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**CITY OF MERCER ISLAND
ORDINANCE NO. 22C-11**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING MERCER ISLAND CITY CODE 19.02.030 ACCESSORY DWELLING UNITS AND 19.16.010 DEFINITIONS RELATING TO THE DEFINITIONS OF FAMILY AND DWELLING UNITS; 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, 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 ESSB 5235, which prohibits cities from restricting occupancy requirements of unrelated persons in a household or dwelling unit; and

WHEREAS, on September 21, 2021, the City Council adopted Ordinance No. 21C-19 establishing temporary code amendments and work plan to adopt permanent amendments to comply with ESSB 5235; and

WHEREAS, on September 21, 2022, the temporary code amendments adopted by Ordinance Nos. 21C-19 will expire; and

WHEREAS, on March 23, 2022, the Planning Commission was briefed and provided initial input on permanent code amendments to comply with ESSB 5235; and

WHEREAS, on March 19, 2022, CPD issued a State Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) consistent with the procedures established in Chapter 19.21 MICC and notified the Washington State Department of Commerce of the City’s intent to adopt development code amendments; and

WHEREAS, on April 27, 2022, the Planning Commission held a duly advertised public hearing and made a recommendation to the City Council; and

WHEREAS, on June 7, 2022, the City Council was briefed on the Planning Commission recommendation and had their first reading of this ordinance; and

WHEREAS, on XXXXXX, the City Council had their second reading of this ordinance.

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

Section 1. MICC 19.02.030(B) Accessory Dwelling Units Amended. MICC 19.02.030(B) is amended as follows.

1 [...]
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3 B. Requirements for accessory dwelling units. One accessory
4 dwelling unit is permitted as subordinate to an existing single-
5 family dwelling; provided, the following requirements are met:
6

7 1. Owner occupancy. Either the principal dwelling unit or the
8 accessory dwelling unit must be occupied by an owner of the
9 property or an immediate chosen family member of the property
10 owner. Owner occupancy is defined as a property owner, as
11 reflected in title records, who makes his or her legal residence at
12 the site, as evidenced by voter registration, vehicle registration,
13 or similar means, and actually resides at the site more than six
14 months out of any given year.
15

16 2. Number of occupants. The total number of occupants in both
17 the principal dwelling and accessory dwelling unit combined shall
18 not exceed the maximum number established for a family as
19 defined in MICC 19.16.010 plus any live in household employees
20 of such family.
21

22 [...]

23
24 Section 2. Section 19.16.010 MICC, Definitions, Amended. MICC Section 19.16.101,
25 Definitions, is hereby amended as follows. All other definitions not herein amended
26 shall remain as currently written.
27

28 [...]

29 Dwelling:
30

31 1. Dwelling unit: A part of a multiple-family dwelling containing only
32 one kitchen, that houses not more than one family, plus any live-in
33 household employees of such family building or a contiguous
34 portion of a building providing complete independent living facilities
35 for one or more persons including permanent provisions for living,
36 sleeping, eating, cooking, and sanitation (see also "Accessory
37 Dwelling Unit (ADU)").
38

39 2. Multiple-family dwelling: A building, other than a single-family
40 dwelling with an accessory dwelling unit, containing two or more
41 dwelling units.
42

43 3. Single-family dwelling: A building designed and/or used to house
44 not more than one family, plus any live-in household employees of
45 such family.
46

47 4. Single-family dwelling—Detached: A single-family dwelling that
48 is not attached to any other structure by any means and is
49 surrounded by open space or yards.
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1 5. Single-family dwelling—Semi-detached: A single-family dwelling
2 that is attached to another dwelling unit by a common vertical wall,
3 with each dwelling unit located on a separate lot.

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7 Family: One or more persons (but not more than six unrelated
8 persons) living together in a single housekeeping unit. For
9 purposes of this definition, persons with familial status and persons
10 with handicaps within the meaning of the Fair Housing
11 Amendments Act (FHAA), 42 U.S.C. Sections 3602(h) and (k) will
12 not be counted as unrelated persons. The limitation on the number
13 of unrelated residents set forth in this definition shall not prohibit the
14 city from making reasonable accommodations, as required by the
15 FHAA, 42 U.S.C. Section 3604(f)(3)(B) and as provided in MCG
16 19.01.030. The term “family” shall exclude unrelated persons who
17 are not also handicapped or have familial status within the meaning
18 of the FHAA who live together in social service transitional housing
19 or special needs group housing. occupying a dwelling unit,
20 including the joint use of and responsibility for common areas,
21 sharing household activities and responsibilities such as chores,
22 household maintenance, and expenses. Such persons need not be
23 related by blood or marriage. A family does not include institutional
24 or congregant group living situations such as boarding houses,
25 dormitories, fraternities, sororities, monasteries, or nunneries.

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29 **Section 3. Severability.** If any section, sentence, clause, or phrase of this Ordinance should
30 be held to be invalid or unconstitutional by a court of competent jurisdiction, or its
31 application held inapplicable to any person, property, or circumstance, such
32 invalidity or unconstitutionality shall not affect the validity of any other section,
33 sentence, clause, or phrase of this Ordinance or its application to any other person,
34 property, or circumstance.

35
36 **Section 4. Publication and Effective Date.** A summary of this Ordinance consisting of its
37 title shall be published in the official newspaper of the City. This Ordinance shall
38 take effect and be in full force five days after the date of publication.

39
40 PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS
41 MEETING ON XXXXXXX, 2022.

42
43 ATTEST:

CITY OF MERCER ISLAND

44
45 _____
46 Andrea Larson, City Clerk

45 _____
46 Salim Nice, Mayor

1 APPROVED AS TO FORM

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4 _____
Bio Park, City Attorney

Date of publication: _____

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DRAFT