

**CITY OF MERCER ISLAND
ORDINANCE NO. 21C-19**

**AN INTERIM ORDINANCE OF THE CITY OF MERCER ISLAND,
WASHINGTON, AMENDING MICC 19.16.010, DEFINITIONS, RELATING TO
THE DEFINITIONS OF FAMILY AND HOUSEKEEPING UNITS; ADOPTING A
WORK PLAN; PROVIDING FOR SEVERABILITY; DECLARING AN
EMERGENCY; AND ESTABLISHING AN 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, homelessness is a national, state, regional, and local crisis and homelessness has devastating effects on human lives and severe health, safety, social, economic, and environmental impacts on cities, neighborhoods, families, schools, businesses, healthcare facilities, and social service agencies; and

WHEREAS, the Washington State legislature recently passed SB 5235, which prohibits cities from restricting occupancy requirements of unrelated persons in a household or dwelling unit; and

WHEREAS, SB 5235 includes a July 25, 2021 deadline for cities to comply with the new legislation; and

WHEREAS, due to the effective date of the ordinance, it is necessary for the City to take immediate action to conform its code with state law; and

WHEREAS, the City is authorized under RCW 36.70A.390 to pass an interim zoning and official control ordinance 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 SB 5235 and such work plan is attached to this Ordinance as Exhibit A; 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 if it has not previously held a public hearing on the proposed ordinance; and

WHEREAS, the City Council held a public hearing on September 21, 2021 regarding this interim zoning and official control ordinance;

WHEREAS, both the homelessness crisis and the deadlines in SB 5235 for cities to adopt compliant development regulations cause an emergency which necessitates that this ordinance become effective immediately in order to preserve the public health, safety, and welfare and also requires action prior to the preparation of a State Environmental Protection Act threshold determination pursuant to WAC 197-11-880 and MICC 19.21.160;

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

Section 1: Whereas Clauses Adopted. The “Whereas Clauses” set forth in the recital of this Ordinance are hereby adopted as the findings and conclusions of the City Council for passing this Ordinance.

Section 2: Section 19.16.010 MICC, Definitions, Amended. MICC Section 19.16.101, Definitions, is hereby amended as follows. All other definitions not herein amended shall remain as currently written.

~~Family: One or more persons (but not more than six unrelated persons) living together in a single housekeeping unit. For purposes of this definition, persons with familial status and persons with handicaps within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. Sections 3602(h) and (k) will not be counted as unrelated persons. The limitation on the number of unrelated residents set forth in this definition shall not prohibit the city from making reasonable accommodations, as required by the FHAA, 42 U.S.C. Section 3604(f)(3)(B) and as provided in MICC 19.01.030. The term “family” shall exclude unrelated persons who are not also handicapped or have familial status within the meaning of the FHAA who live together in social service transitional housing or special needs group housing.~~

Single Housekeeping Unit: One or more persons jointly occupying a single-family dwelling or dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses. Such persons need not be related by blood or marriage. A Single Housekeeping Unit does not include larger institutional or congregant group living situations such as dormitories, fraternities, sororities, monasteries, or nunneries.

Section 3: Duration of Interim Zoning and Official Controls. The interim zoning and official controls approved by this Ordinance shall be effective immediately upon passage of this ordinance and continue in effect 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: 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 6: Effective Date. The City Council hereby finds and declares the deadlines in SB 5235 for cities to adopt compliant development regulations cause an emergency which necessitates that this ordinance become effective immediately in order to preserve the public health, safety, and welfare. This ordinance shall become effective immediately upon passage by at least a majority plus one member of the

City Council. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS REGULAR MEETING ON SEPTEMBER 21, 2021.

CITY OF MERCER ISLAND

Benson Wong, Mayor

Approved as to Form:

ATTEST:

Bio F. Park, City Attorney

Deborah A. Estrada, City Clerk

Date of Publication: _____

Exhibit A

State Mandated Code Amendments Work Plan

<p>1. Technical analysis and staff recommendation</p> <ul style="list-style-type: none">a. Review peer city approachesb. Analyze existing code criteria and spacing requirements for siting transitional and supportive housing facilities to understand existing capacity for potential housing sitesc. Await Department of Commerce data on Mercer Island’s “share” of the population in need of transitional/supportive housing and the amount of such housing the City should plan to accommodated. Prepare staff recommendations and begin drafting a code amendment based on the above informatione. Prepare a SEPA checklist and determination on the proposed code amendment, provide notification to state agencies and tribes	<p>Q4 2021-Q1 2022</p>
<p>2. Planning Commission review and recommendation on a draft code amendment</p> <ul style="list-style-type: none">a. Public outreach, including public hearingb. Approximately 3 points of review by the commission – study session, public hearing, and recommendation	<p>Q2 2022</p>
<p>3. City Council review and approval of code amendment</p> <ul style="list-style-type: none">a. First and second reading of the ordinance	<p>Q2-Q3 2022</p>