



## DETERMINATION OF NON-SIGNIFICANCE (DNS)

Application Nos.: **ZTR21-005**

Description of proposal: **A nonproject action considering amendments to chapters 19.02 and 8.24 Mercer Island City Code (MICC). The proposal is to make amendments to regulate exterior lighting in residential zones and noise from gas-powered landscaping equipment. The first proposed code amendment would amend MICC 19.02.020 Development standards, updating the code sections related residential development, and adopting regulations for exterior lighting in residential zones. The second proposed code amendment would amend MICC 8.24.020(Q) Types of nuisances. The proposal would amend the conditions for noise nuisances to limit noise resulting from the use of gas-powered landscaping equipment.**

Proponent: **City of Mercer Island**

Location of proposal: **Citywide code amendment**

Lead agency: **City of Mercer Island**

Project Documents: **Please follow this file path to access the associated documents for this project: <https://mieplan.mercergov.org/public/ZTR21-005>**

Based on review of the proposal and applicable section of the Mercer Island City Code, the lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by 5:00 pm on January 12, 2022.

Responsible Official: **Alison Van Gorp, Community Planning and Development Deputy Director  
City of Mercer Island  
9611 SE 36<sup>th</sup> Street  
Mercer Island, WA 98040  
Phone: (206) 275-7733  
Email: [alison.vangorp@mercergov.org](mailto:alison.vangorp@mercergov.org)**

Date: **December 21, 2021**      Signature: Alison Van Gorp

**APPEAL INFORMATION**

This decision to issue a Determination of Non-significance (DNS) rather than to require an EIS may be appealed pursuant to Section 19.07 of the Mercer Island Unified Land Development Code, Environmental procedures.

There is no administrative agency appeal.

# SEPA ENVIRONMENTAL CHECKLIST

## ***Purpose of checklist:***

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

## ***Instructions for applicants:***

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

## ***Instructions for Lead Agencies:***

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

## ***Use of checklist for nonproject proposals:***

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the [SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS \(part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

## **A. Background**

1. Name of proposed project, if applicable:

*Code Amendment related to Noise Controls and Lighting Regulations (ZTR21-005)*

2. Name of applicant:

*Adam Zack, Senior Planner  
City of Mercer Island Community Planning & Development*

3. Address and phone number of applicant and contact person:

9611 SE 36<sup>th</sup> St  
Mercer Island WA 98040  
206-275-7719

4. Date checklist prepared:

March 31, 2021

5. Agency requesting checklist:

City of Mercer Island

6. Proposed timing or schedule (including phasing, if applicable):

*A public hearing before the City of Mercer Island Planning Commission on the draft code is scheduled to take place on January 26, 2022. A second reading and final adoption by the City of Mercer Island City Council is scheduled to take place following the Planning Commission recommendation.*

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

*This is a legislative nonproject action, with no additions, expansions or further activity associated with this proposal.*

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

*The City is not aware of any environmental information related to this proposal.*

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

*There are no other applications for governmental approvals of other proposals related to this proposal directly affecting the property covered by this proposal.*

10. List any government approvals or permits that will be needed for your proposal, if known.

*The WA Department of Commerce will be notified of the City's intent to adopt development regulation amendments.*

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this

page. (Lead agencies may modify this form to include additional specific information on project description.)

*The nonproject action considers amendments to chapters 19.02 and 8.24 Mercer Island City Code (MICC). The proposal is to make amendments to regulate exterior lighting in residential zones and noise from commercial landscaping equipment.*

*The first proposed code amendment would amend MICC 19.02.020 Development standards, updating the code sections related residential development, and adopting regulations for exterior lighting in residential zones.*

*The second proposed code amendment would amend MICC 8.24.020(Q) Types of nuisances. The proposal would amend the conditions for noise nuisances to limit noise resulting from the use of gas-powered landscaping equipment.*

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

*The proposed legislative change to MICC 19.02.020 would apply in residential zones throughout the City. Amendments to MICC 8.24.020(Q) will be effective city-wide.*

## **B. ENVIRONMENTAL ELEMENTS**

### **1. Earth**

a. General description of the site

(circle one): Flat, ~~rolling~~, ~~hilly~~, steep slopes, ~~mountainous~~, other \_\_\_\_\_

*Mercer Island contains a relatively flat plateau ringed by steep slopes that reach to the Lake Washington shoreline.*

b. What is the steepest slope on the site (approximate percent slope)?

*There are portions of the east side of Mercer Island with slopes of approximately 85%.*

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

*Soils found on Mercer Island include: Peat, Lake deposits, Fan deposits, Alluvium, Vashon recessional outwash deposits, Vashon recessional lacustrine deposits, Vashon recessional course-grained lacustrine deposits, Vashon ice-contact deposits, Vashon subglacial till, Vashon advance outwash, Lawton Clay, Pre-Fraser nonglacial deposits, Olympia beds, Pre-Olympia fine-grained deposits, Pre-Olympia coarse-grained deposits, Pre-Olympia glacial deposits, Pre-Olympia coarse-grained glacial deposits, Pre-Olympia fine-grained glacial deposits, Pre-*

*Olympia glacial till, Pre-Olympia glacial diamict, Pre-Olympia nonglacial deposits, Pre-Olympia coarse-grained nonglacial deposits, and Pre-Olympia fine-grained nonglacial deposits.*

*No removal of soil is proposed.*

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

*Yes, approximately 50% of Mercer Island is defined as Landslide Hazard Area, generally in areas adjacent to Lake Washington and on sloped portions of the city.*

- e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

*The proposed code amendment would not result in any filling, excavation, nor grading.*

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

*The proposed code amendment would not result in any clearing, construction or new uses.*

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

*The proposed code amendment would not result in any new impervious surface coverage.*

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

*The proposed code amendment would not result in any erosion or impacts to the earth.*

## **2. Air**

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

*The proposed code amendment would not result in the emissions to the air.*

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

*The proposed code update would not result emission of odor.*

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

*No measures to reduce or control emissions to the air are proposed.*

## **3. Water**

- a. Surface Water:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

*Yes, Mercer Island contains wetlands, streams, and is surrounded by Lake Washington.*

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

*The proposed code amendment will not include work over, in, or adjacent to surface waters.*

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

*The proposed code amendment will not include filling or dredging materials.*

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

*The proposed code amendment will not require surface water withdrawals or diversions.*

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

*Mercer Island does not contain any areas mapped as being within a 100-year floodplain.*

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

*The proposed code amendment does not involve any discharges of waste materials to surface waters.*

b. Ground Water:

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

*The proposed code amendment will not cause any withdrawals from groundwater.*

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

*The proposed code amendment will not cause any waste material to be discharged into the ground.*

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

*The proposed code amendment will not generate any water runoff.*

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

*The proposed code amendment will not generate any water runoff.*

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

*The proposed code amendment will not generate any water runoff.*

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

*No measures to address water runoff are proposed.*

#### **4. Plants**

a. Check the types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- Orchards, vineyards or other permanent crops.
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

*The proposed code amendment will not result in the removal of any vegetation.*

c. List threatened and endangered species known to be on or near the site.

*There are currently no threatened or endangered species known to be within Mercer Island.*



- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

*The proposed code amendment will not modify any landscaping.*

- e. List all noxious weeds and invasive species known to be on or near the site.

*Mercer Island contains areas of knotweed, English ivy, and Himalayan blackberry; other noxious weeds and invasive species may be present on the island.*

## **5. Animals**

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: hawk, heron, eagle, songbirds, other:  
mammals: deer, bear, elk, beaver, other:  
fish: bass, salmon, trout, herring, shellfish, other \_\_\_\_\_

*Mercer Island contains animal species typical of suburban development in the Puget Sound region, including but not limited to American crows, Stellar's Jays, Bald eagles, songbirds, deer, rats, and salmon. There have also been sightings of band-tailed pigeons, pileated woodpeckers, and cavity-nesting ducks.*

- b. List any threatened and endangered species known to be on or near the site.

*There are currently no threatened or endangered species known to be within Mercer Island.*

- c. Is the site part of a migration route? If so, explain.

*The area is within the Pacific Flyway.*

- d. Proposed measures to preserve or enhance wildlife, if any:

*The proposed code amendment does not include measures to preserve or enhance wildlife.*

- e. List any invasive animal species known to be on or near the site.

*Invasive animal species on Mercer Island include starlings and rats.*

## **6. Energy and Natural Resources**

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

*The proposed code amendment does not require energy.*

- b. Would your project affect the potential use of solar energy by adjacent properties?  
If so, generally describe.

*The proposed code amendment would not affect the potential use of solar energy.*

- c. What kinds of energy conservation features are included in the plans of this proposal?  
List other proposed measures to reduce or control energy impacts, if any:

*The proposed code amendment does not address energy conservation.*

## **7. Environmental Health**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?  
If so, describe.

*The proposed code amendment would not cause environmental health hazards.*

- 1) Describe any known or possible contamination at the site from present or past uses.

*The city contains 16 sites listed as "awaiting cleanup" or "cleanup started" by the Dept. of Ecology's Toxics Cleanup Program.*

- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

*The contaminated sites will not affect the proposed code amendment.*

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

*No any toxic or hazardous chemicals will be stored, used, or produced as part of the proposed code amendment.*

- 4) Describe special emergency services that might be required.

*No special emergency services will be required as part of the proposed code amendment.*

- 5) Proposed measures to reduce or control environmental health hazards, if any:

*The proposed code amendment does not contain provisions to control environmental health hazards.*

- b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

*There are no sources of noise expected to affect the proposed code amendment.*

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

*The proposed code amendment would not create any noise.*

- 3) Proposed measures to reduce or control noise impacts, if any:

*No measures are proposed to reduce or control noise impacts.*

## **8. Land and Shoreline Use**

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

*The most prevalent land use in the City is single-family residential development. Nonresidential land uses in the City are primarily commercial and institutional.*

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

*There are currently no working farmlands or forest lands within the city, and none are proposed to be converted to other land uses.*

- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

*The proposed code amendment would not affect surrounding working farms or forest land.*

- c. Describe any structures on the site.

*The City contains existing single family residences, commercial and institutional buildings, wireless facilities, piers and docks, and associated appurtenances.*

- d. Will any structures be demolished? If so, what?

*The proposed code amendment will not cause any structures to be demolished.*

- e. What is the current zoning classification of the site?

*The City contains residential, commercial, and public institution zones*

- f. What is the current comprehensive plan designation of the site?

*Comprehensive plan designations include residential, commercial, and public institution uses.*

g. If applicable, what is the current shoreline master program designation of the site?

*Shoreline Master Program designations for the City include urban residential and urban park.*

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

*Parts of the city have been classified as wetlands, watercourses, fish and wildlife habitat conservation areas, and geologically hazardous areas.*

i. Approximately how many people would reside or work in the completed project?

*The proposal is legislative only, and no development is being proposed.*

j. Approximately how many people would the completed project displace?

*The proposal is legislative only, and no development is being proposed. No displacement of people would occur.*

k. Proposed measures to avoid or reduce displacement impacts, if any:

*The proposal is legislative only, and no development is being proposed.*

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

*The proposal is legislative only, and no development is being proposed.*

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

*The proposal is legislative only, and no development is being proposed.*

## **9. Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

*The proposal is legislative only, and no development is being proposed.*

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

*The proposal is legislative only, and no development is being proposed.*

c. Proposed measures to reduce or control housing impacts, if any:

*The proposal is legislative only, and no development is being proposed.*

## **10. Aesthetics**

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

*The proposal is legislative only, and no development is being proposed.*

- b. What views in the immediate vicinity would be altered or obstructed?

*The proposal is legislative only, and no development is being proposed.*

- b. Proposed measures to reduce or control aesthetic impacts, if any:

*The proposal is legislative only, and no development is being proposed, no mitigation measures are proposed to reduce or control aesthetic impacts.*

## **11. Light and Glare**

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

*The proposal is regulate exterior lighting in residential zones. The intention of the code amendments is to reduce the light and glare from exterior lighting fixtures.*

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

*The proposal is a nonproject action, and no development is being proposed.*

- c. What existing off-site sources of light or glare may affect your proposal?

*There are no known existing off-site sources of light or glare that may affect the proposal.*

- d. Proposed measures to reduce or control light and glare impacts, if any:

*The proposed code amendment would amend the residential development standards to regulate exterior lighting fixtures in residential zones. The proposed regulations would reduce and control light and glare in residential zones by requiring new external lighting fixtures to be shielded or directed to prevent light trespass onto neighboring properties. The City does not currently regulate exterior lighting fixtures in residential zones.*

## **12. Recreation**

- a. What designated and informal recreational opportunities are in the immediate vicinity?

*The City contains numerous public parks and open spaces.*

- b. Would the proposed project displace any existing recreational uses? If so, describe.

*The proposal is a nonproject action, and no development is being proposed.*

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

*The proposal is a nonproject action, and no development is being proposed.*

### **13. Historic and cultural preservation**

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

*There are two buildings that are on both the National Register of Historic Places and Washington Heritage Register. There are approximately 3,100 buildings that are over 45 years old or eligible for listing.*

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

*There is no evidence of Indian or historic use or occupation.*

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

*The proposal is a nonproject action, and no development is being proposed.*

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

*The proposal is a nonproject action, and no development is being proposed, and no mitigation measures are proposed as part of the code amendment.*

### **14. Transportation**

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

*The proposal is a nonproject action, and no development is being proposed.*

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

*The city is currently served by Sound Transit and King County Metro buses.*

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

*The proposal is a nonproject action, and no change to parking spaces is being proposed.*

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

*The proposal is a nonproject action, and no change to road improvements is being proposed.*

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

*The proposal is a nonproject action, and no development is being proposed.*

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

*The proposal is a nonproject action, and no development is being proposed.*

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

*The proposal is a nonproject action, and no development is being proposed.*

- h. Proposed measures to reduce or control transportation impacts, if any:

*The proposal is nonproject action, and no impacts to transportation are expected.*

## **15. Public Services**

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

*The proposed code amendment is not expected to result in an increased need for public services.*

- b. Proposed measures to reduce or control direct impacts on public services, if any.

*The proposal is a nonproject action, and no development is being proposed.*

## **16. Utilities**

- a. Circle utilities currently available at the site:  
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,  
other \_\_\_\_\_

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

*The proposal is a nonproject action, and no development is being proposed.*

## **C. Signature**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: \_\_\_\_\_ \s\ Adam Zack \_\_\_\_\_

Name of signee: Adam Zack,

Position and Agency/Organization: Senior Planner, City of Mercer Island Community Planning and Development Department

Date Submitted: December 20, 2021

## D. Supplemental sheet for nonproject actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

### 1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

*The proposed code amendment does not make changes to regulations related to clearing, grading or land development, and is therefore unlikely to increase discharges to water.*

*The proposed code amendment is unlikely to have any effect on the production, storage, or release of toxic or hazardous substances.*

*The proposed code amendment are not expected to have an effect on emissions to air and/or the production of noise.*

#### **Proposed measures to avoid or reduce such increases are:**

*The proposal does not include measures to avoid or reduce discharges to water or the production, storage or release of toxic or hazardous substances, as no impacts to these are anticipated.*

*The proposal does not include measures aimed at reducing emissions to air and/or the production of noise.*

### 2. How would the proposal be likely to affect plants, animals, fish, or marine life?

*The proposed code amendment is unlikely to affect plants, animals, fish, or marine life.*

#### **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

*The proposal does not include measures to protect or conserve plants animals, fish, or marine life, as no impacts to these are anticipated.*

### 3. How would the proposal be likely to deplete energy or natural resources?

*The proposed code amendment is unlikely to affect the use of energy or natural resources.*

*Amendments to the residential development standards to regulate exterior lighting would not change whether exterior lighting is allowed. The number of exterior lighting fixtures and the energy they use are unlikely to change as a result of the proposed amendments.*



**Proposed measures to protect or conserve energy and natural resources are:**

*No measures are proposed to protect or conserve energy and natural resources, as no impacts to these are anticipated.*

**4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

*The proposed code amendment would not affect environmentally sensitive areas or areas designated for governmental protection.*

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

*No impacts to environmentally sensitive areas or areas designated for governmental protection are expected.*

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

*The proposed code amendment is unlikely to affect land and shoreline use, and does not include uses that are incompatible with existing plans.*

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

*The proposed code amendment would not allow additional impacts to shoreline and land uses.*

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

*The proposed code update is unlikely to increase demands on transportation or public services.*

**Proposed measures to reduce or respond to such demand(s) are:**

*No measures are proposed, as no impact is anticipated.*

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

*No conflicts are anticipated.*

# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercerisland.gov](http://www.mercerisland.gov)



### CITY USE ONLY

PROJECT#

RECEIPT #

FEE

Date Received:

Received By:

### DEVELOPMENT APPLICATION

STREET ADDRESS/LOCATION 3210 74 AV SE		ZONE R8.4	
COUNTY ASSESSOR PARCEL #'S Parcel 1300300705		PARCEL SIZE (SQ. FT.) 10,800	
PROPERTY OWNER (required) Carolyn and Mark Boatsman	ADDRESS (required) 3210 74 AVE SE	CELL/OFFICE (required) 206-595-8579 E-MAIL (required) c.boatsman@comcast.net	
PROJECT CONTACT NAME Request for code amendment	ADDRESS City wide	CELL/OFFICE  E-MAIL	
TENANT NAME	ADDRESS	CELL PHONE  E-MAIL	

**DECLARATION:** I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Carolyn M Boatsman*  
SIGNATURE

November 2, 2020

DATE

### PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

Two requests to amend City nuisance code:

- 1) Limit commercial landscaping operations using power tools to the same hours as construction noise from work under City permit.
- 2) Require that residential use of spot lighting be directed toward the owner's property.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

### CHECK TYPE OF LAND USE APPROVAL REQUESTED:

#### APPEALS

- Building
- Code Interpretation
- Land use
- Right-of-Way Use

#### CRITICAL AREAS

- Critical Area Review 1 (Hourly Rate 2hr Min)
- Critical Area Review 2 (Determination)
- Reasonable Use Exception

#### DESIGN REVIEW

- Pre Design Meeting
- Design Review (Code Official)
- Design Commission Study Session
- Design Review- Design Commission- Exterior Alteration
- Design Review- Design Commission- New Building

#### WIRELESS COMMUNICATION FACILITIES

- Wireless Communications Facilities- 6409 Exemption
- New Wireless Communication Facility

#### DEVIATIONS

- Changes to Antenna requirements
- Changes to Open Space
- Seasonal Development Limitation Waiver

#### ENVIRONMENTAL REVIEW (SEPA)

- SEPA Review (checklist)- Minor
- SEPA review (checklist)- Major
- Environmental Impact Statement

#### SHORELINE MANAGEMENT

- Exemption
- Permit Revision
- Shoreline Variance
- Shoreline Conditional Use Permit
- Substantial Development Permit

#### SUBDIVISION LONG PLAT

- Long Plat- Preliminary
- Long Plat- Alteration
- Long Plat- Final Plat

#### VARIANCES (Plus Hearing Examiner Fee)

- Variance

#### SUBDIVISION SHORT PLAT

- Short Plat- Two Lots
- Short Plat- Three Lots
- Short Plat- Four Lots
- Short Plat- Deviation of Acreage Limitation
- Short Plat- Amendment
- Short Plat- Final Plat

#### OTHER LAND USE

- Accessory Dwelling Unit
- Code Interpretation Request
- Comprehensive Plan Amendment (CPA)
- Conditional Use (CUP)
- Lot Line Revision
- Noise Exception
- Reclassification of Property (Rezoning)
- Transportation Concurrence (see supplemental application form)
- Planning Services (not associated with a permit or review)
- Zoning Code Text Amendment
- Request for letter
- Temporary Commerce on Public Property

# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | [www.mercerisland.gov](http://www.mercerisland.gov)



### CITY USE ONLY

PROJECT#	RECEIPT #	FEE

Date Received:

### DEVELOPMENT APPLICATION

Received By:

STREET ADDRESS/LOCATION 3210 74 AVE SE		ZONE R8.4	
COUNTY ASSESSOR PARCEL #'S Parcel 1300300705		PARCEL SIZE (SQ. FT.) 10,800	
PROPERTY OWNER (required) Carolyn and Mark Boatsman	ADDRESS (required) 3210 74 AVE SE	CELL/OFFICE (required) 206-595-8579 E-MAIL (required) c.boatsmn@comcast.et	
PROJECT CONTACT NAME Comp plan update docket request	ADDRESS City wide	CELL/OFFICE  E-MAIL	
TENANT NAME	ADDRESS	CELL PHONE  E-MAIL	

**DECLARATION:** I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Carolyn M Boatsman*  
SIGNATURE

November 2, 2020

DATE

**PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL** (PLEASE USE ADDITIONAL PAPER IF NEEDED):

I am requesting a Comprehensive Land Use Plan Update as follows:

Adopt a goal and policies for use of City rights of way establishing a priority of use, based upon the public good. Uses that should, at the least, be allowed and included in the priority are roads and appurtenances, utility installation, residential parking, and environmental benefit.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

**CHECK TYPE OF LAND USE APPROVAL REQUESTED:**

**APPEALS**

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- Right-of-Way Use

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**ENVIRONMENTAL REVIEW (SEPA)**

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**MICC 19.02.020 – Development standards.**

*A. Minimum net lot area.*

R- 8.4: The net 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 net 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 net 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 net 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 net lot area requirements do not apply to any lot that came into existence before September 28, 1960. In order to be used as a building site, lots that do not meet minimum net lot area requirements shall comply with MICC 19.01.050(G)(3).

2. In determining whether a lot complies with the minimum net 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 yards shall be provided as follows:

i. *Total width.*

(a) For lots with a lot width of 90 feet or less, the sum of the side yards' width shall be at least 15 feet.

(b) For lots with a lot width of more than 90 feet, the sum of the side yards' width shall be a width that is equal to at least 17 percent of the lot width.

ii. *Minimum side yard width.* The minimum side yard width is five feet or 33 percent of the aggregate side yard total width, whichever is greater.

iii. *Variable side yard depth requirement.* For lots with an area of 6,000 square feet or more, the minimum side yard depth abutting an interior lot line shall be the greater of the minimum side yard depth required under subsection (C)(1)(c)(ii) of this section, or as follows:

(a) Single-family dwellings shall provide a minimum side yard depth of seven and one-half feet if the building:

(1) For nongabled roof end buildings, the height is more than 15 feet measured from existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard; or

(2) For gabled roof end buildings, the height is more than 18 feet measured from existing or finished grade, whichever is lower, to the top of the gabled roof end adjoining the side yard.

(b) Single-family dwellings with a height of more than 25 feet measured from the existing or finished grade, whichever is lower, to the top of the exterior wall facade adjoining the side yard shall provide a minimum side yard depth of ten feet.

## 2. *Yard determination.*

### a. *Front yard.*

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

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

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

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

ii. *Front yard — 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; provided:

(a) 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.

iii. *Front yard — Waterfront lots.* 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.

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

b. *Rear yard.* Except as allowed in subsections (C)(2)(a)(ii) and (iii) of this section, 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 irregularly shaped lots, the code official shall establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least ten feet in length, parallel to and at a maximum distance from the front lot line.

c. *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.*

i. Except as provided in subsection (C)(3)(a)(ii) of this section, porches, chimney(s) and fireplace extensions, window wells, 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.

ii. No penetration shall be allowed into the minimum side yard setback abutting an interior lot line except where an existing flat-roofed house has been built to within 18 inches of the interior side yard setback line and the roof is changed to a pitched roof with a pitch of 2:12 or steeper, eaves may penetrate up to 18 inches into the side yard setback.

b. *Hardscape and driveways.* Hardscape and driveways not more than 30 inches above existing grade or finished grade, whichever is lower, may be located in any required yard; provided, that driveways may exceed the 30-inch limit when a permit applicant demonstrates the proposed height is the minimum feasible to meet the standards in MICC 19.09.040.

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.* Detached, 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.* The code official may approve a deviation to front, side, and rear setbacks pursuant to MICC 19.15.040.

D. *Gross floor area.*

1. Except as provided in subsection (D)(3) of this section, the gross floor area shall not exceed:

a. R-8.4: 5,000 square feet or 40 percent of the lot area, whichever is less.

b. R-9.6: 8,000 square feet or 40 percent of the lot area, whichever is less.

c. R-12: 10,000 square feet or 40 percent of the lot area, whichever is less.

d. R-15: 12,000 square feet or 40 percent of the lot area, whichever is less.

2. *Gross floor area calculation.* The gross floor area is the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot, provided:

a. The gross floor area shall be 150 percent of the floor area of that portion of a room(s) with a ceiling height of 12 feet to 16 feet, measured from the floor surface to the ceiling.

b. The gross floor area shall be 200 percent of the floor area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the floor surface to the ceiling.

c. Staircases shall be counted as a single floor for the first two stories accessed by the staircase. For each additional story above two stories, the staircase shall count as a single floor area. For example, a staircase with a ten-foot by ten-foot dimension that accesses three stories shall be accounted as 200 square feet (100 square feet for the first two stories, and 100 square feet for the third story).

d. For the purposes of calculating allowable gross floor area, 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.

### 3. Allowances.

a. The gross floor area for lots with an area of 7,500 square feet or less may be the lesser of 3,000 square feet or 45 percent of the lot area; or

b. If an accessory dwelling unit is proposed, the 40 percent allowed gross floor area may be increased by the lesser of five percentage points or the actual floor area of the proposed accessory dwelling unit, provided:

i. The allowed gross floor area of accessory buildings that are not partially or entirely used for an accessory dwelling unit shall not be increased through the use of this provision;

ii. The lot will contain an accessory dwelling unit associated with the application for a new or remodeled single-family home; and

iii. The total gross floor area shall not exceed 4,500 square feet or 45 percent of the lot area, whichever is less.

### E. Building height limit.

1. *Maximum building height.* No building shall exceed 30 feet in height above the average building elevation to the highest point of the roof.

2. *Maximum building height on downhill building facade.* The maximum building facade height on the downhill side of a sloping lot shall not exceed 30 feet in height. The building facade height shall be measured from the existing grade or finished grade, whichever is lower, at the furthest downhill extent of the proposed building, to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc.

3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, 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; provided:

a. Solar panels shall be designed to minimize their extension above the maximum allowed height, while still providing the optimum tilt angle for solar exposure.

b. Rooftop railings may not extend above the maximum allowed height for the main structure.

4. The formula for calculating average building elevation is as follows:

Formula: Average Building Elevation = (Weighted Sum of the Mid-point Elevations) ÷ (Total Length of Wall Segments)

Where: Weighted Sum of the Mid-point Elevations = The sum of: ((Mid-point Elevation of Each Individual Wall Segment) × (Length of Each Individual Wall Segment))



For example for a house with ten wall segments:

$$(A \times a) + (B \times b) + (C \times c) + (D \times d) + (E \times e) + (F \times f) + (G \times g) + (H \times h) + (I \times i) + (J \times j)$$

$$a + b + c + d + e + f + g + h + i + j$$

Where: A, B, C, D... = The existing or finished ground elevation, whichever is lower, at midpoint of wall segment.

And: a, b, c, d... = The length of wall segment measured on outside of wall.

*F. Lot coverage—Single-family dwellings.*

1. *Applicability.* This section shall apply to the development of single-family dwellings including, but not limited to, the remodeling of existing single-family dwellings and construction of new single-family dwellings. This section does not apply to regulated improvements.

2. *Landscaping objective.*

a. 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 maintaining the visual appearance of the neighborhood.

b. To ensure that landscape design is based on a strong, unified, coherent, and aesthetically pleasing landscape concept.

c. 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.

d. To ensure suitable natural vegetation and landforms, particularly mature trees and topography, are preserved where feasible and integrated into the overall landscape design. Large trees and tree stands should be maintained in lieu of using new plantings.

e. 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.

3. *Lot coverage—Landscaping required.*

a. *Minimum area required.* Development proposals for single-family dwellings shall comply with the following standards based on the net lot area:

Lot Slope	Maximum Lot Coverage (house, driving surfaces, and accessory buildings)	Required Landscaping Area
Less than 15%	40%	60%

Lot Slope	Maximum Lot Coverage (house, driving surfaces, and accessory buildings)	Required Landscaping Area
15% to less than 30%	35%	65%
30% to 50%	30%	70%
Greater than 50% slope	20%	80%

*b. Hardscape.*

i. A maximum of nine percent of the net lot area may consist of hardscape improvements including, but not limited to, walkways, decks, etc., and provided:

(a) The hardscape for lots with a net lot area of 8,400 square feet or less may be the lesser of 755 square feet or 12 percent of the net lot area.

ii. Hardscape improvements are also permitted in the maximum lot coverage area established in subsection (F)(3)(a) of this section.

*c. Softscape and driveways.*

i. The required landscaping area in subsection (F)(3)(a) of this section shall consist of softscape improvements, except where used for hardscape improvements pursuant to subsection (F)(3)(b) of this section.

ii. Driveways and other driving surfaces are prohibited within the landscaping area.

For example, a flat lot with a net area of 10,000 square feet shall provide a minimum 6,000 square feet of landscaped area. Up to 900 square feet of the landscaped area may be used for a walkway, patio, or deck or other hardscape area. The remainder of the area shall be used for softscape improvements, such as landscaping, tree retention, etc.

d. Development proposals for a new single-family home shall remove Japanese knotweed (*Polygonum cuspidatum*) and Regulated Class A, Regulated Class B, and Regulated Class C weeds identified on the King County Noxious Weed list, as amended, from required landscaping areas established pursuant to subsection (F)(3)(a) of this section. New landscaping associated with new single-family home shall not incorporate any weeds identified on the King County Noxious Weed list, as amended. Provided, that removal shall not be required if the removal will result in increased slope instability or risk of landslide or erosion.

e. *Allowed adjustments.* A one-time reduction in required landscaping area and an increase in the maximum lot coverage are allowed, provided:

i. The total reduction in the required landscaping area shall not exceed five percentage points, and the total increase in the maximum lot coverage shall not exceed five percentage points; and

ii. The reduction in required landscaping area and increase in maximum lot coverage are associated with:

(a) A development proposal that will result in a single-story single-family dwelling with a wheelchair accessible entry path, and may also include a single-story accessory building; or

(b) A development proposal on a flag lot that, after optimizing driveway routing and minimizing driveway width, requires a driveway that occupies more than 25 percent of the otherwise allowed lot coverage area. The allowed reduction in the required landscaping area and increase in maximum lot coverage shall not exceed five percent, or the area of the driveway in excess of 25 percent of the lot coverage, whichever is less.

For example, a development proposal with a driveway that occupies 27 percent of the otherwise allowed lot coverage may increase the total lot coverage by two percent; and

iii. A recorded notice on title, covenant, easement, or other documentation in a form approved by the city shall be required. The notice on title or other documentation shall describe the basis for the reduced landscaping area and increased lot coverage.

#### G. *Parking.*

1. *Applicability.* Subsection (G)(2) of this section 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.

##### 2. *Parking required.*

a. Each single-family dwelling with a gross floor area of 3,000 square feet or more 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.

b. Each single-family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile; provided, at least one of the stalls shall be a covered stall.

3. 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.

4. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in appendix A of this development code.

H. *Easements.* Easements shall remain unobstructed.

1. *Vehicular access easements.* No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard 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 five-foot yard 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.

I. *Large lots.* The intent of this section is to ensure that the construction of a single-family dwelling on a large lot does not preclude compliance with applicable standards related to subdivision or short subdivision of the large lot. Prior to approval of a new single-family dwelling and associated site improvements, accessory buildings, and accessory structures on large lots, the applicant shall complete one of the following:

1. *Design for future subdivision.* The proposed site design that shall accommodate potential future subdivision of the lot as follows:

a. The proposed site design shall comply with the applicable design requirements of chapters 19.08, Subdivision, 19.09, Development, and 19.10, Trees, MICC.

b. The proposed site design shall not result in a circumstance that would require the removal of trees identified for retention, as part of a future subdivision.

c. The proposed site design shall not result in a circumstance that would require modifications to wetlands, watercourses, and associated buffers as part of a future subdivision.

d. Approval of a site design that could accommodate a potential future subdivision does not guarantee approval of such future subdivision, nor does it confer or vest any rights to a future subdivision.

2. *Subdivide.* Prior to application for a new single-family dwelling, the property is subdivided or short platted to create all potential lots and building pads permitted by zoning. The proposed

single-family dwelling shall be located on a lot and within a building pad resulting from a recorded final plat.

3. *Limit subdivision.* Record a notice on title, or execute a covenant, easement, or other documentation approved by the city, prohibiting further subdivision of the large lot for a period of five years from the date of final inspection or certificate of occupancy.

J. *Building pad.* New buildings shall be located within a building pad established pursuant to chapter 19.09 MICC. Intrusions into yard setbacks authorized pursuant to MICC 19.02.020(C)(3) may be located outside of the boundaries of the building pad.

K. Exterior Lighting.

1. Applicability. This section applies to all exterior lighting installed after the effective date of this ordinance in the R-8.4, R-9.6, R-12, and R-15 zones. The following lighting types are exempt:

- a. Lighting within a public right-of-way or easement for the purpose of illuminating roads, trails, and pedestrian ways;
- b. Repair of lighting fixtures existing prior to the effective date of this ordinance;
- c. Emergency lighting;
- d. Temporary seasonal lighting; and
- e. lighting required by state or federal law.

2. Standards.

- a. All exterior lighting shall be designed to minimize light trespass onto neighboring properties.
- b. All exterior lighting must be either fully or partially shielded except that one unshielded lighting fixture not exceeding 450 lumens is allowed at the main entry of each residence.
  - i. Fully shielded means the lighting fixture has a solid opaque barrier at the top of the fixture in which the bulb is located and the fixture is angled so the bulb is not visible below the barrier.
  - ii. Partially shielded means the fixture is shielded by a solid barrier or angled no more than 45 degrees above straight down, which is half-way between perpendicular and parallel to the adjacent grade.
- c. Each exterior lighting fixture shall not exceed 1,600 lumens.
- d. Exterior lighting fixtures shall be designed so that they do not project their output:
  - i. Onto neighboring properties;

ii. Past the object being illuminated;

ii. Skyward;

iii. Onto a public roadway; or

iv. Onto a pedestrian way.

e. Exterior lighting fixtures with a motion sensor must not be activated by off-site movement.

DRAFT