



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 6709**  
**June 17, 2025**  
**Consent Agenda**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 6709: New Dwellings in Existing Buildings (HB 1042) in Title 19 MICC (Ordinance No. 25C-12 Second Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
<b>RECOMMENDED ACTION:</b>	Adopt Ordinance No. 25C-12.	

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Jeff Thomas, Community Planning and Development Director Adam Zack, Principal Planner
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Ordinance No. 25C-12
<b>CITY COUNCIL PRIORITY:</b>	n/a

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

### EXECUTIVE SUMMARY

The purpose of this agenda item is for the City Council to conduct a second reading of and adopt Ordinance No. 25C-12 (Exhibit 1) regarding proposed development code amendments to comply with recent changes in the state law pertaining to allowing new dwelling units to be constructed in existing buildings ([RCW 35A.21.440](#)).

- In 2023, the Washington State Legislature enacted Engrossed Substitute House Bill (HB) 1042;
- HB 1042 established [RCW 35A.21.440](#), which sets requirements for how code cities can regulate the development of new housing in existing buildings;
- [RCW 35A.21.440](#) requires that all code cities, including Mercer Island, allow subject to conditions the development of new housing in existing buildings in all zones where commercial and mixed uses are allowed;
- The development regulations in Title 19 of the Mercer Island City Code (MICC) must be amended to comply with [RCW 35A.21.440](#);
- The City Council included a project to comply with recent statewide legislation, including HB 1042, on the 2024 Annual Docket;
- The Planning Commission held a public hearing and made a recommendation for the proposed amendments on April 23, 2025;

- Ordinance No. 25C-12 would amend the MICC by adding a new section to Chapter 19.06 MICC as recommended by the Planning Commission (Exhibit 1). This new section would comply with RCW 35A.21.440; and
- The City Council completed a first reading of Ordinance No. 25C-12 on June 3 (see [AB 6700](#)).

## BACKGROUND

In 2023, the WA State Legislature enacted House Bill 1042 (HB 1042). This bill enacted [RCW 35A.21.440 – New housing in existing buildings—Prohibitions on local regulation](#). This state law requires code cities in Washington to allow new dwelling units to be added to existing buildings subject to specific conditions. Mercer Island must update its development code to comply with these changes by June 30, 2025 (RCW 35A.21.440(1)(a)). If the City does not comply with HB 1042, the state law supersedes local regulations (RCW 35A.21.440(1)(b)).

### RCW 35A.21.440 – NEW HOUSING IN EXISTING BUILDINGS – PROHIBITIONS ON LOCAL REGULATION

The requirements for regulation of new housing in existing buildings in code cities established by HB 1042 are codified in [RCW 35A.21.440 – New housing in existing buildings – Prohibitions on local regulation](#). Ordinance 25C-12 would amend the Mercer Island City Code (MICC) to comply with RCW 35A.21.440.

## ISSUE/DISCUSSION

Ordinance No. 25C-12 would adopt a new section of Chapter 19.06 MICC to comply with RCW 35A.21.440 (Exhibit 1). The proposed new code section would allow the development of new dwelling units in buildings that received a certificate of occupancy at least three years prior to application. The new code section would ensure that the development standards that apply to developing new dwelling units in existing buildings are consistent with state law, including:

- Allowing this use in all commercial and mixed-use zones;
- Allowing an increased maximum density for projects with conditions on how the exterior of the building may be modified;
- Requiring the retention of existing parking spaces;
- Ensuring that the use is subject to the same permitting requirements as any other residential use in the subject zone;
- Exempting the addition of new dwelling units in existing buildings from design standards; and
- Exempting the addition of new dwelling units in existing buildings from transportation concurrency and environmental review.

For more information about how the proposed development code connects with the state law, please see [AB 6700](#).

## RECOMMENDED ACTION

Adopt Ordinance No. 25C-12 amending Title 19 MICC to adopt regulations related to new dwelling units in existing buildings.