

**CITY OF MERCER ISLAND
ORDINANCE NO. 26C-03**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON
REVISING THE PROCESS FOR SITE SPECIFIC REZONES; AMENDING MICC
CH. 19.15, ADMINISTRATION; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, RCW 42.36.010, Local land use decisions, defines quasi-judicial actions as those that determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding; and

WHEREAS, professional hearing examiners are trained in and skilled at conducting quasi-judicial hearings; and

WHEREAS, the City Council wishes to utilize the expertise of a professional hearing examiner to conduct quasi-judicial hearings in accordance with the requirements of Ch. 42.36 RCW, Appearance of Fairness Doctrine, and the Mercer Island City Code (MICC).

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

Section 1. MICC Ch. 19.15, Amended. MICC Chapter 19.15, Administration, shall be amended as set forth in Exhibit A to this Ordinance. Exhibit A is incorporated herein by this reference as if set forth in full. All other text of the sections or subsections of the Mercer Island City Code shall remain unchanged and in full force.

Section 2. 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, 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 3. 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 MEETING ON _____, 2026.

CITY OF MERCER ISLAND

David Rosenbaum, Mayor

Approved as to Form:

Bio Park, City Attorney

ATTEST:

Andrea Larson, City Clerk

Date of Publication:

Exhibit A

19.15.020 - Legislative actions.

Legislative actions involve the creation, amendment or implementation of policy or law by ordinance. In contrast to the other types of actions, legislative actions apply to geographic areas (area-wide) and implement adopted city policy, promote the community interest, and are normally of interest to many property owners and citizens. Legislative actions are only adopted after an open record public hearing. Review procedures for legislative actions are located in MICC 19.15.260. Legislative actions include street vacations, comprehensive plan amendments, area-wide reclassification of property (rezones), and code amendments.

19.15.030 - Land use review types.

E. The types of land use approvals and are listed in Table A of this section. The required public process for each type of land use approval are listed in Tables A-D-B of this section.

H. *Land use review types and review processing procedures.*

Table D – Type IV Land Use Reviews

Permit	Pre-Application of Compliance (MICC 19.15.070)	Determination of Compliance (MICC 19.15.080)	Public Notification (MICC 19.15.090)	Notice of Application (MICC 19.15.090)	Public Comment Period	Public Hearing (MICC 19.15.140)	Notice of Decision (MICC 19.15.120)	Decision Body	Timeline Decision Due from Date of Compliance (MICC 19.15.030)	Appeal Authority (MICC 19.15.130)

Preliminary long plat	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Conditional use permit	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Variance	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Critical areas reasonable use exception	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Long plat alteration and vacations	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Parking modifications (reviewed by hearing examiner)	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Variance from short plat acreage limitation	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Wireless communication facility height variance	Yes	No	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Planned unit development	Yes	Yes	No	Yes	30 days	Yes	No	Hearing Examiner	170 days	Superior Court

Hearing Examiner design review	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Permanent commerce on public property	Yes	Yes	No	Yes	30 days	Yes	Yes	Hearing Examiner	170 days	Superior Court
Shoreline conditional use permit (SCUP)	Yes	Yes	No	Yes	30 days	Yes	Yes	Ecology after Hearing Examiner Recommendation	170 days	Shoreline Hearings Board
Shoreline variance	Yes	Yes	No	Yes	30 days	Yes	Yes	Ecology after Hearing Examiner Recommendation	170 days	Shoreline Hearings Board
Shoreline revision (variance and SCUP)	Yes	Yes	No	Yes	30 days	Yes	Yes	Ecology	170 days	Shoreline Hearings Board
<u>Site-Specific Rezone</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>City Council after Hearing Examiner Recommendation</u>	<u>170 days</u>	<u>Superior Court</u>

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19.15.230 - Comprehensive plan amendments and docketing procedures.

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G. Combined.comprehensive.plan.amendment.and.area_wide rezone. In cases where both a comprehensive plan amendment and an area-wide rezone are required, both shall be considered together, and all public notice must reflect the dual nature of the request.

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19.15.260 - Review procedures for comprehensive plan amendments, reclassification of property, and code amendments; Procedure for Site-Specific Rezones.

A. The city shall issue a notice for comprehensive plan amendments, reclassifications of property, and zoning code text amendments as described in MICC 19.15.230, 19.15.240, and 19.15.250. Notice shall be provided in the weekly CPD bulletin, a newspaper of general circulation, made available to the general public upon request, and, if the proposed amendment will affect a specific property or defined area of the city, mailed to all property owners within 300 feet of the affected property or defined area, and posted on the site in a location that is visible to the public right-of-way.

1. The notice shall include the following information:

- a. The name of the party proposing the proposed amendment or change;
- b. The location and description of the project, if applicable;
- c. The requested actions and/or required studies;
- d. The date, time, and place of the open record hearing;
- e. Identification of environmental documents, if any;
- f. A statement of the public comment period which shall not be less than 30 days. The city shall accept public comments at any time prior to the closing of the record of an open record predecision hearing; and a statement of the rights of individuals to comment on the application, receive notice and participate in any hearings, request a copy of the decision once made and any appeal rights;

- g. The city staff contact and contact information;
- h. The identification of other reviews or permits that are associated with the review of the proposed comprehensive plan, zoning text, or zoning map amendment, to the extent known by the city;
- i. A description of those development regulations used in determining consistency of the review with the city's comprehensive plan;
- j. A link to a website where additional information about the project can be found; and
- k. Any other information that the city determines appropriate.

2. Timing.of.notice; The city shall provide the notice at least 30 days prior to the hearing.
3. The city shall accept public comments at any time prior to the closing of the record of an open record public hearing.

B. Review.after.public.hearing;

1. Following the completion of the open record public hearing for comprehensive plan amendments, area-wide reclassification of property (rezones), and code amendments, the planning commission shall consider the proposed amendment for conformance with the criteria as listed in the applicable section, the comprehensive plan and other applicable development standards.
2. The planning commission shall make a written recommendation on the review to the city council.
3. The city council shall consider the planning commission's recommendation at a public meeting where it may adopt or reject the planning commission's recommendations or remand the review back to the planning commission.

C. Procedure for site-specific reclassification of property (rezones).

1. The open record public hearing for site-specific reclassification of property (rezones) shall be held by the City's Hearing Examiner. The Hearing Examiner shall consider the application for site-specific rezone for conformance with the criteria as listed in MICC 19.15.240, and other applicable development standards. The burden of proof for demonstrating that the application is consistent with the applicable standards is on the applicant.

2. After closing the open record public hearing on the site-specific rezone, the Hearing Examiner shall make a written recommendation on the application based upon the record to the city council.

3. The city council shall consider the Hearing Examiner's recommendation and issue a decision on the application as a closed record review. In its decision, the City Council shall have discretion to adopt or reject any portion of the Hearing Examiner's recommendation.

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