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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** Planning Commission  
**From:** Alison Van Gorp, CPD Deputy Director  
**Date:** November 12, 2021  
**RE:** ZTR21-005 Noise and Lighting

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### SUMMARY

Code amendments are proposed to add code provisions related to landscaping-related noise as well as residential spot lighting.

### BACKGROUND

Carolyn Boatsman suggested through the annual docketing process and the City Council placed on the final docket a proposed code amendment of the Nuisance code (see Attachment 1). The docket request includes two proposed amendments to the nuisance code: 1) limit commercial landscaping operations using power tools to the same hours as construction noise from work under city permit and 2) Require that residential use of spot lighting be directed toward the owner's property.

The November 17 Planning Commission meeting will be a work session for the Commission to review these two proposals and provide feedback and direction to staff on drafting code amendments for further review in 2022.

### Noise

The proposal suggests limiting "commercial landscaping operations using power tools". Staff have some concerns about this proposed language. Namely, the City should not regulate different types of entities, such as commercial landscaping companies, differently from others, such as homeowners. As such, staff recommend a broader approach to amending the noise provisions in the Nuisance Code ([MICC 8.24](#)).

Currently, the nuisance code includes the following requirements related to noise (highlights added):

Q. Sounds.

1. Sounds regulated by this section.

- a. The intent of this section is to regulate sounds heard beyond the property line of the source;
- b. The following sounds are explicitly regulated by this section:

- i. Sounds caused by the construction or repair of any building or structure;
  - ii. Sounds caused by construction, maintenance, repair, clearing or landscaping;
  - iii. Sounds created by the installation or repair of utility services; and
  - iv. Sounds created by construction equipment including special construction vehicles.
2. Sounds related to activity authorized by a permit from the city of Mercer Island are limited as follows:
- a. Sounds shall only be allowed between the hours of 7:00 a.m. to 7:00 p.m. on Mondays through Fridays, and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays.
  - b. Sounds shall be prohibited at any time of day on Sunday and legal holidays.
3. Sounds related to activity that does not require a permit from the city of Mercer Island shall only be allowed between the hours of 7:00 a.m. to 8:00 p.m. on Mondays through Fridays, and between the hours of 9:00 a.m. and 8:00 p.m. on Saturdays, Sundays, and legal holidays.
4. The enforcement officer may authorize a variance to this section pursuant to WAC Chapter 173-60.

Please note that sounds generated by maintenance and landscaping are already regulated under subsection (Q)(1)(b)(ii) and would also be subject to subsection (Q)(3) which limits the hours under which maintenance/landscaping work can be conducted. Perhaps some “surgical” revisions to this section of the nuisance code could provide further clarity on the activities that are included in subsection (Q)(1)(b)(i) and subject to the time restrictions in (Q)(3).

Staff would also be interested in discussing an additional change to these noise provisions related to the sounds generated by mechanical equipment such as generators, HVAC equipment, venting, etc. The City has received complaints from homeowners related to noisy mechanical equipment and the existing code provisions (or lack thereof) make enforcement challenging. There are several considerations with adding such a provision. For example, it is probably not appropriate to include a time limitation for this type of equipment, since power and heating are typically needed around the clock. Furthermore, an emergency exemption may be appropriate for some types of equipment such as generators.

## Lighting

The nuisance code does not currently include any provisions related to lighting. Lighting provisions are typically included in the land use regulations. Indeed, the MICC includes lighting regulations in other sections of the land use code, including the regulations related to Town Center ([MICC 19.11.090](#)) and to regulated improvements outside town center ([MICC 19.12.070](#)), include lighting provisions. However, there are currently no lighting provisions in the residential code ([MICC 19.02](#)). Rather than adding lighting provisions to the nuisance code, staff would instead recommend adding a new sub-section to the residential code related to lighting.

As an example of how a neighboring city has managed this concern, the City of Sammamish adopted in 2016 the following [Outdoor Lighting](#) provisions that are applicable in residential zones:

- (a) Security or Floodlighting Fixtures Associated with Single-Family Residences and Townhouses.
  - (i) Lighting fixtures shall be properly aimed and installed in a manner that causes minimal or no light trespass onto adjacent properties;
  - (ii) Lighting fixtures shall not exceed 1,260 lumens, unless the lighting fixture is fully shielded; and

(iii) Motion sensors associated with security or floodlighting shall not be activated by off-site movement.

Also by way of example, the International Dark-Sky Association includes in its [Model Lighting Ordinance](#) the following provision related to residential spot lighting (highlighting added):

#### A. General Requirements

For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, row 2.

##### Exceptions

1. One partly shielded or unshielded luminaire at the main entry, not exceeding the allowed lumen output in Table G row 1.
2. Any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G row 3.
3. Low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G row 4.
4. Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G row 5 [1260 lumens].
5. Open flame gas lamps.
6. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.
7. Lighting exempt per Section III (B.).

#### NEXT STEPS

In addition to this memo, please review the attached docket request and relevant sections of the current city code as referenced above. At the November 17 meeting the Commission will discuss the proposal and provide feedback and direction to staff on development of draft code amendments. Staff will draft code amendments based on the Commission's feedback and schedule a Public Hearing in early 2022. After hearing public comments on the proposal, the Commission should make a recommendation to the City Council.

#### ATTACHMENTS

1. Docket Request