

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-15**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
RELATING TO ESTABLISHMENT OF THE OPEN SPACE ZONE; PROVIDING
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, through the annual development code and comprehensive plan docket and the adoption of Resolution No. 1621 in 2022, the City added the task of developing legislation to establish a new Parks Zone; and

WHEREAS, in March 2024, the Parks and Recreation Commission and Open Space Conservancy Trust Board made the recommendation to split the original Parks Zone code development project into two phases: first, an Open Space Zone, and subsequently, the development of a Parks Zone; and

WHEREAS, on May 8, 2024, the Parks and Recreation Commission and Open Space Conservancy Trust Board provided an initial joint recommendation to the Planning Commission on proposed legislation establishing a new Open Space Zone; and

WHEREAS, on September 25, 2024, the Planning Commission held a duly advertised public hearing and provided a recommendation regarding the proposed legislation to the City Council; and

WHEREAS, establishment of the Open Space Zone requires an update to the Land Use Map in the Comprehensive Plan, which was addressed in a separate duly advertised public hearing on May 29, 2024, related to the 2024 Comprehensive Plan Periodic Update; and

WHEREAS, the proposed update to the Land Use Map as part of the Comprehensive Plan Periodic Update must be adopted to be effective concurrently with the code amendments; and

WHEREAS, on August 7, 2024, the City notified the Washington State Department of Commerce of the City's intent to adopt development code amendments; and

WHEREAS, on August 7, 2024, the City issued a State Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) consistent with the procedures established in Chapter 19.21 MICC; and

WHEREAS, on October 15, 2024, the City Council was briefed on the Planning Commission recommendation and had its first reading of this ordinance, and on November 4, 2024, the City Council had its second reading of this ordinance.

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

Section 1. Whereas Clauses Adopted. The “Whereas Clauses” set forth in the recital of this ordinance are hereby adopted as the findings and conclusions of the City Council for passing this ordinance.

Section 2. New MICC 19.05.030 Open Space - OS Adopted. The City Council adopts, effective December 31, 2024, a new section MICC 19.05.030, Open Space Zone, to read as follows;

MICC 19.05.030 – Open Space Zone.

- A. *Purpose.* The purpose of the Open Space Zone is to preserve, protect, restore, and enhance Open Space Lands, which provide habitat for native plants and animals and ecological services including stormwater management and carbon sequestration. Open Space Lands provide access to nature for passive recreation and relaxation and educational and stewardship opportunities.
- B. *Open Space Zone Designation Requirements.* In addition to the requirements established in Section [19.15.240 MICC](#), Open Space Lands must be owned, leased, or managed by the City of Mercer Island and fulfill the purpose provided in subsection (A) above to qualify for classification as Open Space Zone.
- C. *Uses Permitted.* The following land uses are permitted in the Open Space Zone. A use not permitted by this section is prohibited.
 - 1. Trails.
 - 2. Passive recreational uses.
 - 3. Passive recreational amenities.
 - 4. Habitat restoration and enhancement.
 - 5. Temporary uses compatible with the purpose of the Open Space Zone, as authorized by the City Manager or designee.
 - 6. Wireless communications facilities. (Only if otherwise permitted by [MICC 19.06.040](#) – Wireless communications and/or [MICC 19.06.070](#) – Small wireless facilities deployment and as subject to design and concealment standards as otherwise provided in the MICC).
 - 7. Utilities, only where necessary for public safety or protection of the natural environment and no reasonable alternative location exists. Utilities should be underground, if feasible.

Section 3. New MICC 19.05.040 Open Space Zone Development Standards, Adopted. The City Council adopts, effective December 31, 2024, a new section MICC 19.05.040, Open Space Zone Development Standards, to read as follows;

MICC 19.05.040 – Open Space Zone Development Standards.

A. *Applicability.* The provisions of this section shall apply to all development proposals in the Open Space zoning designation.

B. *Setbacks.*

1. The following minimum setbacks apply:
 - a. Zero (0) feet if adjacent property is zoned PI, TC, PBZ, C-O, or B; and
 - b. Twenty (20) feet if adjacent property is zoned R-8.4, R-9.6, R-12, R-15, MF-2L, MF-2, or MF-3.
2. Setbacks are measured from the adjacent property line or the edge of adjacent public rights-of-way.
3. The following developments are exempt from setback requirements: fences, gates, culverts, trails, landscaping, and furnishings.

C. *Restrooms.*

1. Restrooms are only permitted on properties larger than 100 acres. Restrooms shall not be larger than 300 square feet.

D. *Signs and Kiosks.*

1. Signs shall be governed by [MICC 19.12.080](#), except as follows:
 - a. No sign shall be larger than three square feet, other than at an entrance to Open Space Lands, where a sign shall not be larger than ten square feet in size.
 - b. Exterior lighted signs are prohibited.
 - c. Natural colors shall be required unless necessary for public health, safety, or maintenance.
2. The surface area of kiosks shall not exceed 15 square feet and kiosks shall not exceed ten feet in height; except, for Open Space Land larger than 100 acres, the surface area of kiosks shall not exceed 22 square feet and kiosks shall not exceed ten feet in height. Surface area shall be measured as the portion of the kiosk used/usable for providing information.

E. *Trail Standards.*

1. Trails shall not exceed eight feet in width.

Section 4. MICC 19.16.010 Definitions, Amended. Effective December 31, 2024, MICC 19.16.010 is amended as follows.

MICC 19.16.010 – Definitions

[...]

Kiosk. A small structure in a public area used for providing information.

[...]

Natural Colors. Muted colors that are consistent with the natural landscape of Open Space lands.

[...]

Open Space Land(s). A parcel of land that is largely undeveloped and is suitable as a natural habitat.

[...]

Passive Recreational Amenities. Structures, furnishings, or developments that are specifically provided for passive recreational uses, such as signs, trails, restrooms, kiosks, benches, bike racks, etc.

Passive Recreational Uses. Passive recreational uses have a low impact on the natural and built environment, and include activities such as hiking, wildlife viewing, walking, jogging, or picnicking.

[...]

Temporary Structures, Uses, and Activities. A land use, structure, or activity that will only be in place for a limited period of time not to exceed 180 days in duration.

[...]

Trail. An off-street path for passive recreational uses. Trails may include structural components such as boardwalks, bridges, and stairs.

[...]

Section 5. MICC 19.01.040 Zone Establishment, Amended. Effective December 31, 2024, MICC 19.01.040, Zone Establishment, is amended as follows.

MICC 19.01.040 – Zone Establishment

A. Zones.

| Zone | Symbol |
|-----------------|--------|
| Single-Family | R-8.4 |
| Single-Family | R-9.6 |
| Single-Family | R-12 |
| Single-Family | R-15 |
| Multiple-Family | MF-2L |
| Multiple-Family | MF-2 |

| | |
|--------------------|-----------|
| Multiple-Family | MF-3 |
| Business | B |
| Planned Business | PBZ |
| Commercial Offices | C-O |
| Public Institution | PI |
| <u>Open Space</u> | <u>OS</u> |
| Town Center | TC |

- B. The location and boundaries of the various zones of the city are shown and delineated on the city of Mercer Island Zoning Map which is included in appendix D of this development code and is incorporated herein by reference.
- C. The location and boundaries of the various zones as hereafter determined by the city council shall be shown and delineated on zone maps covering portions of the city, each of which shall be a part of this Code either by adoption as a part hereof or by amendment hereto.
- D. Each zone map and all notations and other information shown therein shall become part of this Code.
- E. A zone map may be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment of this Code and, as adopted, such zone map, or its parts, shall become a part of this Code.
- F. Changes in the boundaries of a zone shall be made by ordinance adopting an amended map, or part of said zone map.
- G. When uncertainty exists as to the boundaries of any zones shown on any zone map, the following rules shall apply:
 - 1. Boundaries shown on a map as approximately following street lines or lot lines shall be construed as actually following such lines.
 - 2. Where a boundary between zones divides a lot into two or more pieces, the entire lot shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12, R-9.6, R-8.4, MF-2L, MF-3, MF-2, OS, PI, PBZ, C-O, TC, and B. The location of the zone boundary shall be determined by use of the scale appearing on the zone map unless the location of the boundary is indicated by dimensions.
 - 3. Where property abuts Lake Washington, the land use classification of the upland property extends waterward across the abutting shorelands and beds to the line of navigability/inner harbor line as established in 1984 by the board of natural resources by Resolution No. 461.
 - 4. In case any uncertainty exists, the planning commission shall recommend and the city council shall determine the location of boundaries.

5. Where a public street is officially vacated or abandoned, the land use classification applicable to the abutting property shall apply to such vacated or abandoned street. If a vacated street forms the boundary between two or more zones, the land use classifications of each abutting zone shall extend to the mid-point of the vacated street unless the planning commission recommends and the city council decides otherwise.

H. Except as hereinafter provided:

1. No land, building, structure or premises shall be used for any purpose or in any manner other than a use listed in this Code, or amendments thereto, for the zone in which such land, building, structure or premises is located.
2. No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the requirements of this development code or amendments thereto.
3. No yard or other open spaces provided about any building or structure, for the purpose of complying with the regulations of this Code or amendments thereto shall be considered as providing a yard or open space for any other building or structure.

Section 6. MICC Title 19, Appendix D – Zoning Map, Amended. Effective December 31, 2024, Appendix D, Zoning Map, to Title 19, is repealed and replaced with the map attached hereto as Exhibit A.

Section 7. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 8. 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 on December 31, 2024, provided said date is at least five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON NOVEMBER _____, 2024.

ATTEST:

CITY OF MERCER ISLAND

Andrea Larson, City Clerk

Salim Nice, Mayor

APPROVED AS TO FORM

Bio Park, City Attorney

Date of publication:

Exhibit A

Appendix D – ZONING MAP

