that provide temporary and transitional housing to meet community social service needs including, but not limited to, work-release facilities and other housing facilities serving as an alternative to incarceration, halfway houses, emergency shelters, homeless shelters, domestic violence shelters and other such crisis intervention facilities. Social service transitional housing excludes institutional facilities that typically cannot be accommodated in a single-family residential structure.

Soft Structural Shoreline Stabilization Measures: Shore erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a nonlinear, sloping arrangement.

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.

Special Needs Group Housing: Noninstitutional group housing that primarily supports unrelated persons with handicaps or persons protected by familial status within the meaning of the FHAA, but not including individuals whose tenancy would constitute a direct threat to the health and safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Special needs group housing includes, but is not limited to, foster family homes, adult family homes and residential care facilities as provided in Chapter 70.128 RCW, but excludes facilities that typically cannot be accommodated in a single-family residential structure such as hospitals, nursing homes, assisted living facilities and detention centers.

---

1. Code reviser's note: The definitions of "Significant Affordable Housing," "Significant Pedestrian Connection or Connection," "Significant Public Amenity or Amenities" and "Significant Public Plaza or Plaza" have been deleted, at the request of the city, as scrivener's errors, as these are no longer terms in the code.

Stealth Design: Wireless communications facilities designed to blend into the surrounding environment as determined by the code official. Examples of stealth design include architecturally screened roof-mounted antennas, facilities integrated into architectural elements, and facilities designed to blend with or be integrated into light poles, utility poles, trees, steeples, or flag poles.

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.

Story: Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet (1,829 mm) above grade for more than 50 percent of the total perimeter, or is more than 12 feet (3,658 mm) above grade at any point, such usable or unused under-floor space shall be considered as a story. Grade is measured as the lowest point on the property within a distance of five feet from the exterior wall.

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.

Structural Alteration: Any change, addition, or modification to elements of a structure that are or relate to load-bearing members or the stability of the structure (as distinguished from screening or ornamental elements). Examples of structural alterations include, but are not limited to, any change in the supporting members of a structure, such as foundations, studs in exterior or bearing walls or bearing partitions, columns, beams, headers, girders, joists or rafters. Replacement of exterior cladding and replacement of glazing in existing openings shall not be considered structural alteration.

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 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.

Substantial Development: A development of which the total cost or fair market value exceeds $2,500 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.

Support Structure: See "Wireless Communication Support Structure."

T

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 20 years. Teen dance does not include noncommercial dances sponsored by an accredited educational institution, nor does it include a dance sponsored by churches or other religious institutions, community organizations or other nonprofit tax-exempt organizations.

Temporary Encampment: A group of persons temporarily residing in one or more temporary structures, except for recreational purposes, and located at a place of worship.

Temporary Encampment Managing Organization: A group or organization that has the capacity to organize and manage a temporary encampment. A temporary encampment "managing organization" may be the same entity as the temporary encampment sponsor.

Temporary Encampment Sponsor: A place of worship which owns the property or has an ownership interest in the property, for which a temporary encampment is to be located, and that has an agreement with the temporary encampment managing organization to provide basic services and support for the residents of a temporary encampment and liaison with the surrounding community and joins with the managing organization in an application for a temporary encampment permit. A "sponsor" may be the same entity as the managing organization.

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 storm water manual pursuant to Chapter 19.09 MICC.

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 30 percent slope. The upper edge is the "top" of the slope and the bottom is the "toe."

Townhouse: A single-family dwelling unit at least two stories in height constructed in a group of two or more attached dwelling units in which each unit extends from foundation to roof and with open space on at least two sides and a separate means of ingress and egress.

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 species other than a shrub, characterized by one main trunk or few dominant trunks and many branches, known to achieve a typical mature height of at least 15 feet.

Tree Permit: A permit issued by the city arborist under Chapter 19.10 MICC.

U

Uplighting: Illumination of an object by methods that project light upward and onto the object to be illuminated, primarily to enhance visual interest at night.

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 by a public utility or private utility regulated by the state through fixed wires, pipes, or lines. Such facilities may include water, sewer, storm water 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. "Utilities" does not include wireless facilities.

V

Variance: A modification of standard development code provisions based on special circumstances and complying with the city's variance criteria.

Vegetative Cover: All significant vegetation (excluding exotic or invasive species) in a critical tree area, the existence or loss of which will have a material impact on the critical tree area.

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.

W

Warehouse: A building used primarily for the storage of goods and materials, including facilities available to the public for a fee.

Warehousing: The storage of goods and materials, including facilities available to the public for a fee.

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.

Watercourses: A course or route, formed by nature 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 irrigation and drainage ditches, grass-lined swales, canals, storm water runoff devices, or other courses unless they are used by fish or to convey waters that were naturally occurring prior to construction.

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.

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.

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.

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, created after July 1, 1990, 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 one 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:

a. Wetlands that are identified by scientists as containing "sensitive" plant species;

b. Bogs between one-quarter and one-half acre in size; or

c. 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: Identification of wetlands and delineation of their boundaries shall be done in accordance with the most currently approved Army Corps of Engineers wetlands delineation manual and applicable regional supplements.

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 WAC Title 365.

Windowing: The selective removal of branches not to exceed more than 25 percent of the leaf surface while retaining the symmetry and natural form of the tree in order to increase views and light penetration.

Wireless Communications:

1. Attached Wireless Communications 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. Wireless Communications 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).

3. 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.

4. Wireless Communications 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.

Y

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 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: Any yards not designated as a front or rear yard shall be defined as a side yard. (Ord. 16C-06 § 4 (Exh. A); Ord. 15C-02 § 3; Ord. 13C-12 § 3; Ord. 11C-11 § 2; Ord. 11C-05 § 3; Ord. 10C-09 § 1; Ord. 10C-06 § 7; Ord. 10C-01 § 1; Ord. 08C-01 § 9; Ord. 07C-02 § 1; Ord. 06C-04 § 2; Ord. 05C-16 § 2; Ord. 05C-12 § 4; Ord. 04C-12 § 17; Ord. 04C-08 § 11; Ord. 04C-02 § 2; Ord. 03C-08 § 11; Ord. 03C-01 § 5; Ord. 02C-10 § 4; Ord. 02C-09 § 5; Ord. 02C-05 § 5; Ord. 02C-04 § 8; Ord. 02C-01 § 2; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

Chapter 19.17

SCHOOL IMPACT FEES

Sections:

19.17.010 Purpose and authority.

A. This chapter is enacted pursuant to the city's police powers, the Growth Management Act as codified in Chapter 36.70A RCW ("the Act") and the impact fee statutes as codified in RCW 82.02.050 through 82.02.100.

B. The purpose of this chapter is to:

1. Develop a program consistent with the city's comprehensive plan for joint public and private financing of school facilities consistent with the capital facilities plan of the Mercer Island School District No. 400 ("the District"), as such public facilities are necessitated in whole or in part by residential development in the city;

2. Ensure adequate levels of service in school facilities;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of school facilities reasonably related to new development, in order to ensure the availability of adequate school facilities at the time new development occurs; and

4. Ensure fair collection and administration of such impact fees.

C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare. (Ord. 15C-15 § 1).

19.17.020 Definitions.

A. "Affordable housing unit" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the household income is paid for housing expenses (e.g., mortgage, property taxes, hazard and mortgage insurance and homeowners dues (if applicable), or (2) a renter-occupied housing unit affordable to households whose income is less than 60 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use another method as it may choose to determine the King County median income, adjusted for household size. The code official will make a determination of sales prices or rents that meet the affordability requirements of this chapter.

B. "Capital facilities plan" means the District's capital facilities plan adopted by the school board consisting of:

1. A forecast of future needs for school facilities based on the District's enrollment projections;

2. An identification of additional demands placed on existing public facilities by new development;

3. The long-range construction and capital improvement projects of the District;

4. The schools under construction or expansion;

5. The proposed locations and capacities of expanded or new school facilities;

6. An inventory of existing school facilities, including permanent, transitional and relocatable facilities;

7. At least a six-year financing component, updated as necessary to maintain at least a six-year forecast period, for financing needed for school facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues authorized by the voters;

8. An identification of deficiencies in school facilities serving the student populations and the means by which existing deficiencies will be eliminated within a reasonable period of time; and

9. Any other long-range projects planned by the District.

C. "City" means the city of Mercer Island.

D. "District" means the Mercer Island School District No. 400.

E. "Developer" means the person or entity that owns or holds purchase options or other development control over property for which development activity is proposed.

F. "Development activity" means having any residential construction or expansion of a residential building, structure or use, any change in use of a residential building or structure, or any change in the use of residential land that creates additional demand for school facilities.

G. "Dwelling unit" means a dwelling as defined in MICC 19.16.010.

H. "Elderly" means a person aged 55 or older.

I. "Encumbered" means impact fees identified by the District as being committed as part of the funding for a school facility for which the publicly funded share has been assured or building permits sought or construction contracts let.

J. "Impact fee" means a payment of money imposed upon development activity as a condition of development approval to pay for school facilities needed to serve new growth and development, that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

K. "Impact fee schedule" means the table of impact fees to be charged per unit of development, computed by the formula contained in the District's capital facilities plan, indicating the standard fee amount per dwelling unit that shall be paid as a condition of residential development within the city.

L. "Interlocal agreement" means the agreement between the District and the city, governing the operation of the school impact fee program and describing the relationship, duties and liabilities of the parties.

M. "Relocatable facilities" means any factory-built structure, transportable in one or more sections, that is designed to be used as an education space and is needed to prevent the overbuilding of school facilities, to meet the needs of service areas within the District or to cover the gap between the time that families move into new residential developments and the date that construction is completed on permanent school facilities. (Ord. 15C-15 § 1).

19.17.030 Interlocal agreement between the city and District.

As a condition of the city's authorization and adoption of school impact fees, the city and District shall enter into an interlocal agreement governing the operation of the school impact fee program, and describing the relationship and liabilities of the parties thereunder. (Ord. 15C-15 § 1).

19.17.040 Annual council review.

On an annual basis, the District shall submit to the city a six-year capital facilities plan or an update of a previously adopted plan which meets the requirements of the Act. The materials submitted by the District shall include proposed impact fee amounts for single-family dwelling units and multifamily dwelling units. The city may amend the permit and impact fee schedule to reflect changes to the capital facilities plan. (Ord. 15C-15 § 1).

19.17.050 Impact fee program elements.

A. The city shall impose impact fees on every development activity in the city for which an impact fee schedule has been established.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. The impact fee formula shall account in the fee calculation for future revenues the District will receive from the development.

C. The impact fee shall be based on the capital facilities plan developed by the District and approved by the school board, and adopted by reference by the city as part of the capital facilities element of the city's comprehensive plan for the purpose of establishing the fee program. (Ord. 15C-15 § 1).

19.17.060 Fee calculations.

A. The fee shall be calculated based on the formula set forth in the District's capital facilities plan.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the cost of system improvements that are reasonably related to the new development. The impact fee formula shall take into account the future revenues the District will receive from the development, along with system costs related to serving the new development.

C. Separate fees shall be calculated for single-family and multifamily types of dwelling units, and separate student generation rates must be determined by the District for each type of dwelling unit. For the purpose of this chapter, mobile homes shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

D. The fee shall be calculated on a District-wide basis using the appropriate factors and data to be supplied by the District. The fee calculations shall be made on a District-wide basis to assure maximum utilization of all school facilities in the District which meet District standards for instructional purposes.

E. The formula shall provide a credit for the anticipated tax contributions that would be made by the development based on historical levels of voter support for bond issues in the District.

F. The formula shall also provide for a credit for school facilities or sites actually provided by a developer which the District finds acceptable. (Ord. 15C-15 § 1).

19.17.070 Assessment and collection of impact fees.

A. The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a residential building permit from the city.

B. All impact fees shall be collected from the applicant prior to issuance of the building permit unless the use of an independent fee calculation has been approved or unless the applicant applies for deferred payment of impact fees pursuant to MICC 19.17.080. The fee shall be calculated based on the impact fee schedule in effect at the time the building permit is issued unless otherwise required pursuant to MICC 19.17.080.

C. For building permits for mixed use developments, impact fees shall be imposed on the residential component of the development found on the city's permit and impact fee schedule.

D. For building permits within new subdivisions approved under Chapter 19.08 MICC (Subdivisions), a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

E. The city shall not issue the required building permit unless and until the impact fees set forth in the impact fee schedule have been paid.

F. The city may impose an application fee, as provided for in the city's adopted permit and impact fee schedule, per dwelling unit which is subject to and not otherwise exempt from this chapter to cover the reasonable cost of administration of the impact fee program. The fee is not refundable and is collected from the applicant of the development activity permit at the time of permit issuance.

G. The city shall collect the impact fee on behalf of the District and maintain separate accounts for transmittal to the District on a monthly basis. (Ord. 15C-15 § 1).

19.17.080 Option for deferred payment of impact fees.

An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this section, to defer to final inspection the payment of an impact fee for a residential development unit. The following shall apply to any request to defer payment of an impact fee:

A. The applicant shall submit to the city a written request to defer the payment of an impact fee for a specifically identified building permit. The applicant's request shall identify, as applicable, the applicant's corporate identity and contractor registration number, the full names of all legal owners of the property upon which the development activity allowed by the building permit is to occur, the legal description of the property upon which the development activity allowed by the building permit is to occur, the tax parcel identification number of the property upon which the development activity allowed by the building permit is to occur, and the address of the property upon which the development activity allowed by the building permit is to occur. All applications shall be accompanied by an administrative fee as provided for in the city's adopted permit and impact fee schedule.

B. The impact fee amount due under any request to defer payment of impact fees shall be based on the schedule in effect at the time the applicant provides the city with the information required in subsection A of this section.

C. Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, all applicants and/or legal owners of the property upon which the development activity allowed by the building permit is to occur must sign a deferred impact fee payment lien in a form acceptable to the city attorney. The deferred impact fee payment lien shall be recorded against the property subject to the building permit and be granted in favor of the city in the amount of the deferred

impact fee. Any such lien shall be junior and subordinate only to one mortgage for the purpose of construction upon the same real property subject to the building permit. In addition to the administrative fee required in subsection A of this section, the applicant shall pay to the city the fees necessary for recording the lien agreement with the King County recorder.

D. The city shall not approve a final inspection until the school impact fees identified in the deferred impact fee payment lien are paid in full.

E. In no case shall payment of the impact fee be deferred for a period of more than 18 months from the date of building permit issuance.

F. Upon receipt of final payment of the deferred impact fee as identified in the deferred impact fee payment lien, the city shall execute a release of lien for the property. The property owner may, at his or her own expense, record the lien release.

G. In the event that the deferred impact fee is not paid within the time provided in this section, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW. The District may also institute foreclosure proceedings as set forth in RCW 82.02.050(3).

H. An applicant is entitled to defer impact fees pursuant to this section for no more than 20 single-family dwelling unit building permits per year in the city. For purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant. (Ord. 15C-15 § 1).

19.17.090 Exemptions.

The following development activities are exempt or partially exempt from the payment of school impact fees:

A. Reconstruction, remodeling or construction of the following facilities, subject to the recording of a covenant or recorded declaration of restrictions precluding use of the property for other than the exempt purpose. Provided, that if the property is used for a non-exempt purpose, then the school impact fees then in effect shall be paid.

1. Shelters or dwelling units for temporary placement, which provide housing to persons on a temporary basis for not more than four weeks;

2. Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than 24 months, in connection with job training, self-sufficiency training and human services counseling, the purpose of which is to help persons make the transition from homelessness to placement in permanent housing; and

3. Any form of housing for the elderly, including nursing homes, retirement centers, and any type of housing units for persons age 55 and over, which have recorded covenants or recorded declaration of restrictions precluding school-aged children as residents in those units.

4. Any form of affordable (low-income) housing units, as defined in this chapter, may request an exemption of 80 percent of the required impact fee. Any claim for an exemption for affordable housing units must be made prior to payment of the impact fee, and any claim not so made shall be deemed waived. Prior to any development approval, the owner shall execute and record against the property in the King County real property title records a city-prepared covenant that shall guarantee that the affordable housing shall continue, which covenant shall run with the land, address annual reporting requirements to the city, price restrictions and household income limits and be consistent with the provisions of RCW 82.02.060(3) as now adopted or hereafter amended. In the event that the exempt housing unit is no longer used for affordable (low-income) housing as defined in this chapter, the current owner shall pay the applicable impact fees in effect at the time of conversion.

B. Rebuilding of legally established dwelling unit(s) destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe, or remodeling of existing legally established dwelling unit(s), or replacing demolished legally established dwelling unit(s), provided that a complete building permit for construction or reconstruction is sub-

mitted to the city within 12 months of the date of the loss or demolition, as the case may be, and so long as no additional dwelling units are created.

C. Condominium projects in which existing dwelling units are converted into condominium ownership and where no new dwelling units are created.

D. Any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act.

E. Any development activity for which school impacts have been mitigated pursuant to a condition of plat approval to pay fees, dedicate land or construct or improve school facilities, unless the condition of the plat approval provides otherwise; and further provided, that the condition of the plat approval predates the effective date of fee imposition.

F. Any development activity for which school impacts have been mitigated pursuant to a voluntary agreement entered into with the District to pay fees, dedicate land or construct or improve school facilities, unless the terms of the voluntary agreement provide otherwise; and further provided, that the agreement predates the effective date of fee imposition.

G. Any building permit for a legal accessory dwelling unit approved under MICC 19.02.030. (Ord. 15C-15 § 1).

19.17.100 Determination of the fee, adjustments, exceptions and appeals.

A. The city shall determine a developer's impact fee, according to the schedule provided by the District.

B. Arrangement may be made for later payment of the impact fee with the approval of the District only if the District determines that it will be unable to use or will not need the payment until a later time, provided that sufficient security, as defined by the District, is provided to assure payment. Security shall be made to and held by the District, which will be responsible for tracking and documenting the security interest.

C. The fee amount established in the schedule shall be reduced by the amount of any payment previously made for the lot or development activity in question, either as a condition of approval or pursuant to a voluntary agreement.

D. Whenever a developer is granted approval subject to a condition that the developer provide a school facility acceptable to the District, the developer shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by this chapter. The cost of construction shall be estimated at the time of approval, but must be documented, and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee.

E. The standard impact fees may be adjusted, if one of the following circumstances exist, provided that any discount set forth in the fee formula fails to adjust for the error in the calculation or fails to ameliorate for the unfairness of the fee:

1. The developer demonstrates that an impact fee assessment was improperly calculated; or

2. Unusual circumstances identified by the developer demonstrate that if the standard impact fee amount was applied to the development, it would be unfair or unjust.

F. In cases where a developer requests an independent fee calculation, adjustment exception or a credit pursuant to RCW 82.02.060(3), the city shall consult with the District and the District shall advise the city prior to the city making the final impact fee determination.

G. A developer may provide studies and data to demonstrate that any particular factor used by the District may not be appropriately applied to the development proposal.

H. Any appeal of the decision of the city with regard to fee amounts shall follow the process for the appeal of the underlying development application, as set forth in the Mercer Island City Code. Any errors in the formula

identified as a result of the appeal should be referred to the council for possible modification.

I. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity. (Ord. 15C-15 § 1).

19.17.110 Impact fee accounts and refunds.

A. Impact fee receipts shall be earmarked specifically and retained in a special interest-bearing account established by the District solely for the District's school impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which impact fees were imposed. Annually, the District shall prepare a report on the impact fee account showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees. The District shall submit a copy of this report to the city.

B. Impact fees for the District's system improvements shall be expended by the District for capital improvements including but not limited to school planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, relocatable facilities, capital equipment pertaining to educational facilities, and any other expenses which could be capitalized, and which are consistent with the District's capital facilities plan.

C. Impact fees may be used to recoup costs for system improvements previously incurred by the District to the extent that new growth and development will be served by the previously constructed system improvements.

D. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended and where consistent with the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section.

E. Impact fees shall be expended or encumbered by the District for a permissible use within 10 years of receipt by the District, unless there exists an extraordinary or compelling reason for fees to be held longer than 10 years. Such extraordinary or compelling reasons shall be identified to the city by the District in a written report. The city council shall identify the District's extraordinary and compelling reasons for the fees to be held longer than 10 years in the council's own written findings.

F. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within 10 years of receipt of the funds by the District on school facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The District shall notify potential claimants by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.

G. An owner's request for a refund must be submitted to the District in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any impact fees that are not expended or encumbered by the District in conformance with the capital facilities plan within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended consistent with the provisions of this section. Refunds of impact fees shall include any interest earned on the impact fees.

H. Should the city seek to terminate any or all school impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which a school impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of the refunds in a newspaper of general circulation at least two times and

shall notify all potential claimants by first-class mail addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the District, but must be expended by the District, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

I. A developer may request and shall receive a refund, including interest earned on the impact fees, when:

1. The developer has not received final plat approval, the building permit, the mobile home permit, the site plan approval, nor final approval for the development activity as required by statute or city code including the International Building Code; and

2. No impact on the District has resulted. "Impact" shall be deemed to include cases where the District has expended or encumbered the impact fees in good faith prior to the application for a refund. In the event that the District has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the District and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The District shall determine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in MICC 19.17.100.

J. Interest due upon the refund of impact fees required by this section shall be calculated according to the average rate received by the District on invested funds throughout the period during which the fees were retained. (Ord. 15C-15 § 1).

Chapter 19.18

PARKS IMPACT FEES

Sections:

19.18.010 Purpose and authority.

A. This chapter is enacted pursuant to the city's police powers, the Growth Management Act as codified in Chapter 36.70A RCW ("the Act") and the impact fee statutes as codified in RCW 82.02.050 through 82.02.100.

B. The purpose of this chapter is to:

1. Develop a program consistent with the city's comprehensive plan for joint public and private financing of publicly owned parks, open space and recreational facilities ("park facilities") consistent with the capital facilities plan of the city of Mercer Island comprehensive plan, as such public facilities are necessitated in whole or in part by development in the city;

2. Ensure adequate levels of service in park facilities;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of park facilities reasonably related to new development, in order to ensure the availability of adequate park facilities at the time new development occurs; and

4. Ensure fair collection and administration of such impact fees.

C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare. (Ord. 15C-22 § 1).

19.18.020 Definitions.

A. "Affordable housing unit" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the household income is paid for housing expenses (e.g., mortgage, property taxes, hazard and mortgage insurance and homeowners dues (if applicable), or (2) a renter-occupied housing unit affordable to households whose income is less than 60 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use another method as it may choose to determine the King County median income, adjusted for household size. The code official will make a determination of sales prices or rents that meet the affordability requirements of this chapter.

B. "Capital facilities plan" means the capital facilities element of the city of Mercer Island's comprehensive plan.

C. "City" means the city of Mercer Island.

D. "Developer" means the person or entity that owns or holds purchase options or other development control over property for which development activity is proposed.

E. "Development activity" means having any residential construction or expansion of a residential building, structure or use, any change in use of a residential building or structure, or any change in the use of residential land that creates additional demand for park facilities.

F. "Dwelling unit" means a dwelling as defined in MICC 19.16.010. For purposes of this chapter, an accessory dwelling unit as regulated in MICC 19.02.030 is considered an adjunct to the associated primary structure and is not charged a separate impact fee.

G. "Encumbered" means impact fees identified by the city as being committed as part of the funding for a park facility for which the publicly funded share has been assured or building permits sought or construction contracts let.

H. "Impact fee" means a payment of money imposed upon development activity as a condition of development approval to pay for park facilities needed to serve new growth and development, that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

I. "Impact fee schedule" means the table of impact fees to be charged per unit of development, computed by the formula contained in the parks impact fee rate study, indicating the standard fee amount per unit of development that shall be paid as a condition of such development within the city. (Ord. 15C-22 § 1).

19.18.030 Impact fee program elements.

A. The city shall impose impact fees on every development activity in the city for which an impact fee schedule has been established.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. The impact fee formula shall account in the fee calculation for future revenues the city will receive from the development.

C. The impact fee shall be based on the capital facilities element adopted by the city as part of the city's comprehensive plan and the city's comprehensive parks and recreation plan. (Ord. 15C-22 § 1).

19.18.040 Fee calculations.

A. The fee shall be calculated based on the methodology set forth in the parks impact fee rate study.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. The impact fee formula shall take into account the future revenues the city will receive from the development, along with system costs related to serving the new development.

C. For the purpose of this chapter, mobile homes shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

D. The methodology shall provide for a credit for park facilities or sites actually provided by a developer which the city finds acceptable. (Ord. 15C-22 § 1).

19.18.050 Assessment and collection of impact fees.

A. The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a residential building permit from the city.

B. All impact fees shall be collected from the applicant prior to issuance of the building permit unless the use of an independent fee calculation has been approved or unless the applicant applies for deferred payment of impact fees pursuant to MICC 19.18.060. The fee shall be calculated based on the impact fee schedule in effect at the time the building permit is issued unless otherwise required pursuant to MICC 19.18.060.

C. For building permits for mixed use developments, impact fees shall be imposed on the residential component of the development found on the city's permit and impact fee schedule.

D. For building permits within new subdivisions approved under Chapter 19.08 MICC, Subdivisions, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

E. The city shall not issue the required building permit unless and until the impact fees set forth in the impact fee schedule have been paid.

F. The city may impose an application fee, as provided for in the city's adopted permit and impact fee schedule, to cover the reasonable cost of administration of the impact fee program. The fee is not refundable and is collected from the applicant of the development activity permit at the time of permit issuance. (Ord. 15C-22 § 1).

19.18.060 Option for deferred payment of impact fees.

An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this section, to defer to final inspection the payment of an impact fee for a residential development unit. The following shall apply to any request to defer payment of an impact fee:

A. The applicant shall submit to the city a written request to defer the payment of an impact fee for a specifically identified building permit. The applicant's request shall identify, as applicable, the applicant's corporate identity and contractor registration number, the full names of all legal owners of the property upon which the development activity allowed by the building permit is to occur, the legal description of the property upon which the development activity allowed by the building permit is to occur, the tax parcel identification number of the property upon which the development activity allowed by the building permit is to occur, and the address of the property upon which the development activity allowed by the building permit is to occur. All applications shall be accompanied by an administrative fee as provided for in the city's adopted permit and impact fee schedule.

B. The impact fee amount due under any request to defer payment of impact fees shall be based on the schedule in effect at the time the applicant provides the city with the information required in subsection A of this section.

C. Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, all applicants and/or legal owners of the property upon which the development activity allowed by the building permit is to occur must sign a deferred impact fee payment lien in a form acceptable to the city attorney. The deferred impact fee payment lien shall be recorded against the property subject to the building permit and be granted in favor of the city in the amount of the deferred impact fee. Any such lien shall be junior and subordinate only to one mortgage for the purpose of construction upon the same real property subject to the building permit. In addition to the administrative fee required in subsection A of this section, the applicant shall pay to the city the fees necessary for recording the lien agreement with the King County recorder.

D. The city shall not approve a final inspection until the park impact fees identified in the deferred impact fee payment lien are paid in full.

E. In no case shall payment of the impact fee be deferred for a period of more than 18 months from the date of building permit issuance.

F. Upon receipt of final payment of the deferred impact fee as identified in the deferred impact fee payment lien, the city shall execute a release of lien for the property. The property owner may, at his or her own expense, record the lien release.

G. In the event that the deferred impact fee is not paid within the time provided in this section, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW.

H. An applicant is entitled to defer impact fees pursuant to this section for no more than 20 single-family dwelling unit building permits per year in the city. For purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant. (Ord. 15C-22 § 1).

19.18.070 Exemptions.

The following development activities are exempt or partially exempt from the payment of park impact fees:

A. Reconstruction, remodeling or construction of any form of affordable (low-income) housing units, as defined in this chapter, may request an exemption of 80 percent of the required impact fee. Any claim for an exemption for affordable housing units must be made prior to payment of the impact fee, and any claim not so made shall be deemed waived. Prior to any development approval, the owner shall execute and record against the property in the King County real property title records a city-prepared covenant that shall guarantee that the affordable housing shall continue, which covenant shall run with the land, address annual reporting requirements to the city, price restrictions and household income limits and be consistent with the provisions of RCW 82.02.060(3) as now adopted or hereafter amended. In the event that the exempt housing unit is no longer used for affordable (low-income) housing as defined in this chapter, the current owner shall pay the applicable impact fees in effect at the time of conversion.

B. Rebuilding of legally established building(s) destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe, or remodeling of existing legally established building(s), or replacing demolished legally established building(s); provided, that a complete building permit for construction or reconstruction is submitted to the city within 12 months of the date of the loss or demolition, as the case may be, and so long as no additional dwelling units are created.

C. Condominium projects in which existing dwelling units are converted into condominium ownership and where no new dwelling units are created.

D. Any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act.

E. Any development activity for which park impacts have been mitigated pursuant to a condition of plat approval to pay fees, dedicate land or construct or improve park facilities, unless the condition of the plat approval provides otherwise; and further provided, that the condition of the plat approval predates the effective date of fee imposition.

F. Any development activity for which park impacts have been mitigated pursuant to a voluntary agreement entered into with the city to pay fees, dedicate land or construct or improve park facilities, unless the terms of the voluntary agreement provide otherwise; and further provided, that the agreement predates the effective date of fee imposition. (Ord. 15C-22 § 1).

19.18.080 Determination of the fee, adjustments, exceptions and appeals.

A. The city shall determine a developer's impact fee, according to the impact fee schedule.

B. The fee amount established in the schedule shall be reduced by the amount of any payment previously made for the lot or development activity in question, either as a condition of approval or pursuant to a voluntary agreement.

C. Whenever a developer is granted approval subject to a condition that the developer provide a park facility acceptable to the city, the developer shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by this chapter. The cost of construction shall be estimated at the time of approval, but must be documented, and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a park impact fee.

D. The standard impact fees may be adjusted, if one of the following circumstances exist; provided, that any discount set forth in the fee formula fails to adjust for the error in the calculation or fails to ameliorate for the unfairness of the fee:

1. The developer demonstrates that an impact fee assessment was improperly calculated; or

2. Unusual circumstances identified by the developer demonstrate that if the standard impact fee amount was applied to the development, it would be unfair or unjust.

E. A developer may provide studies and data to demonstrate that any particular factor used by the city may not be appropriately applied to the development proposal.

F. Any appeal of the decision of the city with regard to fee amounts shall follow the process for the appeal of the underlying development application, as set forth in the Mercer Island City Code. Any errors in the formula identified as a result of the appeal should be referred to the council for possible modification.

G. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity. (Ord. 15C-22 § 1).

19.18.090 Impact fee accounts and refunds.

A. Impact fee receipts shall be earmarked specifically and retained in a special interest bearing account established by the city solely for the city's park impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which impact fees were imposed. Annually, the city shall prepare a report on the impact fee account showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees.

B. Impact fees for park system improvements shall be expended by the city for capital improvements including but not limited to park planning, land surveys, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, capital equipment

pertaining to recreational facilities, and any other expenses which could be capitalized, and which are consistent with the city's capital facilities element of its comprehensive plan or the city's comprehensive parks and recreation plan.

C. Impact fees may be used to recoup costs for system improvements previously incurred by the city to the extent that new growth and development will be served by the previously constructed system improvements.

D. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended and where consistent with the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section.

E. Impact fees shall be expended or encumbered by the city for a permissible use within 10 years of receipt by the city, unless there exists an extraordinary or compelling reason for fees to be held longer than 10 years.

F. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within 10 years of receipt of the funds by the city on park facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The city shall notify potential claimants by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.

G. An owner's request for a refund must be submitted to the city in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any impact fees that are not expended or encumbered by the city in conformance with the capital facilities element within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended consistent with the provisions of this section. Refunds of impact fees shall include any interest earned on the impact fees.

H. Should the city seek to terminate any or all park impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which a park impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of the refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended by the city, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

I. A developer may request and shall receive a refund, including interest earned on the impact fees, when:

1. The developer has not received final plat approval, the building permit, the mobile home permit, the site plan approval, nor final approval for the development activity as required by statute or city code including the International Building Code; and

2. No impact on the city has resulted. "Impact" shall be deemed to include cases where the city has expended or encumbered the impact fees in good faith prior to the application for a refund. In the event that the city has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the city and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The city shall deter-

mine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in MICC 19.18.080.

J. Interest due upon the refund of impact fees required by this section shall be calculated according to the average rate received by the city on invested funds throughout the period during which the fees were retained. (Ord. 15C-22 § 1).

19.18.100 Fee schedule and updates.

A. The following impact fees are based on the city's 2015 rate study:

1. Single-family dwelling unit: $2,054 per dwelling unit.

2. Multifamily: $1,320 per dwelling unit.

B. Park impact fee rates shall be updated annually using the following procedures:

1. The code official shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News-Record to calculate annual inflation adjustments in the impact fee rates. The park impact fees shall not be adjusted for inflation should the index remain unchanged.

2. The indexed impact fee rates shall be effective January 1. A copy of the indexed impact fee rates shall be provided to the city council but the indexed rates shall become effective without further council review.

C. The code official shall review the park impact fee rates annually to determine when a new park impact fee rate study should be prepared and recommend to the city council when a new study should be prepared. (Ord. 15C-22 § 1).

Chapter 19.19

TRANSPORTATION IMPACT FEES

Sections:

19.19.010 Purpose and authority.

A. This chapter is enacted pursuant to the city's police powers, the Growth Management Act as codified in Chapter 36.70A RCW ("the Act") and the impact fee statutes as codified in RCW 82.02.050 through 82.02.100.

B. The purpose of this chapter is to:

1. Develop a program consistent with the city's comprehensive plan for joint public and private financing of public streets and roads ("transportation facilities") consistent with the capital facilities plan of the city of Mercer Island comprehensive plan, as such transportation facilities are necessitated in whole or in part by development in the city;

2. Ensure adequate levels of service in transportation facilities;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of transportation facilities reasonably related to new development, in order to ensure the availability of adequate transportation facilities at the time new development occurs; and

4. Ensure fair collection and administration of such impact fees.

C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare. (Ord. 16C-01 § 1).

19.19.020 Definitions.

A. "Affordable housing unit" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the household income is paid for housing expenses (e.g., mortgage, property taxes, hazard and mortgage insurance and homeowner's dues (if applicable), or (2) a renter-occupied housing unit affordable to households whose income is less than 60 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use another method as it may choose to determine the King County median income, adjusted for household size. The code official will make a determination of sales prices or rents that meet the affordability requirements of this chapter.

B. "Capital facilities plan" means the capital facilities element of the city of Mercer Island's comprehensive plan.

C. "City" means the city of Mercer Island.

D. "Developer" means the person or entity that owns or holds purchase options or other development control over property for which development activity is proposed.

E. "Development activity" means having any construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand for transportation facilities.

F. "Dwelling unit" means a dwelling as defined in MICC 19.16.010. For purposes of this chapter, an accessory dwelling unit as regulated in MICC 19.02.030 is considered an adjunct to the associated primary structure and is not charged a separate impact fee.

G. "Encumbered" means impact fees identified by the city as being committed as part of the funding for a transportation facility for which the publicly funded share has been assured or building permits sought or construction contracts let.

H. "Impact fee" means a payment of money imposed upon development activity as a condition of development approval to pay for transportation facilities needed to serve new growth and development, that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

I. "Impact fee schedule" means the table of impact fees to be charged per unit of development, computed by the formula contained in the transportation impact fee rate study, indicating the standard fee amount per unit of development that shall be paid as a condition of such development within the city. (Ord. 16C-01 § 1).

19.19.030 Impact fee program elements.

A. The city shall impose impact fees on every development activity in the city for which an impact fee schedule has been established.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. The impact fee formula shall account in the fee calculation for future revenues the city will receive from the development.

C. The impact fee shall be based on the capital facilities element adopted by the city as part of the city's comprehensive plan and on the city's six-year transportation improvement program. (Ord. 16C-01 § 1).

19.19.040 Fee calculations.

A. The fee shall be calculated based on the methodology set forth in the transportation impact fee rate study.

B. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the cost of system improvements that are reasonably related to the new development. The impact fee formula shall take into account the future revenues the city will receive from the development, along with system costs related to serving the new development.

C. For the purpose of this chapter, mobile homes shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

D. The methodology shall provide for a credit for transportation facilities or sites actually provided by a developer which the city finds acceptable. (Ord. 16C-01 § 1).

19.19.050 Assessment and collection of impact fees.

A. The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a building permit from the city.

B. All impact fees shall be collected from the applicant prior to issuance of the building permit unless the use of an independent fee calculation has been approved or unless the applicant applies for deferred payment of impact fees pursuant to MICC 19.19.060. The fee shall be calculated based on the impact fee schedule in effect at the time the building permit is issued unless otherwise required pursuant to MICC 19.19.060.

C. For building permits within new subdivisions approved under Chapter 19.08 MICC (Subdivisions), a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

D. The city shall not issue the required building permit unless and until the impact fees set forth in the impact fee schedule have been paid.

E. The city may impose an application fee, as provided for in the city's adopted permit and impact fee schedule, to cover the reasonable cost of administration of the impact fee program. The fee is not refundable and is collected from the applicant of the development activity permit at the time of permit issuance. (Ord. 16C-01 § 1).

19.19.060 Option for deferred payment of impact fees.

An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this section, to defer to final inspection the payment of an impact fee for a residential development unit. The following shall apply to any request to defer payment of an impact fee:

A. The applicant shall submit to the city a written request to defer the payment of an impact fee for a specifically identified building permit. The applicant's request shall identify, as applicable, the applicant's corporate identity and contractor registration number, the full names of all legal owners of the property upon which the development activity allowed by the building permit is to occur, the legal description of the property upon which the development activity allowed by the building permit is to occur, the tax parcel identification number of the property upon which the development activity allowed by the building permit is to occur, and the address of the property upon which the development activity allowed by the building permit is to occur. All applications shall be accompanied by an administrative fee as provided for in the city's adopted permit and impact fee schedule.

B. The impact fee amount due under any request to defer payment of impact fees shall be based on the schedule in effect at the time the applicant provides the city with the information required in subsection A of this section.

C. Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, all applicants and/or

legal owners of the property upon which the development activity allowed by the building permit is to occur must sign a deferred impact fee payment lien in a form acceptable to the city attorney. The deferred impact fee payment lien shall be recorded against the property subject to the building permit and be granted in favor of the city in the amount of the deferred impact fee. Any such lien shall be junior and subordinate only to one mortgage for the purpose of construction upon the same real property subject to the building permit. In addition to the administrative fee required in subsection A of this section, the applicant shall pay to the city the fees necessary for recording the lien agreement with the King County recorder.

D. The city shall not approve a final inspection until the transportation impact fees identified in the deferred impact fee payment lien are paid in full.

E. In no case shall payment of the impact fee be deferred for a period of more than 18 months from the date of building permit issuance.

F. Upon receipt of final payment of the deferred impact fee as identified in the deferred impact fee payment lien, the city shall execute a release of lien for the property. The property owner may, at his or her own expense, record the lien release.

G. In the event that the deferred impact fee is not paid within the time provided in this subsection, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW.

H. An applicant is entitled to defer impact fees pursuant to this section for no more than 20 single-family dwelling unit building permits per year in the city. For purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant. (Ord. 16C-01 § 1).

19.19.070 Exemptions.

The following development activity is exempt or partially exempt from the payment of transportation impact fees:

A. Reconstruction, remodeling or construction of any form of affordable (low-income) housing units, as defined in this chapter, may request an exemption of 80 percent of the required impact fee. Any claim for an exemption for affordable housing units must be made prior to payment of the impact fee, and any claim not so made shall be deemed waived. Prior to any development approval, the owner shall execute and record against the property in the King County real property title records a city-prepared covenant that shall guarantee that the affordable housing shall continue, which covenant shall run with the land, address annual reporting requirements to the city, price restrictions and household income limits and be consistent with the provisions of RCW 82.02.060(3) as now adopted or hereafter amended. In the event that the exempt housing unit is no longer used for affordable (low-income) housing as defined in this chapter, the current owner shall pay the applicable impact fees in effect at the time of conversion.

B. Rebuilding of legally established building(s) destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe, or remodeling of existing legally established building(s), or replacing demolished legally established building(s); provided, that a complete building permit for construction or reconstruction is submitted to the city within 12 months of the date of the loss or demolition, as the case may be, and so long as no additional dwelling units are created or change of use from one category on the impact fee schedule to another category on the impact fee schedule occurs. If such change of use occurs, the impact fee will be calculated based on the impact fee of the new use minus the impact fee of the prior use, based on the rates in the impact fee schedule pursuant to MICC 19.19.050.

C. Condominium projects in which existing dwelling units are converted into condominium ownership and where no new dwelling units are created.

D. Any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act.

E. Any development activity for which transportation impacts have been mitigated pursuant to a condition of plat approval to pay fees, dedicate land or construct or improve transportation facilities, unless the condition of the plat approval provides otherwise; and further provided, that the condition of the plat approval predates the effective date of fee imposition.

F. Any development activity for which transportation impacts have been mitigated pursuant to a voluntary agreement entered into with the city to pay fees, dedicate land or construct or improve transportation facilities, unless the terms of the voluntary agreement provide otherwise; and further provided, that the agreement predates the effective date of fee imposition.

G. Retail and restaurant uses as defined in Chapter 19.16 MICC. (Ord. 16C-01 § 1).

19.19.080 Determination of the fee, adjustments, exceptions and appeals.

A. The city shall determine a developer's impact fee, according to the impact fee schedule.

B. The fee amount established in the schedule shall be reduced by the amount of any payment previously made for the lot or development activity in question, either as a condition of approval or pursuant to a voluntary agreement.

C. Whenever a developer is granted approval subject to a condition that the developer provide a transportation facility acceptable to the city, the developer shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by this chapter. The cost of construction shall be estimated at the time of approval, but must be documented, and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a transportation impact fee.

D. The standard impact fees may be adjusted, if one of the following circumstances exist; provided, that any discount set forth in the fee formula fails to adjust for the error in the calculation or fails to ameliorate for the unfairness of the fee:

1. The developer demonstrates that an impact fee assessment was improperly calculated; or

2. Unusual circumstances identified by the developer demonstrate that if the standard impact fee amount was applied to the development, it would be unfair or unjust.

E. A developer may provide studies and data to demonstrate that any particular factor used by the city may not be appropriately applied to the development proposal.

F. Any appeal of the decision of the city with regard to fee amounts shall follow the process for the appeal of the underlying development application, as set forth in the Mercer Island City Code. Any errors in the formula identified as a result of the appeal should be referred to the council for possible modification.

G. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity. (Ord. 16C-01 § 1).

19.19.090 Impact fee accounts and refunds.

A. Impact fee receipts shall be earmarked specifically and retained in a special interest-bearing account established by the city solely for the city's transportation impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which impact fees were imposed. Annually, the city shall prepare a report on the impact fee account showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees.

B. Impact fees for transportation system improvements shall be expended by the city for capital improvements including but not limited to transportation planning, land surveys, land acquisition, site improvements, nec-

essary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, and any other expenses which could be capitalized, and which are consistent with the city's capital facilities element of its comprehensive plan or the city's six-year transportation improvement program.

C. Impact fees may be used to recoup costs for system improvements previously incurred by the city to the extent that new growth and development will be served by the previously constructed system improvements.

D. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended and where consistent with the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section.

E. Impact fees shall be expended or encumbered by the city for a permissible use within 10 years of receipt by the city, unless there exists an extraordinary or compelling reason for fees to be held longer than 10 years.

F. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within 10 years of receipt of the funds by the city on transportation facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The city shall notify potential claimants by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.

G. An owner's request for a refund must be submitted to the city in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any impact fees that are not expended or encumbered by the city in conformance with the capital facilities element within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended consistent with the provisions of this section. Refunds of impact fees shall include any interest earned on the impact fees.

H. Should the city seek to terminate any or all transportation impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which a transportation impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of the refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended by the city, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

I. A developer may request and shall receive a refund, including interest earned on the impact fees, when:

1. The developer has not received final plat approval, the building permit, the mobile home permit, the site plan approval, nor final approval for the development activity as required by statute or city code including the International Building Code; and

2. No impact on the city has resulted. "Impact" shall be deemed to include cases where the city has expended or encumbered the impact fees in good faith prior to the application for a refund. In the event that the city has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if, within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the city and provide receipts of impact fees paid by the owner for a development of the same or

substantially similar nature on the same property or some portion thereof. The city shall determine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in MICC 19.19.080.

J. Interest due upon the refund of impact fees required by this section shall be calculated according to the average rate received by the city on invested funds throughout the period during which the fees were retained. (Ord. 16C-01 § 1).

19.19.100 Fee schedule, review of schedule and updates.

A. The impact fees on Exhibit A to the ordinance codified in this chapter are based on the city's 2015 rate study.

B. Transportation impact fee rates shall be updated annually using the following procedures:

1. The code official shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The transportation impact fees shall not be adjusted for inflation should the index remain unchanged.

2. The indexed impact fee rates shall be effective January 1. A copy of the indexed impact fee rates shall be provided to the city council but the indexed rates shall become effective without further council review.

C. The code official shall review the transportation impact fee rates annually to determine when a new transportation impact fee rate study should be prepared and recommend to the city council when a new study should be prepared. (Ord. 16C-01 § 1).

APPENDICES

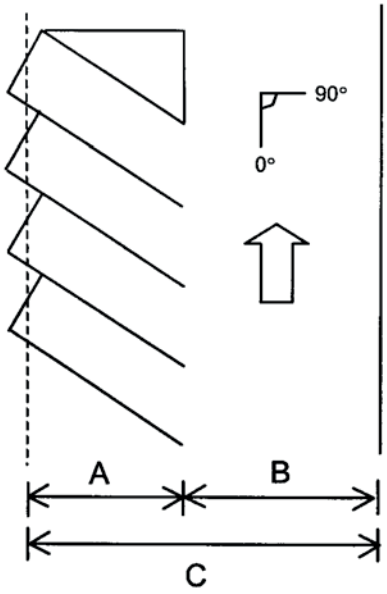
APPENDIX A PARKING LOT DIMENSIONS.

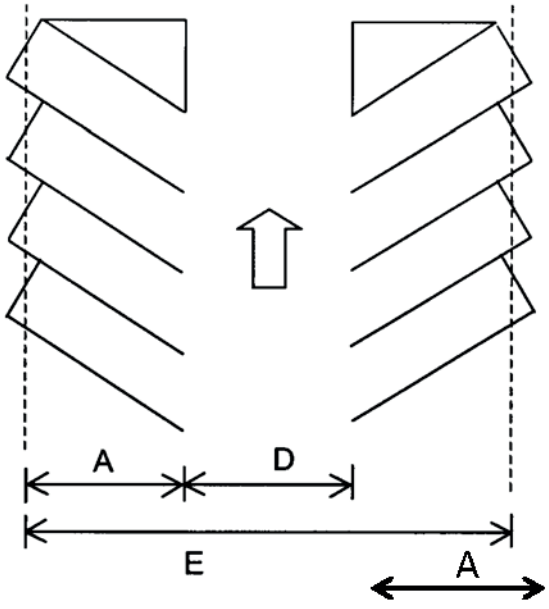
All parking areas shall conform to the following design standards unless alternative design standards are approved by the design commission and city engineer:

1. One-Way Traffic.

	Standard Stall (9' x 18.5')				
Parking Angle	A	B	C	D	E
0	8.0	12.0	20.0	12.0	28.0
45	12.0	18.0	30.0	18.0	42.0
50	13.0	18.0	31.0	18.0	44.0
55	14.0	18.0	32.0	18.0	46.0
60	15.0	18.0	33.0	18.0	48.0
65	16.0	18.0	34.0	18.0	50.0
70	16.5	18.0	34.5	18.0	51.0
75	17.0	18.0	35.0	18.0	52.0
80	17.5	18.0	35.5	18.0	53.0
85	18.0	18.0	36.0	18.0	54.0
90	18.5	18.0	36.5	18.0	55.0

Compact Stall (8.5' x 16')				
A	B	C	D	E
8.0	12.0	20.0	12.0	28.0
11.0	18.0	29.0	18.0	40.0
12.0	18.0	30.0	18.0	42.0
13.0	18.0	31.0	18.0	44.0
13.0	18.0	31.0	18.0	44.0
14.0	18.0	32.0	18.0	46.0
15.5	18.0	33.5	18.0	49.0
15.5	18.0	33.5	18.0	49.0
16.0	18.0	34.0	18.0	50.0
16.0	18.0	34.0	18.0	50.0
16.0	18.0	34.0	18.0	50.0

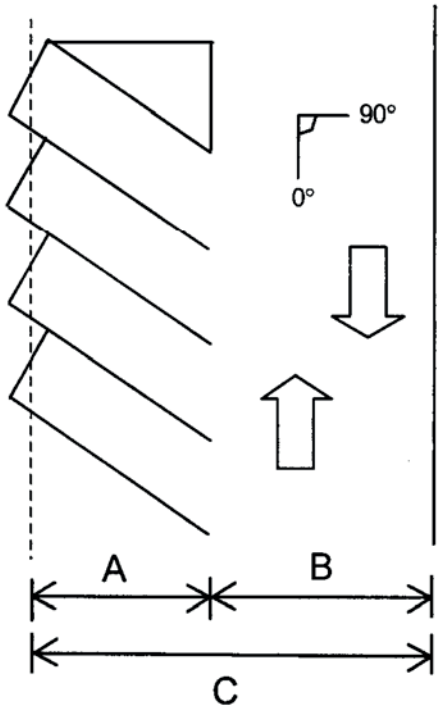


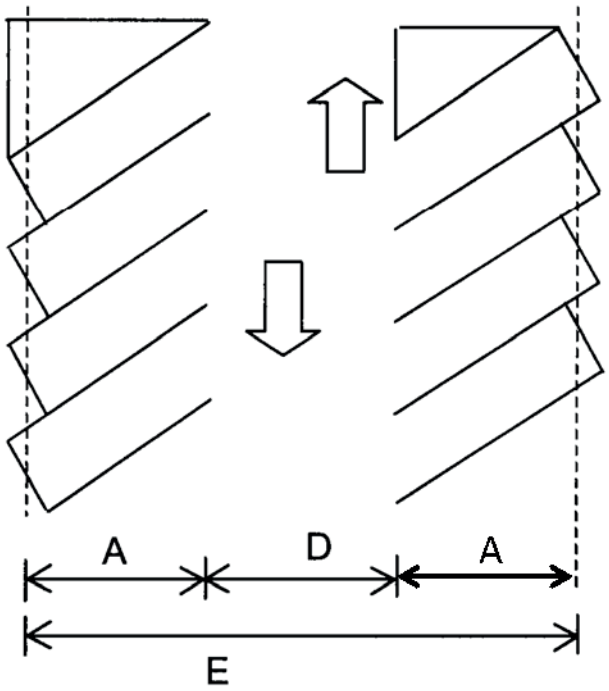


2. Two-Way Traffic.

	Standard Stall (9' x 18.5')				
Parking Angle	A	B	C	D	E
0	8.0	24.0	32.0	24.0	40.0
45	12.0	24.0	36.0	24.0	48.0
50	13.0	24.0	37.0	24.0	50.0
55	14.0	24.0	38.0	24.0	52.0
60	15.0	24.0	39.0	24.0	54.0
65	16.0	24.0	40.0	24.0	56.0
70	16.5	24.0	40.5	24.0	57.0
75	17.0	24.0	41.0	24.0	58.0
80	17.5	24.0	41.5	24.0	59.0
85	18.0	24.0	42.0	24.0	60.0
90	18.5	24.0	42.5	24.0	61.0

Compact Stall (8.5' x 16')				
A	B	C	D	E
8.0	24.0	32.0	24.0	40.0
11.0	24.0	35.0	24.0	46.0
12.0	24.0	36.0	24.0	48.0
13.0	24.0	37.0	24.0	50.0
13.0	24.0	37.0	24.0	50.0
14.0	24.0	38.0	24.0	52.0
15.0	24.0	39.0	24.0	54.0
15.0	24.0	39.0	24.0	54.0
16.0	24.0	40.0	24.0	56.0
16.0	24.0	40.0	24.0	56.0
16.0	24.0	40.0	24.0	56.0





(Ord. 16C-06 (Exh. A)).

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 =

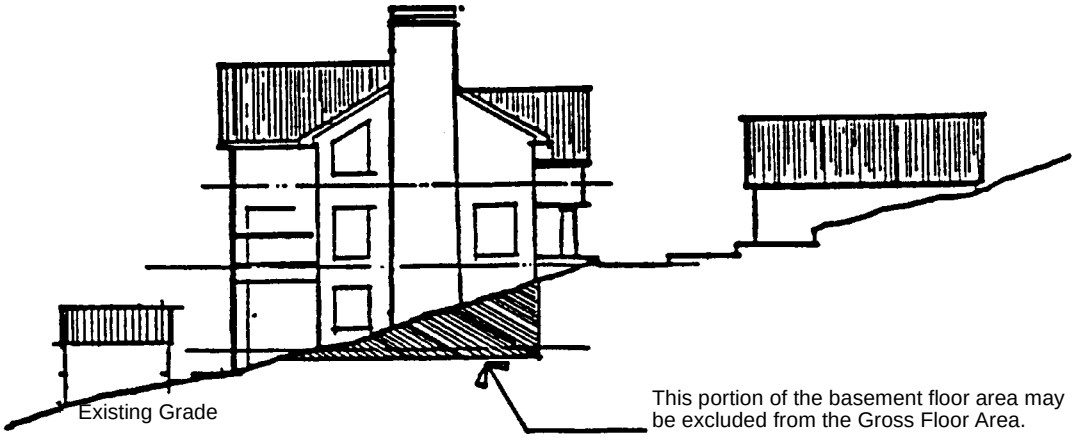
$$\text{Total Basement Area} \times \frac{\Sigma(\text{Wall Segment Coverage} \times \text{Wall Segment Length})}{\text{Total of all Wall Segment lengths}}$$

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.



EXAMPLE OF BASEMENT FLOOR AREA CALCULATION

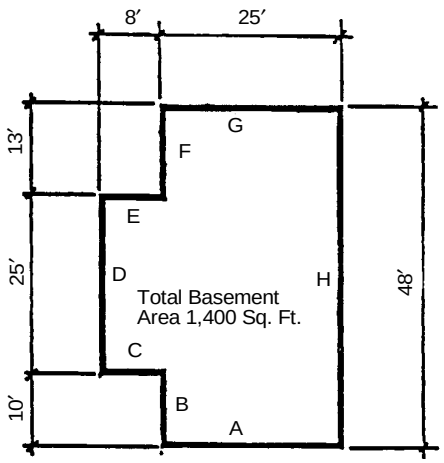
This example illustrates how a portion of the basement floor area may be excluded from the Gross Floor Area. In order to complete this example, the following information is needed.

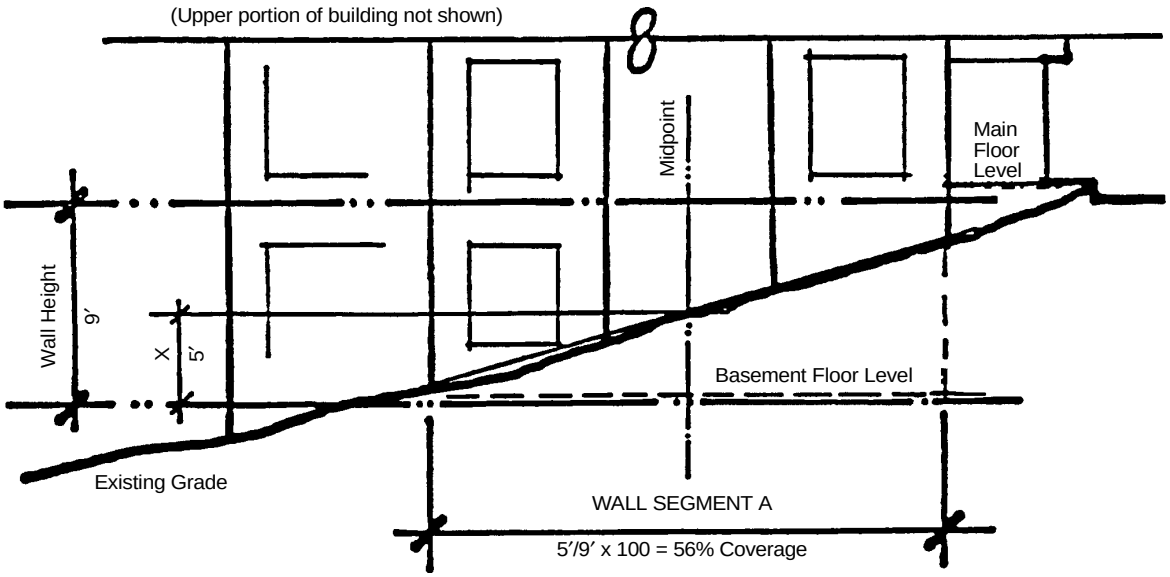
A. A topographic map of the existing grades.
B. Building plans showing dimensions of all exterior wall segments and floor areas.
C. Building elevations showing the location of existing grades in relation to basement level.

APPENDIX B

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.)





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 =

$$=1{,}400 \text{ Sq. Ft. x } \frac{(25' \times 56\% + 10' \times 0\% \ldots 25' \times 60\% + 48' \times 100\%)}{162'}$$

=1,400 Sq. Ft. x 47.53%

=665.42 Sq. Ft. Excluded from the Gross Floor Area

APPENDIX C DESIGN GUIDELINES OF THE MERCER ISLAND COMMISSION ADOPTED MAY 14, 1973.

SIGN GUIDELINES

(Repealed by Ord. 04C-08)

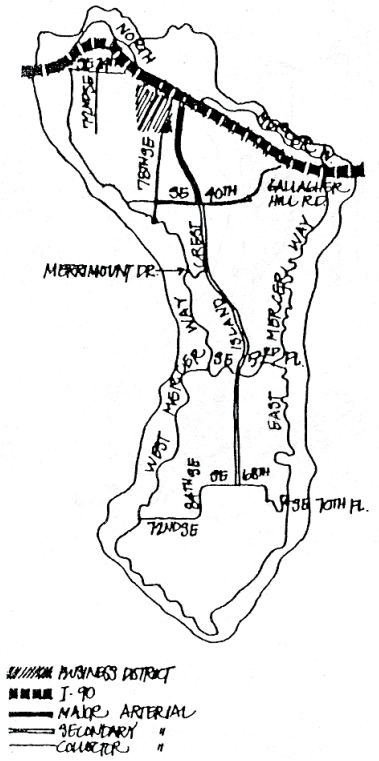
This page left intentionally blank.

ARTERIAL RIGHT-OF-WAY GUIDELINES

CONCEPTS:

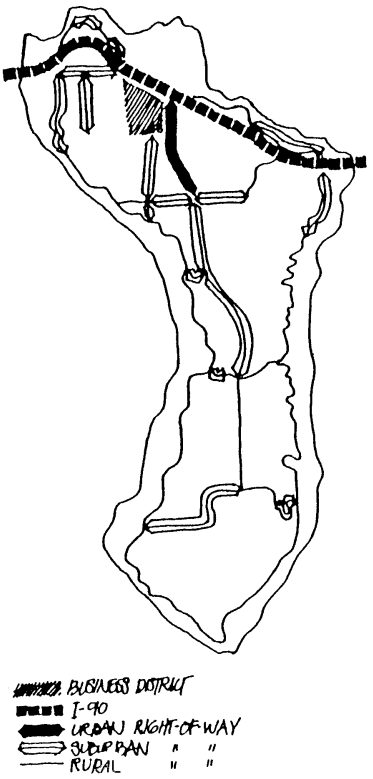
The intent of the guidelines is to develop further goals and objectives synthesized from previous Mercer Island planning studies, the community and the Design Commission in order to provide a framework within which right-of-way improvements may be implemented that will result in a coherent, continuous right-of-way system representative of the island environment and complementary to its natural character.

The following GOALS, INTENTIONS and CRITERIA constitute a basis for evaluating improvements and development as they may contribute to the overall intended right-of-way system.



CLASSIFICATION:

In consideration of the general environmental characteristics of the Island, the arterial right-of-ways have been grouped into three general classifications which are applicable to Mercer Island: rural, suburban and urban. Several of the arterials may have more than a single classification depending on their basic character. For the purpose of developing guidelines, only the major distinct segments of an arterial have been differentiated.



Because there is general community consensus that the rural characteristics of the Island should be retained, right-of-way development must be evaluated, not only on the basis of the prevalent classification for any one arterial, but also on the basis of retaining and reinforcing the much-sought-after rural image. For this reason the suburban segments of any one right-of-way should be subordinated to the rural segments and development "downgraded" accordingly.

These arterials have also been assigned route and section numbers by the Public Works Department which are recognized by the Urban Arterial Board, as well as an arterial designation of major, secondary, and collector. However, since the guidelines deal chiefly with visual characteristics of the right-of-way, the arterial section designations have been introduced primarily as a means of reference. Diagrams keying the classification are found with the corresponding guidelines under rural, suburban, and urban right-of-way headings.

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 d 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.

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.

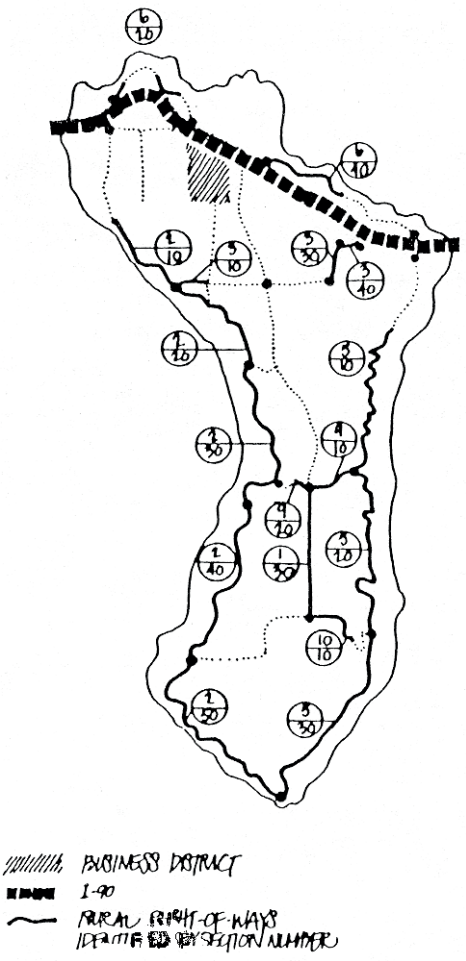
9. Provide adequate information regarding speed, location, and public destination points.

10. Discourage on-street parking except as provided by emergency regulation.

APPENDIX C

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.

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.

CRITERIA:

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. 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.

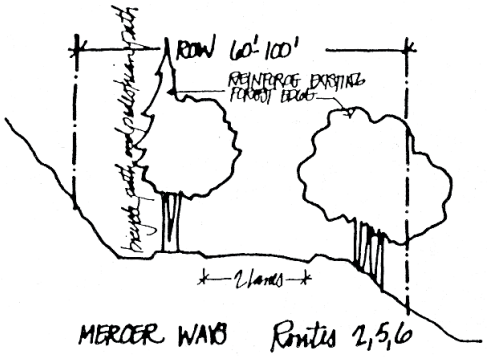
2a. Provide 1-2 car turnouts at all trailheads.

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.

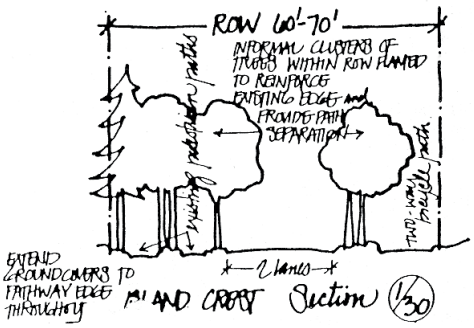


It is recommended that bicycle travel be accommodated along the Mercer Ways through a separation of the bicycle facility by a minimum setback of 5 feet from the roadway wherever topography permits. In considering the facility, extra care should be given to potential disruption of the right-of-way and 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.

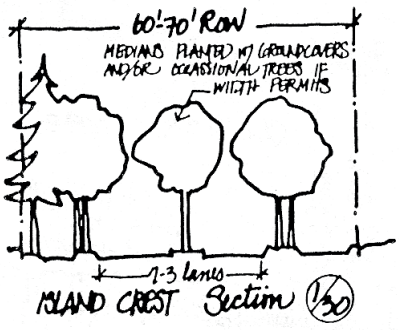
b. Island Crest: Section 1/30.

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.

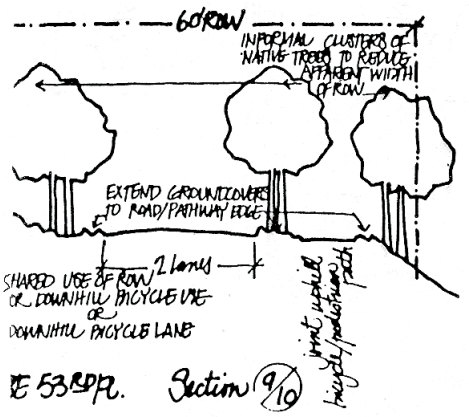
Pedestrian paths south of SE 63rd are recommended for the east side of the right-of-way adjoining the proposed bicycle path, with the Pioneer Park edge left undisturbed.



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.

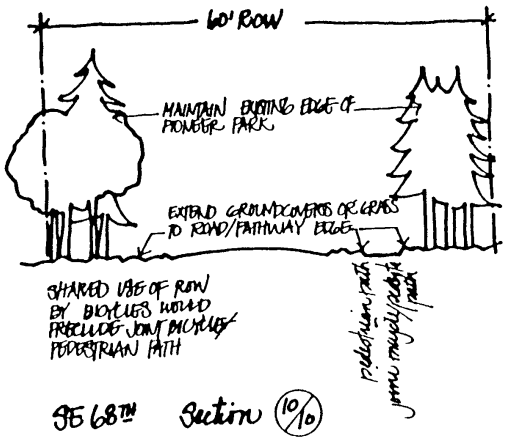
A bicycle facility along SE 53rd Pl. due west of Island Crest, section 9/20 should be implemented to facilitate cross Island travel when this arterial is completed. Every effort should be made to retain the rural character of the upper portion of section 9/20. This should be the major consideration and 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 0/10, 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 P1.

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.

APPENDIX C

CRITERIA:

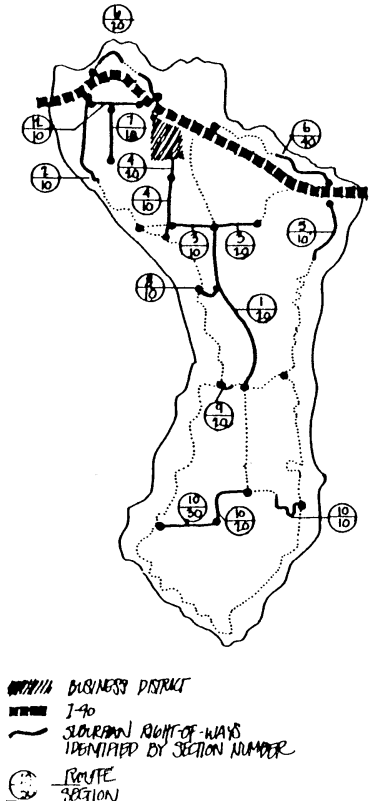
1a. Within a period of one year, restore all scarred, retained and severely cut and/or filled areas that interfere with the natural drainage patterns.

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.



GOAL:

Enhance and develop the roadway as an extension of the adjoining properties within the context of the overall Island character.

INTENT:

1. Minimize disruption of adjoining residential community.

2. Provide for pedestrian and bicycle safety.

3. Delineate tile 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.

CRITERIA:

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.

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.

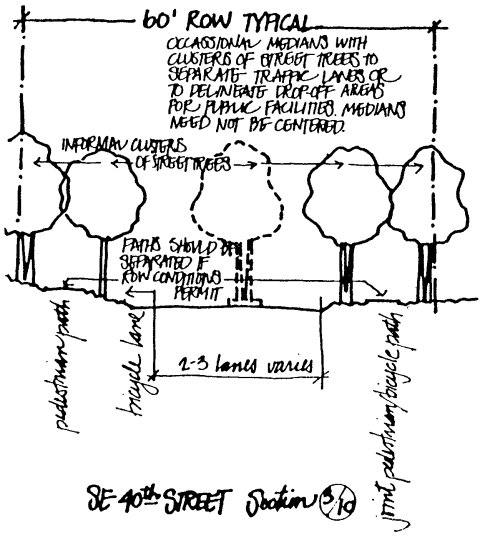
3d-4. Consider the use of street trees to delineate the roadway and reduce its apparent width, to shield the utility poles and wiring until eventual undergrounding, and to integrate the right-of-way with the adjoining community, with attention given to road visibility, particularly at intersections.

5. Repair all bank cuts and restore to near natural state, 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.

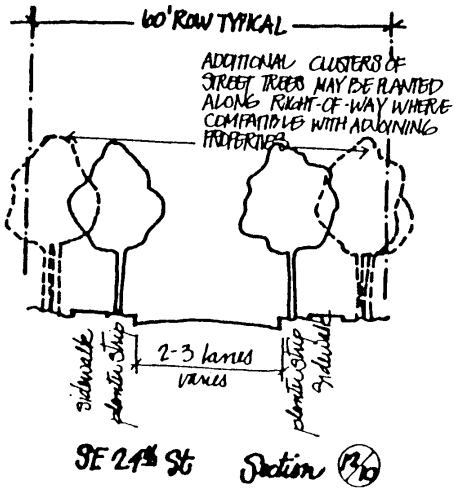
A combination of a bicycle lane and a joint bicycle/pedestrian path or lane with maximum separation from the roadway as permitted within the existing right-of-way should be adequate to accommodate two-way bicycle travel along SE 40th from 92nd SE to 70th or 76th SE, depending upon which route is used 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.

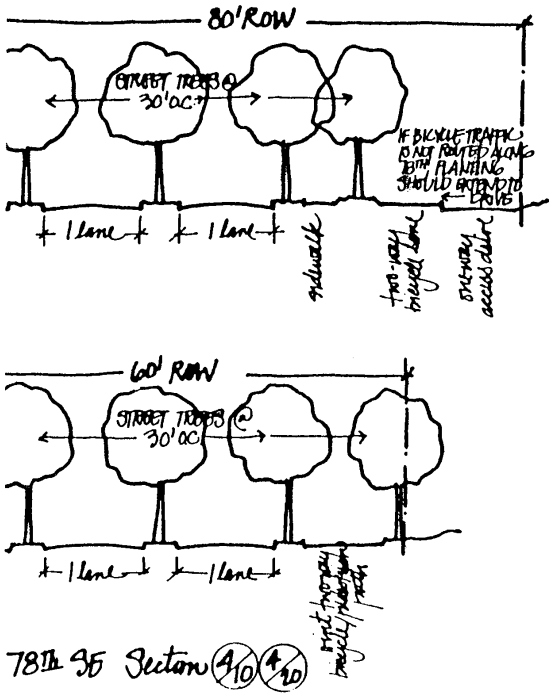
Since closely adjoining residential properties make a separated bicycle facility along this arterial unrealistic, a shared right-of-way is recommended.

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.

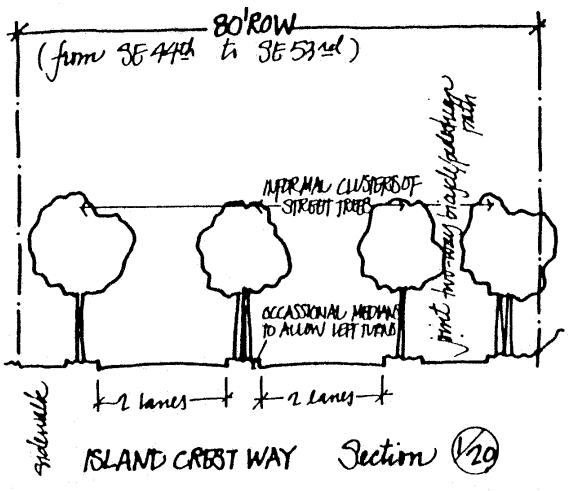
If bicycle traffic is to be routed along 78th SE, it is recommended that a joint two-way bicycle/pedestrian path be implemented along the east side of the right-of-way. A separated sidewalk and bicycle lane could easily be implemented along the 80 foot portion of the right-of-way by limiting the adjoining 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.

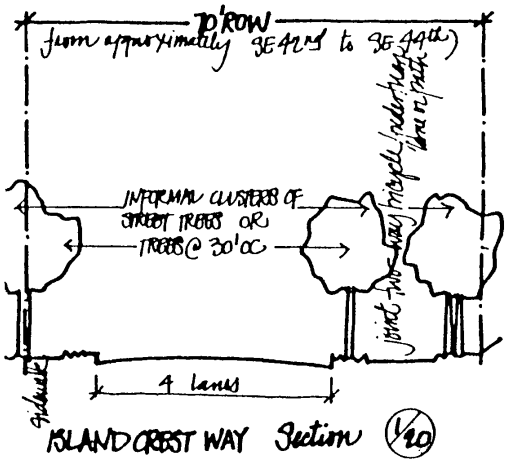
SE 78th north of SE 40th is recommended for street trees and median trees at approximately 30 feet on center. Plant materials should be an extension of the sycamores, red maples and ivy used on SE 78th within the Business District.

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.



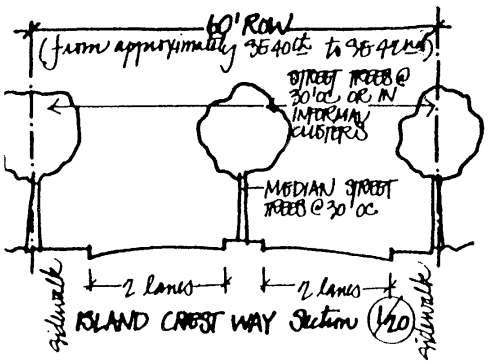
Uninterrupted median street trees are recommended along Island Crest at approximately 30 feet on center from SE 40th to approximately SE 42nd of a type mentioned in b. above, providing left turn traffic can be accommodated.

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.

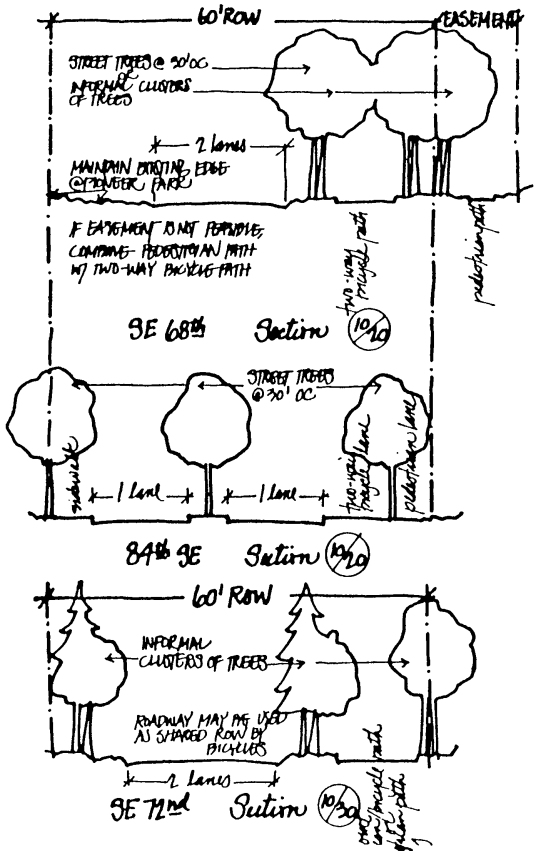


Groundcovers should be native to the Island and relatively maintenance free, such as ivy, salal, and red fescue field grass. Wherever right-of-way groundcover areas adjoin private property, effort should be made to achieve a pleasing transition by the use of compatible materials or if appropriate, by 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 groundcovers 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 an 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.

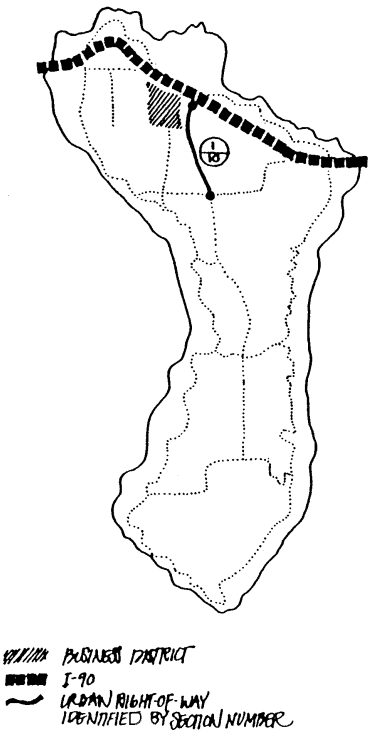
j. Portions of Mercer Ways: Route 2, northern half of section 2/10; portions of route 6, sections 6/20 and 6/40; route 5 segment of section 5/10.

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.

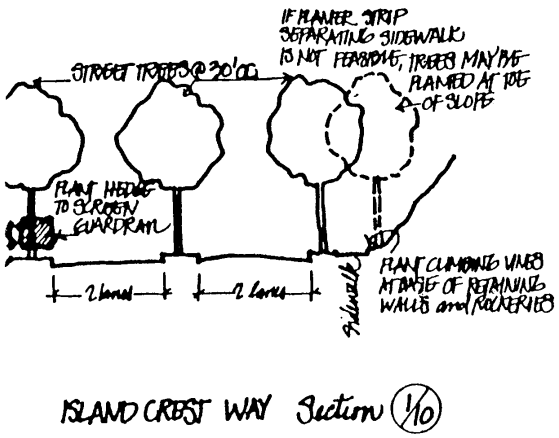
CRITERIA:

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.

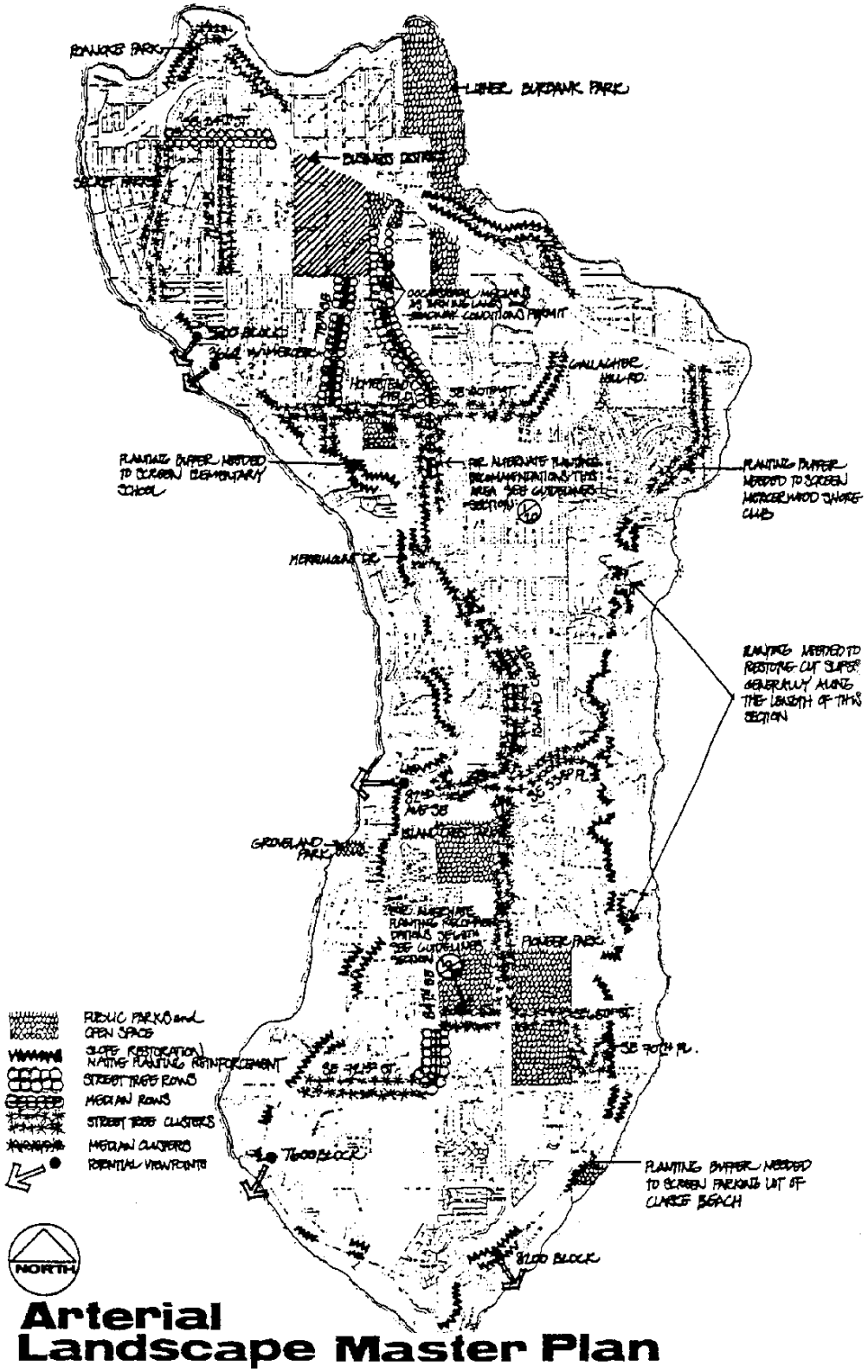
2c-3a. Maintain a narrow planter strip east of the existing sidewalk along the east side of Island Crest in order to provide a uniform planting buffer of ivy or similar vines along the rockery and retaining walls adjoining the sidewalk. Consider increasing the width of this sidewalk to 6 feet to facilitate pedestrian access to the Business District.



ISLAND CREST WAY Section 1/10

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.

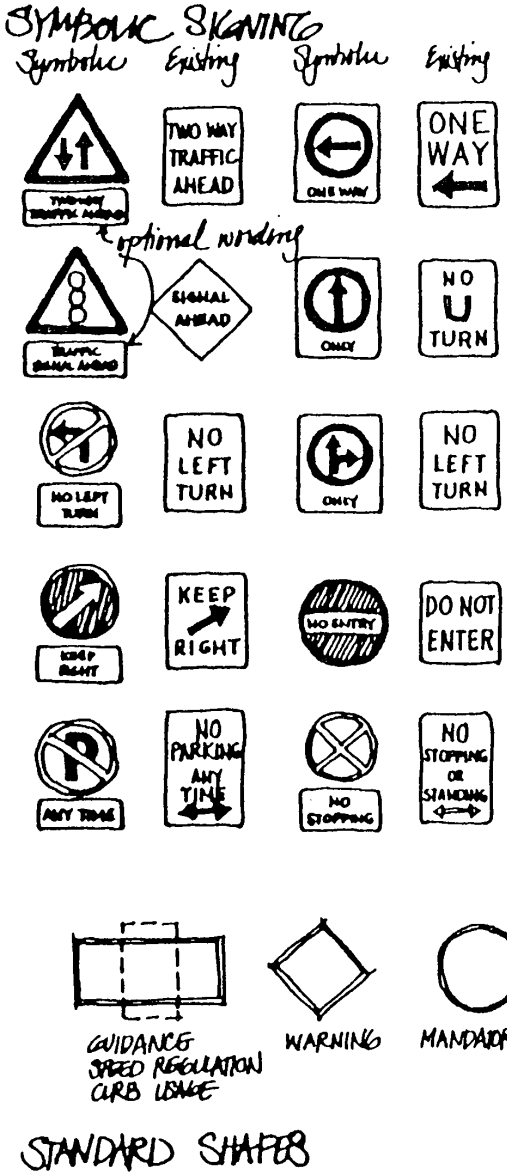
3c. Lighting should provide general illumination to the right-of-way corridor, be pleasing to the pedestrian, and of such intensity as to prevent area-wide lighting or disruption of the general view from the adjoining apartment community. Lighting standards should not exceed 24 feet in height and should be the same type of standard used in the Business District or compatible with it. (Also see Public Signing, Lighting and Other Street Furniture).



Arterial Landscape Master Plan

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 <u>circle</u>: mandatory rules; 2) the <u>rectangle:</u> guidance, speed regulations, and curb usage; and 3) the <u>diamond</u>: 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 <u>red circle</u> is used for prohibiting signs, i.e., no entry, no parking, etc. The <u>green circle</u> is used for permitted turning rules. The <u>yellow diamond</u> indicates warning. <u>Blue rectangles</u> give local guidance and <u>green rectangles</u> 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 <u>Manual on Uniform Traffic Control Devices</u> 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 that symbols, once accepted by the general public, offer greater

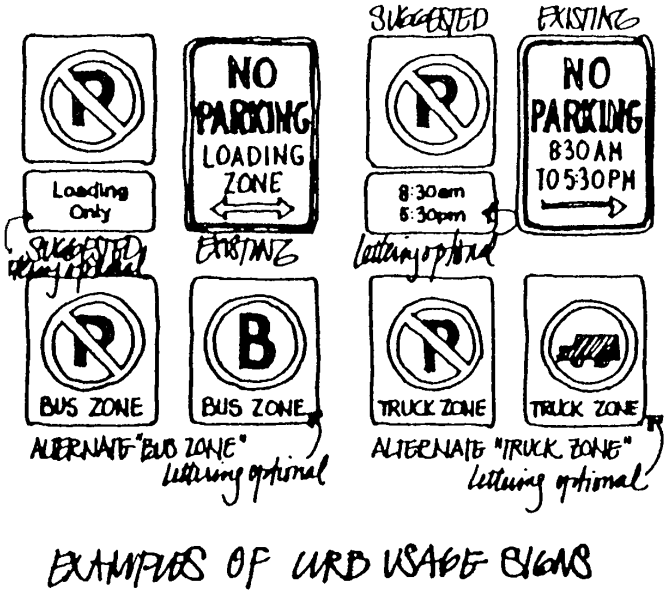
clarity and legibility than the current, lengthy verbal directives in use. Because properly designed symbolic signing is more readily perceived and comprehended than its verbal counterpart, the number of necessary signs may be significantly reduced.

Mercer Island is, in a sense, a fairly remote community that does not receive a great deal of outside traffic, and for this reason has the need for relatively few public signs as compared to a community such as Burien or Renton which cater to a great number of outside visitors. This has a distinct advantage not only in keeping signs to a minimum, but also in introducing changes to an existing signing system.

Curb Usage Signs

Curb usage signs (no parking, bus stop, loading, etc.) although classified as Regulatory Signs, are not as important to traffic safety as other regulatory and warning signs, and thus offer a chance to introduce purely symbolic signing without compromising user safety.

The diagonally slashed red circle is an internationally accepted prohibitive symbol and is included in the Manual as acceptable signing for prohibiting truck and bicycle entry. The slashed circle, in conjunction with perhaps limited wording, may be used as the basis for most of the curb usage signing needed, within the Business District. (See diagrams.)



EXAMPLES OF CURB USAGE SIGNS

Warning Signs

Warning signs are primarily placed for the protection of the driver who may not be acquainted with the road conditions which may be potentially dangerous. Warning signs indicate crossings, curves, impending signals, slippery conditions etc. The majority of warning signs are diamond shaped with a black legend and yellow background. They are often used in conjunction with a rectangular verbal guidance sign.

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.

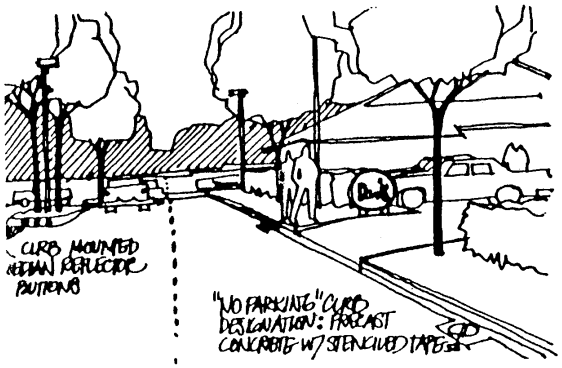
5. Be legible at the speed and distance at which it is placed to be seen.

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.

APPENDIX C

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.

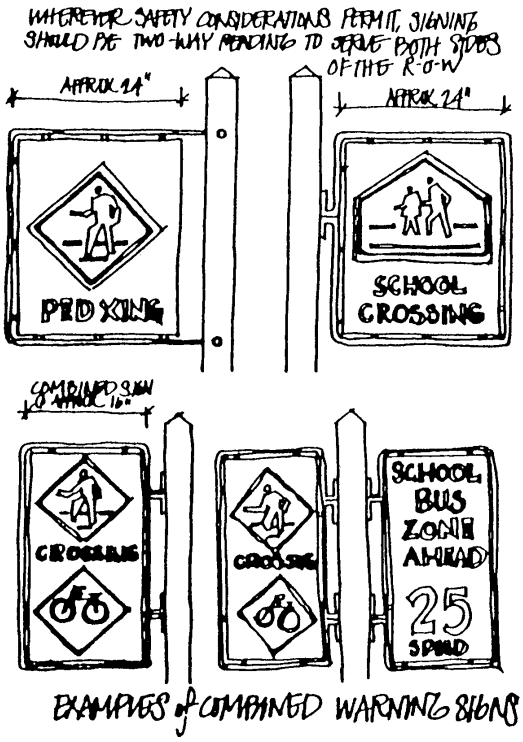
"No parking" designations within the Business District may also be incorporated by means of curb markings, striping, or by the use of the slashed red circle symbol as part of the curb shoulder. In this case the "no parking" designation should be used at approximately 40-50 foot intervals.

Reflector buttons for medians should be made a part of the curb. Use of upright reflector mounts should be discouraged.

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.

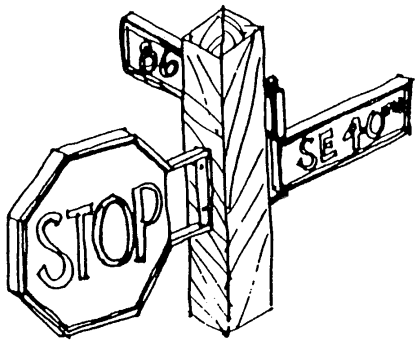
The color coding and diamond outline are of particular importance for easy identification of these signs, while the image in this case is of secondary importance.

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.



COMBINED STOP and STREET SIGNING

Speed limit signs should be kept at minimum permitted sizes, and where permissible they should be combined with other roadside 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.

APPENDIX C

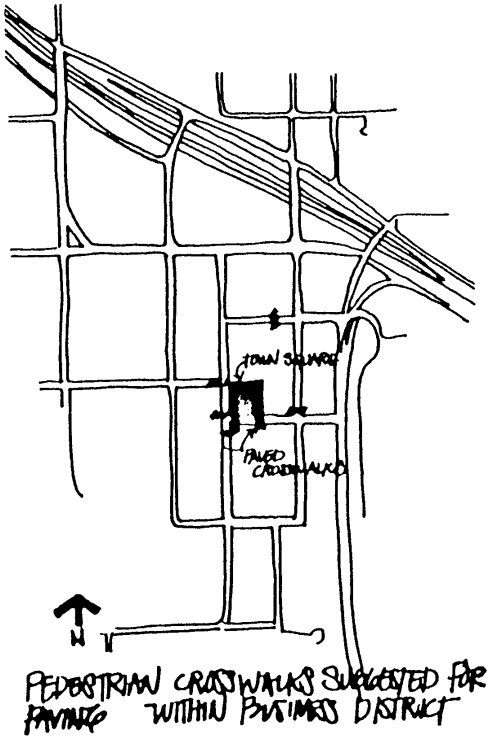
Lighting

GOAL:

Provide safety for vehicular traffic and pedestrians.

INTENT:

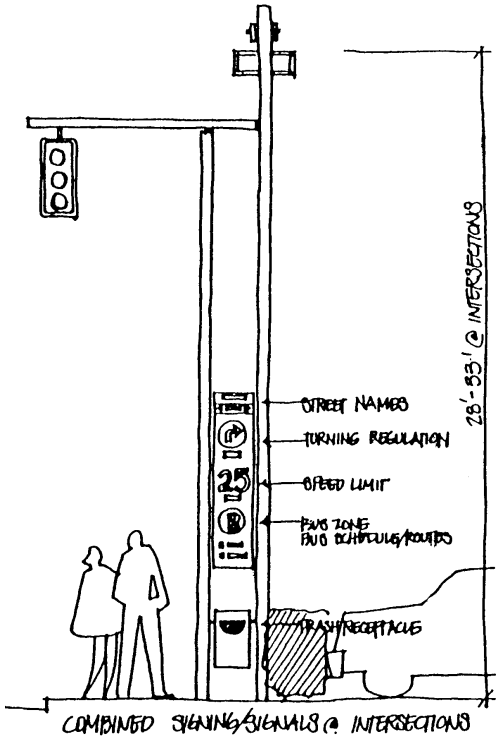
Provide the amount and quality of light as recommended by recognized standards while satisfying the other goals included here. Within the Business District an average of 1.2 f.c. may be used, which is the IES Handbook recommendation for "major" roadways in business districts not classified as downtowns. 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 driveways 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 lens.

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).

GOAL:

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 Hydrant: 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

(Repealed by Ord. 04C-08)

This page left intentionally blank.

City of Mercer Island Zoning Map

Legend

- B — Business
- C-O — Commercial Offices
- PBZ — Planned Business Zone
- R-12 — Residential 12,000 sq. ft lot
- R-15 — Residential 15,000 sq. ft lot
- R-8.4 — Residential 8,400 sq. ft lot
- R-9.6 — Residential 9,600 sq. ft lot
- MF-2 — Multi-Family
- MF-2L — Multi-Family
- MF-3 — Multi-Family
- TC — Town Center
- P — Public Institution

In general the zone boundaries coincide with the center of the public right of way and plat boundaries. In other areas it coincides with lot lines. In a few cases it splits a parcel or lot.

In some areas parcels are split by two zones. This is not a mistake. Please consult with a City planner to determine the correct designation for your property.

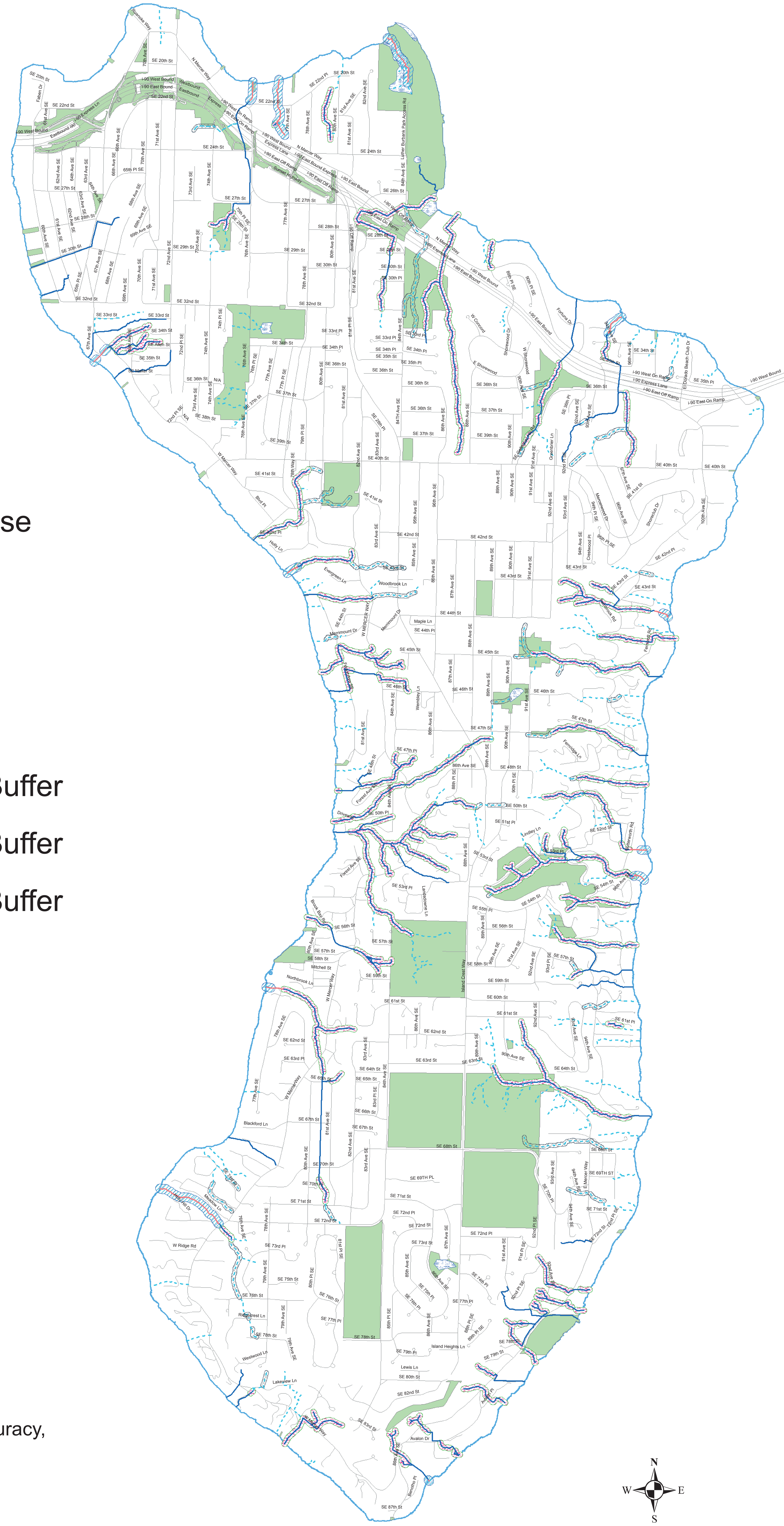
Original map Adopted: Ord 99C-13
Amended: Ord 00C-06
Amended: Ord 05C-13
Amended: Ord 13C-02

The parcel layer is provided for general reference only.
Sources:
Parcels: 2013
Zoning: 2013

City of Mercer Island IGS Information & Geographic Services

Map Version: December 2013

Watercourse Type Map



Watercourses

Type 1-Potential Fish Use

Type 2-Perennial

Type 3-Seasonal

Standard Buffers

Type 1 Standard 75 ft Buffer

Type 2 Standard 50 ft Buffer

Type 3 Standard 35 ft Buffer

Wetland

Disclaimer: No warranties of any sort including accuracy, fitness or merchantability accompany this map.

1 inch equals 675 feet

Appendix F - Proposed Shoreline Environment Designations[1,2,3]

Shoreline Master Program - City of Mercer Island

Urban Park Environment

Urban Residential Environment

Watercourse

Major Roads

Minor Roads

0 500 1,000 2,000 Ft

1 Waterward extent of City jurisdiction is measured to the middle of Lake Washington, pursuant to RCW 35.21.160.

2 Waterward extent of Shoreline Management Area is measured from the Ordinary High Watermark to the middle of Lake Washigton.

3 Landward extent of Shoreline Management Area is measured 200 ft landward of the Ordinary High Water Mark.

Information & Geographic Services

APPENDIX G CALCULATING AVERAGE BUILDING ELEVATION (ABE)

CITY OF MERCER ISLAND

9611 S. E. 36th Street, Mercer Island, Washington 98040 206.236.5300

CALCULATING AVERAGE BUILDING ELEVATION (ABE)

NOTE: INCOMPLETE AVERAGE BUILDING ELEVATION INFORMATION COULD SUBSTANTIALLY DELAY THE PROCESSING OF YOUR APPLICATION

No part of a structure may exceed 30 feet in height above the "Average Building Elevation" to the top of the structure, except that on the downhill side of a sloping lot the structure shall not extend to a height greater than 35 feet measured from existing grade to the top plate of the roof; provided the roof ridge does not exceed 30 feet in height above the "Average Building Elevation."
ABE is defined as: The elevation established by averaging the elevation of the existing grade, prior to any development activity, at the center of all exterior walls of a building or structure.

AVERAGE BUILDING ELEVATION FORMULA

$$= \frac{\text{(Midpoint Elevations) x (Length of Wall Segments)}}{\text{(Total Length of Wall Segments)}}$$

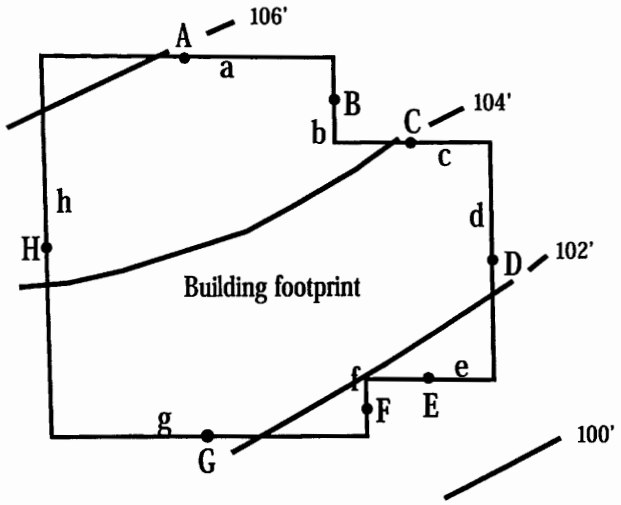
–OR–

$$= \frac{(Axa)+(Bxb)+(Cxc)+(Dxd)+(Exe)+(Dxd)+(Exe)+(Fxf)+(Gxg)+(Hxh)}{a+b+c+d+e+f+g+h}$$

WHERE: A,B,C,D... = Existing Ground Elevation at Midpoint of Wall Segment
AND: a,b,c,d... = Length of Wall Segment Measured on Outside of Wall

MIDPOINT ELEVATION
A = 105.9'
B = 104.7'
C = 103.7'
D = 102.2'
E = 101.6'
F = 101.7'
G = 102.2'
H = 104.5'

WALL SEGMENT LENGTH
a = 30'
b = 9'
c = 17'
d = 25'
e = 13'
f = 6'
g = 34'
h = 40'



NOTE: This example is not to scale. Site plans submitted to the building department must be to scale.

CALCULATION:

$$\frac{(105.9)(30)+(104.7)(9)+(103.7)(17)+(102.2)(25)+(101.6)(13)+(101.7)(6)+(102.2)(34)+(104.5)(40)}{30+9+17+25+13+6+34+40} =$$

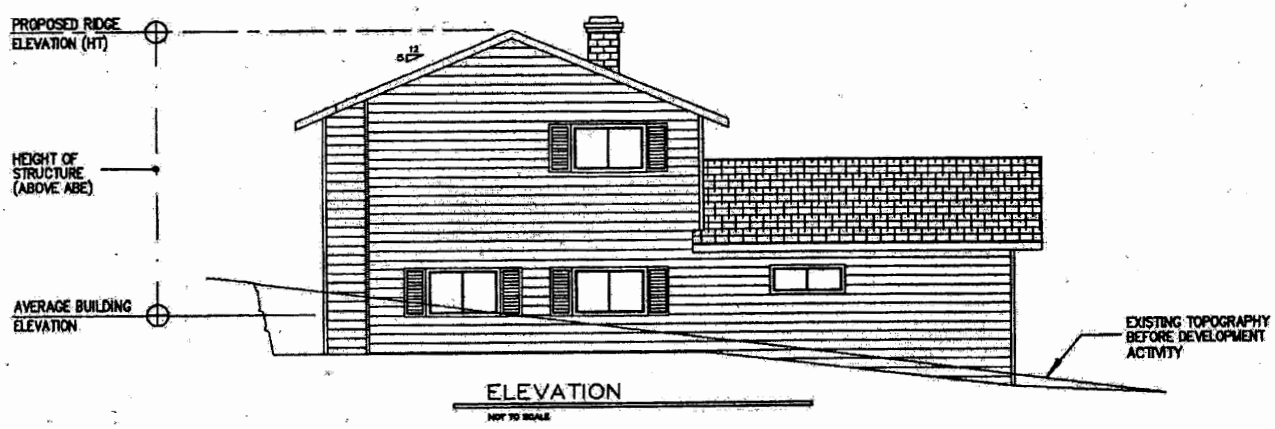
$$\frac{18023}{174} = 103.6' = \text{Average Building Elevation (ABE)}$$

APPENDIX G

BEFORE SUBMITTING YOUR CONSTRUCTION DRAWINGS, CHECK TO SEE THAT YOU HAVE PROVIDED THE INFORMATION BELOW.

- ❑ The site plan and the elevation drawings must be drawn to scale, for example 1"=20', and based on a survey.
- ❑ Clearly show existing topography on your site plan. Topography should be shown in 2' increments.
- ❑ Submit (with the site plan) your average building elevation calculations using the formula provided on the front side of this page.
- ❑ Indicate on an elevation drawing where the average building elevation strikes the building and the proposed ridge elevation (see below for example).
- ❑ Indicate on the site plan the elevation of the finished floor or garage slab.
- ❑ Indicate the elevation and location of a fixed point (benchmark) within the ADJACENT RIGHT-OF-WAY or other point approved by the Building Official. The benchmark elevation and location must be provided and cannot be a part of the proposed structure. Note: Benchmark must be established, verified by a licensed surveyor and remain during construction so height can be verified when completed.
- ❑ Sections of the structure that are below the existing grade and do not have a wall that extends above the existing grade, are not used in the ABE calculation.
- ❑ For additions, you must provide an average building elevation calculation for the entire structure.

CROSS-SECTION REPRESENTATION OF ABE



(Ord. 01C-06 § 1).