

**CITY OF MERCER ISLAND  
ORDINANCE NO. 20-12**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON;  
ADOPTING A MORATORIUM ON THE ACCEPTANCE OF CERTAIN  
BUILDING PERMIT APPLICATIONS IN THE MERCER ISLAND TOWN  
CENTER ZONE; SCHEDULING A PUBLIC HEARING; DECLARING AN  
EMERGENCY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING  
AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, the City of Mercer Island (City) adopted a Comprehensive Plan in 1994 and has amended the plan on several occasions since that time; and

**WHEREAS**, in compliance with the Washington State Growth Management Act, Chapter 36.70A RCW, the City has adopted a zoning code and map (Mercer Island City Code, Title 19, Unified Land Development Code); and

**WHEREAS**, as part of its Growth Management Act obligations, the City desires to significantly update and amend development regulations applicable to certain parts of the Mercer Island Town Center, including requirements for various types of commercial retail space; and

**WHEREAS**, during its annual Planning Session, the City Council established a work plan for 2020 and 2021 that prioritized the included updates to the Town Center development regulations; and

**WHEREAS**, the City Council may adopt an immediate moratorium for a period of up to six months on the acceptance of building and development permit applications for major new construction as long as the City Council holds a public hearing on the proposed moratorium within sixty days after adoption, pursuant to RCW 35A.63.220 and RCW 36.70A.390; and

**WHEREAS**, consistent with the provisions of RCW 35A.63.220 and RCW 36.70A.390, it is appropriate for the City Council to hold a public hearing and to adopt findings of fact supporting and justifying the moratorium, and to implement a work plan to prepare and adopt changes to the Town Center development regulations; and

**WHEREAS**, allowing building and other new development to continue in certain parts of the Town Center zone before the City Council can fully consider new Town Center development regulations will substantially impact orderly growth in the Town Center zone; and

**WHEREAS**, building permit applications and other development proposals submitted under existing regulations may be inconsistent with the updated Town Center regulations; and

**WHEREAS**, the City Council finds that if new developments vest under the current Town Center regulations, it may result in a poorly designed Town Center, visual blight, economic hardship, and poor infrastructure design that pose harm to public health, safety, property, and welfare; and

**WHEREAS**, to prevent the potential harm to public health, safety, property, and welfare, the City Council concludes that the City Council needs to take immediate action; and

**WHEREAS**, the moratorium does not apply to any complete application for a development proposal that has vested pursuant to MICC 19.15.170 to the regulations in effect prior to the effective date of this ordinance; and

**WHEREAS**, the City shall schedule a public hearing before August 01, 2020, consistent with the requirements set forth in RCW 35A.63.220 and RCW 36.70A.390.

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

**Section 1. Moratorium Established.** The Mercer Island City Council hereby imposes a six month moratorium on the submission or acceptance of applications for any building permits or any other land use approvals for Major New Construction as defined in MICC 19.16.010 for properties located south of SE 29<sup>th</sup> Street within the Town Center (TC) zone at Mercer Island. All applications subject to this moratorium received by the City shall be rejected and returned to the applicant.

**Section 2. Whereas Clauses Adopted.** The “Whereas Clauses” set forth in the recital section above are hereby adopted as the preliminary findings of the City Council for passing this ordinance.

**Section 3. Public Hearing.** A public hearing shall be scheduled and noticed to be held before August 01, 2020 pursuant to RCW 35A.63.220 and RCW 36.70A.390 to hear and consider the comments and testimony of those wishing to speak regarding the moratorium enacted by this ordinance. After the public hearing, the City Council will either adopt findings of fact justifying the continuation of the moratorium, or adopt an ordinance lifting it.

**Section 4. Duration of Moratorium.** The moratorium established by this ordinance shall continue in effect for an initial period of six months, unless repealed, extended or modified by the City Council after subsequent public hearing(s), entry of appropriate findings of fact, and or development of a work plan for related studies pursuant to RCW 35A.63.220 and RCW 36.70A.390.

**Section 5. Declaration of Emergency.** As set forth in the “Whereas Clauses” adopted in Section 2 of this ordinance, the City Council hereby declares that an emergency exists necessitating that this ordinance take effect immediately

upon proper passage by the whole membership of the City Council, and that the same is exempt from SEPA review under WAC 197-11-880.

**Section 6. 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 7. Effective Date.** This ordinance, as a public emergency ordinance necessary for the protection of the public health, safety, property, and welfare, shall take effect and be in full force and effect immediately upon its proper passage by the City Council as provided under RCW 35A.13.190.

Passed unanimously by the City Council of the City of Mercer Island, Washington, at its regular meeting on June 2, 2020, and signed in authentication of its passage.

CITY OF MERCER ISLAND



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Benson Wong, Mayor

ATTEST:



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Deborah A. Estrada, City Clerk

Approved as to Form:

/s/

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Bio Park, City Attorney

Date of Publication: June 10, 2020