

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-03**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, ADOPTING INTERIM REGULATIONS ON DEFINITIONS RELATING TO EMERGENCY SHELTERS AND HOUSING, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City’s police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

WHEREAS, in 2021, the Washington State legislature passed E2SHB 1220, which, among other things, requires cities to allow indoor emergency shelters and housing, transitional housing, and permanent supportive housing in certain zones; and

WHEREAS, E2SHB 1220 provides, in part, that a city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed, and

WHEREAS, E2SHB 1220 further provides, in part, that a city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except if the city has adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit; and

WHEREAS, E2SHB 1220 allows cities to adopt reasonable occupancy, spacing, and intensity of use requirements on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety so long as those reasonable restrictions do not prohibit the number of units assigned to the city by the Washington State Department of Commerce (“Commerce”); and

WHEREAS, E2SHB 1220 included a September 30, 2021, deadline for cities to comply, and the City Council determined that to comply with the deadline and thoroughly analyze permanent regulations, interim development regulations adopted under the provisions of RCW 36.70A.390 are necessary to allow adequate time for the City to adopt permanent development regulations in compliance with E2SHB 1220; and

WHEREAS, on September 21, 2021, the City Council adopted Ordinance 21C-23 that established interim regulations relating to emergency shelters and housing, transitional housing, and permanent supportive housing; and

WHEREAS, the City Council has adopted ordinance 22C-14 on September 21 2022, Ordinance 23C-02 on March 21, 2023 and Ordinance 23C-11 on September 5, 2023 to renew the interim regulations established by Ordinance 21C-23 for additional six-month periods; and

WHEREAS, the interim regulations renewed by Ordinance 23C-11 expired on March 21, 2024; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to pass an interim zoning and official control ordinance, provided it holds a public hearing on the same within sixty days after passage; and

WHEREAS, to be compliant with E2SHB 1220 and prevent the potential harm to public health, safety, property, and welfare resulting from the expiration of the interim regulations renewed by Ordinance 23C-11, the City Council finds that immediate action is necessary to readopt the interim regulations that expired;

WHEREAS, an interim zoning and official control ordinance may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS, City Staff have developed a work plan for related studies for compliance with E2SHB1220 and such work plan is attached to this Ordinance as Exhibit A; and

WHEREAS, this Ordinance, as an interim zoning and official control ordinance, is not subject to referendum;

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

Section 1. Findings. The findings adopted for Ordinances No. 21C-23, 22C-14, 23C-02, and 23C-11 and the “Whereas Clauses” set forth in the recitals of this Ordinance are hereby adopted as the preliminary findings of fact of the City Council for passing this Ordinance.

Section 2. Section 19.16.010 MICC, Definitions, Amended. MICC Section 19.16.010, Definitions, is hereby amended as follows. All other definitions not herein amended shall remain as currently written.

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.~~ Further, the term shall include “emergency housing,” and “transitional housing” as defined within RCW 84.36.043(2)(c) or as hereafter amended. The term shall further include “emergency shelter” as defined within RCW 36.70A.030 or as hereafter amended.

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. Further, the term shall include "permanent supportive housing" as defined in RCW 36.70A.030 or as hereafter amended.

- Section 3. Duration of Interim Zoning and Official Controls.** The interim zoning and official controls approved by this Ordinance shall be effective for a period of one year, unless repealed, extended, or modified by the City Council.
- Section 4. Adoption of Work Plan.** The work plan attached to this Ordinance as Exhibit A is hereby adopted.
- Section 5. Declaration of Emergency.** As set forth in the "Whereas Clauses" adopted in Section 1 of this Ordinance, the City Council declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the City Council.
- Section 6. Severability.** If any section, sentence, clause or phrase of this Ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.
- Section 7. Effective Date.** This ordinance shall become effective immediately upon proper passage. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

PASSED BY AT LEAST A MAJORITY PLUS ONE OF THE WHOLE MEMBERSHIP OF THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS MEETING ON APRIL 2, 2023.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: April 10, 2024

Exhibit A

E2SHB 1220 Code Amendments Work Plan

1. Await Department of Commerce data and King County allocation of Mercer Island’s “share” of the need for emergency/permanent supportive housing and the amount of such housing the City should plan to accommodate	Q1-Q3 2023 (completed)
2. Technical analysis of Mercer Island’s housing needs, land capacity and racially disparate impacts.	Q2-Q4 2023 (completed)
3. Development of draft Housing Element, including policy direction in relation to planning for Emergency/Permanent Supportive Housing	Q1-Q2 2024
4. Technical analysis and staff recommendation on code amendments necessary to accommodate Emergency/Permanent Supportive Housing needs <ul style="list-style-type: none"> a. Review peer city approaches b. Analyze existing code criteria and spacing requirements for siting transitional and supportive housing facilities to understand existing capacity for potential housing sites c. Prepare staff recommendations and begin drafting a code amendment based on the above information d. Prepare a SEPA checklist and determination on the proposed code amendment, provide notification to state agencies and tribes 	Q2-Q3 2024
5. Planning Commission review and recommendation on a draft code amendment <ul style="list-style-type: none"> e. Public outreach, including public hearing f. Approximately 3 points of review by the commission – study session, public hearing, and recommendation 	Q3 2024
6. City Council review and approval of code amendment <ul style="list-style-type: none"> g. First and second reading of the ordinance 	Q3-Q4 2024