

GMHB EXHIBIT 33



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6141
September 6, 2022
Consent Agenda

AGENDA BILL INFORMATION

TITLE:	AB 6141: Second reading of Ordinance No. 22C-14 (renews Ordinance No. 21C-23) on interim regulations in MICC 19.16.010 related to emergency shelters and housing, transitional housing, and permanent supportive housing in response to E2SHB 1220.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Complete a second reading of and adopt Ordinance No. 22C-14.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim CPD Director Adam Zack, Senior Planner
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 22C-14
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to conduct a second reading of Ordinance No. 22C-14 (renews Ordinance No. 21C-23) to consider the renewal of the interim regulations adopted in MICC 19.16.010 related to emergency shelters and housing, transitional housing, and permanent supportive housing in response to E2SHB 1220.

- During the 2021 state legislative session, the legislature passed [E2SHB 1220](#), requiring amendment of Title 19 Mercer Island City Code (MICC). The timeline imposed by this legislation required the City to comply with the new requirements by September 30, 2021.
- Interim regulations were adopted by Ordinance No. 21C-23. The interim regulations are set to expire on September 21, 2022. The City must renew the interim regulations or adopt permanent regulations before the expiration date to maintain compliance with State law. Draft Ordinance No. 22C-14 will renew the interim regulations for six months to ensure Title 19 MICC remains consistent with state law (Exhibit 1).
- E2SHB 1220 also requires the WA Department of Commerce (“Commerce”) to identify the number of housing units necessary to manage projected growth for counties and cities planning under the Growth Management Act (GMA). This will include the following housing types:

- Housing units for moderate, low, very low, and extremely low-income households, and
- Emergency housing, emergency shelters, and permanent supportive housing.
- Commerce has not yet identified the number of housing units and types as required by E2SHB 1220. This information is needed so that the staff may complete their work on the permanent regulations.
- Ordinance 22C-14 renews the interim regulations adopted last year to allow the City time to develop permanent regulations once the Department of Commerce identifies the requisite housing units necessary to manage projected growth.
- The City Council held the public hearing and first reading of Ordinance 22C-14 on July 19, 2022 ([AB 6122](#)).

BACKGROUND

E2SHB 1220: Emergency Shelters and Housing

[E2SHB 1220](#) addresses transitional housing, emergency shelters, and permanent supportive housing. The bill contains new requirements for Comprehensive Plan housing element updates and creates new requirements for cities' zoning/development regulations regarding indoor shelters and housing for the homeless, summarized below:

- The bill forbids cities from prohibiting transitional or permanent supportive housing in residential zones or zones where hotels are allowed.
- The bill also forbids cities from prohibiting indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed (except for cities that authorize indoor emergency shelters/housing in a majority of zones within a one-mile proximity to transit).
- Any regulations regarding occupancy, spacing, and intensity of use requirements regarding the types of housing listed above must be reasonable and designed to protect public health and safety.
- Finally, such restrictions cannot be used to prevent the siting of a sufficient number of housing units necessary to meet Mercer Island's projected need for such housing and shelter as determined by Commerce.

The City's development code currently includes some spacing restrictions; staff recommends retaining these restrictions for now and will further evaluate them for compliance with E2SHB 1220 when developing a permanent code amendment in 2023.

Projected Need

E2SHB 1022, amended the Growth Management Act (GMA) to require cities to include in the housing element of their comprehensive plans "an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including: (i) Units for moderate, low, very low, and extremely low-income households; and (ii) Emergency housing, emergency shelters, and permanent supportive housing" (RCW 36.70A.070(2)(a)). In addition to including this inventory and analysis, the City will be required to identify sufficient land capacity to accommodate the projected need (RCW 36.70A.070(2)(c)). Meeting these requirements is contingent on the determination of projected need Commerce is in the process of preparing.

The work to comply with the Comprehensive Plan requirements of E2SHB 1220 is currently underway as part of the periodic update.

ISSUE/DISCUSSION

State law allows for interim ordinances to be renewed for 6 months provided a subsequent public hearing is held and findings of fact are made prior to each renewal. Ordinance No. 22C-14 will renew the interim regulations adopted in 2021 by Ordinance No. 21C-23 for a 6-month period from September 2022 to March 2023.

Ordinance No. 22C-14

E2SHB 1220 Section 4 requires the City to allow the following:

- Transitional housing and permanent supportive housing in any zones in which residential dwelling units or hotels are allowed, and
- Indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed.

The City currently allows social service transitional housing and special needs group housing as defined in [Mercer Island City Code \(MICC\) 19.16.010](#) in residential zones. The definitions for these uses include many uses similar to those required by E2SHB 1220 Section 4 and only require minor clarifying amendments to be consistent. Ordinance No. 22C-14 will renew the following interim definitions established by Ordinance No. 21C-23:

Social Service Transitional Housing: Noninstitutional group housing facilities for unrelated persons, other than special needs group housing or rooming houses, that are privately or publicly operated, including those facilities required to be licensed by the state or federal governments as well as those that may not be required to be licensed, that provide temporary and transitional housing to meet community social service needs including, but not limited to, work-release facilities and other housing facilities serving as an alternative to incarceration, halfway houses, emergency shelters, homeless shelters, domestic violence shelters and other such crisis intervention facilities. Social service transitional housing excludes institutional facilities that typically cannot be accommodated in a single-family residential structure. Further, the term shall include “emergency housing,” and “transitional housing” as defined within RCW 84.36.043(2)(c) or as hereafter amended. The term shall further include “emergency shelter” as defined within RCW 36.70A.030 or as hereafter amended.

Special Needs Group Housing: Noninstitutional group housing that primarily supports unrelated persons with handicaps or persons protected by familial status within the meaning of the FHAA, but not including individuals whose tenancy would constitute a direct threat to the health and safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Special needs group housing includes, but is not limited to, foster family homes, adult family homes and residential care facilities as provided in Chapter 70.128 RCW, but excludes facilities that typically cannot be accommodated in a single-family residential structure such as hospitals, nursing homes, assisted living facilities and detention centers. Further, the term shall include “permanent supportive housing” as defined in RCW 36.70A.030 or as hereafter amended.

NEXT STEPS

Permanent regulations will be developed once the WA Department of Commerce has provided the projected needs for housing and shelter. The timeline for completing of this work is currently estimated as early 2023.

RECOMMENDED ACTION

Complete a second reading of and adopt Ordinance No. 22C-14.

**CITY OF MERCER ISLAND
ORDINANCE NO. 22C-14**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, RENEWING THE INTERIM REGULATIONS ADOPTED BY ORDINANCE NO. 21C-23 ON DEFINITIONS RELATING TO EMERGENCY SHELTERS AND HOUSING, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING; 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 2021, the Washington State legislature passed E2SHB 1220, which, among other things, requires cities to allow indoor emergency shelters and housing, transitional housing, and permanent supportive housing in certain zones; and

WHEREAS, E2SHB 1220 provides, in part, that a city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed; and

WHEREAS, E2SHB 1220 further provides, in part, that a city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except if the city has adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit; and

WHEREAS, E2SHB 1220 allows cities to adopt reasonable occupancy, spacing, and intensity of use requirements on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety so long as those reasonable restrictions do not prohibit the number of units assigned to the city by the Washington State Department of Commerce (“Commerce”); and

WHEREAS, Commerce has not yet assigned the City of Mercer Island a number of units for permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters; and

WHEREAS, E2SHB 1220 included a September 30, 2021, deadline for cities to comply, and the City Council determined that to comply with the deadline and thoroughly analyze permanent regulations, 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 E2SHB 1220; and

WHEREAS, the City is authorized under 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 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, on September 21, 2021, the City Council adopted Ordinance No. 21C-23, which established interim regulations relating to emergency shelters and housing, transitional housing, and permanent supportive housing; and

WHEREAS, on September 21, 2022, the interim regulations adopted by Ordinance No. 21C-23 will expire; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to renew an interim zoning and official control ordinance for one or more six-month periods provided a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, it is necessary to renew the interim regulations established by Ordinance No. 21C-23 for an additional six months to allow additional time for Commerce to determine the City's projected need for emergency housing, emergency shelters, and permanent supportive housing; and

WHEREAS, on July 19, 2022, the City Council held a public hearing and had their first reading of this ordinance; and

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

Section 1: Findings. The findings adopted for Ordinance No. 21C-23 and the "Whereas Clauses" set forth in the recitals of this Ordinance are hereby adopted as the findings of the City Council for passing this Ordinance.

Section 2: Interim Ordinance No. 21C-23 Renewed. The interim regulations established by Ordinance No. 21C-23 are renewed by this Ordinance and shall continue in effect for a period of six months from the effective date established in Section 4 of this Ordinance, unless repealed, extended, or modified by the City.

Section 3. 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 4: 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 on September 21, 2022, provided five days have passed since publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS MEETING ON SEPTEMBER 6, 2022.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: _____