

**CITY OF MERCER ISLAND
ORDINANCE NO. 23C-08**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING MERCER ISLAND CITY CODE 19.04.050 BUSINESS - B
RELATING TO PERMITTING SCHOOLS IN THE BUSINESS 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, the City added a code amendment to allow schools in the Business Zone to the 2022 CPD work program through the annual development code and comprehensive plan docket and the adoption of Resolution 1615; and

WHEREAS, on February 22, 2023, the Planning Commission provided initial direction on the proposed code amendment; and

WHEREAS, on March 22, 2023, the Planning Commission held a duly advertised public hearing and made a recommendation to the City Council; and

WHEREAS, the proposed code amendment is consistent with the Mercer Island Comprehensive Plan, which states that schools are a complementary use in the commercial office land use designation, a land use designation that includes Business Zone; and

WHEREAS, on March 30, 2023, the City notified the Washington State Department of Commerce of the City’s intent to adopt development code amendments; and

WHEREAS, on April 3, 2023, 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 May 16, 2023, the City Council was briefed on the Planning Commission recommendation and had their first reading of this ordinance; and

WHEREAS, on June 6, 2022, the City Council had their 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. MICC 19.04.050 Business - B Amended. MICC 19.04.050 is amended as follows.

[...]

- B. Uses permitted.
1. Government services, utilities, and museums and art exhibitions.
 2. Day care.
 3. Public and private schools accredited or approved by the state for compulsory school attendance, subject to design review as specified MICC 19.12.010 (D), and the following conditions:
 - a. Setbacks
 - i. a setback of 35 feet is required from property lines that abut single-family zones.
 - ii. a setback of 30 feet is required from public rights of way.
 - iii. a setback of 15 feet is required from public parks.
 - iv. Setbacks are not required on internal property lines.
 - b. Screening. Along property lines abutting rights of way, public parks, and single-family zoning, a landscaped area at least ten feet wide must provide a partial visual barrier to adjacent properties and rights of way. The screening shall be composed of a combination of trees, bushes, and groundcover that produce an eight-foot-tall visual barrier in all seasons within three years of planting. A minimum of one tree for every 20 feet of landscape perimeter length must be provided. Screening is not required on internal property lines.
 - c. Playfield. A one-fourth acre or larger playfield, play surface or open space shall be provided in one usable unit. The playfield may be located on an adjacent lot.
 - ~~34~~. Healthcare services.
 - ~~45~~. Personal services.
 - ~~56~~. Professional, scientific, and technical services; provided, animal hospitals and clinics shall be structurally enclosed.
 - ~~67~~. Office uses.
 - ~~78~~. Service stations.
 - ~~89~~. Repair services.
 - ~~910~~. Theaters.
 - ~~1011~~. Restaurants, cafeterias, catering.
 - ~~1112~~. Retail stores.
 - ~~1213~~. Financial and insurance services.
 - ~~1314~~. Commercial recreational areas; provided, teen dances and teen dance halls as defined herein are not permitted uses.
 - ~~1415~~. Special needs group housing, as provided in MICC 19.06.080.
 - ~~1516~~. Social service transitional housing, as provided in MICC 19.06.080.
 - ~~1617~~. Wireless communications facilities subject to the conditions set out in MICC 19.06.040.
 - ~~1718~~. Accessory uses customarily incidental to a principal use permitted outright in this section.
 - ~~1819~~. Hotels/motels and multiple-family dwellings.
 - ~~1920~~. Decorating shops.
 - ~~2021~~. Employment agencies.

- ~~24~~22. Printing establishments and newspaper printing presses.
- ~~22~~23. Public garages and auto repair shops.
- ~~23~~24. Sales rooms or storerooms for motor vehicles and other articles of merchandise.
- ~~24~~25. Telephone exchanges or telegraph offices.
- ~~25~~26. Preschools, nursery schools and day care centers, subject to the following conditions:
 - a. Such facilities shall meet all applicable safety and licensing laws and requirements.
 - b. All outdoor play areas shall be adequately fenced.
- ~~26~~27. Adult entertainment, subject to the following conditions:
 - a. The point of public entry into the structure housing the business shall be at least 800 feet from the property line of any R or MF zoned property; from the boundary of the area designated as "proposed landscaping" on Figure 6 of the final EIS (Volume I) for I-90; or from the property line of any property containing one or more of the following uses: single- or multiple-family dwelling, retirement home, preschool, nursery school or day care center, publicly owned park or open space, recreational area (commercial, noncommercial or private), public or private primary or secondary school, religious institution, governmental building, or an establishment which caters primarily to minors.
 - b. No adult business shall be located closer than 400 feet to another adult business. Such distance shall be measured by following a straight line from the nearest point of public entry into the proposed adult business to the nearest point of entry into another adult business.
 - c. Point of public entry into adult businesses shall not be located along 78th Avenue SE or along primary pedestrian corridors.
 - d. Window or exterior displays of goods or services which depict, simulate, or are intended for use in connection with specified sexual activities as defined by this title are prohibited.

[...]

Section 3. 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 4. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON JUNE 6, 2023.

ATTEST:

CITY OF MERCER ISLAND

Andrea Larson, City Clerk

Salim Nice, Mayor

APPROVED AS TO FORM

Bio Park, City Attorney

Date of publication: