

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040
 PHONE: 206.275.7605 | www.mercer.gov.org



CITY USE ONLY

PROJECT#	RECEIPT #	FEE

Date Received:

Received By:

DEVELOPMENT APPLICATION

STREET ADDRESS/LOCATION Not Applicable		ZONE Not Applicable
COUNTY ASSESSOR PARCEL #'S Not Applicable		PARCEL SIZE (SQ. FT.) Not Applicable
PROPERTY OWNER (required) Not Applicable	ADDRESS (required) Not Applicable	CELL/OFFICE (required) (206) 812-3388 E-MAIL (required) rich@mhseattle.com
PROJECT CONTACT NAME G. Richard Hill	ADDRESS 701 Fifth Avenue, Ste. 6600, Seattle, WA 98104	CELL/OFFICE (206) 812-3388 E-MAIL rich@mhseattle.com
TENANT NAME	ADDRESS	CELL PHONE E-MAIL

DECLARATION: I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE 

DATE 2/11/20

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

See accompanying Application for Code Amendment.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF LAND USE APPROVAL REQUESTED:

APPEALS	DEVIATIONS	SUBDIVISION SHORT PLAT
<input type="checkbox"/> Building	<input type="checkbox"/> Changes to Antenna requirements	<input type="checkbox"/> Short Plat- Two Lots
<input type="checkbox"/> Code Interpretation	<input type="checkbox"/> Changes to Open Space	<input type="checkbox"/> Short Plat- Three Lots
<input type="checkbox"/> Land use	<input type="checkbox"/> Shoreline	<input type="checkbox"/> Short Plat- Four Lots
<input type="checkbox"/> Right-of-Way Use	<input type="checkbox"/> Seasonal Development Limitation Waiver	<input type="checkbox"/> Short Plat- Deviation of Acreage Limitation
CRITICAL AREAS	ENVIRONMENTAL REVIEW (SEPA)	<input type="checkbox"/> Short Plat- Amendment
<input type="checkbox"/> Critical Area Review 1 (Hourly Rate 2hr Min)	<input type="checkbox"/> SEPA Review (checklist)- Minor	<input type="checkbox"/> Short Plat- Final Plat
<input type="checkbox"/> Critical Area Review 2 (Determination)	<input type="checkbox"/> SEPA review (checklist)- Major	OTHER LAND USE
<input type="checkbox"/> Reasonable Use Exception	<input type="checkbox"/> Environmental Impact Statement	<input type="checkbox"/> Accessory Dwelling Unit
DESIGN REVIEW	SHORELINE MANAGEMENT	<input type="checkbox"/> Code Interpretation Request
<input type="checkbox"/> Pre Design Meeting	<input type="checkbox"/> Exemption	<input type="checkbox"/> Comprehensive Plan Amendment (CPA)
<input type="checkbox"/> Design Review (Code Official)	<input type="checkbox"/> Permit Revision	<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Commission Study Session	<input type="checkbox"/> Shoreline Variance	<input type="checkbox"/> Lot Line Revision
<input type="checkbox"/> Design Review- Design Commission- Exterior Alteration	<input type="checkbox"/> Shoreline Conditional Use Permit	<input type="checkbox"/> Noise Exception
<input type="checkbox"/> Design Review- Design Commission- New Building	<input type="checkbox"/> Substantial Development Permit	<input type="checkbox"/> Reclassification of Property (Rezoning)
WIRELESS COMMUNICATION FACILITIES	SUBDIVISION LONG PLAT	<input type="checkbox"/> Transportation Concurrence (see supplemental application form)
<input type="checkbox"/> Wireless Communications Facilities- 6409 Exemption	<input type="checkbox"/> Long Plat- Preliminary	<input type="checkbox"/> Planning Services (not associated with a permit or review)
<input type="checkbox"/> New Wireless Communication Facility	<input type="checkbox"/> Long Plat- Alteration	<input checked="" type="checkbox"/> Zoning Code Text Amendment
	<input type="checkbox"/> Long Plat- Final Plat	<input type="checkbox"/> Request for letter
	VARIANCES (Plus Hearing Examiner Fee)	
	<input type="checkbox"/> Variance	

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APPLICATION FOR ZONING CODE TEXT AMENDMENT

Applicant: G. Richard Hill
701 5th Avenue
Suite 6600
Seattle, WA 98104
(206) 812-3388

1. Completed Pre-Application:

The applicant has conferred with the Director of Community Planning and Development (“Director”) and has reviewed the Application with him. The Director has accordingly advised the applicant that this conference suffices to fulfill the Pre-Application processing requirement.

2. Development Application Sheet:

The completed Development Application Sheet accompanies this Application for Code Amendment.

3. Project Narrative:

This Application for a Mercer Island Zoning Code (“Code”) Text Amendment (“Code Amendment”) is a non-project, legislative proposal that addresses the unintended consequences of the recent Residential Code Update, as to Regulated Improvements. The Code Amendment would address Gross Floor Area, Height, and Lot Coverage issues to render them compatible with existing Regulated Improvements, and to allow reasonable redevelopment of them. A description of the Approach taken with respect to the drafting of the Code Amendment is set forth on Exhibit A to this Application, as is a Matrix

comparing the Gross Floor Area, Height, and Lot Coverage regulations under the Pre-Residential Code, the Residential Code Update (the current Code), and the Proposed Amendments, which would apply to Regulated Improvements only. The proposed Code Amendment itself is attached as Exhibit B and constitutes a red-line of the current Code provisions indicating where changes are proposed. The Code Amendment is consistent with the Growth Management Act. RCW 36.70A, because it will facilitate development of Regulated Improvements (as defined in the Code), including community centers, recreational facilities, schools and educational uses that serve Mercer Island urban residents within the urban area. Approval of the Code Amendment will facilitate the efficient use of land. The Code Amendment is consistent with the county-wide planning policies for the same reasons. The Code Amendment will further encourage and implement the City's Comprehensive Plan, in particular Land Use Goal 17.4, which recognizes that "social and recreation clubs, schools and religious institutions are predominantly located in single family residential areas of the Island," and that "development regulations should reflect the desire to retain valuable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island."

4. Title Report:

The Director has advised that because this is a non-project legislative rezone, no Title Report will be required in connection with this application.

5. SEPA Checklist:

A completed non-project SEPA Checklist accompanies this Application.

6. Fees:

A fee of \$23,559.22 (SEPA @ \$2,657.00 + Code Amendment @ \$20,902.22)

accompanies this Application.

7. Vicinity Map:

Because the Code Amendment is a non-project action, the requirement for a Vicinity Map is not applicable.

Dated this 11th day of February 2020.



G. Richard Hill, Applicant

Exhibit A

Approach

1. Update “Regulated Improvements” to bring existing private schools, religious buildings, and community centers into code conformance while allowing property owners the ability to reasonably renovate and develop their properties.
2. Limit the applicability of most amendments to lots that abut commercial zones.

Proposed Amendments

	Pre-Residential Code Update	Residential Code Update (Current Code)	Proposed Amendments (Regulated Improvements Only)
Gross Floor Area (19.02.020.D)	45% of lot area for SF structures only. Regulated Improvements not specifically restricted; governed by height, setbacks, and lot coverage.	40% of lot area for all structures, or: <ul style="list-style-type: none"> • R-8.4: 5,000 sf, whichever is less. • R-9.6: 8,000 sf, whichever is less. • Etc. 	40% of lot area <ul style="list-style-type: none"> • Allow exceptions for substantially below grade parking structures (less than 4’-0” above grade). • Allow increase for lots less than 3-acres that abut a commercial zone.¹ (See 19.02.060.B.)
Height (19.02.020.E)	30’, or 35’ measured on the downhill side.	30’, measured from average building elevation. Downhill façades measured from existing or finished grade, whichever is lower.	36’ <ul style="list-style-type: none"> • Allow increase to 45’ farther than 150’ from a public ROW or within 300’ of a commercial zone. (See 19.02.060.E.) • Provide method of measurement to allow buildings to respond better to sloping sites. (See 19.02.060.F.)
Lot Coverage (19.02.060)	40%	40%	40% ² Allow 25% increase for lots that abut a commercial zone (See 19.02.060.C.). Allow exceptions for usable open spaces, such as: <ul style="list-style-type: none"> • Athletic and similar play fields • Occupiable green roofs or other structured landscaped area. • Grass block access drives solely for the use of emergency vehicles (See 19.02.060.D.)

¹ GFA in the C-O zone: max. building footprint = 35% of lot area; max. height = 36’, which allows 3 floors; max. effective GFA as multiple of lot area is 0.35 x 3 = 1.05 times lot area.

² Change 19.02.060 from impervious surface to lot coverage. Impervious surfaces are regulated by the MICC Title 15 and construction codes.

Exhibit B

19.02.005 Purpose and applicability.

A. *Purpose.* The purpose of the residential chapter is to identify land uses and to establish development standards that are appropriate within the residential zoning designations. The development standards provide a framework for a site to be developed consistent with the policy direction of the adopted Mercer Island Comprehensive Plan.

B. *Applicability.*

1. The provisions of this chapter shall apply to all development proposals in the R-8.4, R-9.6, R-12, and R-15 zoning designations.
2. Unless otherwise indicated in this chapter, the applicant shall be responsible for the initiation, preparation, and submission of all required plans or other documents prepared in support of or necessary to obtain a permit and to determine compliance with this chapter. (Ord. 17C-15 § 1 (Att. A)).

19.02.010 Single-family.

A use not permitted by this section is prohibited. Please refer to MICC 19.06.010 for other prohibited uses.

A. *Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.*

1. Single-family dwelling.
2. Accessory buildings incidental to the main building.
3. Private recreational areas.
4. Public schools accredited or approved by the state for compulsory school attendance, subject to design commission review and all of the following conditions:
 - a. All structures shall be located at least 35 feet from any abutting property and at least 45 feet from any public right-of-way.
 - b. Off-street parking shall be established and maintained at a minimum ratio of one parking space per classroom with high schools providing an additional one parking space per 10 students.
 - c. A one-fourth acre or larger playfield shall be provided in one usable unit abutting or adjacent to the site.

5. Home business as an accessory use to the residential use, subject to all of the following conditions:

a. The home business may make those improvements to the home business normally allowed for single-family residences. For a day care, play equipment and play areas are not allowed in front yards.

b. Only those persons who reside on the premises and one other person shall be permitted to engage in the business on the premises at any one time; provided, that a day care or preschool may have up to three nonresident employees on the premises at any one time. This limitation applies to all owners, managers, staff or volunteers who operate the business.

c. There shall be no exterior storage or display of materials except as otherwise allowed for single-family residences, and no sign advertising the home business located on the premises except as specifically allowed by MICC 19.12.080(B).

d. No offensive noise, vibration, smoke, dust, odor, heat or glare or excessive traffic to and from the premises shall be produced or generated by the home business.

e. The home business shall not involve the use of more than 30 percent of the gross floor area of the residence, not including the allowed basement exclusion area consistent with subsection E of this section and MICC 19.16.010. However, a day care or preschool may use up to 75 percent of said gross floor area.

f. No home business shall be permitted that generates parking demand that cannot be accommodated on the lots consistent with the applicable maximum impervious surface coverage limits of MICC 19.02.060. Parking shall be provided to handle the expected parking demand. In the case of a day care or preschool, parking for residents and employees shall occur on site; resident and employee parking shall not occur on an adjacent street.

g. The business shall not provide healthcare services, personal services, automobile repairs; serve as a restaurant, commercial stable, kennel, or place of instruction licensed as a school under state law and which will operate with more than three students at a time; or serve as a bed and breakfast without a conditional use permit as set out in subsection (C)(7) of this section. Nothing contained in this subsection (A)(5)(g) shall be interpreted to prohibit a day care.

h. A day care shall be limited to 18 children maximum (not including dependents) at a time.

6. Public park subject to the following conditions:

a. Access to local and/or arterial thoroughfares shall be reasonably provided.

b. Outdoor lighting shall be located to minimize glare upon abutting property and streets.

c. Major structures, ballfields and sport courts shall be located at least 20 feet from any abutting property.

d. If a permit is required for a proposed improvement, a plot, landscape and building plan showing compliance with these conditions shall be filed with the city community planning and development department (CPD) for its approval.

7. Semi-private waterfront recreation areas for use by 10 or fewer families, subject to the conditions set out in MICC 19.07.110.

8. One accessory dwelling unit (ADU) per single-family dwelling subject to conditions set out in MICC 19.02.030.

9. Special needs group housing as provided in MICC 19.06.080.

10. Social service transitional housing, as provided in MICC 19.06.080.

11. A state-licensed day care or preschool as an accessory use, when situated at and subordinate to a legally established place of worship, public school, private school, or public facility, meeting the following requirements:

a. The number of children in attendance at any given time shall be no more than 20 percent of the legal occupancy capacity of the buildings on the site, in the aggregate.

b. Signage shall be consistent with the provisions of MICC 19.12.080(B)(3).

c. Off-street parking provided by the primary use shall be deemed sufficient for the accessory day care or preschool if at least one space per employee is provided, and either:

i. One additional parking space is provided for every five children in attendance, or

ii. Adequate pick-up and drop-off space is provided as determined by the code official.

12. Places of worship may have a stage theater program as an accessory use.

Stage theater programs are defined as productions of live presentations involving the performances of actors or actresses, singers, dancers, musical groups, or artists.

Stage theater programs also include related classes and instructional workshops.

Adequate parking must be provided, as determined by the code official.

13. Open space.

B. Additional Use Permitted in Zones R-9.6, R-12, and R-15. One accessory building for the housing of domestic animals and fowl, having a floor area not to exceed 36 square feet for each lot and located not less than 65 feet from any place of habitation other than the owners'; provided, the roaming area shall be fenced and located not less than 35 feet from any adjacent place of human habitation.

C. Conditional Uses. The following uses are permitted when authorized by the issuance of a conditional use permit when the applicable conditions set forth in this section and in MICC 19.15.040 have been met:

1. Government services, public facilities, utilities, and museums and art exhibitions, subject to the following conditions:

a. All structures shall be located at least 20 feet from any abutting property;

b. Off-street parking shall be established and maintained at a minimum ratio of one parking space for each 200 square feet of gross floor area; and

c. Utilities shall be shielded from abutting properties and streets by a sight obscuring protective strip of trees or shrubs.

2. Private schools accredited or approved by the state for compulsory school attendance, subject to conditions set out in subsection (A)(4) of this section.

3. Places of worship subject to the following conditions:

a. All structures shall be located at least 35 feet from any abutting property.

b. Off-street parking shall be established and maintained at a ratio of one parking space for each five seats in the chapel, nave, sanctuary, or similar worship area.

4. Noncommercial recreational areas, subject to the conditions contained in subsection (A)(6) of this section.

5. Semi-private waterfront recreation areas for use by more than 10 families, subject to conditions set out in MICC 19.07.110.

6. Retirement homes located on property used primarily for a place of worship subject to the following conditions:

a. Retirement home structures shall not occupy more than 20 percent of the lot; provided, the total lot coverage for the retirement home, the place of worship, and all other structures shall not exceed the lot coverage specified in MICC 19.02.060.

b. A plot, landscape and building plan shall be filed with the design commission for its approval, and the construction and maintenance of buildings and structures and the establishment and continuation of uses shall comply with the approved plot, landscape and building plan. Alterations to the project are permitted only upon approval by the design commission of a new or amended plan.

c. The number of dwelling units shall be determined by the planning commission upon examination of the following factors:

i. Demonstrated need;

ii. Location, size, shape and extent of existing development on the subject property;

iii. Nature of the surrounding neighborhood; and

iv. Legal assurances that the entire property remains contiguous, and that the retirement home is owned and controlled by the applicant religious organization.

d. The retirement home shall be located at least 35 feet from all abutting property.

e. Off-street parking shall be established and maintained at a ratio of one-half parking space for each dwelling unit.

7. The use of a single-family dwelling as a bed and breakfast subject to the following conditions:

a. The bed and breakfast facility shall meet all applicable health, fire, and building codes.

b. Not more than four rooms shall be offered to the public for lodging.

c. There shall be no external modification of any structure that alters the residential nature of the premises.

d. The bed and breakfast shall be the primary residence of the operator.

e. In addition to the parking required set out in MICC 19.02.020(G), one off-street parking space, not located in the lot setbacks, shall be provided for each rental room.

f. Meals shall be made available only to guests, and not to the general public.

8. Nonschool uses of school buildings, subject to the following conditions:

a. No use or proposed use shall be more intensive than the school activity it replaced. Consideration shall be given to quantifiable data, such as, but not limited to, traffic generation, parking demand, noise, hours of operation;

b. All activities, with the exception of outdoor recreation shall be confined to the interior of the building(s);

c. Exterior modification of the building(s) shall not be permitted if such a modification would result in an increase in the usable area of the building(s);

d. Minor changes in the building exterior, landscaping, signs, and parking may be permitted subject to the review and approval of the design commission; and

e. Off-street parking for all activities at the site shall be provided in existing school parking lots.

f. *Termination.* Conditional use permits for nonschool uses shall terminate and the use of the site shall conform to the requirements of the zone in which the school building is located on the day of the termination under the following conditions:

i. The school building is demolished or sold by the Mercer Island school district.

ii. The city council revokes the permit on the recommendation of the planning commission. Revocation shall be based on a finding that the authorized use constitutes a nuisance or is harmful to the public welfare, or the applicant has failed to meet the conditions imposed by the city.

g. *Revision.* Any modification to a nonschool conditional use permit shall be approved by the planning commission; however, the code official may approve minor modifications that are consistent with the above stated conditions.

9. A state-licensed day care or preschool not meeting the requirements of subsection (A)(11) of this section, subject to the following conditions:

a. Off-street parking and passenger loading shall be sufficient to meet the needs of the proposed day care or preschool without causing overflow impacts onto adjacent streets.

b. Signage shall be consistent with the provisions of MICC 19.12.080(B)(3). (Ord. 19C-04 § 1 (Exh. A); Ord. 17C-15 § 1 (Att. A); Ord. 15C-03 § 1; Ord. 09C-04 §§ 1, 2; Ord. 08C-01 § 1; Ord. 05C-16 § 1; Ord. 04C-08 § 9; Ord. 03C-08 § 3; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19.02.020 Development standards.

A. *Minimum Net Lot Area.*

R-8.4: The net lot area shall be at least 8,400 square feet. Lot width shall be at least 60 feet and lot depth shall be at least 80 feet.

R-9.6: The net lot area shall be at least 9,600 square feet. Lot width shall be at least 75 feet and lot depth shall be at least 80 feet.

R-12: The net lot area shall be at least 12,000 square feet. Lot width shall be at least 75 feet and lot depth shall be at least 80 feet.

R-15: The net lot area shall be at least 15,000 square feet. Lot width shall be at least 90 feet and lot depth shall be at least 80 feet.

1. Minimum net lot area requirements do not apply to any lot that came into existence before September 28, 1960. In order to be used as a building site, lots that do not meet minimum net lot area requirements shall comply with MICC 19.01.050(G)(3).

2. In determining whether a lot complies with the minimum net lot area requirements, the following shall be excluded: the area between lateral lines of any such lot and any part of such lot which is part of a street.

B. *Street Frontage.* No **building** will be permitted on a **lot** that does not front onto a **street** acceptable to the **city** as substantially complying with the standards established for **streets**.

C. *Yard Requirements.*

1. *Minimum.* Except as otherwise provided in this section, each **lot** shall have front, rear, and side **yards** not less than the depths or widths following:

a. Front **yard** depth: 20 feet or more.

b. Rear **yard** depth: 25 feet or more.

c. Side **yards** shall be provided as follows:

i. *Total Depth.*

(a) For **lots** with a **lot width** of 90 feet or less, the sum of the side **yards**' depth shall be at least 15 feet.

(b) For **lots** with a **lot width** of more than 90 feet, the sum of the side **yards**' depth shall be a width that is equal to at least 17 percent of the **lot width**.

ii. *Minimum Side Yard Depth.*

(a) The minimum side **yard** depth abutting an interior **lot** line is five feet or 33 percent of the aggregate side **yard** total depth, whichever is greater.

(b) The minimum side **yard** depth abutting a **street** is five feet.

iii. *Variable Side Yard Depth Requirement.* For **lots** with an area of 6,000 square feet or more, the minimum side **yard** depth abutting an interior **lot** line shall be the greater of the minimum side **yard** depth required under subsection (C)(1)(c)(ii) of this section, or as follows:

(a) **Single-family dwellings** shall provide a minimum side **yard** depth of seven and one-half feet if the **building**:

(1) For nongabled roof end **buildings**, the height is more than 15 feet measured from existing or **finished grade**, whichever is lower, to the top of the exterior wall **facade** adjoining the side **yard**; or

(2) For gabled roof end **buildings**, the height is more than 18 feet measured from existing or **finished grade**, whichever is lower, to the top of the gabled roof end adjoining the side **yard**.

(b) **Single-family dwellings** with a height of more than 25 feet measured from the existing or **finished grade**, whichever is lower, to the top of the exterior wall **facade** adjoining the side **yard** shall provide a minimum side **yard** depth of 10 feet.

2. Yard Determination.

a. Front Yard.

i. *Front Yard – General.* For lots that are not corner lots or waterfront lots, the front yard shall extend the full width of the lot and is determined using the following sequential approach, in descending order of preference, until a front yard is established:

- (a) The yard abutting an improved street from which the lot gains primary access.
- (b) The yard abutting the primary entrance to a building.
- (c) The orientation of buildings on the surrounding lots and the means of access to the lot.

ii. *Front Yard – Corner Lots.* On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard; provided:

(a) If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.

iii. *Front Yard – Waterfront Lots.* On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the ordinary high water line.

iv. This section shall apply except as provided for in MICC 19.08.030(F)(1).

b. *Rear Yard.* Except as allowed in subsections (C)(2)(a)(ii) and (iii) of this section, the rear yard is the yard opposite the front yard. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch. If this definition does not establish a rear yard setback for irregularly shaped lots, the code official shall establish the rear yard based on the following method: The rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in length, parallel to and at a maximum distance from the front lot line.

c. *Side Yard.* Any yards not designated as a front or rear yard shall be defined as a side yard.

3. Intrusions into Required Yards.

a. Minor Building Elements.

i. Except as provided in subsection (C)(3)(a)(ii) of this section, porches, chimney(s) and fireplace extensions, window wells, and unroofed, unenclosed outside stairways and decks shall not project more than three feet into any required yard. Eaves shall not protrude more than 18 inches into any required yard.

ii. No penetration shall be allowed into the minimum side yard setback abutting an interior lot line except where an existing flat-roofed house has been built to the interior side yard setback line and the roof is changed to a pitched roof with a minimum pitch of 4:12, the eaves may penetrate up to 18 inches into the side yard setback.

b. *Hardscape and Driveways.* Hardscape and driveways not more than 30 inches above existing grade or finished grade, whichever is lower, may be located in any required yard.

c. *Fences, Retaining Walls and Rockeries.* Fences, retaining walls and rockeries are allowed in required yards as provided in MICC 19.02.050.

d. *Garages and Other Accessory Buildings.* Garages and other accessory buildings are not allowed in required yards, except as provided in MICC 19.02.040.

e. *Heat Pumps, Air Compressors, Air Conditioning Units, and Other Similar Mechanical Equipment.* Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment may be located within any required yard provided they will not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within three feet of any lot line.

f. *Architectural Features.* Detached, freestanding architectural features such as columns or pedestals that designate an entrance to a walkway or driveway and do not exceed 42 inches in height are allowed in required yards.

g. *Other Structures.* Except as otherwise allowed in this subsection (C)(3), structures over 30 inches in height from existing grade or finished grade, whichever is lower, may not be constructed in or otherwise intrude into a required yard.

4. *Setback Deviation.* The code official may approve a deviation to front, side, and rear setbacks pursuant to MICC 19.15.040.

D. *Gross Floor Area – Single Family Dwellings.*

1. Except as provided in subsection (D)(3) of this section, the gross floor area of a single-family dwelling shall not exceed:

a. R-8.4: 5,000 square feet or 40 percent of the lot area, whichever is less.

b. R-9.6: 8,000 square feet or 40 percent of the lot area, whichever is less.

c. R-12: 10,000 square feet or 40 percent of the lot area, whichever is less.

d. R-15: 12,000 square feet or 40 percent of the lot area, whichever is less.

This section does not apply to regulated improvements.

2. *Gross Floor Area Calculation.* The **gross floor area** is the sum of the **floor** area(s) bounded by the exterior faces of each **building** on a residential **lot**, provided:

a. The **gross floor area** shall be 150 percent of the **floor** area of that portion of a room(s) with a ceiling height of 12 feet to 16 feet, measured from the **floor** surface to the ceiling.

b. The **gross floor area** shall be 200 percent of the **floor** area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the **floor** surface to the ceiling.

c. Staircases shall be counted as a single **floor** for the first two **stories** accessed by the staircase. For each additional **story** above two **stories**, the staircase shall count as a single **floor** area. For example, a staircase with a 10-foot by 10-foot dimension that accesses three **stories** shall be accounted as 200 square feet (100 square feet for the first two **stories**, and 100 square feet for the third **story**).

d. For the purposes of calculating allowable **gross floor area**, **lots** created in a **subdivision** through MICC 19.08.030(G), **Optional Standards for Development**, may apply the square footage from the **open space tract** to the **lot area** not to exceed the minimum square footage of the zone in which the **lot** is located.

3. *Allowances.*

a. The **gross floor area** for **lots** with an area of 7,500 square feet or less may be the lesser of 3,000 square feet or 45 percent of the **lot area**; or

b. If an **accessory dwelling unit** is proposed, the 40 percent allowed **gross floor area** may be increased by the lesser of five percentage points or the actual **floor** area of the proposed **accessory dwelling unit**, provided:

i. The allowed **gross floor area** of **accessory buildings** that are not partially or entirely used for an **accessory dwelling unit** shall not be increased through the use of this provision;

ii. The **lot** will contain an **accessory dwelling unit** associated with the application for a new or **remodeled single-family home**; and

iii. The total **gross floor area** shall not exceed 4,500 square feet or 45 percent of the **lot area**, whichever is less.

E. *Building Height Limit – Single Family Dwellings.*

1. *Maximum Building Height.* No **Single Family Dwelling building** shall exceed 30 feet in height above the **average building elevation** to the highest point of the roof.

2. *Maximum Building Height on Downhill Building Facade.* The maximum **building facade** height on the downhill side of a sloping **lot** shall not exceed 30 feet in height. The **building facade** height shall be measured from the **existing grade** or **finished grade**,

whichever is lower, at the furthest downhill extent of the proposed building, to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc.

3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section; provided:

a. Solar panels shall be designed to minimize their extension above the maximum allowed height, while still providing the optimum tilt angle for solar exposure.

b. Rooftop railings may not extend above the maximum allowed height for the main structure.

4. The formula for calculating average building elevation is as follows:

Formula:
$$\text{Average Building Elevation} = \frac{\text{Weighted Sum of the Mid-point Elevations}}{\text{Total Length of Wall Segments}}$$

Where:
$$\text{Weighted Sum of the Mid-point Elevations} = \text{The sum of: ((Mid-point Elevation of Each Individual Wall Segment) x (Length of Each Individual Wall Segment))}$$

For example for a house with 10 wall segments:

$$(Axa) + (Bxb) + (Cxc) + (Dxd) + (Exe) + (Fxf) + (Gxg) + (Hxh) + (Ixi) + (Jxj)$$

$$a + b + c + d + e + f + g + h + i + j$$

Where: A, B, C, D... = The existing or finished ground elevation, whichever is lower, at midpoint of wall segment.

And: a, b, c, d... = The length of wall segment measured on outside of wall.

F. Lot Coverage – Single-Family Dwellings.

1. *Applicability.* This section shall apply to the development of single-family dwellings including, but not limited to, the remodeling of existing single-family dwellings and construction of new single-family dwellings. This section does not apply to regulated improvements.

2. *Landscaping Objective.*

- a. To ensure that **landscape** design reinforces the natural and wooded character of Mercer Island, complements the site, the architecture of site **structures** and paved areas, while maintaining the visual appearance of the neighborhood.
- b. To ensure that **landscape** design is based on a strong, unified, coherent, and aesthetically pleasing **landscape** concept.
- c. To ensure that **landscape** plantings, earth forms, and outdoor spaces are designed to provide a transition between each other and between the built and natural environment.
- d. To ensure suitable natural vegetation and landforms, particularly mature **trees** and topography, are preserved where **feasible** and integrated into the overall **landscape** design. **Large trees** and **tree** stands should be maintained in lieu of using new plantings.
- e. To ensure planting designs include a suitable combination of **trees**, **shrubs**, **groundcovers**, vines, and herbaceous material; include a combination of deciduous and evergreen plant material; emphasize native plant material; provide drought-tolerant species; and exclude invasive species.

3. *Lot Coverage – Landscaping Required.*

a. *Minimum Area Required.* **Development proposals** for **single-family dwellings** shall comply with the following standards based on the **net lot area**:

Lot Slope	Maximum Lot Coverage (house, driving surfaces, and accessory buildings)	Required Landscaping Area
Less than 15%	40%	60%
15% to less than 30%	35%	65%
30% to 50%	30%	70%
Greater than 50% slope	20%	80%

b. *Hardscape.*

i. A maximum of nine percent of the **net lot area** may consist of **hardscape** improvements including, but not limited to, walkways, decks, etc., and provided:

(a) The **hardscape** for **lots** with a **net lot area** of 8,400 square feet or less may be the lesser of 755 square feet or 12 percent of the **net lot area**.

ii. **Hardscape** improvements are also permitted in the **maximum lot coverage** area established in subsection **(F)(3)(a)** of this section.

c. *Softscape and Driveways.*

i. The required **landscaping** area in subsection **(F)(3)(a)** of this section shall consist of **softscape** improvements, except where used for **hardscape** improvements pursuant to section **(F)(3)(b)** of this section.

ii. **Driveways** and other driving surfaces are prohibited within the **landscaping** area.

For example, a flat **lot** with a net area of 10,000 square feet shall provide a minimum 6,000 square feet of **landscaped** area. Up to 900 square feet of the **landscaped** area may be used for a walkway, patio, or deck or other **hardscape** area. The remainder of the area shall be used for **softscape** improvements, such as **landscaping**, **tree** retention, etc.

d. **Development proposals** for a new single-family home shall remove Japanese knotweed (*Polygonum cuspidatum*) and Regulated Class A, Regulated Class B, and Regulated Class C weeds identified on the King County **Noxious Weed** list, as amended, from required **landscaping** areas established pursuant to subsection **(F)(3)(a)** of this section. New **landscaping** associated with new single-family home shall not incorporate any weeds identified on the King County **Noxious Weed** list, as amended. Provided, that removal shall not be required if the removal will result in increased **slope** instability or risk of landslide or erosion.

e. *Allowed Adjustments.* A one-time reduction in required **landscaping** area and an increase in the **maximum lot coverage** are allowed, provided:

i. The total reduction in the required **landscaping** area shall not exceed five percentage points, and the total increase in the **maximum lot coverage** shall not exceed five percentage points; and

ii. The reduction in required **landscaping** area and increase in **maximum lot coverage** are associated with:

(a) A **development proposal** that will result in a single-story **single-family dwelling** with a wheelchair accessible entry path, and may also include a single-story **accessory building**; or

(b) A **development proposal** on a flag **lot** that, after optimizing **driveway** routing and minimizing **driveway** width, requires a **driveway** that occupies more than 25 percent of the otherwise allowed **lot coverage** area. The allowed reduction in the required **landscaping** area and increase in **maximum lot coverage** shall not exceed five percent, or the area of the **driveway** in excess of 25 percent of the **lot coverage**, whichever is less.

For example, a **development proposal** with a **driveway** that occupies 27 percent of the otherwise allowed **lot coverage** may increase the total **lot coverage** by two percent; and

iii. A recorded notice on title, covenant, easement, or other documentation in a form approved by the city shall be required. The notice on title or other documentation shall describe the basis for the reduced landscaping area and increased lot coverage.

G. *Parking.*

1. *Applicability.* Subsection (G)(2) of this section shall apply to all new construction and remodels where more than 40 percent of the length of the structure's external walls have been intentionally structurally altered.

2. *Parking Required.*

a. Each single-family dwelling with a gross floor area of 3,000 square feet or more shall have at least three parking spaces sufficient in size to park a passenger automobile; provided, at least two of the stalls shall be covered stalls.

b. Each single-family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile; provided, at least one of the stalls shall be a covered stall.

3. No construction or remodel shall reduce the number of parking spaces on the lot below the number existing prior to the project unless the reduced parking still satisfies the requirements set out above.

4. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains 10 or more parking spaces shall also meet the parking lot requirements set out in Appendix A of this development code.

H. *Easements.* Easements shall remain unobstructed.

1. *Vehicular Access Easements.* No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot yard setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.

2. *Utility and Other Easements.* No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.

1. *Large Lots.* The intent of this section is to ensure that the construction of a single-family dwelling on a large lot does not preclude compliance with applicable standards related to subdivision or short subdivision of the large lot. Prior to approval of a new single-family

dwelling and associated site improvements, accessory buildings, and accessory structures on large lots, the applicant shall complete one of the following:

1. *Design for Future Subdivision.* The proposed site design that shall accommodate potential future subdivision of the lot as follows:

a. The proposed site design shall comply with the applicable design requirements of Chapters 19.08, Subdivision, 19.09, Development, and 19.10, Trees, MICC.

b. The proposed site design shall not result in a circumstance that would require the removal of trees identified for retention, as part of a future subdivision.

c. The proposed site design shall not result in a circumstance that would require modifications to wetlands, watercourses, and associated buffers as part of a future subdivision.

d. Approval of a site design that could accommodate a potential future subdivision does not guarantee approval of such future subdivision, nor does it confer or vest any rights to a future subdivision.

2. *Subdivide.* Prior to application for a new single-family dwelling, the property is subdivided or short platted to create all potential lots and building pads permitted by zoning. The proposed single-family dwelling shall be located on a lot and within a building pad resulting from a recorded final plat.

3. *Limit Subdivision.* Record a notice on title, or execute a covenant, easement, or other documentation approved by the city, prohibiting further subdivision of the large lot for a period of five years from the date of final inspection or certificate of occupancy.

J. *Building Pad.* New buildings shall be located within a building pad established pursuant to Chapter 19.09 MICC. Intrusions into yard setbacks authorized pursuant to MICC 19.02.020(C)(3) may be located outside of the boundaries of the building pad. (Ord. 19C-04 § 1 (Exh. A); Ord. 18C-05 § 1 (Att. A); Ord. 17C-15 § 1 (Att. A); Ord. 17C-02 § 1; Ord. 10C-07 § 1; Ord. 09C-17 § 1; Ord. 08C-01 § 1; Ord. 06C-05 § 1; Ord. 05C-12 § 7; Ord. 03C-01 § 3; Ord. 02C-09 § 4; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19.02.030 Accessory dwelling units.

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A. *Purpose.* It is the purpose of this legislation to implement the policy provisions of the housing element of the city's comprehensive plan by eliminating barriers to accessory dwelling units in single-family residential neighborhoods and provide for affordable housing. Also, to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the accessory dwelling unit or principal unit of the single-family dwelling.

B. Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided, the following requirements are met:

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

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

3. **Subdivision.** Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

4. **Size and Scale.** The square footage of the accessory dwelling unit shall be a minimum of 220 square feet and a maximum of 900 square feet, excluding any garage area; provided, the square footage of the accessory dwelling unit shall not exceed 80 percent of the total square footage of the primary dwelling unit, excluding the garage area, as it exists or as it may be modified.

5. **Location.** The accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure.

6. **Entrances.** The single-family dwelling containing the accessory dwelling unit shall have only one entrance on each front or street side of the residence except where more than one entrance existed on or before January 17, 1995.

7. **Additions.** Additions to an existing structure or newly constructed detached structures created for the purpose of developing an accessory dwelling unit shall be designed consistent with the existing roof pitch, siding, and windows of the principal dwelling unit.

8. **Detached Structures.** Accessory dwelling units shall be permitted in a detached structure.

9. **Parking.** All single-family dwellings with an accessory dwelling unit shall meet the parking requirements pursuant to MICC 19.02.020(G) applicable to the dwelling if it did not have such an accessory dwelling unit.

C. Exceptions – Ceiling Height. All existing accessory dwelling units that are located within a single-family dwelling, which was legally constructed but does not now comply with current ceiling height requirements of the construction codes set forth in MICC Title 17, shall be allowed to continue in their present form.

D. Notice on Title. Approval of the accessory dwelling unit shall be subject to the applicant recording a document with the King County department of records and elections which runs with the land and identifies the address of the property, states that the owner(s) resides in either the principal dwelling unit or the accessory dwelling unit, includes a statement

that the owner(s) will notify any prospective purchasers of the limitations of this section, and provides for the removal of the accessory dwelling unit if any of the requirements of this chapter are violated.

E. *Elimination/Expiration.* Elimination of an accessory dwelling unit may be accomplished by the owner recording a certificate with the King County department of records and elections and development services stating that the accessory dwelling unit no longer exists on the property. (Ord. 18C-08 § 1 (Att A.); Ord. 08C-01 § 1; Ord. 04C-12 § 10; Ord. 99C-13 § 1).

19.02.040 Garages, other accessory buildings and accessory structures.

A. Accessory buildings, including garages, are not allowed in required yards except as herein provided.

B. *Attached Accessory Building.* An attached accessory building shall comply with the requirements of this code applicable to the main building.

C. *Detached Accessory Buildings and Accessory Structures.*

1. *Gross Floor Area.*

a. The combined total gross floor area for one or more accessory building(s) shall not exceed 25 percent of the total gross floor area allowed on a lot within applicable zoning designations pursuant to MICC 19.02.020. For example, on a lot where the total allowed gross floor area is 4,000 square feet, the combined total gross floor area for all accessory buildings is 1,000 square feet.

b. The gross floor area for a detached accessory building that is entirely or partially used for an accessory dwelling unit may be increased by the additional floor area authorized pursuant to MICC 19.02.020(D)(3)(b).

2. *Height.*

a. Detached accessory buildings, except for buildings that contain an accessory dwelling unit, are limited to a single story and shall not exceed 17 feet in height above the average building elevation computed from existing grade or finished grade, whichever is lower, to the highest point of the roof. Average building elevation is calculated using the methodology established in MICC 19.02.020(E)(4).

b. Detached accessory buildings that are entirely or partially used for an accessory dwelling unit shall meet the height limits established for the primary building.

3. Detached accessory buildings are not allowed in required yard setbacks; provided, one detached accessory building with a gross floor area of 200 square feet or less and a height of 12 feet or less may be erected in the rear yard setback. If such an accessory building is to be

located less than five feet from any property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the King County department of records and thereafter filed with the city.

4. *Accessory Structures.* The maximum height of an accessory structure that is not also an accessory building shall not exceed 17 feet. The height of an accessory structure is measured from the top of the structure to the existing grade or finished grade, whichever is lower, directly below the section of the structure being measured.

D. *Garages and Carports.* Garages and carports may be built to within 10 feet of the property line in the front yard; provided:

1. There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building and the ground elevation at the front yard property line where such property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade; and

2. The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

E. *Pedestrian Walkways.* Enclosed or covered pedestrian walkways may be used to connect the main building to a garage or carport. Enclosed pedestrian walkways shall not exceed six feet in width and 12 feet in height calculated from finished grade or 30 feet above average building elevation, whichever is less. (Ord. 19C-04 § 1 (Exh. A); Ord. 17C-15 § 1 (Att. A); Ord. 08C-01 § 1; Ord. 01C-06 § 1; Ord. 99C-13 § 1).

19.02.050 Fences, retaining walls and rockeries.

A. *Location in Required Yard.* Fences, retaining walls and rockeries may be located within any required yard as specified below.

B. *Location in Street.*

1. *Fences.* No fence shall be located in any improved street. Fences may be allowed in unimproved public streets subject to approval of the city engineer and the granting of an encroachment agreement as required by MICC 19.06.060.

2. *Retaining Walls and Rockeries.* Retaining walls and rockeries may be allowed in any street subject to the approval of the city engineer and the granting of an encroachment agreement covering any public street as required by MICC 19.06.060.

C. *Height Measurement.*

1. *Fences/Gates.* The height of a **fence** or gate is measured from the top of the **fence** or gate, including posts, to the **existing grade** or **finished grade**, whichever is lower, directly below the section of the **fence** or gate being measured.

2. *Retaining Walls and Rockeries.* The height of a **retaining wall** or **rockery** is measured from the top of the **retaining wall** or **rockery** to the **existing grade** or **finished grade**, whichever is lower, directly below the **retaining wall** or **rockery**.

3. *Multiple Retaining Walls.* **Retaining walls** outside of required **yard setbacks** shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall **retaining walls** would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

D. *Retaining Walls and Rockeries – Requirements.*

1. *Building Permit.* A **building** permit is required for **retaining walls** or **rockeries** not exempted from permit by Section 105.2 of the Construction Administrative Code, Chapter **17.14** MICC.

2. *Engineer.* Any **rockery** requiring a **building** permit shall be designed and inspected by a licensed geotechnical engineer.

3. *Drainage Control.* Drainage control of the area behind the **rockery** shall be provided for all **rockeries**.

4. *Maximum Height in Required Yard – Cut Slopes.*

a. No **retaining walls** or **rockeries**, or any combination of **retaining walls** or **rockeries**, to the extent used to protect a cut or cuts into **existing grade** within any required **yard**, shall exceed a total of 144 inches in height.

b. All **retaining walls** and/or **rockeries** within a required **yard** shall be included in calculating the maximum height of 144 inches.

c. **Retaining walls** or **rockeries** may be topped by a **fence** as provided in subsection **E** of this section.

5. *Maximum Height in Required Yard – Fill Slopes.*

a. No **retaining walls** or **rockeries**, or any combination of **retaining walls** or **rockeries**, to the extent used to raise grade and protect a **fill slope**, shall result in an increase in the **finished grade** by more than 72 inches at any point.

b. All **retaining walls** and/or **rockeries** within a required **yard** shall be included in calculating the maximum height of 72 inches.

c. Retaining walls or rockeries may be topped by a fence as provided in subsection E of this section.

E. Fences and Gates.

1. Fences or Gates in Required Yard.

a. Height Limits.

i. Side and Rear Yards. Fences and gates are allowed to a maximum height of 72 inches within required side or rear yards, provided the combined height of a fence and retaining wall or rockery for a fill slope authorized pursuant to subsection (D)(5) of this section shall not exceed a total height of 72 inches.

ii. Front Yards. Fences, gates, or any combination of retaining walls, rockeries and fences are allowed to a maximum height of 42 inches within required front yards.

b. Exceptions to Height Limits.

i. Fences within front yards may be designed to incorporate an open latticework or similar architectural feature at the entrance of a walkway, provided the total height of the entryway feature shall not exceed 90 inches. The open latticework or architectural feature shall be designed such that at least 50 percent of its total surface area consists of evenly distributed open spaces.

ii. Fences or gates located within the front yard may have a maximum height of 72 inches, provided:

(a) The proposed fence or gate is located along a property line contiguous to either: Island Crest Way north of SE 53rd Place, or SE 40th Street between 92nd Avenue SE and 78th Avenue SE; and

(b) The proposed fence or gate is located a minimum of five feet from the street property line and will be screened by landscaping designed to soften the presence of the fence; and

(c) The proposed fence or gate will not create a traffic, pedestrian, or public safety hazard.

2. Fill/Berms. No person shall place fill upon which to build a fence unless the total height of the fill plus the fence does not exceed the maximum height allowable for the fence without the fill.

3. Shorelines. Fences, rockeries and retaining walls located within any shoreland shall also comply with Chapter 19.07 MICC.

F. Electric and Barbed Wire Fences. Electric fences, barbed wire fences, or similar fences that could pose a safety risk are not allowed.

G. *Exceptions.* These provisions do not apply to fences required by state law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds, or to screens used for safety measures in public recreation areas such as ballfields. (Ord. 19C-04 § 1 (Exh. A); Ord. 18C-05 § 1 (Att. A); Ord. 17C-15 § 1 (Att. A); Ord. 04C-12 § 11; Ord. 02C-09 § 2).

19.02.060 Lot coverage— Regulated improvements.

A. *Applicability.* This section shall only apply to regulated improvements (for example, schools, noncommercial recreational areas, or religious buildings) in the residential zoning designations of R-8.4, R-9.6, R-12, and R-15.

B. *Gross Floor Area.* The total gross floor area of all structures on a lot shall not exceed:

1. 40% of the gross lot area, except:

a. For lots less than 3 acres that abut a commercial zone, the total gross floor area shall not exceed 75% of the gross lot area.

b. Parking structures or portions of parking structures accessory to conditional uses allowed under section 19.02.010.C and less than 4 feet above finished grade shall not be included in the gross floor area calculation.

C. ~~Maximum Impervious Surface Limits for Lots~~ *Lot Coverage.* The total percentage of a lot that can be covered by impervious surfaces (including buildings) lot coverage is limited by the slope of the lot for all single-family zones as follows, based on the net lot area:

Lot Slope	Lot Coverage (limit for impervious surfaces)
Less than 15%	40%*
15% to less than 30%	35%
30% to 50%	30%

Lot Slope	Lot Coverage (limit for impervious surfaces)
Greater than 50% slope	20%

*Public and private schools, religious institutions, private clubs and public facilities (excluding public parks or designated open space) in single-family zones with slopes of less than 15 percent may be covered by the percentage of legally existing impervious surface that existed on May 1, 2006, or may multiply the limits set forth subsection C by 1.25, provided the lot abuts a commercial zone, as determined by the code official.

GD. Exemptions. The following improvements will be exempt from the calculation of the maximum impervious surface lot coverage limits set forth in subsection B-C of this section:

1. **Decks/Platforms.** Decks and platforms constructed with gaps measuring one-eighth inch or greater between the boards which provide free drainage between the boards as determined by the code official shall be exempt from the calculation of maximum lot coverage impervious surface limits so long as the surface below the deck or platform is not impervious.

2. **Pavers.** Pavers installed with a slope of five percent or less and covering no more than 10 percent of the total lot area will be calculated as only 75 percent impervious. Provided, however, that all pavers placed in driveways, private streets, access easements, parking areas and critical areas shall be considered 100 percent impervious.

3. **Pedestrian-Oriented Walkways.** Uncovered pedestrian walkways constructed with gravel or pavers not to exceed 60 inches in width shall be exempt from the maximum lot coverage impervious surface limits.

4. **Public Improvements.** Open storm water retention/detention facilities, public rights-of-way and public pedestrian trails shall be exempt from the maximum lot coverage impervious surface limits.

5. **Rockeries/Retaining Walls.** Rockeries and retaining walls shall be exempt from the maximum lot coverage impervious surface limits.

6. **Residences for Religious Leaders Located on Properties Used by Places of Worship.**

a. A structure primarily used as a residence for a religious leader provided by its congregation and located on the same lot or lots as the improvements for a church, synagogue, mosque, or other place of worship shall be exempt from the maximum lot coverage impervious surface limits, subject to the limitations under subsection (C)(6)(b) of this section.

All impervious surface areas directly and commonly associated with the residence such as, but not limited to, the footprint of the residence, an attached or detached garage, a patio and/or deck not otherwise exempted by subsections (C)(1) and (3) of this section, and a driveway not otherwise used for general access to the place of worship, shall be exempt.

b. A residence and its associated impervious improvements, as described above, may only be exempted if 4,999 square feet or less or up to 20 percent of lot area, whichever is less. For these purposes, lot area means the lot or lots on which the place of worship is located.

c. Impervious surface lot coverage exceeding 60 percent shall not be allowed whether by variance to this section or by this exemption.

7. Unenclosed recreational areas, athletic fields, and similar areas with underdrainage systems, provided the rate of stormwater discharge is limited to that under natural conditions prior to development.

8. The area of green roofs on structures on the lot, provided that the rate of stormwater discharge is limited to that under natural conditions prior to development.

9. Access drives solely for the use of emergency vehicles, provided the driveway surface is constructed of grass block, or similar porous paving material.

DE. Height. Structure height shall not exceed 36 feet, except that structure height shall not exceed 45 feet fater than 150 feet from a public right of way or within than 300 feet of a commercial zone.

F. Height measurement. The calculation of structure height in subsection 19.02.020.E. may be modified, at the discretion of the applicant, as follows to permit the structure to respond to the topography of the lot:

1. Draw the smallest rectangle that encloses the principal structure.

2. Divide one side of the rectangle, chosen by the applicant, into sections at least 15 feet in length using lines that are perpendicular to the chosen side of the rectangle.

3. The sections delineated in this subsection E.2 are considered to extend vertically from the ground to the sky.

4. The maximum height for each section of the structure is measured from the average building elevation for that section of the structure, which is calculated as the average elevation of finished lot grades at the midpoints of the two opposing exterior sides of the rectangle for each section of the structure.

G. *Variance*. Regulated improvements in the R-8.4, R-9.6, R-12, and R-15 zoning designations may request a variance to increase lot coverage impervious surface pursuant to MICC 19.15.230(F). (Ord. 17C-15 § 1 (Att. A)).

19.02.070 Swimming pools.

A. A swimming pool is not allowed in any front yard.

B. A swimming pool is not allowed closer than five feet from any adjacent property measured from the edge of the water to the property line.

C. A swimming pool located in a public park or noncommercial recreation area shall conform to the setback regulations governing such areas.

D. All fences surrounding outdoor swimming pools shall conform to the requirements of MICC Title 17. (Ord. 04C-12 § 12; Ord. 99C-13 § 1. Formerly 19.02.060).

Code reviser's note: Ord. 17C-15 added a new Section 19.02.060 (Lot coverage – Regulated improvements). This section has been editorially renumbered to 19.02.070 in order to accommodate the addition of the new section.

**CITY OF MERCER ISLAND
COMMUNITY PLANNING & DEVELOPMENT**

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ENVIRONMENTAL CHECKLIST

PURPOSE OF CHECKLIST

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

PRE-APPLICATION MEETING

A pre-application meeting is used to determine whether a land use project is ready for review, to review the land use application process, and to provide an opportunity for initial feedback on a proposed application. Some land use applications require a pre-application – in particular: short and long subdivisions, lot line revisions, shoreline permits, variances, and critical area determinations. The City strongly recommends that all land use applications use the pre-application process to allow for feedback by City staff.

Please note: pre-application meetings are held on Tuesdays, by appointment. To schedule a meeting, submit the meeting request form and the pre-application meeting fee (see fee schedule). Meetings must be scheduled at least one week in advance. Applicants are required to upload a project narrative, a list of questions/discussion points, and preliminary plans to the Mercer Island File Transfer Site one week ahead of the scheduled meeting date.

SUBMITTAL REQUIREMENTS

In addition to the items listed below, the code official may require the submission of any documentation reasonably necessary for review and approval of the land use application. An applicant for a land use approval and/or development proposal shall demonstrate that the proposed development complies with the applicable regulations and decision criteria.

- A. **Completed pre-application.**
- B. **Development Application Sheet.** Application form must be fully filled out and signed.
- C. **Development Plan Set.** Please refer to the Land Use Application- Plan Set Guide in preparing plans.
- D. **Title Report.** Less than 30 days old.
- E. **SEPA checklist.**

INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later. Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you. The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

USE OF CHECKLIST FOR NONPROJECT PROPOSALS

For nonproject proposals complete this checklist and the supplemental sheet for nonproject actions (Part D). The lead agency may exclude any question for the environmental elements (Part B) which they determine do not contribute meaningfully to the analysis of the proposal. For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Zoning Code Text Amendment

2. Name of applicant:

G. Richard Hill

3. Address and phone number of applicant and contact person:

701 5th Ave., Suite 6600, Seattle, WA 98104. (206) 812-3388

4. Date checklist prepared:

February 10, 2020

5. Agency requesting checklist:

Department of Community and Planning Development

6. Proposed timing or schedule (including phasing, if applicable):

N/A - Nonproject Action

7. Do you have any plans for future additions, expansions, or further activity related to or connected with this proposal? If yes, explain:

N/A

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

N/A

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain:

N/A

10. List any government approvals or permits that will be needed for your proposal, if known:

Zoning Code Text Amendment

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

See Application for Code Amendment, which this SEPA Checklist accompanies.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

N/A - Nonproject legislative action

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (check one):

Flat Rolling Hilly Steep slopes Mountainous Other

b. What is the steepest slope on the site (approximate percent slope)?

N/A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

N/A

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

N/A

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

N/A

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

N/A

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

N/A

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

N/A

2. Air

-
- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, and industrial wood smoke) during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

N/A

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

N/A

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

N/A

3. Water

- a. Surface:

- i. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

N/A

- ii. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N/A

- iii. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N/A

- iv. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

N/A

- v. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

N/A

- vi. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

N/A

b. Ground

- i. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well? Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

N/A

- ii. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, [containing the following chemicals...]; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

N/A

c. Water runoff (including stormwater):

- i. Describe the source of runoff (including stormwater) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

N/A

- ii. Could waste materials enter ground or surface waters? If so, generally describe.

N/A

- d. Proposed measures to reduce or control surface, ground, runoff water, and drainage pattern impacts, if any:

N/A

4. Plants

- a. Check types of vegetation found on the site N/A
- Deciduous tree: Alder, Maple, Aspen, other
 - Evergreen tree: Fir, Cedar, Pine, other
 - Shrubs
 - Grass

- Pasture
- Crop or grain
- Wet soil plants: Cattail, buttercup, bulrush, skunk cabbage, other
- Water plants: Water lily, eelgrass, milfoil, other
- Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?
N/A

c. List threatened or endangered species known to be on or near the site.
N/A

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
N/A

e. List all noxious weeds and invasive species known to be on or near the site.
N/A

5. Animals

a. State any birds and animals which have been observed on or near the site or are known to be on or near the site. Examples include:

Birds: hawk, heron, eagle, songbirds, other:

Mammals: deer, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other:

N/A

b. List any threatened or endangered species known to be on or near the site.
N/A

c. Is the site part of a migration route? If so, explain.
N/A

d. Proposed measure to preserve or enhance wildlife, if any:
N/A

e. List any invasive animal species known to be on or near the site.

N/A

6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N/A

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N/A

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N/A

7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

N/A

i. Describe any known or possible contamination at the site from present or past uses.

N/A

ii. Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

N/A

iii. Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

N/A

iv. Describe special emergency services that might be required.

N/A

v. Proposed measures to reduce or control environmental health hazards, if any:

N/A

b. Noise

i. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

N/A

ii. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

N/A

iii. Proposed measures to reduce or control noise impacts, if any:

N/A

8. Land and shoreline use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

See Application for Code Amendment

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

N/A

c. Describe any structures on the site.

N/A

d. Will any structures be demolished? If so, what?

N/A

e. What is the current zoning classification of the site?

N/A

f. What is the current comprehensive plan designation of the site?

N/A

g. If applicable, what is the current shoreline master program designation of the site?

N/A

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

N/A

i. Approximately how many people would reside or work in the completed project?

N/A

j. Approximately how many people would the completed project displace?

N/A

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

N/A

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

N/A

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N/A

- c. Proposed measures to reduce or control housing impacts, if any:

N/A

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas? What is the principal exterior material(s) proposed?

N/A

- b. What views in the immediate vicinity would be altered or obstructed?

N/A

- c. Proposed measures to reduce or control aesthetics impacts, if any:

N/A

11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

N/A

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

N/A

- c. What existing off-site sources of light or glare may affect your proposal?

N/A

- d. Proposed measures to reduce or control light and glare impacts, if any:

N/A

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

N/A

b. Would the proposed project displace any existing recreational uses? If so, describe.

N/A

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

N/A

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

N/A

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

N/A

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

N/A

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

N/A

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

N/A

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

N/A

c. How many additional parking spaces would the completed project or nonproject proposal have? How many would the project or proposal eliminate?

N/A

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

N/A

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

N/A

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

N/A

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

N/A

h. Proposed measures to reduce or control transportation impacts, if any:

N/A

15. Public services

a. Would the project result in an increased need for public services (for example; fire protection, police protection, health care, schools, other)? If so, generally describe.

N/A

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities

a. Check utilities currently available at the site:

- | | | | |
|--------------------------------------|---|--|---|
| Electricity <input type="checkbox"/> | Natural Gas <input type="checkbox"/> | Water <input type="checkbox"/> | Refuse Service <input type="checkbox"/> |
| Telephone <input type="checkbox"/> | Sanitary sewer <input type="checkbox"/> | Septic system <input type="checkbox"/> | Other <input type="checkbox"/> |

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N/A

C. SIGNATURE

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the answers to the attached SEPA Checklist are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: 

SEPA RULES

SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; productions, storage, or release of toxic or hazardous substances; or production of noise?

N/A

Proposed measures to avoid or reduce increases are:

N/A

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

N/A

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

N/A

3. How would the proposal be likely to deplete energy or natural resources?

N/A

Proposed measures to protect or conserve energy and natural resources are:

N/A

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

N/A

Proposed measures to protect such resources or to avoid or reduce impacts are:

N/A

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

N/A

Proposed measures to avoid or reduce shoreline and land use impacts are:

N/A

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

N/A

Proposed measures to reduce or respond to such demand(s) are:

N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposal will not conflict with any applicable law.

[Statutory Authority: RCW 43.21C.110. WSR 16-13-012 (Order 15-09), § 197-11-960, filed 6/2/16, effective 7/3/16. Statutory Authority: RCW 43.21C.110 and 43.21C.100 [43.21C.170]. WSR 14-09-026 (Order 13-01), § 197-11-960, filed 4/9/14, effective 5/10/14. Statutory Authority: RCW 43.21C.110. WSR 13-02-065 (Order 12-01), § 197-11-960, filed 12/28/12, effective 1/28/13; WSR 84-05-020 (Order DE 83-39), § 197-11-960, filed 2/10/84, effective 4/4/84.]