

GMHB EXHIBIT 49



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6227
February 21, 2023
Public Hearing

AGENDA BILL INFORMATION

TITLE:	AB 6227: Public Hearing and First Reading of Ordinance No. 23C-02 (renews Ordinance No. 22C-14) 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 checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Conduct public hearing and set Ordinance No. 23C-01 for second reading and adoption.	

DEPARTMENT:	Community Planning and Development		
STAFF:	Jeff Thomas, CPD Director Adam Zack, Senior Planner		
COUNCIL LIAISON:	n/a	n/a	n/a
EXHIBITS:	1. Ordinance No. 23C-02 (renews Ordinance No. 22C-14) 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		
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 public hearing and first reading of Ordinance No. 23C-02 (Exhibit 1, renews Ordinance No. 22C-14) to consider the renewal of the interim regulations adopted in Mercer Island City Code (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 MICC Title 19. 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 at the September 21, 2021, City Council meeting. On September 21, 2022, Ordinance No. 22C-14 renewed the interim regulations for six months.
- The interim regulations are set to expire on March 21, 2023. The City must renew the interim regulations for another six months or adopt permanent regulations to comply with state law.

- The interim regulations allow the City to comply with state law while the Washington Department of Commerce (Commerce) develops guidance on how to comply with E2SHB 1220.
- The City anticipates developing permanent regulations after Commerce provides the final guidance later this year.

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 four 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 the WA Department of Commerce (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 after Commerce issues guidance.

Projected Need

E2SHB 1220 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\(2\)\(c\)](#)). Actions the City must take to comply with these requirements will depend on the projections and guidance Commerce is currently preparing.

In December 2022, Commerce provided a draft of the projected need for permanent supportive housing. The projected need is expected to be finalized later this year. At the same time, Commerce provided the first draft of guidance for how cities should determine the capacity for permanent supportive housing. That draft guidance is expected to be finalized later this year around the same time as the housing need projections. King County will complete its process of determining how the countywide need will be allocated to cities in the County once the final projected needs are provided from Commerce. The City can make permanent amendments to development code related to permanent supportive housing after Commerce and King County have finished their processes.

The work to comply with the Comprehensive Plan requirements of E2SHB 1220 is currently underway as part of the periodic review and is scheduled to be completed by December 31, 2024. More information about E2SHB 1220 and the Comprehensive Plan period review is provided in [AB 6156](#).

ISSUE/DISCUSSION

State law allows for interim ordinances to be renewed for six months provided a public hearing is held and findings of fact are made prior to each renewal. Ordinance No. 23C-02 will renew the interim regulations adopted in 2021 by Ordinance No. 21C-23 and renewed for a 6-month period by Ordinance No. 22C-14. The proposed renewal would extend the interim regulations for another six months from March 21 to September 21, 2023.

Ordinance No. 23C-02

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 [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. 23C-02 will renew the following interim definitions established by Ordinance No. 21C-23 and renewed by Ordinance No. 22C-14:

Social Service Transitional Housing: Noninstitutional group housing facilities for unrelated persons 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

Schedule a second reading of Ordinance No. 23C-02, at an upcoming City Council Meeting.

Permanent regulations will be developed once the Department of Commerce has provided the projected needs for housing and shelter and King County has allocated the projected need later in 2023.

RECOMMENDED ACTION

1. Conduct the Public Hearing and first reading of Ordinance No. 23C-02.
2. Move to set Ordinance No. 23C-02 for second reading and adoption at an upcoming City Council Meeting.

**CITY OF MERCER ISLAND
ORDINANCE NO. 23C-02**

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 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, an interim zoning and official control ordinance may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS, on September 21, 2021, the City Council adopted Ordinance 21C-23 that established interim regulations relating to emergency shelters and housing, transitional housing, and permanent supportive housing; 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, on September 6, 2022, the City Council adopted by Ordinance 22C-14 to renew the interim regulations established by Ordinance 21C-23 for another six months; and

WHEREAS, the interim regulations renewed by Ordinance 22C-14 will expire on March 21, 2023; 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 February 21, 2023, the City Council held a public hearing and had their first reading of this ordinance; and

WHEREAS, on March 7, 2023, the City Council had their second reading of this ordinance.

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

Section 1: Findings. The findings adopted for Ordinances No. 21C-23 and 22C-14, 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 Council.

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 March 21, 2023, provided five days have passed since publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS MEETING ON MARCH 7, 2023.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: _____

DRAFT