

**CITY OF MERCER ISLAND  
ORDINANCE NO. 24C-17**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,  
AMENDING TITLE 19 MICC TO COMPLY WITH SB 5290 ON AN INTERIM  
BASIS; ADOPTING A WORK PLAN; 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**, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

**WHEREAS**, local project review processes are governed by Chapter 36.70B RCW; and

**WHEREAS**, the Washington State legislature recently passed SB 5290, which amends Chapter 36.70B RCW to set new requirements for the processing of project permit applications; and

**WHEREAS**, SB 5290 became effective on July 23, 2023, with the exception of Section 7 relating to maximum permit review times; and

**WHEREAS**, Section 7 of SB 5290 will become effective on January 1, 2025; and

**WHEREAS**, the City of Mercer Island adopted interim regulations on July 18, 2023 (Ordinance No. 23C-10) amending portions of the development code in Title 19 Mercer Island City Code (MICC) to comply with SB 5290, excluding Section 7; and

**WHEREAS**, the City of Mercer Island renewed interim regulations under RCW 35A.63.220 and RCW 36.70A.390 on July 2, 2024 (Ordinance No. 24C-12) for an additional six month period; and

**WHEREAS**, Ordinance No. 24C-12 expires on January 2, 2025; and

**WHEREAS**, the City must renew these interim regulations, adopt new interim regulations, or adopt permanent regulations to remain in compliance with State law as amended by SB 5290; and

**WHEREAS**, the City enact provisions to comply with Section 7 of SB 5290, which were not included in the interim regulations adopted by Ordinance 23C-10 and renewed with Ordinance 24C-12, therefore, interim development regulations adopted under the provisions of RCW 36.70A.390 are necessary to allow adequate time for the City to adopt permanent development regulations in compliance with SB 5290; and

**WHEREAS**, the City is authorized under RCW 35A.63.220 and RCW 36.70A.390 to pass an interim zoning and official control ordinance for up to one year if a work plan is developed for related studies providing for such a longer period; and

**WHEREAS**, City Staff have developed a work plan for related studies for compliance with SB 5290 and such work plan is attached to this Ordinance as Exhibit A; and

**WHEREAS**, the City is authorized under RCW 35A.63.220 and RCW 36.70A.390 to pass an interim zoning and official control ordinance, provided it holds a public hearing on the same within sixty days after passage if it has not previously held a public hearing on the proposed ordinance; and

**WHEREAS**, the City Council held a public hearing on November 19, 2024 regarding this interim zoning and official control ordinance;

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

- Section 1: Whereas Clauses Adopted.** The “Whereas Clauses” set forth in the recitals of this ordinance are adopted as the findings and conclusions of the City Council for passing this ordinance.
- Section 2: Ordinance 23C-10 and Ordinance 24C-12 Repealed.** Ordinance 23C-10 and Ordinance 24C-12 are repealed and replaced with Ordinance 24C-17.
- Section 3: Section 19.15.030 MICC, Land Use Review Types, Amended.** MICC Section 19.15.030, Land use review types, is amended as shown in Exhibit B.
- Section 4: Section 19.15.040 MICC, Review Procedures, Amended.** MICC Section 19.15.040, Review procedures, is amended as shown in Exhibit C.
- Section 5: Section 19.15.060 MICC, Application, Amended.** MICC Section 19.15.060, Application, is amended as shown in Exhibit D.
- Section 6: Section 19.15.070 MICC, Determination of Completeness and Letter of Completion, Amended.** MICC Section 19.15.070, Determination of completeness and letter of completion, is amended as shown in Exhibit E.
- Section 7: Section 19.16.010 MICC, Definitions, Amended.** MICC Section 19.16.010, Definitions, is amended as shown in Exhibit F.
- Section 8: Duration of Interim Zoning and Official Controls.** The interim zoning and official controls adopted in sections 3, 4, 5, 6 and 7 of this ordinance shall be effective for a period of one year, unless repealed, extended, or modified by the City Council.
- Section 9: Adoption of Work Plan.** The work plan attached to this ordinance as Exhibit A is adopted.
- Section 10: Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.
- Section 11: Effective Date.** This ordinance shall take effect and be in force on January 1, 2025, provided 5 days have passed since its passage and publication.

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

CITY OF MERCER ISLAND

\_\_\_\_\_  
Salim Nice, Mayor

Approved as to Form:

ATTEST:

\_\_\_\_\_  
Bio Park, City Attorney

\_\_\_\_\_  
Andrea Larson, City Clerk

Date of Publication: \_\_\_\_\_

**Exhibit A**

SB 5290 Code Amendments Work Plan

<ol style="list-style-type: none"><li>1. Technical analysis and staff recommendation<ol style="list-style-type: none"><li>a. Review peer city approaches</li><li>b. Analyze existing code criteria for determinations of completeness, permit review times, and other permit processes</li><li>c. Analyze feasibility of the implementation of streamlining strategies</li><li>d. Prepare a staff recommendation and begin drafting a code amendment based on the above information</li><li>e. Prepare a SEPA Checklist and determination on the proposed amendment, provide notification to state agencies and tribes</li></ol></li></ol>	Q1, Q2 2025
<ol style="list-style-type: none"><li>2. Planning Commission review and recommendation on a draft code amendment<ol style="list-style-type: none"><li>a. Public outreach, including public hearing</li><li>b. Approximately 3 points of review by the commission – study session, public hearing, and recommendation</li></ol></li></ol>	Q3 2025
<ol style="list-style-type: none"><li>3. City Council review and approval of code amendment<ol style="list-style-type: none"><li>a. First and second reading of the ordinance</li></ol></li></ol>	Q4 2025

## Exhibit B

### 19.15.030 Land use review types.

There are four categories of land use review that occur under the provisions of the development code.

- A. *Type I.* Type I reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.
- B. *Type II.* Type II reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues. The difference between Type I and Type II review is that public notification shall be issued for Type II decisions.
- C. *Type III.* Type III reviews require the exercise of discretion about nontechnical issues.
- D. *Type IV.* Type IV reviews require discretion and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing.
- E. The types of land use approvals are listed in Table A of this section. The required public process for each type of land use approval are listed in Table B of this section.
- F. *Consolidated permit processing.* An application for a development proposal that involves the approval of two or more Type II, III and IV reviews may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application. Consolidated land use reviews shall be subject to the longest review time period identified in MICC 19.15.040.

1.      The following permits and land use reviews are excluded from consolidated review and approval:

- a.      Building permits associated with the construction of one or more new single-family dwellings on lots resulting from the final plat approval of a short subdivision or long subdivision.
- b.      Building permits associated with shoreline conditional use permits and shoreline variance.
- c.      Project SEPA reviews ~~shall be processed as a Type III land use review.~~

2.      When a review is heard by multiple decision bodies, the higher decision body will make the final decision, and the lower decision body will review the project at a public meeting and issue a recommendation that will be reviewed by the higher decision body. The higher decision body will either adopt the recommendation as part of the permit conditions, will remand the recommendation back to the lower body for further consideration, will amend the recommendation, or will deny adoption of the recommendation and will adopt their own permit conditions. The hierarchy of decision bodies is as follows, from highest to lowest:

- a. City council;
- b. Hearing examiner;
- c. Design commission.

G. Interior alterations exempt from site plan review.

1. Applications for interior alterations are exempt from site plan review provided they meet the following criteria:

- a. The proposed development does not result in additional sleeping quarters or bedrooms;

b. The proposed development would not result in nonconformity with federal emergency management agency substantial improvement thresholds; or

c. The proposed development would not increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

2. Applications for interior alterations are subject to review for consistency with any otherwise applicable building, plumbing, mechanical, or electrical codes.

Table A. Land Use Review Type			
Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> <li>• Home business</li> <li>• Nonmajor single-family dwelling building permits</li> <li>• Tree removal permit</li> <li>• Right of way permit</li> <li>• Special needs group housing safety determination</li> <li>• Tenant improvement/change of use</li> <li>• Shoreline exemption<sup>4</sup></li> <li>• Critical area review<sup>1</sup></li> <li>• Temporary commerce on public property</li> <li>• Site development permits</li> <li>• Transportation concurrency certificate</li> <li>• Temporary use permit</li> </ul>	<ul style="list-style-type: none"> <li>• Modified wireless communication facilities (6409 per 47 CFR 1.40001)</li> <li>• Lot line revision</li> <li>• Setback deviations</li> <li>• Final plat<sup>2,3</sup></li> <li>• Code official design review</li> <li>• Accessory dwelling unit</li> <li>• Parking modification<sup>7</sup> (reviewed by city engineer)</li> <li>• Small wireless facility deployment</li> <li>• Seasonal development limitation waiver</li> <li>• Final short plat</li> </ul>	<ul style="list-style-type: none"> <li>• New and modified wireless (non 6409) eligible facility</li> <li>• SEPA threshold determination</li> <li>• Critical area review 2</li> <li>• Public agency exception</li> <li>• Temporary encampment<sup>4</sup></li> <li>• Short plat alteration and vacations</li> <li>• Preliminary short plat</li> <li>• Development code interpretations</li> <li>• Major single family dwelling building permit<sup>5</sup></li> <li>• Shoreline substantial development permit<sup>1</sup></li> <li>• Shoreline revision (substantial development)<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Preliminary long plat approval</li> <li>• Conditional use permit</li> <li>• Variance</li> <li>• Critical areas reasonable use exception</li> <li>• Long plat alteration and vacations</li> <li>• Parking modifications<sup>7</sup> (reviewed by design commission)</li> <li>• Variance from short plat acreage limitation</li> <li>• Wireless communication facility height variance</li> <li>• Planned unit development</li> <li>• Design commission design review</li> <li>• Permanent commerce on public property</li> <li>• Shoreline conditional use permit (SCUP)<sup>6</sup></li> <li>• Shoreline variance<sup>6</sup></li> <li>• Shoreline revision (variance and SCUP)</li> </ul>

- 1 Appeal will be heard by the shorelines hearings board.—
- 2 Decision is made by city council after discussion at a public meeting.—
- 3 A notice of decision will be issued for a final long plat.—
- 4 A public meeting is required.—
- 5 Major single family dwelling building permits are subject only to the notice of application process. A notice of decision will be provided to parties of record.—
- 6 Hearing examiner will forward a recommendation to the Washington State Department of Ecology for Ecology's decision.—
- 7 Parking modifications are issued pursuant to the provisions of MICC 19.11.130.—

<del>Table B. Review Processing Procedures</del>				
	<del>Type I</del>	<del>Type II</del>	<del>Type III</del>	<del>Type IV</del>
	<del>No Notice of Application No Notice of Decision Code Official</del>	<del>Public Notification No Notice of Application No Notice of Decision Code Official</del>	<del>Notice of Application Notice of Decision Code Official</del>	<del>Notice of Application Public Hearing Notice of Decision Hearing Examiner/Design Commission</del>
<del>Preapplication meeting required</del>	<del>No</del>	<del>No</del>	<del>Yes</del>	<del>Yes</del>
<del>Determination of Completeness<sup>3</sup></del>	<del>No</del>	<del>No</del>	<del>Yes</del>	<del>Yes</del>
<del>Public Notification</del>	<del>No</del>	<del>Yes</del>	<del>No</del>	<del>No</del>
<del>Notice of Application (mailing and posting)</del>	<del>No</del>	<del>No</del>	<del>Yes</del>	<del>Yes</del>
<del>Public Comment Period</del>	<del>None</del>	<del>None</del>	<del>30 days</del>	<del>30 days</del>
<del>Public Hearing (open record pre decision)</del>	<del>No</del>	<del>No</del>	<del>No</del>	<del>Yes</del>
<del>Notice of Decision</del>	<del>Code Official</del>	<del>Code Official</del>	<del>Code Official</del>	<del>Hearing Examiner<sup>2</sup> or Design Commission</del>
<del>Notice of Decision</del>	<del>No</del>	<del>No</del>	<del>Yes</del>	<del>Yes</del>

<del>Appeal Authority</del>	<del>Hearing Examiner<sup>1</sup></del>	<del>Hearing Examiner or Design Commission (code official design review)</del>	<del>Hearing Examiner</del>	<del>Superior Court or Shoreline Hearings Board (shoreline permits)</del>
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1 Appeals of final short plat approvals shall be to superior court. Appeals of shoreline exemptions shall be to the shoreline hearings board.

2 The hearing examiner will provide a recommendation to ecology for decisions on shoreline conditional use permits and shoreline variances.

3 Determinations of completeness are subject to the standards in MICC 19.5.070.

H. Land use review types and review processing procedures.

<b>Table A – Type I Land Use Reviews</b>										
<u>Permit</u>	<u>Pre-Application Meeting Required (MICC 19.15.050)</u>	<u>Determination of Completeness (MICC 19.15.070)</u>	<u>Public Notification (MICC 19.15.080)</u>	<u>Notice of Application (MICC 19.15.090)</u>	<u>Public Comment Period</u>	<u>Public Hearing (MICC 19.15.140)</u>	<u>Notice of Decision (MICC 19.15.120)</u>	<u>Decision Body</u>	<u>Timeline Decision Due from Date of Completenss (MICC 19.15.030)</u>	<u>Appeal Authority (MICC 19.15.130)</u>
<b><u>Home business</u></b>	No	No	No	No	No	No	No	Code Official	N/A	Hearing Examiner
<b><u>Nonmajor building permits</u></b>	No	Yes	No	No	No	No	No, except to Partes of Record	Code Official	65 days	Hearing Examiner
<b><u>Tree removal permit</u></b>	No	Yes	No	No	No	No	No	Code Official	65 days	Hearing Examiner



<u>Right-of-Way permit</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Special needs group housing safety determination</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>N/A</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Tenant improvement/change of use</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Shoreline exemption</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Shor</u> <u>eline</u> <u>Heari</u> <u>ngs</u> <u>Boar</u> <u>d</u>
<u>Critical area review 1</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Temporary commerce on public property</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Site development permit</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Transportation concurrency certificate</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>N/A</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>
<u>Temporary use permit</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod</u> <u>e</u> <u>Offi</u> <u>cial</u>	<u>65</u> <u>days</u>	<u>Heari</u> <u>ng</u> <u>Exam</u> <u>iner</u>

**Table B – Type II Land Use Reviews**

<u>Permit</u>	<u>Pre-Application Meeting Required (MICC 19.15.050)</u>	<u>Determination of Completeness (MICC 19.15.070)</u>	<u>Public Notification (MICC 19.15.080)</u>	<u>Notice of Application (MICC 19.15.090)</u>	<u>Public Comment Period</u>	<u>Public Hearing (MICC 19.15.140)</u>	<u>Notice of Decision (MICC 19.15.120)</u>	<u>Decision Body</u>	<u>Timeline Decision Due from Date of Completeness (MICC 19.15.030)</u>	<u>Appeal Authority (MICC 19.15.130)</u>
<b><u>Modified wireless communication facilities (6409 per CFR 1.40001)</u></b>	No	Yes	Yes	No	No	No	No	Code Official	65 days	Hearing Examiner
<b><u>Lot line revision</u></b>	No	Yes	Yes	No	No	No	No	Code Official	65 days	Hearing Examiner
<b><u>Setback deviation</u></b>	No	Yes	Yes	No	No	No	No	Code Official	65 days	Hearing Examiner
<b><u>Final plat</u></b>	No	No	Yes	No	No	Yes	Yes	City Council	N/A	Superior Court
<b><u>Code official design review</u></b>	No	Yes	Yes	No	No	No	No	Code Official	65 days	Design Commission
<b><u>Accessory dwelling unit</u></b>	No	Yes	Yes	No	No	No	No	Code Official	65 days	Hearing Examiner

<u>Parking modification (reviewed by city engineer)</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod e Official</u>	<u>N/A</u>	<u>Heari ng Exami ner</u>
<u>Small wireless facility deployment</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod e Official</u>	<u>65 days</u>	<u>Heari ng Exami ner</u>
<u>Seasonal development limitation waiver</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod e Official</u>	<u>65 days</u>	<u>Heari ng Exami ner</u>
<u>Final short plat</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>Cod e Official</u>	<u>N/A</u>	<u>Superi or Court</u>

<b>Table C – Type III Land Use Reviews</b>										
<u>Permit</u>	<u>Pre-Applic ation Meeti ng Requi red (MICC 19.15.050)</u>	<u>Determ ination of Comple teness (MICC 19.15.070)</u>	<u>Public Notifi cation (MICC 19.15.080)</u>	<u>Notic e of Applic ation (MICC 19.15.090)</u>	<u>Publi c Com ment Perio d</u>	<u>Publi c Heari ng (MICC 19.15.140)</u>	<u>Notic e of Decisi on (MICC 19.15.120)</u>	<u>Deci sion Bod y</u>	<u>Timelin e Decisio n Due from Date of Comple teness (MICC 19.15.030)</u>	<u>Appe al Autho rity (MICC 19.15.130)</u>
<u>New and modifie d wireles s (non-</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>

<b><u>6409) eligible facility</u></b>										
<b><u>SEPA threshold determination</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Critical area review 2</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Public agency exception</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Tempor ary encamp ment</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Publi c meeti ng</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Short plat alterati on and vacatio ns</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Prelimi nary short plat</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>
<b><u>Develo pment code interpr etation s</u></b>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>N/A</u>	<u>Heari ng Exami ner</u>
<b><u>Major building permit</u></b>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>No, excep t to Parti</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Heari ng Exami ner</u>

							<u>es of Record</u>			
<u>Shoreline substantial development permit</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Shore line Hearings Board</u>
<u>Shoreline substantial development permit revisions</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>No</u>	<u>Yes</u>	<u>Cod e Official</u>	<u>100 days</u>	<u>Shore line Hearings Board</u>

**Table D – Type IV Land Use Reviews**

<u>Permit</u>	<u>Pre-Application Meeting Required (MIC C 19.15.050)</u>	<u>Determination of Completeness (MICC 19.15.070)</u>	<u>Public Notification (MIC C 19.15.080)</u>	<u>Notice of Application (MIC C 19.15.090)</u>	<u>Public Comment Period</u>	<u>Public Hearing (MIC C 19.15.140)</u>	<u>Notice of Decision (MIC C 19.15.120)</u>	<u>Decision Body</u>	<u>Timely Decision Due from Date of Completeness (MICC 19.15.030)</u>	<u>Appeal Authority (MICC 19.15.130)</u>
<u>Preliminary long plat approval</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Conditional</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing</u>

<u>use permit</u>										<u>Examiner</u>
<u>Variance</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Critical areas reasonable use exception</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Long plat alteration and vacations</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Parking modifications (reviewed by design commission)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Design Commission</u>	<u>170 days</u>	<u>Design Commission</u>
<u>Variance from short plat acreage limitation</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Wireless communication facility height</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>

<u>variance</u>										
<u>Planned unit development</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>No</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Design commission design review</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Design Commission</u>	<u>170 days</u>	<u>Design Commission</u>
<u>Permanent commerce on public property</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Hearing Examiner</u>	<u>170 days</u>	<u>Hearing Examiner</u>
<u>Shoreline conditional use permit (SCUP)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Ecology after Hearing Examiner Recommendation</u>	<u>170 days</u>	<u>Shoreline Hearings Board</u>
<u>Shoreline variance</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Ecology after Hearing Examiner Recommendation</u>	<u>170 days</u>	<u>Shoreline Hearings Board</u>
<u>Shoreline revision (variance and SCUP)</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>30 days</u>	<u>Yes</u>	<u>Yes</u>	<u>Ecology</u>	<u>170 days</u>	<u>Shoreline Hearings Board</u>

## Exhibit C

### **19.15.040 Review procedures.**

- A. The following are general requirements for processing a permit application under the development code Title 19 MICC. Additional or alternative requirements may exist for actions under specific code sections (see MICC 19.07.110, 19.07.190, 19.08.020, and 19.08.070).
- B. Decisions for land use review applications subject to the standards in Title 19 MICC must be issued in a timely manner, subject to the following standards:
1. The decision for any Type I or Type II land use review must be issued within 65 days of the determination of completeness issued consistent with MICC 19.15.070.
  2. The decision for any Type III land use review must be issued within 100 days of the determination of completeness issued consistent with MICC 19.15.070.
  3. The decision for any Type IV land use review and reclassification of property consistent with MICC 19.15.240 that does not require a Comprehensive Plan amendment must be issued within 170 days of the determination of completeness issued consistent with MICC 19.15.070.
  4. The following land use approvals are exempt from the decision timelines established in this section:
    - a. Home business;
    - b. Special needs group housing safety determination;
    - c. Temporary commerce on public property;
    - d. Transportation concurrency certificate;
    - e. Final plat;
    - f. Parking modification reviewed by City Engineer;
    - g. Final short plat;
    - h. Development code interpretation;
    - i. Comprehensive Plan, subarea plan, and development code amendments docketed through the process established in MICC 19.15.230.
  5. The time periods for issuance of a decision for a land use review established in this section shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of completeness for the new use, as required by Chapter 19.15 MICC.
  6. If, at any time, an applicant informs the City, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the City has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods established in this section. Any written notice from the City to the applicant that additional information is required to further process the application shall include a notice that failure to respond to a request for additional information within 60 days may result in 30 days being added to the time for review. For the purposes of this subsection, "not responsive" means that the applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no



ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

- C. If a decision regarding a land use review is not issued in compliance with this section, a portion of the permit fee must be refunded to the applicant or discounted prior to final collection as provided below. The portion of the permit fee that must be refunded or discounted for missing time periods shall be:
1. 10 percent if the final decision for a land use review is issued as follows:
    - a. For Type I and Type II land use reviews, between 66 and 78 days after the determination of completeness was issued;
    - b. For Type III land use reviews, between 101 and 120 days after the determination of was issued; and
    - c. For Type IV land use reviews and reclassification of property consistent with MICC 19.15.240 that does not require a Comprehensive Plan amendment, between 171 and 204 days after the determination of completeness was issued.
  2. 20 percent if the final decision for a land use review is issued as follows:
    - a. For Type I and Type II land use reviews, more than 78 days after the determination of completeness was issued;
    - b. For Type III land use reviews, more than 120 days after the determination of completeness was issued; and
    - c. For Type IV land use reviews and reclassification of property consistent with MICC 19.15.240 that does not require a Comprehensive Plan amendment, more than 204 days after the determination of completeness was issued.
- D. For the purposes of this section, the number of days shall be calculated by counting every calendar day and excluding the following time periods:
1. Any period between the day that the City has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;
  2. Any period after an applicant informs the City, in writing, that they would like to temporarily suspend review of the application until the time that the applicant notifies the City, in writing, that they would like to resume the application. The code official may set conditions for the temporary suspension of land use review; and
  3. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal.
- C. Nothing in this section prohibits the City from extending the deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the City. Such an extension may be granted only if a signed affidavit confirming the extension is submitted by the applicant prior to a review deadline established by this section.

**Exhibit D**

**19.15.060 Application.**

- A. The department shall not commence review of any application until the applicant has submitted the materials and fees specified for complete applications. An application shall contain all information deemed necessary by the code official to determine if the proposed permit or action will comply with the requirements of the applicable development regulations. The applicant for a development proposal shall have the burden of demonstrating that the proposed development complies with the applicable regulations and decision criteria. All land use applications shall include, at a minimum, the ~~following materials in Table A below:~~
- ~~1. All applications for permits or land use reviews by the city shall be submitted on forms provided by the city;~~
  - ~~2. A site plan, prepared in a form prescribed by the code official;~~
  - ~~3. A completed SEPA environmental checklist, if required;~~
  - ~~4. Any studies or reports required for the processing of the application;~~
  - ~~5. A list of any permits or land use review types necessary for approval of the development proposal that have been obtained prior to filing the application or that are pending before the city or any other governmental entity;~~
  - ~~6. Drainage plans and documentation required by the Stormwater Management Manual for Western Washington as adopted by chapter 15.09 MICC, if applicable;~~
  - ~~7. Legal description of the site;~~
  - ~~8. Verification that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has a right to develop the site and that the application has been submitted with the consent of all owners of the affected property; provided, that compliance with subsection (A)(9) of this section shall satisfy the requirements of this subsection;~~
  - ~~9. For Type II, III, and IV reviews, a title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement). If the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site. The code official may waive this requirement if the title report will not substantively inform the review of the development proposal; and~~
  - ~~10. All applications for preliminary design review shall contain all information and materials deemed necessary by the code official to determine if the proposal complies with this chapter. Such materials may include a site survey; site plans; elevations; sections; architectural plans; roof plans; renderings and/or models; landscaping plan; parking plan; color and materials board; vicinity maps; site photographs; SEPA checklist; traffic study; pedestrian and vehicle circulation plans; and written narrative describing the project proposal and detailing how the project is meeting the applicable design objectives and standards established in chapter 19.11 or 19.12 MICC. For new construction, submittal of lighting and sign master plans may be deferred to the public hearing if applicable.~~

<p><u>Table A. Required Submittals by Land Use Review Type</u></p> <p><u>“R” means Required</u></p> <p><u>“C” means When Required by Code Official</u></p> <p><u>“N/A” means Not Applicable</u></p>
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Submittal <sup>2</sup>	Land Use Review Type			
	Type I	Type II	Type III	Type IV
<u>Completed application form(s) provided by the City.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Any studies or reports required for the processing of the application. Required studies or reports shall be listed on the application form.<sup>1</sup></u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A list of any permits or land use reviews necessary for approval of the development proposal that have been obtained prior to filing the application or that are pending before the city or any other governmental entity.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>If multiple land use reviews are required, the applicant may request a consolidated review of the land use applications with a consolidated review request form, unless the land use reviews are excluded from consolidated review pursuant to MICC 19.15.030(F).</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A project narrative describing the proposal and how it is consistent with the Comprehensive Plan and meets all applicable standards in Title 19 MICC.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Code compliance matrix in a form acceptable by the code official.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A statement describing the proposed measures to ensure the proposal will comply with Chapter 19.10 MICC.<sup>3</sup></u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A site plan, prepared as described on the application form, unless the project is exempt from site plan review pursuant to MICC 19.15.030(G).</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A legal description of the subject property.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A completed SEPA environmental checklist unless the project is demonstrated to be categorically exempt from SEPA review per Chapter 19.21 MICC.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Drainage plans and documentation required by the Stormwater Management Manual for Western Washington as adopted by chapter 15.09 MICC, if applicable.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>A title report from a reputable title company indicating that the applicant has either sole marketable title to the development site or has a publicly recorded right to develop the site (such as an easement). If the title report does not clearly indicate that the applicant has such rights, then the applicant shall include the written consent of the record holder(s) of the development site. The code official may waive this requirement if the title report will not substantively inform the review of the development proposal.</u>	<u>C</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Affidavit of Ownership.</u>	<u>C</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Affidavit of Agent Authority, if applicable.</u>	<u>C</u>	<u>R</u>	<u>R</u>	<u>R</u>

<u>All applications for preliminary design review shall contain all information and materials deemed necessary by the code official to determine if the proposal complies with this chapter. Such materials may include a site survey; site plans; elevations; sections; architectural plans; roof plans; renderings and/or models; landscaping plan; parking plan; color and materials board; vicinity maps; site photographs; SEPA checklist; traffic study; pedestrian and vehicle circulation plans; and written narrative describing the project proposal and detailing how the project meets the applicable design objectives and standards established in chapter 19.11 or 19.12 MICC. For new construction, submittal of lighting and sign master plans may be deferred to the public hearing if applicable.</u>	<u>N/A</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Any preapplication meeting notes obtained prior to application.</u>	<u>C</u>	<u>C</u>	<u>R</u>	<u>R</u>
<u>A signed statement from the applicant attesting to the accuracy of all information submitted with the application.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>
<u>Any additional materials required by the code official as shown in the land use application form specific to the proposed development.</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>The applicable permit fee.</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>

Notes:

1. The code official may request additional studies or information at any time during review, provided such reports or studies are necessary to complete review of the application.
  2. The code official may waive any submittal materials required by this section provided such waiver is described in the determination of completeness issued in compliance with MICC 19.15.070.
  3. Additional application requirements for tree removal are established in MICC 19.10.090 Application requirements.
- B. A determination of completeness shall not preclude the code official from requesting additional information or studies either at the time of determination of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the code official.
- C. All applications for permits or land use review by the city shall be accompanied by a filing fee in an amount established by city ordinance.

## Exhibit E

### **19.15.070 Determination of completeness and letter of completion.**

- A. *Complete application required.* The city will not accept an incomplete application for processing and review. An application is complete only when all information required on the application form ~~and all submittal items required by the development code have~~ has been provided to the satisfaction of the code official. The code official may request additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
- B. *Determination of completeness.* Within 28 calendar days after receiving an application for a ~~Type III and Type IV land use review~~ project permit application (as such is defined in RCW 36.70B.020), the city shall mail, email, or provide in person a written letter of completion or letter of incompleteness to the applicant, stating either that the application is complete or that the application is incomplete. If an application is incomplete, the letter of incompleteness shall identify what additional documentation is necessary to result in a procedurally complete application. To the extent known at the time of review, the code official shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application. An application shall be deemed complete if the city does not provide a written determination to the applicant stating that the application is incomplete within 28 days after receiving an application.
1. At the discretion of the code official, the determination of completeness may include or be combined with any of the following:
    - a. A preliminary determination of those development regulations that will be used for project mitigation;
    - b. A preliminary determination of consistency, as provided under RCW 36.70B.040;
    - c. Other information the code official chooses to include; and
    - d. A notice of application issued in compliance with MICC 19.15.090.
- C. *Response to letter of incompleteness.* Within 14 days after an applicant has submitted all additional information identified as being necessary for a complete application, the city shall notify the applicant that the application is complete, or indicate that the application is incomplete and specify additional documentation as specified in subsection B of this section that is necessary to result in a complete application.
1. If an applicant is not responsive for more than 60 consecutive days after the city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit that is subject to MICC 19.15.040.
  2. Any written notice from the city to the applicant that additional information is required to further process the application must include a notice that non-responsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this section, "non-responsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide additional information.
- D. *Completion date.* The date an application is determined complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a letter of complete application, or the failure of the department to provide ~~such a letter as directed by this section~~ the applicant a letter detailing what additional documentation is necessary

to result in a complete application, shall cause an application to be conclusively deemed to be complete as provided in this section.

- E. If the applicant fails to provide the required information within 90 days of the letter of incompleteness, the application shall lapse.

## Exhibit F

### MICC 19.16.010 Definitions.

[...]

Interior Alteration: Construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

[...]

Major ~~single-family dwelling~~ building permit: A building permit for:

1. A new ~~single-family~~ dwelling on a vacant lot or as replacement of an existing or demolished building; or
2. Any change to a ~~single-family~~ dwelling that requires a building permit and results in any of the following;
  - a. An increase in the existing maximum building height above the highest point of the building, except for a reroof that increases the highest point of the building by 12 inches or less;
  - b. A reduction in any existing side yard;
  - c. An increase in the existing gross floor area of more than 500 square feet; or
  - d. An increase in the existing lot coverage of more than 100 square feet.

[...]