



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6647
March 18, 2025
Consent Agenda

AGENDA BILL INFORMATION

TITLE:	AB 6647: Interim Regulations Related to Unit Lot Subdivisions (SB 5258) in Title 19 MICC (Second Reading, Ordinance No. 25C-06)	<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:	Adopt Ordinance No. 25C-06 establishing interim development regulations in MICC Chapter 19.08 related to Unit Lot Subdivision in MICC Chapter 19.08, with an effective date of June 30, 2025.	

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. 25C-06
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 interim development regulations to add unit lot subdivision regulations to the Mercer Island City Code Chapter 19.08 as required by SB 5258 (2023).

- In 2023, the Washington State legislature passed [SB 5258](#) establishing new requirements for development on residential lots in Washington cities, including Mercer Island.
- Mercer Island must permit unit lot subdivision, allowing existing “parent lots” to be split into “unit lots” that provide for individual sale and ownership of middle housing and accessory dwelling units.
- Ordinance No. 25C-06 (Exhibit 1) will enact interim development regulations to provide minimum compliance with SB 5258. Permanent development regulations will be developed in the future with additional community engagement, analysis of policy options, and refinement of the interim development regulations.
- The City Council conducted its first reading of Ordinance No. 25C-06 on March 4, 2025 ([AB 6632](#)).

BACKGROUND

In 2023, the Washington State Legislature adopted [SB 5258](#). SB 5258 primarily concerns construction defect claims in condominiums. However, Section 11 of the legislation includes a requirement, codified at [RCW](#)

[58.17.060\(3\)](#), that local jurisdictions “include in their short plat regulations procedures for unit lot subdivisions allowing division of a parent lot into separately owned unit lots...”

The Department of Commerce (Commerce) [Middle Housing User Guide](#) addresses this requirement and how it aligns with the middle housing requirements in HB 1110. Commerce also recently published additional draft guidance: [Unit Lot Subdivision Fact Sheet](#). Unit lot subdivision allows the land beneath detached single family housing, accessory dwelling units or middle housing where no units are stacked on another unit, to be divided for individual sale.

Under state law (RCW 58.17.060(3)), unit lot subdivision is a type of short subdivision. The Mercer Island City Code defines a short subdivision as “a subdivision consisting of four or less lots on four or less acres.” Together, these requirements will enable parent lots to be divided into up to four unit lots for individual sale and ownership. Any portion of the parent lot not included in the unit lots must be owned in common by the owners of the unit lots, or by a homeowner’s association. This commonly held land could include shared open space and driveways.

Unit lot subdivision allows unit lots to be sold separately under fee simple ownership. “Fee simple” is a legal term that refers to full ownership of land and any buildings on that land. Unit lot subdivisions can be approved prior to, during, or after development. For example, the backyard of an existing home can be divided into unit lots for sale to a developer that intends to add middle housing or ADUs to the property. Likewise, vacant land can be divided through unit lot subdivision for development and individual sale of middle housing units such as townhomes. In addition, unit lot subdivision could also be used to sell an existing detached ADU for ownership separate from the primary unit.

Unit lot subdivision can be used with all forms of non-stacked housing, including single-family, middle housing, and ADUs. Unit lot subdivision is not appropriate for stacked flats, apartments, or configurations where one unit is stacked on top of another unit. [RCW 36.70A.635](#) also requires cities to allow zero lot line subdivision. This means that attached housing forms, including townhomes and duplexes, can be built on separate unit lots with no setback between the housing units. This type of land division is commonly used for townhomes, and it can also be used with side-by-side duplexes, triplexes, and fourplexes as well as other non-stacked orientations of middle housing and ADUs (see Figure 1 for examples).

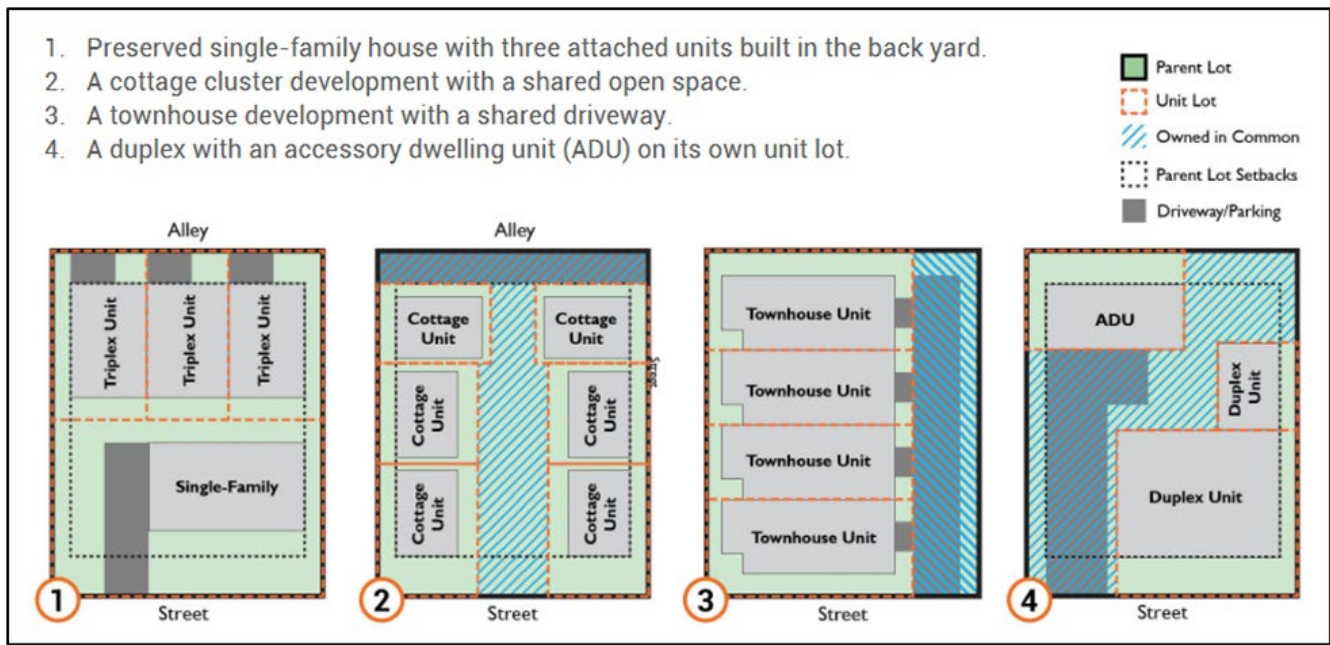


Figure 1: Unit Lot Subdivision Examples

APPROACH AND SCOPE OF WORK

Initial compliance with [SB 5258](#) unit lot subdivision requirements will be achieved via adoption of interim development regulations. This initial phase will focus on complying with the minimum requirements of the legislation, as described above. The City is planning a future second phase of work aimed at adopting permanent development regulations. This second phase will include additional community engagement and refinement of the interim development regulations.

ISSUE/DISCUSSION

ORDINANCE NO. 25C-06

The City Council conducted its first reading of Ordinance No. 25C-06 (Exhibit 1) on March 4, 2025 ([AB 6632](#)) and did not request any revisions to the draft. Ordinance No. 25C-06 will enact interim development regulations to comply with the provisions of SB 5258. The ordinance includes the following amendments:

- Adds a new section to the City’s subdivision regulations, MICC 19.08.080 Fee Simple Unit Lot Subdivisions. This section enables the creation of unit lot subdivisions using the City’s existing short plat process.
- Adds Preliminary Unit Lot Subdivision and Final Unit Lot Subdivision to the City’s Land Use Review Type table in MICC 19.15.030
- Adds definitions for Parent Lot and Unit Lot in MICC 19.16.010.

The ordinance applies development standards established for the underlying zoning designation to the parent lot. This includes setbacks, maximum floor area, and other dimensional standards. Thus, unit lots do not need to individually comply with setbacks and no setback is required between housing units on separate unit lots. Additionally, unit lots do not have prescribed requirements for length, width, or area. Parking standards are also established by the development regulations for the underlying zoning designation. Parking can be provided on a different unit lot or tract from the unit lot with the dwelling, if the right to use the parking is established with an easement or on the final plat. The final plat for a unit lot subdivision must indicate that

each unit lot is not a separate buildable lot and that additional development of unit lots may be limited as a result of the application of development standards to the parent lot.

NEXT STEPS

Ordinance No. 25C-06 has an effective date of June 30, 2025, the same date that the Middle Housing and Accessory Dwelling Unit regulations required by HB 1110 and HB 1337 will take effect. Before the ordinance takes effect, City staff will update the City website, revise permit forms, and train permit review staff on the regulatory changes.

RECOMMENDED ACTION

Adopt Ordinance No. 25C-06 establishing interim development regulations in MICC Chapter 19.08 related to Unit Lot Subdivision, with an effective date of June 30, 2025.

**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

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">a. Review peer city approaches and any relevant state legislation adopted after the interim development regulationsb. Prepare a staff recommendation and begin drafting a code amendment based on the above informationc. Prepare a SEPA Checklist and determination on the proposed amendment, provide notification to state agencies and tribes	Q3, Q4 2025
<p>B. Planning Commission review and recommendation on a draft code amendment</p> <ul style="list-style-type: none">a. Public outreach, including public hearingb. Approximately 3 points of review by the commission – study session, public hearing, and recommendation	Q1 2026
<p>C. City Council review and approval of code amendment</p> <ul style="list-style-type: none">a. First and second reading of the ordinance	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"> • Home business • Nonmajor single-family dwelling building permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat ^{2,3} • Code official design review • Accessory dwelling unit 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical area review ² • Public agency exception • Temporary encampment ⁴ 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking modifications ⁷ (reviewed by design commission)

<ul style="list-style-type: none"> • Tenant improvement/change of use • Shoreline exemption ¹ • Critical area review ¹ • Temporary commerce on public property • Site development permits • Transportation concurrency certificate • Temporary use permit 	<ul style="list-style-type: none"> • Parking modification ⁷ (reviewed by city engineer) • Small wireless facility deployment • Seasonal development limitation waiver • Final short plat • <u>Final Unit Lot Subdivision</u> 	<ul style="list-style-type: none"> • Short plat alteration and vacations • Preliminary short plat • <u>Preliminary Unit Lot Subdivision</u> • Development code interpretations • Major single-family dwelling building permit ⁵ • Shoreline substantial development permit ¹ • Shoreline revision (substantial development) ¹ 	<ul style="list-style-type: none"> • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Permanent commerce on public property • Shoreline conditional use permit (SCUP) ⁶ • Shoreline variance ⁶ • Shoreline revision (variance and SCUP)
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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.

[...]