

**CITY OF MERCER ISLAND
ORDINANCE NO. 21C-28**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON;
AMENDING MICC 19.11.020(B) TO REVISE THE STANDARDS AND
REQUIREMENTS FOR TOWN CENTER RETAIL REQUIREMENTS;
REPEALING THE TOWN CENTER MORATORIUM ADOPTED BY
ORDINANCE NO. 21C-27; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City adopted Ordinance No. 20-12 on June 2, 2020, implementing a six-month moratorium pursuant to RCW 35A.63.220 and RCW 36.70A.390 on the submission of applications for any building permits or any other land use approvals for Major New Construction as defined in MICC 19.16.010 for properties located within the Town Center (TC) zone at Mercer Island south of SE 29th Street; and

WHEREAS, after the public hearing on the above referenced moratorium, the City adopted Ordinance No. 20-18 on September 1, 2020, amending Ordinance No. 20-12 to reduce the size of the geographic area subject to moratorium to the Town Center (TC) zone at Mercer Island south of SE 29th Street, east of 77th Avenue SE, and west of 80th Avenue SE, and to include additional findings of fact; and

WHEREAS, the City Council has extended the effective period of Ordinance No. 20-12 most recently on November 16, 2021, through Ordinance No. 21C-27 following a public hearing, and the most recent extension extends the moratorium into June 2022; and

WHEREAS, protecting and expanding Mercer Island's retail sector is of upmost importance to maintaining and improving the quality of life and emergency preparedness by providing local access to goods and services that are necessary to meet the daily need of residents; and

WHEREAS, the City Council finds that the current Town Center retail requirements for Major New Construction may result in diminishment of such space, lead to Mercer Island being underserved long term and therefore unable to meet future demand; and

WHEREAS, the City Council desires to adopt permanent standards and requirements for Town Center retail requirements; and

WHEREAS, the City Council hereby finds that the actions set forth below are necessary to protect and expand Mercer Island's retail sector and preserve public peace, health, safety, and welfare;

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 section above are hereby adopted as the findings of the City Council for passing this ordinance.

Section 2. Repeal and replacement of Mercer Island City Code (MICC) 19.11.020(B). MICC 19.11.020(B), Required Street Frontage Commercial Uses, is hereby repealed and replaced as set forth in Exhibit A to this ordinance.

Section 3. Repeal of Town Center Moratorium. With the adoption in Section 2 of a new MICC 19.11.020(B) revising the standards and requirements for Town Center retail requirements, the current (partial) Town Center moratorium is no longer necessary. Ordinance No. 21C-27 is, therefore, hereby repealed in its entirety.

Section 4. 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 5. 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 five days after the date of publication.

Passed by the City Council of the City of Mercer Island, Washington, at its regular meeting on March 15, 2022, and signed in authentication of its passage.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: _____

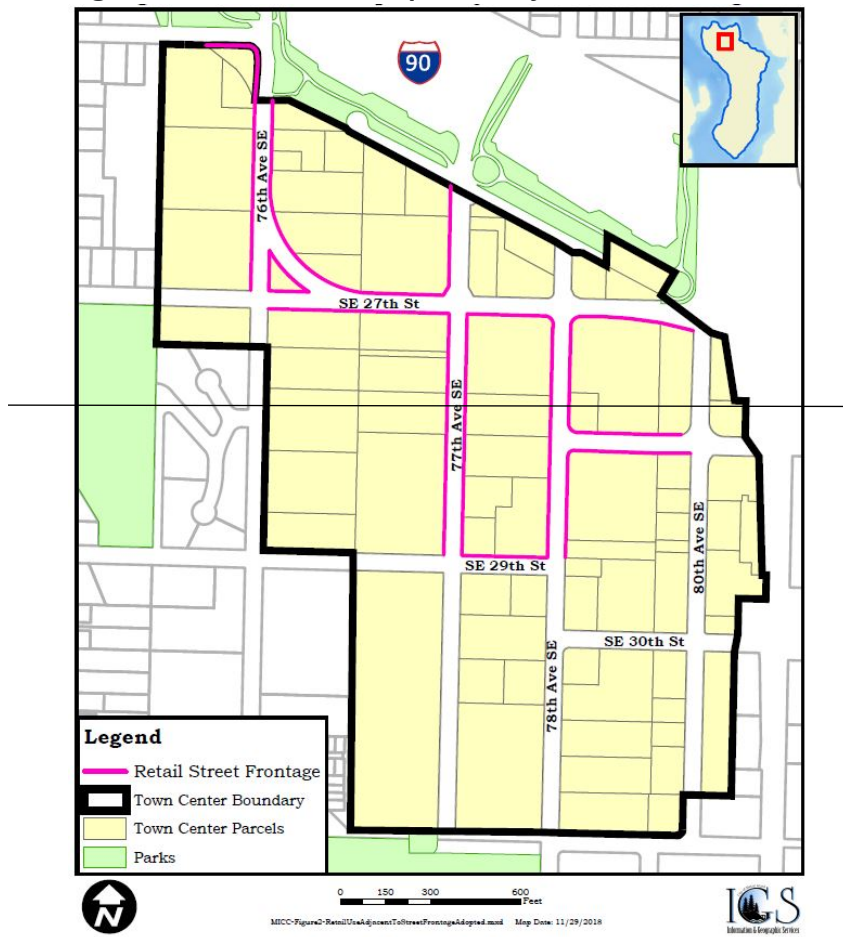
Exhibit A
To Ordinance No. 21C-28

MICC 19.11.020(B) is repealed in its entirety.

~~B. Required ground floor uses. Retail, restaurant or personal service uses are required along retail street frontages as shown on Figure 2.~~

- ~~1. If public parking is provided pursuant to MICC [19.11.130](#)(B)(5), then the following applies:
 - ~~a. A minimum of 40 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.~~
 - ~~b. A maximum of 60 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.~~
 - ~~c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.~~~~
- ~~2. If public parking is not provided pursuant to MICC [19.11.130](#)(B)(5), then the following applies:
 - ~~a. A minimum of 60 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.~~
 - ~~b. A maximum of 40 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.~~
 - ~~c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.~~~~
- ~~3. No use shall occupy a continuous linear street frontage exceeding 60 feet in length. The design commission may approve up to an additional six feet in length if the use incorporates a feature to promote pedestrian activity, including but not limited to: an additional pedestrian entrance onto a sidewalk or through block connection, or additional ten percent transparency beyond the requirement of MICC [19.11.100](#)(B)(1)(b).~~
- ~~4. The minimum required depth of storefronts along retail street frontages is 16 feet.~~

Figure 2 — Retail Use Required Adjacent To Street Frontages



A new MICC 19.11.020(B) is adopted as follows:

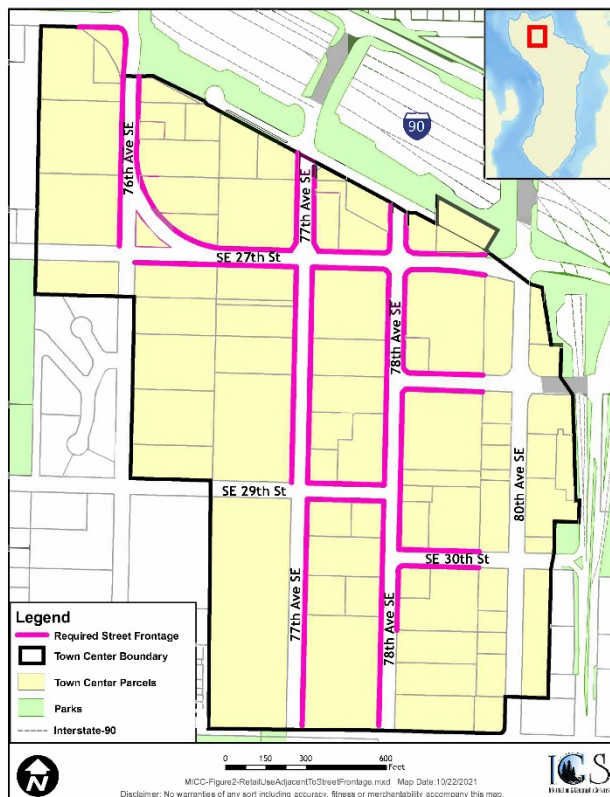
B. Required Street Frontage Uses

1. Retail, restaurant and/or personal service uses; museums and art exhibition uses; and/or theater uses as defined in MICC 19.16.010 and listed below are required adjacent to street frontages as shown on Figure 2.

Definitions

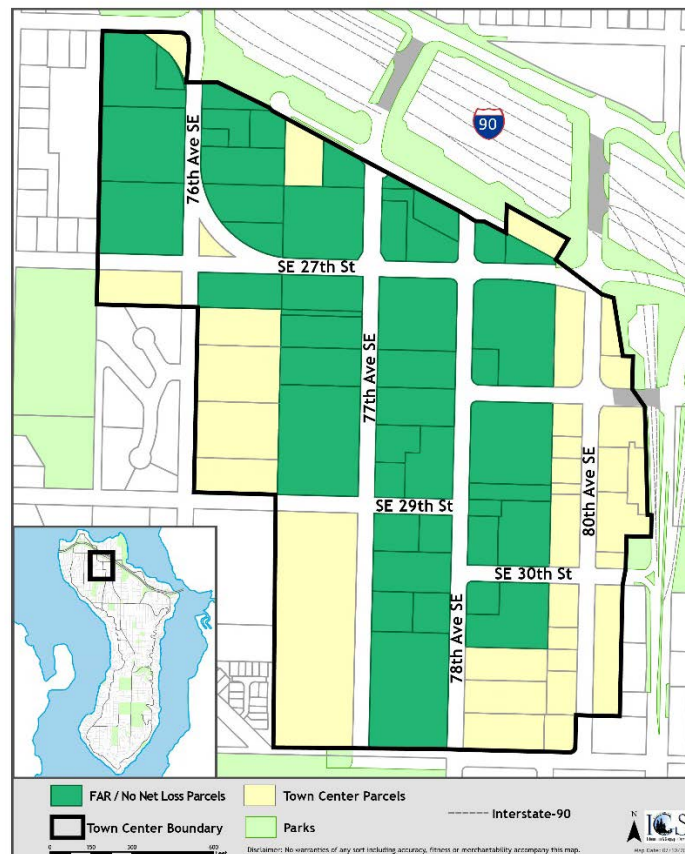
- a. *Museums and art exhibitions:* The exhibition of objects of historical, cultural, and/or educational value that are not offered for sale.
- b. *Personal services:* A business that provides services relating to personal grooming and health. Uses include barber shops, hair stylists, spas, fitness centers and nail salons.
- c. *Restaurant:* An establishment where food and drink are prepared and consumed. Such establishment may also provide catering services.
- d. *Retail use:* An establishment engaged in selling goods or merchandise and rendering services incidental to the sale of such goods.
- e. *Theaters:* Establishments primarily engaged in producing live presentations involving the performances of actors and actresses, singers, dancers, musical groups and artists, and other performing artists

Figure 2 Uses Required Adjacent to Street Frontages



- a. No use shall occupy a continuous linear street frontage exceeding 60 feet in length, with the exception of museum and art exhibition and/or theater uses. The design commission may approve up to an additional six feet in length if the use incorporates a feature to promote pedestrian activity, including but not limited to: an additional pedestrian entrance onto a sidewalk or through-block connection, or additional 10 percent transparency beyond the requirement of MICC [19.11.100\(B\)\(1\)\(b\)](#).
 - b. The minimum required depth of uses along street frontages is 16 feet.
2. The identified parcels as shown on Figure 3 are required to provide a minimum Floor Area Ratio (FAR) equivalent to 0.2623 of the gross lot area as provided by King County or a no net loss of existing floor area on the effective date of this Ordinance, whichever is greater, for retail, restaurant and/or personal service uses; museum and art exhibition uses; and/or theater uses adjacent to street frontages upon redevelopment. For the purposes of determining redevelopment, the value of redevelopment shall be an amount equal to or greater than 50% of the current total assessed improvement value as determined by King County.

Figure 3 – Parcels Subject to FAR or No Net Loss Requirement for Required Street Frontage Uses



- a. When a FAR calculation results in a fraction, the fraction shall be rounded to the nearest whole number as follows:
 - i. Fractions of 0.50 or above shall be rounded up to the closest whole number; and
 - ii. Fractions below 0.50 shall be rounded down to the closest whole number.
- b. Each individual museum and art exhibition use as well as theater use shall be limited to a contributing cap of 5,000 square feet towards the achievement of the total minimum FAR requirement for the corresponding site. For example, a site with a minimum FAR requirement of 20,000 square feet may only have one of these identified uses contribute a maximum of 5,000 square feet towards the necessary minimum through a 1:1 contribution. The remaining 15,000 square feet must come from retail, restaurant and/or personal service uses as defined in MICC 19.16.
- c. A review of this requirement shall occur five (5) years from the date of Ordinance adoption or after 75,000 square feet of floor area for retail, restaurant and/or personal service uses; museum and art exhibition uses; and/or theater uses adjacent to street frontages has been authorized through Building Permit issuance.