

**CITY OF MERCER ISLAND
ORDINANCE NO. 22C-11**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING MERCER ISLAND CITY CODE 19.02.030 ACCESSORY
DWELLING UNITS AND 19.16.010 DEFINITIONS RELATING TO THE
DEFINITIONS OF FAMILY AND DWELLING UNITS; 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, homelessness is a national, state, regional, and local crisis and homelessness has devastating effects on human lives and severe health, safety, social, economic, and environmental impacts on cities, neighborhoods, families, schools, businesses, healthcare facilities, and social service agencies; and

WHEREAS, the Washington State legislature recently passed ESSB 5235, which prohibits cities from restricting occupancy requirements of unrelated persons in a household or dwelling unit; and

WHEREAS, on September 21, 2021, the City Council adopted Ordinance No. 21C-19 establishing temporary code amendments and work plan to adopt permanent amendments to comply with ESSB 5235; and

WHEREAS, on September 21, 2022, the temporary code amendments adopted by Ordinance Nos. 21C-19 will expire; and

WHEREAS, on March 23, 2022, the Planning Commission was briefed and provided initial input on permanent code amendments to comply with ESSB 5235; and

WHEREAS, on March 19, 2022, CPD issued a State Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) consistent with the procedures established in Chapter 19.21 MICC and notified the Washington State Department of Commerce of the City's intent to adopt development code amendments; and

WHEREAS, on April 27, 2022, the Planning Commission held a duly advertised public hearing and made a recommendation to the City Council; and

WHEREAS, on June 7, 2022, the City Council was briefed on the Planning Commission recommendation and had their first reading of this ordinance; and

WHEREAS, on September 6, 2022, the City Council had their second reading of this ordinance.

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

Section 1. Whereas Clauses Adopted. The "Whereas Clauses" set forth in the recital of this Ordinance are hereby adopted as the findings and conclusions of the City Council for passing this Ordinance.

Section 2. MICC 19.02.030(B) Accessory Dwelling Units Amended. MICC 19.02.030(B) is amended as follows. Exhibit A is incorporated herein by this reference as though set forth in full.

[...]

B. Requirements for accessory dwelling units. One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided, the following requirements are met:

1. *Owner occupancy.* Either the principal dwelling unit or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member spouse, domestic partner, parent, stepparent, grandparent, sibling, child, stepchild, niece, nephew, cousin, aunt, or uncle of the property owner. Owner occupancy is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year.

~~2. *Number of occupants.* The total number of occupants in both the principal dwelling and accessory dwelling unit combined shall not exceed the maximum number established for a family as defined in MICC 19.16.010 plus any live in household employees of such family.~~

[...]

Section 3. Section 19.16.010 MICC, Definitions, Amended. MICC Section 19.16.101, Definitions, is hereby amended as follows. All other definitions not herein amended shall remain as currently written.

[...]

Dwelling:

1. Dwelling unit: ~~A part of a multiple-family dwelling containing only one kitchen, that houses not more than one family, plus any live in household employees of such family~~ building or a contiguous portion of a building providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation (see also "Accessory Dwelling Unit (ADU)").

2. Multiple-family dwelling: A building, other than a single-family dwelling with an accessory dwelling unit, containing two or more dwelling units.

3. Single-family dwelling: A building designed and/or used to house not more than one family, plus any live-in household employees of such family.

4. Single-family dwelling—Detached: A single-family dwelling that is not attached to any other structure by any means and is surrounded by open space or yards.

5. Single-family dwelling—Semi-detached: A single-family dwelling that is attached to another dwelling unit by a common vertical wall, with each dwelling unit located on a separate lot.

[...]

~~Family: One or more persons (but not more than six unrelated persons) living together in a single housekeeping unit. For purposes of this definition, persons with familial status and persons with handicaps within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. Sections 3602(h) and (k) will not be counted as unrelated persons. The limitation on the number of unrelated residents set forth in this definition shall not prohibit the city from making reasonable accommodations, as required by the FHAA, 42 U.S.C. Section 3604(f)(3)(B) and as provided in MICC 19.01.030. The term "family" shall exclude unrelated persons who are not also handicapped or have familial status within the meaning of the FHAA who live together in social service transitional housing or special needs group housing. occupying a dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as chores, household maintenance, and expenses. Such persons need not be related by blood or marriage. A family does not include institutional or congregant group living situations such as boarding houses, dormitories, fraternities, sororities, monasteries, or nunneries.~~

[...]

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this Ordinance or its application to any other person, property, or circumstance.

Section 5 Publication and 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 five days after the date of publication.

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

ATTEST:



Andrea Larson, City Clerk

CITY OF MERCER ISLAND



Salim Nice, Mayor

APPROVED AS TO FORM

s/ Bio Park

Bio Park, City Attorney

Date of publication: September 14, 2022