
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

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PLANNING COMMISSION

To: City Council
From: Daniel Hubbell, Planning Commission Chair
Date: April 27, 2022
RE: ZTR21-003 State Mandated Amendments
ATTACHMENTS: A. Recommended Amendments to Title 19 Mercer Island City Code.

On behalf of the Planning Commission, I am pleased to present our recommendation on ZTR21-003, the state mandated amendments.


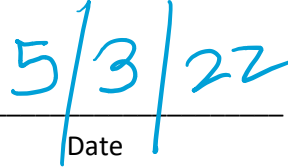
This code amendment was prompted by legislation adopted by the State Legislature in 2020 and 2021. The Planning Commission worked on this amendment beginning in March 2022. The Planning Commission recommended code amendment would amend the definitions established in Mercer Island City Code (MICC) 19.16.010 and Accessory Dwelling Unit regulations in MICC 19.02-030 to address the issues raised by recent changes to state law (Attachment A).

This matter first came before the City of Mercer Island Planning Commission on March 23, 2022. The Planning Commission held an open record public hearing on April 27, 2022. The Planning Commission considered the staff reports dated March 17, 2022, and April 20, 2022, in making its recommendation.

After deliberation, the Commission recommends the draft code amendment to MICC 19.16.010 Definitions and MICC 19.02.030 Accessory dwelling units as shown in Attachment A. The Planning Commission recommended amendments to MICC 19.16.010 adequately defines family, dwelling, and adult family homes. The changes to MICC 19.02.030(B) will ensure that the accessory dwelling unit (ADU) regulations are consistent with the changes to definitions in MICC 19.16.010.

The commission discussed the owner occupancy provisions for ADUs established by MICC 19.02.030(B) in detail. The existing code requires that either the primary home or the accessory unit be occupied by the property owner or their immediate family member. Because of the proposed changes to the definition of the term "family" in MICC 19.16.010, recommended above, the staff had also proposed an amendment to this section since it also referenced the term "family." The Planning Commission noted several potential issues or problems with the use of "family" in relation to the ADU owner-occupancy provisions in MICC 19.16.010(B). Defining family too broadly could effectively render the owner-occupancy requirement moot. Including a narrow definition of family could exclude common familial ties such as blended families or unmarried committed romantic partners. The commission struggled with identifying a code amendment that would maintain the original intent of the owner occupancy provision without excluding certain types of familial relationships. The

Commission's final recommendation represents a very simple code amendment that attempts to balance these objectives. By allowing owner-occupancy for ADUs to be satisfied by a property owner's "chosen family member," the Planning Commission recommendation should allow property owners the leeway to determine what constitutes their family without rendering the owner-occupancy requirement moot.

Daniel Hubbell
Planning Commission Chair
City of Mercer Island

19.16.010 - Definitions.

[. . .]

Adult Family Home: As defined and regulated by Chapter 70.128 RCW, an adult family home is the regular family abode of a person or persons who are providing personal care, special care, and room and board to more than one but not more than ~~six~~ eight adults who are not related by blood or marriage to the person or persons providing the services.

[. . .]

~~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, occupying a dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as chores, household maintenance, and expenses. Such persons need not be related by blood or marriage. A family does not include institutional or congregant group living situations such as boarding houses, dormitories, fraternities, sororities, monasteries, or nunneries.~~

[. . .]

Dwelling:

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

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

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

4. Single-family dwelling—Detached: A single-family dwelling that is not attached to any other structure by any means and is surrounded by open space or yards.

5. Single-family dwelling—Semi-detached: A single-family dwelling that is attached to another dwelling unit by a common vertical wall, with each dwelling unit located on a separate lot.

[. . .]

1 **MICC 19.02.030 – Accessory dwelling units.**

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3 [. . .]

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

7

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

14

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

18

19 [. . .]

