

**PLANNING COMMISSION – RECOMMENDATION DRAFT**  
**Draft Zoning Text Amendments**  
**2018 Code Cleanup**

19.01.050 Nonconforming structures, sites, lots and uses.

D. Exterior Alteration or Enlargement of Nonconforming Structures.

1. Detached Single-Family Residential Structures.

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 existing 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:

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 existing 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.

iii. Structural Alteration Calculation. For the purposes of determining the percentage of exterior walls of a nonconforming structure that is being structurally altered, the following calculation applies:

Formula: 
$$\frac{\text{Percentage of exterior walls altered} = (\text{sum of the length of walls to be structurally altered}) \div (\text{sum of the length of exterior walls})$$

Where:

(A) The "sum of the length of exterior walls to be structurally altered" is the sum of each wall segment that is completely demolished.

1 (B) The “sum of the length of exterior walls” is the sum of the lengths of  
2 each exterior wall segment of a structure or building.

3 (C) For the purposes of this subsection, a wall segment is “completely  
4 demolished” when any portion of the wall is completely removed, such  
5 that no structural elements remain.

6 (D) For the purposes of this subsection, the “wall segment” is the  
7 horizontal length of each continuous exterior wall plane or façade,  
8 provided that each building modulation (e.g. a bay window bump-out)  
9 shall be accounted for as a separate exterior wall plane. For example,  
10 the sum of the length of the exterior wall segments for a building that is  
11 a perfect cube with a dimension of 50 horizontal feet on each side of  
12 the house, is 200 feet. The same building with a second story bay  
13 window bump out dimensioned 2 feet by 10 feet by 2 feet, has a sum of  
14 214 feet.

15  
16 iv. Roof Repair and Replacement. The roof of a nonconforming structure may be  
17 repaired, including total replacement, provided that the existing nonconformity  
18 is not increased. Repair or replacement of a roof does not constitute structural  
19 alteration of exterior walls.

20 v. Cumulative Time Limit. The maximum cumulative structural alteration of a  
21 legally nonconforming structure, as described in subsections (i) and (ii) above, is  
22 40 percent within any five-year period. The five-year period includes the  
23 cumulative total of the work authorized by a permit application, and the work  
24 conducted within the five years immediately prior to demolition or construction  
25 authorized by the permit application. Legal nonconforming status shall be lost,  
26 and the structure shall be required to come into conformance with current code  
27 requirements, if the cumulative 40-percent threshold is exceeded within the  
28 five-year time limit.

29 ...  
30 F. Nonconforming Sites.

31 ...  
32 3. Landscaping, Open Space and Buffer Requirements.  
33 ...

34 b. Lot Coverage – Single-Family Dwellings. A site developed with a single-family dwelling  
35 that is legally nonconforming because the required landscaping area pursuant to  
36 Chapter 19.02 MICC has not been provided, or because maximum allowable hardscape  
37 has been exceeded, can be increased in height and gross floor area (up to the maximum  
38 height and gross floor area permitted). No new hardscape or further reduction in  
39 landscaping area is permitted unless:

- 40 i. The site is either brought into conformance with all applicable lot coverage  
41 requirements of MICC 19.02.020; or
- 42 ii. For lots where the ~~minimum~~ maximum hardscape is exceeded, two square  
43 feet of legally existing hardscape are removed for every one square foot of new  
44 hardscape; or
- 45 iii. For lots where the maximum lot coverage is exceeded, two square feet of  
46 landscaping area are provided for every one square foot of additional  
47 nonlandscaping area.

1  
2 19.02.010 Single-family.  
3 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

4 ...  
5 13. Open Space.  
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7 19.02.020 Development standards.  
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9 C. Yard Requirements.

10 ...  
11 2. Yard Determination.

12 a. Front Yard. ~~The front yard is the yard abutting an improved street from which the lot~~  
13 ~~gains primary access or the yard abutting the entrance to a building and extending the~~  
14 ~~full width of the lot. If this definition does not establish a front yard setback, the code~~  
15 ~~official shall establish the front yard based upon orientation of the lot to surrounding~~  
16 ~~lots and the means of access to the lot.~~

17 i. Front Yard – General. For lots that are not corner lots or waterfront lots, the  
18 front yard shall extend the full width of the lot and is determined using the  
19 following sequential approach, in descending order of preference, until a front  
20 yard is established:

21 (A) The yard abutting an improved street from which the lot gains  
22 primary access.

23 (B) The yard abutting the primary entrance to a building.

24 (C) The orientation of buildings on the surrounding lots and the means  
25 of access to the lot.

26 ii. Front Yard – Corner Lots. On corner lots the front yard shall be measured  
27 from the narrowest dimension of the lot abutting a street. The yard adjacent to  
28 the widest dimension of the lot abutting a street shall be a side yard, provided:

29 (A) If a setback equivalent to or greater than required for a front yard is  
30 provided along the property lines abutting both streets, then only one  
31 of the remaining setbacks must be a rear yard.

32 iii. Front Yard – Waterfront Lots. On a waterfront lot, regardless of the location  
33 of access to the lot, the front yard may be measured from the property line  
34 opposite and generally parallel to the ordinary high water line.

35 iv. This code section shall apply except as provided for in MICC 19.08.030(F)(1).

36 b. Rear Yard. ~~Except as allowed in subsections (a)(ii) and (iii) above, the rear yard is the~~  
37 ~~yard opposite the front yard. The rear yard shall extend across the full width of the rear~~  
38 ~~of the lot, and shall be measured between the rear line of the lot and the nearest point~~  
39 ~~of the main building including an enclosed or covered porch. If this definition does not~~  
40 ~~establish a rear yard setback for irregularly shaped lots, the code official may shall~~  
41 ~~establish the rear yard based on the following method: The rear yard shall be measured~~  
42 ~~from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in~~  
43 ~~length, parallel to and at a maximum distance from the front lot line.~~

44 ~~c. Corner Lots. On corner lots the front yard shall be measured from the narrowest~~  
45 ~~dimension of the lot abutting a street. The yard adjacent to the widest dimension of the~~  
46 ~~lot abutting a street shall be a side yard. If a setback equivalent to or greater than~~  
47 ~~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).~~

cd. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

E. Building Height Limit.

3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, rooftop deck railings and fences, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section. Rooftop railings shall be designed such that at least 80 percent of the total surface area consists of visual open spaces.

19.02.040 Garages, other accessory buildings and accessory structures.

D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line in the front yard provided: ~~if the front yard of the lot~~

1. There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building, and the ground elevation at the front yard property line where such the property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade, 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 or finished grade, whichever is lower, at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location; and,
2. The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

19.02.050 Fences, retaining walls and rockeries.

C. Height Measurement.

1. Fences/Gates. The height of a fence or gate is measured from the top of the fence or gate, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence or gate 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.
3. Multiple Retaining Walls. Retaining walls outside of required yard setbacks shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall retaining walls would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

19.04.020 Commercial offices.

B. Required Conditions.

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)~~ 19.02.060(C) shall apply. The building footprint shall occupy no more than 35 percent of the gross lot area.

19.15.030 Land use review types

Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> <li>• Home business</li> <li>• Seasonal development limitation waiver</li> <li>• Nonmajor single-family dwelling permits</li> <li>• Tree removal permit</li> <li>• Right-of-way permit</li> <li>• Special needs group housing safety determination</li> <li>• Tenant improvement/change of use</li> <li>• Shoreline Exemption<sup>1</sup></li> <li>• Critical areas determination (steep slope alteration)</li> <li>• Final short plat</li> <li>• Temporary commerce on public property</li> <li>• Site development permits</li> <li>• Transportation concurrency certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Modified wireless communication facilities (6409 per 47 CFR 1.40001)</li> <li>• Lot line revision</li> <li>• Setback deviations</li> <li>• Final plat <sup>2,3</sup></li> <li>• Code official design review</li> <li>• Accessory dwelling unit</li> <li>• Parking variances (reviewed by city engineer)</li> </ul>	<ul style="list-style-type: none"> <li>• New and modified wireless (non-6409) eligible facility</li> <li>• SEPA threshold determination</li> <li>• Critical areas determination (wetland/watercourse buffer averaging/reduction)</li> <li>• Temporary encampment<sup>4</sup></li> <li>• Short plat alteration and vacations</li> <li>• Preliminary short plat</li> <li>• Development code interpretations</li> <li>• Major single-family dwelling building permit<sup>5</sup></li> <li>• Shoreline substantial development permit<sup>1</sup></li> <li>• Shoreline revision (substantial development)<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Preliminary long plat approval</li> <li>• Conditional use permit</li> <li>• Variance</li> <li>• Critical areas reasonable use exception</li> <li>• Long plat alteration and vacations</li> <li>• Parking variances (reviewed by design commission)</li> <li>• Variance from short plat acreage limitation</li> <li>• Wireless communication facility height variance</li> <li>• Planned unit development</li> <li>• Design commission design review</li> <li>• Shoreline conditional use permit (SCUP)<sup>5,6</sup></li> <li>• Shoreline variance<sup>5,6</sup></li> <li>• Shoreline revision (variance and SCUP)</li> </ul>

<sup>1</sup>Appeal will be heard by the Shorelines Hearings Board.

<sup>2</sup>Decision is made by city council after discussion at a public meeting.

<sup>3</sup>A notice of decision will be issued for a final long plat.

<sup>4</sup>A public meeting is required.

<sup>5</sup>Major single-family dwelling building permits are subject only to the notice of application process. A notice of decision will be provided to parties of record.

1 <sup>56</sup>Hearing examiner will forward a recommendation to the Washington State Department of Ecology for  
2 Ecology's decision.

3 ...

4  
5 19.16.010 Definitions

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7 ...

8 Finished Grade: The surface level at any point on the lot at the conclusion of development.

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11 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

12 1. The gross floor area of a single-family dwelling shall include:

13 ...

14 e. Decks that are attached to the second or third ~~story level~~ of a single-family dwelling  
15 and are covered by a roof. For the purposes of calculating the gross floor area of  
16 covered decks, the entire deck area covered by the roof shall be accounted for as floor  
17 area, provided an 18-inch eave extending beyond the edge of the deck shall not be  
18 included in the gross floor area.

19 ...

20 2. The gross floor area of a single-family dwelling does not include:

21 a. Second- or third-~~story level~~ uncovered decks, or uncovered rooftop decks.

22 b. First level covered decks.

23 ...

24 Hardscape: The solid, hard elements or structures that are incorporated into landscaping. The hardscape  
25 includes, but is not limited to, structures other than buildings, paved areas other than driving surfaces,  
26 stairs, walkways, decks, patios, and similar constructed elements. The hardscape within landscaping is  
27 usually made up of materials that include, but are not limited to, wood, stone, concrete, gravel, artificial  
28 turf, and permeable pavements or pavers, and similar materials. Hardscape does not include solid, hard  
29 elements or structures that are covered by a minimum of two feet of soil intended for softscape (for  
30 example, a septic tank or detention tank covered with at least two feet of soil and planted shrubs is not  
31 hardscape). Hardscape areas do not include driving surfaces or buildings.

32 ...

33 ~~Kitchen: Any room used, intended, or designed for cooking and/or preparation of food.~~ An identifiable  
34 area inside a building for the cooking, refrigeration and storage of food that includes, but is not limited  
35 to, the following improvements:

36 1. Ventilation;

37 2. A sink;

38 3. A combination of appliances used to cook food including a stove, range, oven, or  
39 microwave;

40 4. A refrigerator; and,

41 4.5. A counter or cupboards.

42 ...

43 Open Space: Open space functions as protection of natural resources and biodiversity, recreation  
44 spaces, development of neighborhood gathering spaces, and promotion of public health benefits. Open  
45 space areas are left predominantly in a vegetated state to create urban separators and greenbelts, and  
46 that:

47 1. Sustain native ecosystems, connect and increase protective buffers for environmentally  
48 critical areas; or,

2. Provide a visual contrast to continuous development, reinforce community identity and aesthetics; or,
- 4.3. Provide links between important environmental or recreational resources.

...

Remodel: Interior or exterior alteration of a structure that includes, but is not limited to, the following:

1. Transforming the structure of any home or building;
2. Change in floor plan layout;
3. Combining rooms (removing walls); or,
- 4.4. The addition or removal of the exterior or interior of any structure.

...

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. Except as otherwise specified, the edge of the yard is measured from a fixed point or line on the lot such as the edge of an easement that affords or could be capable of affording vehicular access, or from a property line. Determination of front, rear, and side yards are established in MICC 19.02.020(C)(2).

~~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.~~

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