

GMHB EXHIBIT 86



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6444
April 2, 2024
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6444: Interim Regulations in MICC 19.16.010 Related to Emergency Shelters and Housing, Transitional Housing, and Permanent Supportive Housing (Ordinance No. 24C-03)	<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:	<ol style="list-style-type: none"> 1. Adopt Ordinance No. 24C-03 for interim regulations to comply with emergency and permanent supportive housing requirements in HB 1220. 2. Schedule a Public Hearing on Ordinance No. 24C-03 within 60 days. 	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Community Planning and Development Director Alison Van Gorp, Community Planning and Development Deputy Director
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 24C-03
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 adopt Ordinance No. 24C-03 (Exhibit 1) to reinstate interim regulations previously 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 HB 1220.

- During the 2021 state legislative session, the legislature passed [HB 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, 23C-02 and 23C-11 renewed the interim regulations for concurrent six-month periods.
- The current interim regulations expired on March 21, 2024, leaving the City out of compliance with state law. The City must adopt new interim or permanent regulations to come back into compliance.

- The proposed interim regulations are the same as the previously adopted version and allow the City to comply with state law while awaiting completion of the City’s periodic update to the Comprehensive Plan.
- The City anticipates developing permanent regulations for adoption concurrent with the Comprehensive Plan (or shortly thereafter).

BACKGROUND

HB 1220: Emergency Shelters and Housing

[HB 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 HB 1220 when developing a permanent code amendment.

Projected Housing Need

HB 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 City received its allocation of affordable housing needs from King County in 2023. The City proceeded to analyze options for providing adequate capacity to accommodate these housing needs and to address racially disparate impacts in housing through the adoption of a new Housing Element in the Comprehensive Plan. In addition, the City will need to adopt code amendments to provide additional capacity for multi-family housing along with the adoption of the periodic update of the Comprehensive Plan before the end of 2024. City Staff plan to incorporate additional amendments to the development code related to emergency and permanent supportive housing as a part of this effort. This action should bring the City into full compliance with the provisions of HB 1220.

ISSUE/DISCUSSION

Interim regulations were adopted in 2021 to comply with the emergency and permanent supportive housing provisions in HB 1220. The interim regulations were subsequently renewed for 3 successive 6-month periods thereafter. The last of these interim ordinances expired on March 21, 2024, leaving the City out of compliance with state law.

The City must adopt new interim or permanent regulations to come back into compliance. The proposed interim regulations are the same as the previously adopted version and allow the City to comply with state law while awaiting completion of the City's periodic update to the Comprehensive Plan. The City anticipates developing permanent regulations for adoption concurrent with the Comprehensive Plan (or shortly thereafter) that align with the policy direction now in development in the Housing Element.

Because the City is out of compliance with state law due to the expiration of the previous interim regulations, this creates an emergency that could impact the health, safety, and welfare of the community. The City must act quickly to adopt new interim regulations. State law allows emergency interim ordinances to become effective immediately upon adoption, provided the ordinance is approved by a majority plus one vote of the City Council and a public hearing is held within sixty days of such action.

Ordinance No. 24C-03

HB 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 HB 1220 Section 4 and only require minor clarifying amendments to be consistent (Exhibit 1). Ordinance No. 24C-03 will enact these provisions for a period of up to one year.

NEXT STEPS

Ordinance No. 24C-03 will become effective immediately upon adoption. The City will schedule a public hearing within 60 days of adoption. City staff will work to develop permanent regulations to address the requirements of HB 1220 for adoption with adoption of the Periodic Update to the Comprehensive Plan (or shortly thereafter).

RECOMMENDED ACTION

1. Adopt Ordinance No. 24C-03 for interim regulations to comply with emergency and permanent supportive housing requirements in HB 1220.
2. Schedule a Public Hearing on Ordinance No. 24C-03 within 60 days.

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-03**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, ADOPTING INTERIM REGULATIONS ON DEFINITIONS RELATING TO EMERGENCY SHELTERS AND HOUSING, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN IMMEDIATE 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, 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, 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 Council has adopted ordinance 22C-14 on September 21 2022, Ordinance 23C-02 on March 21, 2023 and Ordinance 23C-11 on September 5, 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-11 expired on March 21, 2024; 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; and

WHEREAS, to be compliant with E2SHB 1220 and prevent the potential harm to public health, safety, property, and welfare resulting from the expiration of the interim regulations renewed by Ordinance 23C-11, the City Council finds that immediate action is necessary to readopt the interim regulations that expired;

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, City Staff have developed a work plan for related studies for compliance with E2SHB1220 and such work plan is attached to this Ordinance as Exhibit A; and

WHEREAS, this Ordinance, as an interim zoning and official control ordinance, is not subject to referendum;

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, 23C-02, and 23C-11 and the “Whereas Clauses” set forth in the recitals of this Ordinance are hereby adopted as the preliminary findings of fact of the City Council for passing this Ordinance.

Section 2. Section 19.16.010 MICC, Definitions, Amended. MICC Section 19.16.010, Definitions, is hereby amended as follows. All other definitions not herein amended shall remain as currently written.

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.

- Section 3. Duration of Interim Zoning and Official Controls.** The interim zoning and official controls approved by this Ordinance shall be effective for a period of one year, unless repealed, extended, or modified by the City Council.
- Section 4. Adoption of Work Plan.** The work plan attached to this Ordinance as Exhibit A is hereby adopted.
- Section 5. Declaration of Emergency.** As set forth in the "Whereas Clauses" adopted in Section 1 of this Ordinance, the City Council declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the City Council.
- Section 6. 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 7. Effective Date.** This ordinance shall become effective immediately upon proper passage. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

PASSED BY AT LEAST A MAJORITY PLUS ONE OF THE WHOLE MEMBERSHIP OF THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AT ITS MEETING ON APRIL 2, 2023.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: April 10, 2024

Exhibit A

E2SHB 1220 Code Amendments Work Plan

<p>1. Await Department of Commerce data and King County allocation of Mercer Island’s “share” of the need for emergency/permanent supportive housing and the amount of such housing the City should plan to accommodate</p>	<p>Q1-Q3 2023 (completed)</p>
<p>2. Technical analysis of Mercer Island’s housing needs, land capacity and racially disparate impacts.</p>	<p>Q2-Q4 2023 (completed)</p>
<p>3. Development of draft Housing Element, including policy direction in relation to planning for Emergency/Permanent Supportive Housing</p>	<p>Q1-Q2 2024</p>
<p>4. Technical analysis and staff recommendation on code amendments necessary to accommodate Emergency/Permanent Supportive Housing needs</p> <ul style="list-style-type: none"> a. Review peer city approaches b. Analyze existing code criteria and spacing requirements for siting transitional and supportive housing facilities to understand existing capacity for potential housing sites c. Prepare staff recommendations and begin drafting a code amendment based on the above information d. Prepare a SEPA checklist and determination on the proposed code amendment, provide notification to state agencies and tribes 	<p>Q2-Q3 2024</p>
<p>5. Planning Commission review and recommendation on a draft code amendment</p> <ul style="list-style-type: none"> e. Public outreach, including public hearing f. Approximately 3 points of review by the commission – study session, public hearing, and recommendation 	<p>Q3 2024</p>
<p>6. City Council review and approval of code amendment</p> <ul style="list-style-type: none"> g. First and second reading of the ordinance 	<p>Q3-Q4 2024</p>