

# GMHB EXHIBIT 71



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 6324**  
**September 5, 2023**  
**Consent Agenda**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 6324: Second Reading of Ordinance No. 23C-11 (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
<b>RECOMMENDED ACTION:</b>	Adopt Ordinance No. 23C-11 extending the interim regulations for emergency, transitional and permanent supportive housing.	

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Jeff Thomas, Community Planning and Development Director Alison Van Gorp, Deputy Community Planning and Development Director
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Ordinance No. 23C-11 Regarding Renewing Interim Regulations in MICC 19.16.010 for Emergency Shelters and Housing, Transitional Housing, and Permanent Supportive Housing
<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 bill is to conduct a second reading of Ordinance No. 23C-11 (Exhibit 1) 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. Ordinance Nos. 22C-14 and 23C-02 renewed the interim regulations for concurrent six-month periods.
- The current interim regulations are set to expire on September 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 awaiting the King County Council’s adoption of the number of units of permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters that Mercer Island must accommodate.
- The City Council conducted a public hearing and first reading for Ordinance No. 23C-11 on July 18, 2023 ([AB 6306](#)).

The City anticipates developing permanent regulations after King County adopts these numbers.

## 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) and King County.

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 Mercer Island’s projected housing needs are adopted by the King County Council.

### 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\(2\)\(c\)](#)).

The actions the City must take to comply with these requirements are dependent on the projections and guidance Commerce finalized earlier this year, as well as the allocation of housing needs to King County jurisdictions, which the King County Council is scheduled to adopt in late-2023. The City can make permanent amendments to the development code related to permanent supportive housing after King County adopts the housing need allocations.

## 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-11 will renew the interim regulations adopted in 2021 by [Ordinance No. 21C-23](#) and renewed for 6-month periods by Ordinance Nos. [22C-14](#) and [23C-02](#). The proposed renewal would extend the interim regulations for another six months from September 21, 2023, to March 21, 2024.

### **Ordinance No. 23C-11**

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 (Exhibit 1).

## NEXT STEPS

Staff will develop permanent regulations for City Council review once the King County Council adopts the housing need allocations later in 2023.

## RECOMMENDED ACTION

Adopt Ordinance No. 23C-11 extending the interim regulations for emergency, transitional and permanent supportive housing.

**CITY OF MERCER ISLAND  
ORDINANCE NO. 23C-11**

**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**, the King County Council has not yet adopted the number of units for permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters that Mercer Island must accommodate; 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**, the City Council has adopted ordinance 22C-14 on September 21 2022 and Ordinance 23C-02 on March 21, 2023 to renew the interim regulations established by Ordinance 21C-23 for additional six-month periods; and

**WHEREAS**, the interim regulations renewed by Ordinance 23C-02 will expire on September 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 the King County Council to adopt the City's projected need for emergency housing, emergency shelters, and permanent supportive housing; and

**WHEREAS**, on July 18, 2023, the City Council held a public hearing and had their first reading of this ordinance; and

**WHEREAS**, on September 5, 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, 22C-14 and 23C-02, 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 September 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 SEPTEMBER 5, 2023.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Salim Nice, Mayor

Approved as to Form:

ATTEST:

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

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

Date of Publication: September 13, 2023