

**CITY OF MERCER ISLAND  
ORDINANCE NO. 25C-06**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING TITLE 19 MICC TO COMPLY WITH UNIT LOT SUBDIVISION REQUIREMENTS IN HB 5258 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**, in 2023 the Washington State legislature passed Engrossed Second Substitute Senate Bill (E2SSB) 5258 (chapter 337, Laws of 2023) related to condominiums and townhomes, construction and sale, various provisions; and

**WHEREAS**, in passing E2SSB 5258 (chapter 337, Laws of 2023) the State legislature sought to increase the supply and affordability of condominium units and townhouses as an option for homeownership; and

**WHEREAS**, E2SSB 5258 (chapter 337, Laws of 2023), Section 11 amends the subdivision requirements codified in the Revised Code of Washington (RCW) section 58.17.060 to add a requirement that local jurisdictions allow unit lot subdivision; and

**WHEREAS**, adoption of the ordinance will bring the City of Mercer Island into compliance with RCW 58.17.060 and will serve the general welfare of the public;

**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**, 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 duly noticed public hearing on March 4, 2025 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:** **Section 19.08.080 MICC, Single-family, Addition.** MICC Section 19.08.080, Fee Simple Unit Lot Subdivision, is added as shown in Exhibit B.
- 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 19.16.010 MICC, Definitions, Amended.** MICC Section 19.16.010, Definitions, is amended as shown in Exhibit B.
- Section 5:** **Duration of Interim Zoning and Official Controls.** The interim zoning and official controls adopted in sections 2, 3, and 4 of this ordinance shall be effective for a period of one year, unless repealed, extended, or modified by the City Council.
- Section 7:** **Adoption of Work Plan.** The work plan attached to this ordinance as Exhibit A is adopted.
- Section 8:** **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 9:** **Effective Date.** This ordinance shall take effect and be in force on June 30, 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 MARCH 18, 2025.

CITY OF MERCER ISLAND

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Salim Nice, Mayor

Approved as to Form:

ATTEST:

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

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

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

## Exhibit A

### Unit Lot Subdivision Code Amendments Work Plan

<p>A. Technical analysis and staff recommendation</p> <ul style="list-style-type: none"><li>a. Review peer city approaches and any relevant state legislation adopted after the interim development regulations</li><li>b. Prepare a staff recommendation and begin drafting a code amendment based on the above information</li><li>c. Prepare a SEPA Checklist and determination on the proposed amendment, provide notification to state agencies and tribes</li></ul>	Q3, Q4 2025
<p>B. Planning Commission review and recommendation on a draft code amendment</p> <ul 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></ul>	Q1 2026
<p>C. City Council review and approval of code amendment</p> <ul style="list-style-type: none"><li>a. First and second reading of the ordinance</li></ul>	Q2 2026

## Exhibit B

### 19.08.080 Fee Simple Unit Lot Subdivisions

- A. Purpose. The primary purpose of these provisions is to allow for the creation of fee simple unit lots for developments with more than one dwelling unit including attached housing and ADUs while applying only those site development standards applicable to the parent lot as a whole.
- B. Development Standards. Overall development of the parent lot shall meet the bulk development and design standards of the underlying land use district applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards of this title based on analysis of the individual unit lot, provided that development standards for the parent lot are met.
- C. Unit lot subdivisions and subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.
- D. Access. Private access drives are allowed to provide access to dwellings and off-street parking areas within a unit lot subdivision. Access, joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open area and other similar features, and the agreement recorded with King County. The proposed unit lot subdivision shall incorporate preferred development practices pursuant to MICC 19.09.100 where feasible.
- E. Parking. Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot or tract other than the lot with the dwelling unit, if the right to use that parking is formalized by an easement or otherwise defined on the final plat, and recorded with King County.
- F. The following shall be recorded on the face of the final plat:
  - 1. Each unit lot is not a separate buildable lot, and
  - 2. Additional development of unit lots may be limited as a result of the application of development standards to the parent lot
- G. Approval Process and Criteria. The approval process and criteria for fee simple unit lot subdivisions shall be consistent with the requirements for short plats established in MICC 19.08.020.

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

1. Building permits associated with the construction of one or more new single-family dwellings, middle housing units, or accessory dwelling units on lots resulting from the final plat approval of a short subdivision, unit lot subdivision, or long subdivision.
2. Building permits associated with shoreline conditional use permits and shoreline variance.
3. Project SEPA reviews shall be processed as a Type III land use review.
4. 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> </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> </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 <sup>2</sup></li> <li>• Public agency exception</li> <li>• Temporary encampment <sup>4</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> </ul>

<ul style="list-style-type: none"> <li>• Tenant improvement/change of use</li> <li>• Shoreline exemption <sup>1</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>• 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> <li>• <u>Final Unit Lot Subdivision</u></li> </ul>	<ul style="list-style-type: none"> <li>• Short plat alteration and vacations</li> <li>• Preliminary short plat</li> <li>• <u>Preliminary Unit Lot Subdivision</u></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>• 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>
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- 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.

### 19.16.010 Definitions.

[...]

*Lot:* A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built upon as a unit.

1. *Corner lot:* A lot located at the junction of and abutting two or more intersecting streets.
2. *Upland lot:* A lot having no frontage on Lake Washington.
3. *Waterfront lot:* A lot having frontage on Lake Washington.
4. *Parent lot:* The initial lot from which unit lots are subdivided pursuant to MICC 19.08.080.
5. *Unit lot:* A lot created by the subdivision of a parent lot pursuant to MICC 19.08.080.

[...]