

**CITY OF MERCER ISLAND
ORDINANCE NO. 23C-02**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, RENEWING THE INTERIM REGULATIONS ADOPTED BY ORDINANCE NO. 21C-23 ON DEFINITIONS RELATING TO EMERGENCY SHELTERS AND HOUSING, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING; PROVIDING FOR SEVERABILITY; 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, 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, Commerce has not yet assigned the City of Mercer Island a number of units for permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters; 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, 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, 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, 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 is authorized under RCW 35A.63.220 and 36.70A.390 to renew an interim zoning and official control ordinance for one or more six-month periods provided a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, on September 6, 2022, the City Council adopted by Ordinance 22C-14 to renew the interim regulations established by Ordinance 21C-23 for another six months; and

WHEREAS, the interim regulations renewed by Ordinance 22C-14 will expire on March 21, 2023; and

WHEREAS, it is necessary to renew the interim regulations established by Ordinance No. 21C-23 for an additional six months to allow additional time for Commerce to determine the City's projected need for emergency housing, emergency shelters, and permanent supportive housing; and

WHEREAS, on February 21, 2023, the City Council held a public hearing and had their first reading of this ordinance; and

WHEREAS, on March 7, 2023, the City Council had their second reading of this ordinance.

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 and 22C-14, and the "Whereas Clauses" set forth in the recitals of this Ordinance are hereby adopted as the findings of the City Council for passing this Ordinance.

Section 2: Interim Ordinance No. 21C-23 Renewed. The interim regulations established by Ordinance No. 21C-23 are renewed by this Ordinance and shall continue in effect for a period of six months from the effective date established in Section 4 of this Ordinance, unless repealed, extended, or modified by the City Council.

Section 3. 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 4: 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 March 21, 2023, provided five days have passed since publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS MEETING ON MARCH 7, 2023.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: _____

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