



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND**

**AB 5630  
December 3, 2019  
Regular Business**

**AGENDA BILL INFORMATION**

<b>TITLE:</b>	AB 5630: 2019 Minor Code Amendments (1st	<input type="checkbox"/> Discussion Only
<b>RECOMMENDED ACTION:</b>	Set Ordinance No. 19C-21 for second reading and adoption on the December 10, 2019 Consent Calendar.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Evan Maxim, Director
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Draft Ordinance No. 19C-21
<b>CITY COUNCIL PRIORITY:</b>	3. Support the Leadership Team's Work Plan

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

**SUMMARY**

**BACKGROUND**

Following the adoption of Ordinance No. 17C-015 (Residential Development Standards code update), the City Council requested that Community Planning and Development (CPD) staff to periodically review and update the zoning code to promote clarity and internal consistency. CPD staff maintain a running list of code amendment items, which is generated through application of the code during project review.

In sum, the 2019 "Minor" Code Amendments (ZTR19-001) contain code amendments related to the following subjects:

1. Clarification of side yard terminology;
2. Clarification of roof pitch when allowing eaves into non-conforming setbacks;
3. An allowance for a driveway that exceeds 30 inches in height in a yard where necessary to provide vehicle access to the house;
4. Establishing a height limit in the MF-2L zone and a methodology for calculating the height limit in the MF-2, MF-3, PBZ, and CO zones;
5. Correcting a grammatical error that indicated that all development should be avoided;

6. Revising the term used to describe the City's determination of the amount of required parking from "variance" to "modification";
7. Allowing the City to issue a decision on a project or permit review when requests for a correction are repeatedly not addressed;
8. Correcting a cross reference in design review;
9. Creating a definition of irregular lot;
10. Amending the definition of lot coverage to include eaves and roof overhangs; and,
11. Creating a process whereby any person may propose the docketing of a code amendment for review by the City Council.

## **MINOR AMENDMENTS**

**Nos. 1 through 10 (Pages 1 through 6 and page 9):** Amendment items 1 through 10 represent minor changes to the regulations initiated as part of the CPD staff's periodic review. The proposed code amendments are not intended to represent substantive changes to policy.

**No. 11 (Pages 6 through 8):** On July 16, 2019 the City received a "Petition for Review" before the Growth Management Hearings Board (GMHB), which was assigned Case No. 19-3-0014. The petition highlighted that the City's code language regarding the application for code amendments, and who can initiate them, is not in alignment with state law. RCW 36.70A.470 requires cities to include code provisions that provide:

*"a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis."*

In practice, the City currently allows any interested person to apply for a code amendment. The application for a code amendment involves the payment of a fee, and preparation of an application form and proposed amendment. The fee is intended to cover 80% of the City's administrative costs for processing the amendment. The City does not currently have a process for any interested person to "suggest" an amendment without paying a fee.

Following consultation with the City Attorney's office, the City has drafted a process that will allow any person to suggest a code amendment through the same type of docketing process used for Comprehensive Plan amendments. Suggested amendments will require sufficient description by the person suggesting the amendment for the City Council to determine whether further action is appropriate. A person suggesting the code amendment will not be required to pay a fee. The proposed code amendment docketing process is in addition to the City's current code amendment "application" process.

Following a public hearing on September 18, 2019, the Planning Commission has recommended that the City Council adopt the minor code amendments.

## **RECOMMENDATION**

Set Ordinance No. 19C-21 for second reading and adoption on the December 10, 2019 Consent Calendar.