

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-18**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
ADOPTING INTERIM ZONING REGULATIONS TO INCREASE DEVELOPMENT
CAPACITY IN THE TOWN CENTER TO COMPLY WITH STATE LAW;
ADOPTING A WORK PLAN; PROVIDING FOR SEVERABILITY, AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, in compliance with the Washington State Growth Management Act (GMA), Chapter 36.70A RCW, the City of Mercer Island adopted a Comprehensive Plan in 1994 and has amended the plan on several occasions since that time; and

WHEREAS, no later than December 31, 2024, cities in King County are required to periodically review and, if necessary, update their comprehensive plans (RCW 36.70A.130); and

WHEREAS, the Legislature of the State of Washington passed Engrossed Second Substitute House Bill (E2SHB) 1220 requiring cities and counties to identify sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households; and

WHEREAS, in August 2023, the Washington Department of Commerce (Commerce) issued guidance for identifying sufficient capacity of land for affordable housing; and

WHEREAS, King County established affordable housing needs for the City of Mercer Island when it updated its Countywide Planning Policies (CPPs) in 2023; and

WHEREAS, during the City's periodic review of its Comprehensive Plan, the City prepared a Land Capacity Analysis Supplement based on guidance from Commerce to determine whether Mercer Island has sufficient capacity to accommodate the affordable housing needs established by King County. The Land Capacity Analysis Supplement identified a 143-unit development capacity deficit for multifamily and mixed-use housing types. The Land Capacity Analysis Supplement is being adopted as a Comprehensive Plan appendix during the 2024 Comprehensive Plan periodic review; and

WHEREAS, to address the capacity deficit identified in the Land Capacity Analysis Supplement, the City of Mercer Island must amend the development regulations established in Title 19 Mercer Island City Code (MICC); and

WHEREAS, the goals and policies in the Housing and Land Use elements of the Comprehensive Plan will be updated as part of the City's periodic review to identify the Town Center as the preferred location for additional multifamily and mixed-use development capacity; and

WHEREAS, on October 1, 2024, the City Council directed staff to prepare an interim ordinance to amend Title 19 MICC to (1) increase multifamily and mixed-use development capacity in the Town Center by raising the maximum building height from five to seven stories in the TC-5 and TC-4 Plus subareas and from four to five stories in the TC-4 subarea; (2) increase the required percentage of affordable housing in new development in Town Center from 10 percent to 15 percent; and (3) deepen the affordability requirement for affordable housing units in new

development in Town Center from 60 percent to 50 percent of the area median income (AMI) for rental housing and from 90 percent to 80 percent of the AMI for ownership housing; and

WHEREAS, several sections of Chapter 19.11 MICC must be amended to increase the maximum building height and adjust affordability requirements as directed by the City Council; and

WHEREAS, the 2024 Comprehensive Plan amendments to complete the GMA-mandated periodic review will become effective on December 31, 2024; and

WHEREAS, by December 31, 2024, the City of Mercer Island must amend the MICC to be consistent with goals and policies established in the updated Comprehensive Plan, address the capacity deficit identified in the Land Capacity Analysis Supplement concurrently with the Comprehensive Plan periodic review, and maintain internal consistency between the City's development code, zoning, and Comprehensive Plan; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to pass an interim zoning and official control ordinance for up to one year, provided a work plan is developed for related studies providing for such a longer period; and

WHEREAS, the City Council held a public hearing on November 19, 2024 which satisfies the requirements on RCW 35A.63.220 and RCW 36.70A.390; 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 ORDAIN AS FOLLOWS:

- Section 1. Whereas Clauses Adopted.** The "Whereas Clauses" set forth in the recital of this ordinance are adopted as the findings of fact and/or conclusions of law of the City Council as support for passing this ordinance.

- Section 2. MICC 19.11.015, Town Center subareas, Amended.** MICC 19.11.015, Town Center subareas, is amended as shown on the attached Exhibit A.

- Section 3. MICC 19.11.020, Land uses, Amended.** MICC 19.11.020, Land uses. is amended as shown on the attached Exhibit B.

- Section 4. MICC 19.11.030, Bulk regulations, Amended.** MICC 19.11.030, Bulk regulations, is amended as shown on the attached Exhibit C.

- Section 5. MICC 19.11.040, Affordable housing, Amended.** MICC 19.12.050, Affordable housing, is amended as shown on the attached Exhibit D.

- Section 6. MICC 19.11.060, Site design, Amended.** MICC 19.11.060, Site design, is amended as shown on the attached Exhibit E.

- Section 7. MICC 19.11.100, Building design, Amended.** MICC 19.11.100, Building design, is amended as shown on the attached Exhibit F.

Section 8. Work Plan adopted. The Work Plan attached as Exhibit G is adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390 and indicates the City's plans for considering permanent regulations during the pendency of the interim regulations.

Section 9. Duration of Interim Zoning and Official Controls. The interim zoning and official controls approved by this ordinance shall continue in effect for an initial period of one year from the effective date, unless repealed, extended or modified by the City Council pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 10. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 11. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force on December 31, 2024, provided five days have passed since publication.

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 DECEMBER 3, 2024.

CITY OF MERCER ISLAND

Salim Nice, Mayor

APPROVED AS TO FORM:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication:

EXHIBITS

- A. Amended MICC 19.11.015
- B. Amended MICC 19.11.020
- C. Amended MICC 19.11.030
- D. Amended MICC 19.11.040
- E. Amended MICC 19.11.060
- F. Amended MICC 19.11.100
- G. Work Plan

Exhibit A

MICC 19.11.015 - Town Center subareas.

- A. *Intent.* The primary intent of establishing subareas within the Town Center is to provide differing building height standards and land uses within the Town Center. Buildings within the Town Center are limited to two stories in height unless community benefits are provided as discussed throughout this chapter. The purpose of the different height standards is to locate taller buildings on the north end of the Town Center, and step down building height through the center to the south end of Town Center, bordering Mercedale Park.
- B. *Subareas established.* The following subareas have been established and are depicted on Figure 1 below.
1. *TC-57 subarea.* The purpose of the TC-57 subarea is to create a focused mixed use core, oriented toward pedestrian connections and regional transit access. A broad mix of land uses is allowed. Buildings may be up to ~~five~~ seven stories in height.
 2. *TC-45 subarea.* The purpose of the TC-45 subarea is to be a transition between the taller buildings in the TC-57 subarea and the lower structures in the TC-3 and TCMF-3 subareas. A broad mix of land uses is allowed. Buildings may be up to ~~four~~ five stories in height.
 3. *TC-45 plus subarea.* The purpose of the TC-45 Plus subarea is to be a transition between the taller buildings in the TC-57 subarea and the TC-45 subarea. A broad mix of land uses is allowed. Buildings may be up to ~~five~~ seven stories in height with the provision of additional affordable housing units and public open space.
 4. *TC-3 subarea.* The purpose of the TC-3 subarea is to create an area of transition between the Town Center and adjacent residential neighborhoods. A broad mix of land uses is allowed. Buildings may be up to three stories in height.
 5. *TCMF-4 (Multifamily residential) subarea.* The purpose of the TCMF-4 subarea is to provide for primarily multifamily residential housing of up to four stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.
 6. *TCMF-3 (Multifamily residential) subarea.* The purpose of the TCMF-3 subarea is to provide for primarily multifamily residential housing of up to three stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.

Figure 1 — Town Center Subareas and Maximum Height Limit

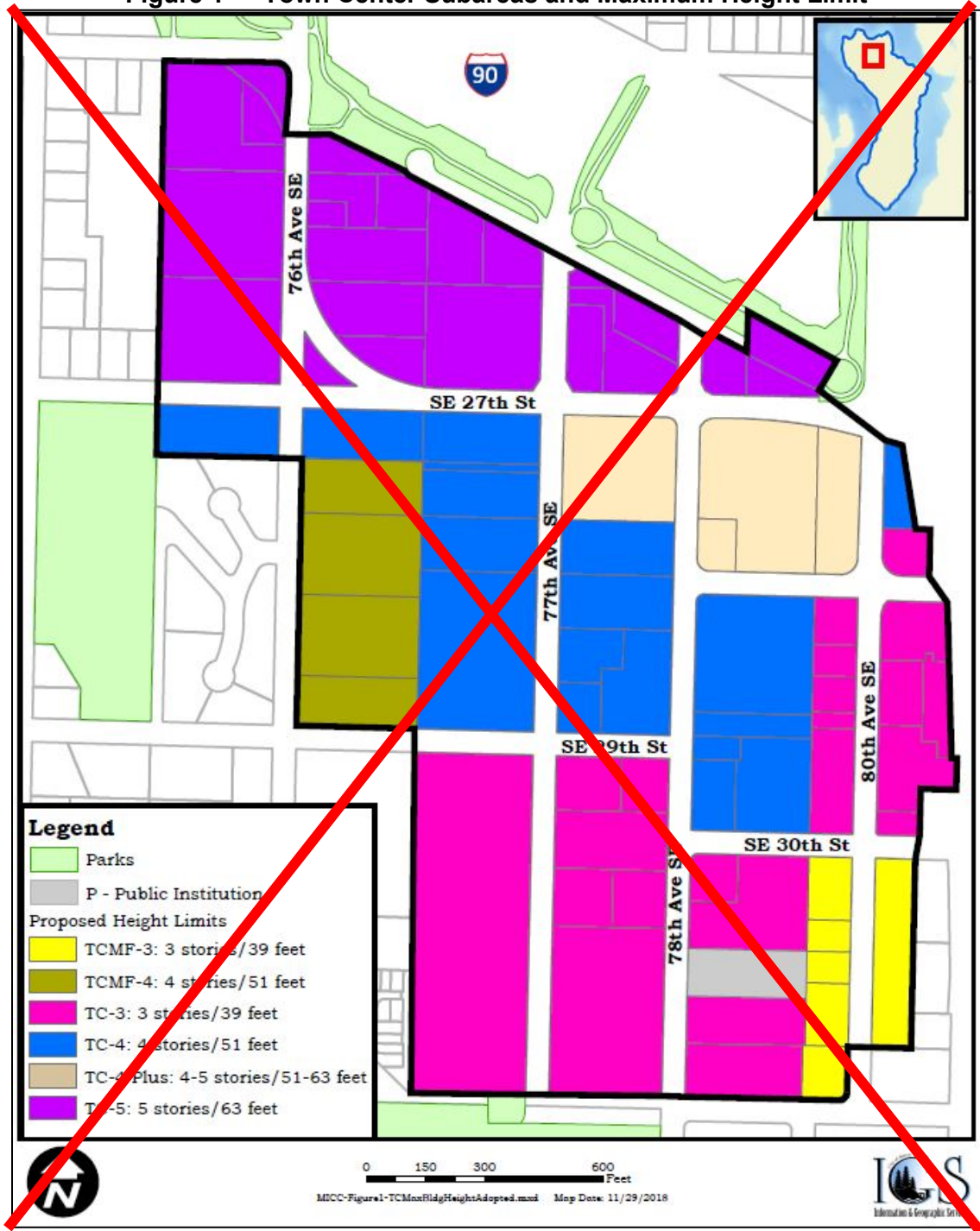


FIGURE 1: TOWN CENTER SUBAREAS MAXIMUM HEIGHT LIMIT

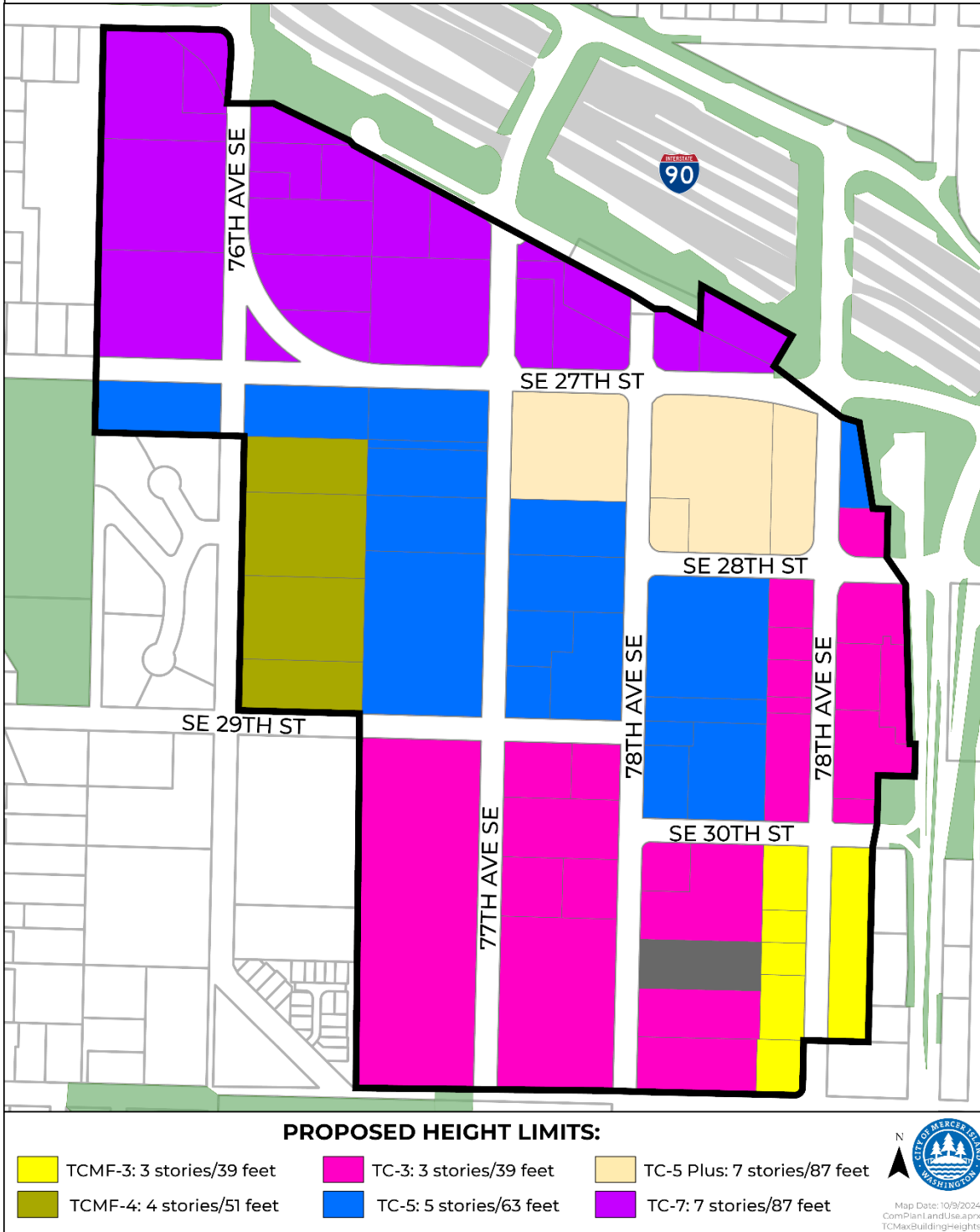


Exhibit B

MICC 19.11.020 – Land uses.

A. *Permitted and conditional uses.*

1. *Use table by subarea.* Permitted and conditional uses are allowed in each subarea as shown in the use table below.

Use	TC-57	TC-45 TC-45 Plus	TC-3	TCMF-3	TCMF-4
Adult entertainment	C	N	N	N	N
Bar	P	P	P	N	N
Care services	P	P	P	C	C
Hotel/motel	P	P	P	C	C
Live/work units	C	C	C	P	P
Manufacturing	C	C	C	N	N
Office	P	P	P	C	C
Parking, not associated with an on-site use	C	C	C	N	N
Public facility	P	P	P	C	C
Recreation	P	P	P	C	C
Residential dwelling	P	P	P	P	P
Restaurant	P	P	P	P	P
Retail — small scale	P	P	P	P	P
Retail — large scale (> 20,000 square feet)	C	C	C	N	N
Retail — outdoors	C	C	C	N	N
Rooming houses	P	P	P	C	C
Service	P	P	P	P	P
Social service transitional housing	C	C	C	C	C
Special needs group housing	P	P	P	P	P
Transportation/utilities (including automobile service stations)	P	P	P	P	P
Warehousing	N	C	N	N	N
C — Conditional Use P — Permitted N — Not Allowed					

2. *North American Industry Classification System.* Questions as to the inclusion or exclusion of a particular use shall be determined by the code official based on North American Industry Classification System (NAICS) — United States, published by the U.S. Department of Commerce.

[...]

Exhibit C

MICC 19.11.030 - Bulk regulations.

A. Bulk regulations by subarea.

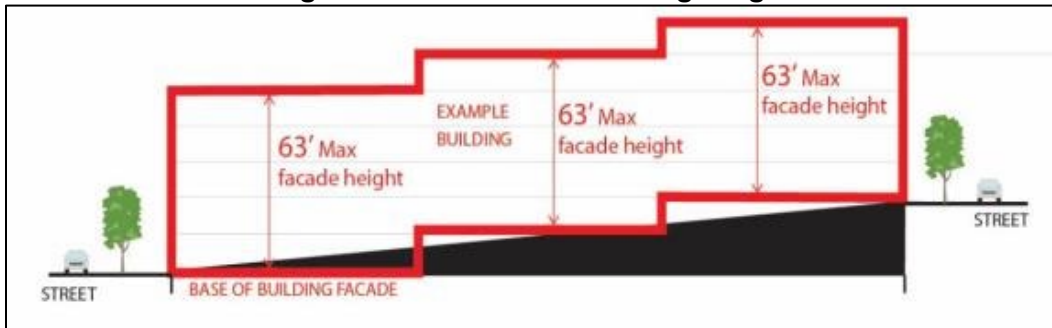
1. The bulk regulations for properties in the Town Center are as follows:

	TC-57	TC-45 and TC-45 Plus	TC-3	TCMF-3	TCMF-4
Base Building Height Allowed	27 Feet	27 Feet	27 Feet	27 Feet	27 Feet
Base Stories Allowed	2	2	2	2	2
Maximum Allowable Building Height	63 87 feet	TC-45: 5163 Feet TC-45 Plus: 63 87 Feet	39 Feet	39 Feet	51 Feet
	Up to 5 additional feet allowed for parapet and/or sloped roof.				
Maximum Allowable Building Stories	57	TC-45: 45 TC-45 Plus: 57	3	3	4
Ground Floor Height Adjacent to Streets	15 feet minimum, 27 feet maximum			N/A	N/A
Setback from Property Lines	No minimum setback required except where necessary to provide landscaping, facade modulation, through-block connection or an easement for required sidewalk width.				
Required Upper Story Setback (Average Daylight Plane)	All street frontages are subject to the average daylight plane standards described in subsection (A)(7) of this section.				

2. *Base building height.* A base building height of up to two stories (not to exceed 27 feet) shall be allowed. One-story structures located adjacent to the public right-of-way in the TC-7, TC-5, ~~TC-4~~, TC-45 Plus and TC-3 subareas shall be a minimum of 15 feet and may be as tall as 27 feet with approval of the design commission to ensure the taller facade provides features that ensure a pedestrian scale.
3. *Calculation of building height.*
 - a. The intent of the building height calculation in this section is to limit the visual mass of a building so that it does not appear to exceed the maximum height limit in subsection (A)(1) of this section.
 - b. The maximum allowable building height in subsection (A)(1) of this section shall be calculated as the vertical distance measured from the base of a building facade to the highest point of the roof structure excluding appurtenances. The base of the building facade shall be measured from the adjacent public sidewalk if applicable, or from the lower of existing or finished grade along building facades that are not adjacent to a public sidewalk. See Figure 4.
 - c. If the bases of the opposite building facades are at approximately the same elevation, then the building height at any point between the facades can

never exceed the maximum permitted building height. If the bases of the opposite building facades are not at approximately the same elevation, then the building must be configured to go down in height as between the higher and lower facades in a manner similar to Figure 4 or in an equivalent manner such that the average of the building heights calculated between the facades is approximately equal to or less than the maximum permitted building height.

Figure 4 — Maximum Building Height



4. *Mezzanines.* A mezzanine shall not be counted as a story for determining the allowable number of stories when constructed in accordance with the requirements of the construction codes set forth in [MIGG Title 17 MICC](#).

[...]

Exhibit D

MICC 19.11.040 - Affordable housing.

[...]

- B. *Affordable housing ratio.* In order to qualify as significant affordable housing and in order to qualify for bonus building height over two stories, a development that contains dwelling units must provide affordable housing units equal to at least ~~ten~~fifteen percent of the total units in the development. The number of required affordable units shall be rounded up to the nearest whole number.
- C. *Affordability level.* For a three-story building the required affordable housing units must be affordable at the 70 percent of median income level for rental housing or 90 percent of median income level for ownership housing. For four- ~~and to five~~seven-story buildings, the required affordable housing units must be affordable at the ~~60~~50 percent of median income level for rental housing or ~~90~~80 percent of median income level for ownership housing.
- D. *Design elements.*
 - 1. The affordable housing units shall generally be intermingled with all other dwelling units in the development and are not required to be located on the top story or bonus storyies.

[...]

Exhibit E

MICC 19.11.060 – Site design.

[...]

B. *Major site features.* Any major new construction in the TC-57, TC-45, TC-45 Plus or TC-3 subarea which exceeds the two-story base height and that includes or abuts a preferred through-block connection location shown on Figure 7 shall include a through-block connection subject to design commission determination that such connection is feasible and achievable. Any major new construction exceeding three stories in height in the TC-57, TC-45, TC-45 Plus subarea shall include at least one of the following major site features, subject to design commission determination that such choices contribute to a well-balanced mix of features in that subarea:

1. *Through-block connection.* Through-block pedestrian connections will qualify as a major site feature upon satisfaction of the development and design standards set forth in subsection E of this section. If the on-site area of the through-block connection does not equal or exceed three percent of the gross floor area of the development, then public open space shall also be provided so that the total area of the through-block connection and public open space equals or exceeds three percent of the gross floor area of the development.
2. *Public open space.* Public open spaces will qualify as a major site feature upon satisfaction of the development and design standards set forth in subsection D of this section.

[...]

D. *Public open space.* Refers to plazas, parks or other spaces intended for the use and enjoyment of the public in the Town Center zone. Public open spaces serve as public gathering spaces and, depending on their size, could accommodate a variety of public events, as well as provide space for informal gatherings and quiet activities.

1. *Size.* A single public open space shall be a minimum size equal to three percent of the gross floor area of the development and shall be at least 20 feet in width. For a fifth, sixth, or seventh floor in the TC-45 Plus subarea, public open space shall increase to a minimum of seven and one-half percent of the gross floor area of the development. The design commission may allow a development to provide two or more public open spaces so long as the design commission determines that such multiple public open spaces will have an equal or greater public benefit and each is at least 1,500 square feet in area. The primary purpose of the public open spaces shall be as public gathering places. Other uses of public open spaces whose primary purpose is not for public gathering including but not limited to lobby entrances, stairs, and cordoned off/private outdoor restaurant seating shall not be included in calculating the minimum size of the public open spaces. Such areas shall be in addition to any area required as a minor site feature under subsection A of this section. If a development is required to provide both a public open space and a through-block connection, then the area of the through-block connection that

meets the requirements of subsection E of this section shall also be counted towards the public open space requirement.

[...]

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Exhibit F

MICC 19.11.100 – Building design.

[...]

B. *Development and design standards.*

1. *Fenestration.*

- a. *Transparent facades.* Articulated, transparent facades should be created along pedestrian rights-of-way. Highly tinted or mirrored glass windows shall not be allowed. Shades, blinds or screens that prevent pedestrian view into building spaces shall not be allowed, except where required or desired for privacy in dwelling units, hotel rooms and similar residential uses.
- b. *Ground floor windows and doors.* Major new construction along 77th Avenue SE, 78th Avenue SE and SE 27th Street, within the TC-7, TC-5, TC-4 and TC-45 Plus subareas, shall have at least 75 percent of the length of the ground floor facade between the height of two feet and seven feet devoted to windows and doors affording views into retail, office, or lobby space.
- c. *Upper story facades.* Upper stories of buildings above two stories should maintain an expression line along the facade such as a setback, change of material, or a projection to reduce the perceived building mass. Upper story windows should be divided into individual units and not consist of a "ribbon" of glass. Upper story features such as balconies, roof decks, bay windows or upper story commercial activities should be used to visually connect upper story activity with the street.

[...]

Exhibit G

Town Center Maximum Building Height Work Plan

<ul style="list-style-type: none">• Technical analysis and staff recommendation• Review peer city approaches• Prepare staff recommendations and begin drafting a code amendment based on the above information• Prepare a SEPA checklist and determination on the proposed code amendment, provide notification to state agencies and tribes	Q3 2025- Q1 2026
Planning Commission legislative review and recommendation on a draft code amendment including three points of review by the commission – study session, public hearing, and recommendation	Q1 2026
City Council review and approval of code amendment First and second reading of the ordinance	Q2 2026