

SAVE
ORIGINAL

FOR
ONLINE
REFRACTOR
MUSKOC

DEPARTMENT OF COMMUNITY DEVELOPMENT

**CITY
ZONING
CODE**

ORDINANCE
NO. 15

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**COMMUNITY
MUNICIPAL
CORPORATION**

ORDINANCE
NO. 199

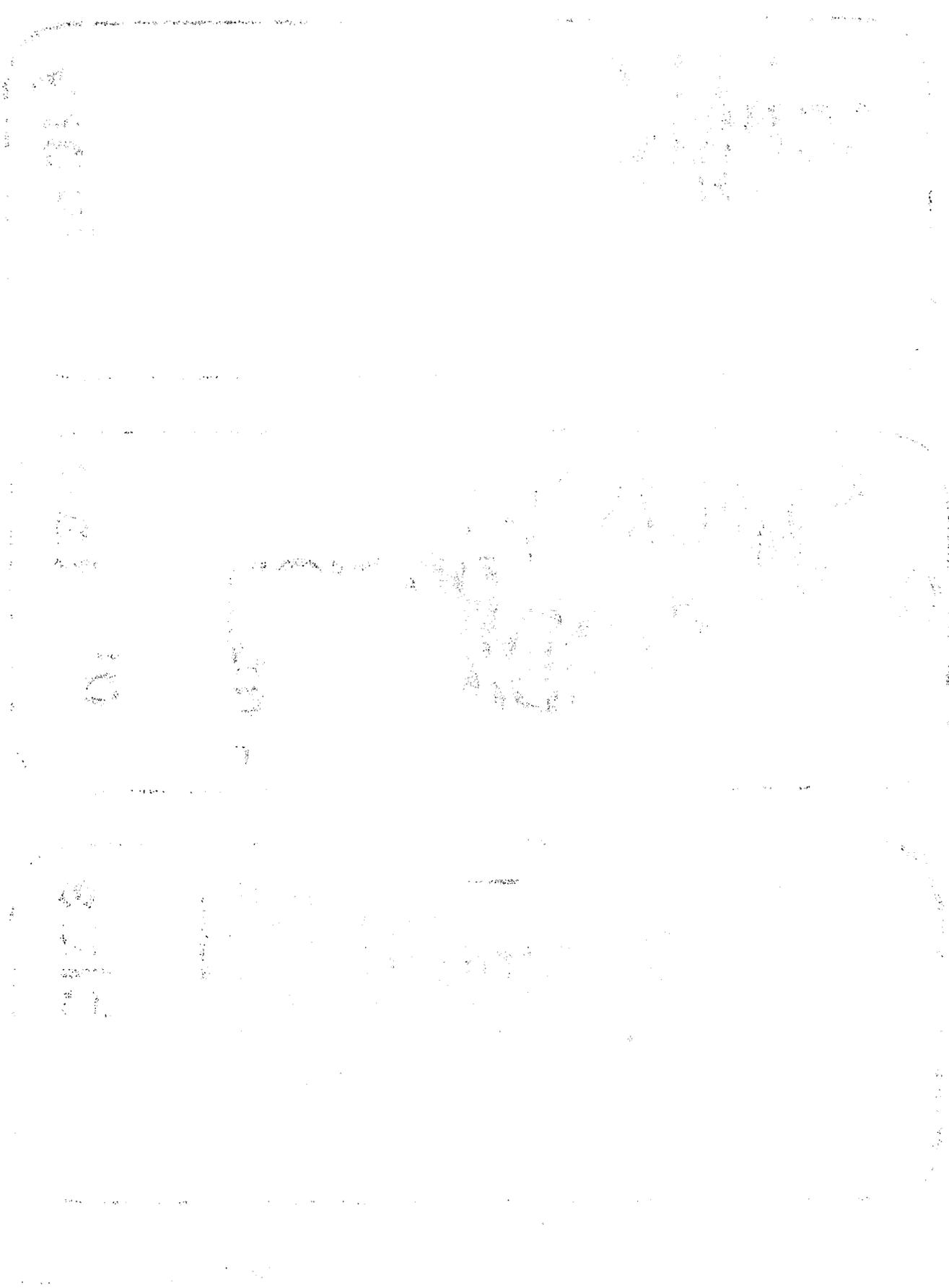
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**DESIGN
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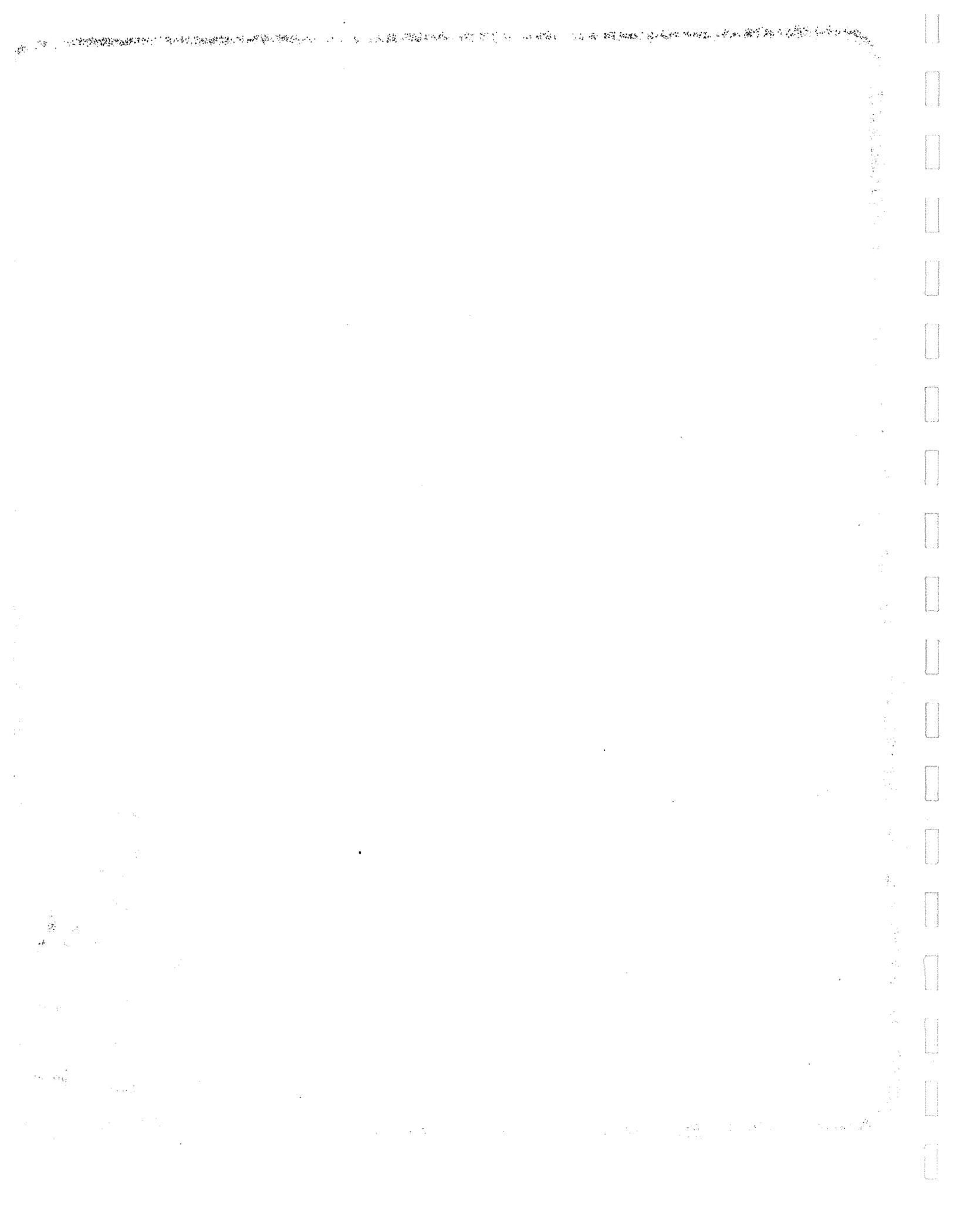


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An ORDINANCE establishing land use regulations and zones within the City of Mercer Island, State of Washington, adopting maps showing zone boundaries, and providing for the administration and enforcement of these regulations.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERCER ISLAND:

SECTION 1. PURPOSE OF THESE REGULATIONS.

These regulations have been worked out in accordance with a comprehensive plan which the City of Mercer Island has adopted for its physical and other generally advantageous development, to implement such comprehensive plan insofar as such plan is intended to encourage the most appropriate use of land throughout the municipality, to lessen traffic congestion and accidents, to secure safety from fire, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to promote a coordinated development of the unbuilt areas, and to conserve and restore natural beauty and other natural resources, all pursuant to Chapter 44, Laws of 1935, as amended, RCW 35.63.

SECTION 2. DEFINITIONS

ACCESSORY BUILDING: A subordinate building, such as a boathouse, carport, garage or toolshed, the use of which is incidental to that of the main building on the same lot. Where an accessory building is attached to and made a part of the main building for at least fifty (50) percent of the length of one of the abutting walls of such accessory building, it shall comply with provisions of this ordinance applicable to the main building.

Ord. # 220 BUILDING: Any structure having a roof, but excluding all forms of vehicles.

BUILDING AREA: The part of a lot upon which a building may be erected and maintained without violating the yard requirements prescribed herein.

BUILDING HEIGHT: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

CONDITIONAL USE: A use listed among those classified in any given zone but authorized to locate only after the granting of a conditional use permit imposing such performance standards or other conditions as will assure compatibility with other uses in the vicinity.

CORNER LOT: A lot located at the junction of and fronting on two or more intersecting streets.

Ord. # 215 FAMILY: Any number of related persons and not to exceed two unrelated persons, or not to exceed five non-related persons, living as a single, non-profit housekeeping unit. (Employed domestic servants shall be excluded from these computations.)

FENCE: A barrier composed of posts or piers connected by boards, rails, panels or wire, or a masonry wall, designed to enclose space or separate parcels of land, but excluding retaining walls.

GRADE: The average of the finished ground level at the center of all walls of a building.

INTERIOR LOT: A lot which is not a corner lot.

Ord. # 350 LOT: Land held as a unit, regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title as one or several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a

marital community, or joint venture, or partnership or a corporation and one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land; provided that the existence of a public or private roadway, utility and/or similar easement shall not be deemed to divide or make land non-contiguous if land on both sides of such easement is so owned or controlled.

NONCONFORMING BUILDING OR USE: A building or use lawfully established, that does not conform with subsequently adopted restrictions of the zone in which it is situated.

PARKING SPACE: A space within or without a building, at least ten (10) feet wide, twenty (20) feet long and two hundred (200) square feet in area, exclusive of access drives, aisles, ramps, columns, living areas or work areas, having adequate access from a public street, and adequate provision for ingress and egress from the space itself, for the temporary parking of one (1) motor car or truck.

Ord.

215

SEMI-PRIVATE WATERFRONT RECREATION AREA: A parcel of land adjacent to and including the adjoining shorelands, and any structures thereon, of which two or more families have a joint right of possession and use for recreational purposes. The area may include a dock and/or other waterfront structures for the moorage of pleasure boats, swimming and/or other similar water oriented recreational activities. Provided, the joint and exclusive recreational use of two adjoining waterfront lots, or portions thereof, by the owners of such lots who reside thereon, shall not be considered to be a semi-private waterfront recreation area. The area of the semi-private waterfront recreation area shall be excluded in computing compliance with the building site area requirements of this ordinance.

Ord.

44

SIGN: Any outdoor sign, display, device, figure, painting, drawing, message placard, poster, billboard or other thing which is designed, intended or used to advertise or inform.

RECREATIONAL AREA:

Commercial: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, operated for profit.

Noncommercial: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, maintained and operated by a non-profit club or organization with specified

limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specific area of residence for the exclusive use of members and their guests.

Private: An area including facilities and equipment for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, maintained by an individual for the sole use of his household and guests, located at or adjacent to his residence, not for profit or in connection with any business operated for profit.

Ord. # 346 VARIANCE: The means by which an adjustment is made in the case of a particular lot or tract to require only substantial compliance with provisions of the zoning regulations pertaining to building height limits, building site area requirements, yard requirements, fence height requirements, or parking requirements, or other similar requirements.

Ord. # 220 VEHICLE: Instrumentalities capable of movement by means of wheels, skids or runners of any kind, along roadways or paths or other ways of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars and vans, all forms of trailers or mobile homes of any size whether capable of supplying their own motive power or not, without regard to whether the primary purpose of which instrumentality is or is not the conveyance of persons or objects, and specifically including all such automobiles, buses, trucks, cars, vans, trailers and mobile homes even though they may be at any time immobilized in any way and for any period of time of whatever duration.

YARD: An open, unoccupied space, unobstructed from the ground to the sky, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein.

SECTION 3. ESTABLISHING ZONES AND REGULATING THE USES OF LAND THEREIN.

3.01 In order to carry out the purpose of this Ordinance in the interest of public health, safety, morals and general welfare, the following zone classifications are established:

<u>ZONE</u>	<u>ABBREVIATED DESIGNATOR</u>
Residential Single Family Zone	R-8.4
Residential Single Family Zone	R-9.6
Residential Single Family Zone	R-12
Residential Single Family Zone	R-15
Residential Two-Family Zone (Duplex)	R-2A
Residential Multiple Family Zone	R-2
Residential Multiple Family Zone	R-3
Business Parking Zone	B-P
Business Neighborhood Zone	B-N
Business Zone	B-1
Commercial Office Zone	C-0
Planned Business Zone	PBZ

3.02 The location and boundaries of the various zones of the City are shown and delineated on the zoning map attached as Exhibit "A" and hereby incorporated herein.

3.03 The location and boundaries of the various zones as hereafter determined shall be shown and delineated on zone maps covering portions of the City, each of which said maps shall, upon its final adoption, be a part of this Ordinance either by adoption as a part hereof or by amendment hereto.

3.04 Each zone map showing the classification and boundaries, after its final adoption as required by law, shall become part of this Ordinance and said map and all notations, and other information shown thereon shall thereafter be as much a part of this Ordinance as if all the matters and information set forth on said map were fully described herein.

3.05 A zone map may, for convenience, be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment to this Ordinance and, as adopted, such zone map, or its parts, shall become a part of this Ordinance.

3.06 Changes in the boundaries of a zone shall be made by Ordinance adopting an amended map, or part of said zone map.

3.07 When uncertainty exists as to the boundaries of any zones shown on said zone maps, the following rules shall apply:

- (a) Where such boundaries are indicated as approximately following street lines or lot lines, such lines shall be construed to be such boundaries.
- (b) In unsubdivided property and where a zone boundary divides a lot, the location of such boundaries, unless the same are indicated by dimensions, shall be determined by use of the scale appearing on such zone map.
- (c) Where property abuts a lake, river or body of water, the land use classification extends to the inner harbor line and in the areas where no harbor line has been defined, to a line which the Army Engineers would define as a line of navigability.
- (d) In case any uncertainty exists, the Planning Commission shall recommend and the City Council shall determine the location of boundaries.
- (e) Where a public street is officially vacated or abandoned, the regulations applicable to abutting property shall apply to such vacated or abandoned street.

3.08 The boundaries of such zones as are shown upon any zone map adopted by this Ordinance or amendments thereto, are hereby adopted and approved and the regulations of this Ordinance governing the uses of land, buildings, and structures, the height of buildings and structures, and other matters as herein set forth are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon each zone map.

3.09 EXCEPT AS HEREINAFTER PROVIDED:

- (a) No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner other than a use listed in this Ordinance or amendments thereto as permitted in the zone in which such land, building, structure or premises is located.
- (b) No building or structure shall be erected nor shall

any existing building or structure be moved, reconstructed or structurally altered to exceed in height the limit established by this Ordinance or amendments thereto for the zone in which such building or structure is located.

(c) No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area and the yard regulations established by this Ordinance or amendments thereto for the zone in which such building or structure is located.

(d) No yard or other open spaces provided about any building or structure for the purpose of complying with the regulations of this Ordinance or amendments thereto shall be considered as providing a yard or open space for any other building or structure.

SECTION 4. R-8.4 RESIDENTIAL SINGLE FAMILY ZONE.

4.01 USES PERMITTED:

1. Single family dwelling unit.
2. Private conservatories and structures for plants and flowers.
3. Electrically powered fixed mechanical equipment for private utilities of a building site.
4. Off-street parking space and private garages, as provided in Section 16, General Provisions.
5. Lodgers not to exceed two (2).
6. Recreational area - private.
7. Accessory buildings and uses which are incidental to that of the main building.
8. Public schools accredited or approved by the State for compulsory school attendance, but subject to the following conditions:
 - (a) Must be located thirty-five (35) feet or more from any other lot in an "R" zone with a minimum building line setback of forty-five (45) feet from any other public right-of-way.
 - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space per elementary classroom and for high schools at a ratio of one (1) parking space per classroom plus one (1) parking space per ten (10) students.
 - (c) Not more than thirty-five (35) percent coverage of the site area with structures.
 - (d) A minimum area of one-fourth ($\frac{1}{4}$) of an acre must be provided as an area abutting or adjacent to and in one (1) usable unit devoted exclusively to playfield purposes.
9. Accessory uses and structures incidental to residency in the main building, including the exercise of a gainful occupation customarily carried on within the home, but subject to the following conditions:
 - (a) The occupation shall not require the external

alteration of any structure which would alter its residential character.

- (b) Only those persons who reside on the premises and are members of the immediate family, and one other person, who may or may not reside on the premises, shall be permitted to engage in the occupation.
- (c) There shall be no exterior storage of materials, display or sign advertising the occupation on the premises.
- (d) No offensive noise, vibration, smoke, dust, odor, heat or glare or unusual or excessive traffic to and from the premises shall be produced or generated by the occupation.
- (e) The occupation shall not involve the use of more than 25 percent of the total square footage of the primary residential building.
- (f) Off-street parking, adequate to serve the clientele of the occupation, shall be provided.
- (g) Under this section gainful occupations customarily carried on within shall not include hospitals, barber shops, beauty shops, automobile repair shops, restaurants, commercial stables, kennels or places of instruction of more than three (3) students at a time.

10. Public Park subject to the following conditions:

- (a) Access to local and/or arterial thoroughfares shall be reasonably provided.
- (b) Outdoor lighting shall be located to minimize glare upon abutting property and streets.
- (c) Buildings and active play areas shall be located twenty (20) feet or more from all boundaries above the line of ordinary high water.
- (d) Boundaries of the area above the line of ordinary high water shall be reasonably screened or fenced, or both, from abutting property and streets and appropriately landscaped. The maintenance of privately owned landscape screens shall be guaranteed by posting a bond to the City in a reasonable amount if required by the Design Commission. The above requirements shall be accomplished consistent with a reasonable time schedule of park

development.

- (e) A plot, landscape and building plan showing compliance with these conditions shall be filed with and approved by the Design Commission, and the construction and maintenance of building and other improvements and the establishment and continuation of uses, shall comply with the approved plot, landscape and building plan, with deviation permitted only upon filing and approval of an amended plan.

11. Semi-private waterfront recreation areas for use by ten or fewer families, subject to the following conditions:

- (a) Must contain a minimum upland area of 200 square feet per family, but not less than 600 square feet, exclusive of the area contained in any pathway, driveway or street which provides access thereto, or in any parking area.
- (b) Must include the shorelands adjoining the upland portion of the parcel.
- (c) Must have a minimum frontage (measured in a straight line between the points where the lateral boundaries intersect the shoreline) of 30 feet, plus five feet additional for each family from three through ten.
- (d) Docks and other structures (other than fences, bulkheads and the like) must have minimum setbacks from the lateral boundary lines of 10 feet, plus 10% of the width of the tract between the points where the lateral boundaries intersect the shoreline, for all tracts above 50 feet in width.
- (e) Docks and other waterfront structures shall be restricted in their length to a maximum of 100 feet from the line of ordinary high water.
- (f) The boundaries of the upland portion of the parcel shall be reasonably screened or fenced or both from abutting property and streets and appropriately landscaped. The maintenance of landscape screens shall be guaranteed by posting a bond to the City in a reasonable amount if required by the Planning Commission.

- (g) Outdoor lighting shall be located to minimize glare upon abutting property and streets.
- (h) Covered moorage structures are prohibited.
- (i) Adequate parking shall be provided.
- (j) Access for emergency vehicles shall be provided to areas which are for the use of ten or more families.
- (k) Sales of supplies, equipment, petroleum products or the like and boat charters or rentals are prohibited.
- (l) Adequate provisions shall be made to prevent pollution, obnoxious odors or excessive noise.
- (m) A plot, landscape and building plan showing compliance with these conditions shall be filed with and approved by the Planning Commission; and the construction and maintenance of docks and other structures, and the establishment and continuation of uses, shall comply with the approved plot, landscape and building plan, with deviation permitted only on filing and approval of an amended plan. The Plan shall list or otherwise describe the families entitled to use the area and shall contain a statement as to the total number of such families. Where the right of use is appurtenant to or a part of the ownership or occupancy of other land, the individual legal description of each such tract of land shall be set forth on the plan. Provided, no additional filing or Planning Commission approval shall be required if the plot, landscape and building plan is part of a plat which contains the above information and is approved by the Planning Commission.

4.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT.

Ord. # 385 The following uses are permitted when authorized by the issuance of a Conditional Use Permit when the conditions imposed by Section 19 of this Code are met as well as those conditions imposed by this Section:

1. Public utility and governmental buildings or structures including art galleries, libraries and museums:

- (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
- (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.
- (c) Not more than thirty-five (35) percent coverage of site area with structures.
- (d) Public utilities must be shielded from abutting properties and highways by a sight obscuring protective strip of trees or shrubs.

2. Private schools accredited or approved by the State for compulsory school attendance, subject to conditions (a) through (d) contained in Section 4.01.8 of this Code.

3. Churches, but subject to the following conditions:

- (a) Must be located thirty-five (35) feet or more from any other lots in an "R" zone.
- (b) Off-street parking shall be established and maintained at a ratio of one (1) parking space for each five (5) seats in the chapel or nave.
- (c) Not more than thirty-five (35) percent coverage of the site area with structures.

4. Non-commercial recreational areas subject to the following conditions:

- (a) Access to local and/or arterial thoroughfares shall be reasonably provided.
- (b) Outdoor lighting shall be located to minimize glare upon abutting property and streets.
- (c) Buildings and active play areas shall be located twenty (20) feet or more from all boundaries above the line of ordinary high water.
- (d) Boundaries of the area above the line of ordinary high water shall be reasonably screened or fenced, or both, from abutting property and streets and appropriately landscaped. The maintenance of privately owned landscape screens shall be guaranteed by posting a bond to the City in a reasonable amount if required by the

Design Commission. The above requirements shall be accomplished consistent with a reasonable time schedule of park development.

(e) A plot, landscape and building plan showing compliance with these conditions shall be filed with and approved by the Design Commission, and the construction and maintenance of buildings and other improvements and the establishment and continuation of uses, shall comply with the approved plot, landscape and building plan, with deviation permitted only upon filing and approval of an amended plan.

5. Semi-private waterfront recreation areas for use by more than ten families, subject to conditions (a) through (m) contained in Section 4.01.11 of this Code and subject to the additional condition that there must be a minimum frontage of two additional feet for each family from eleven through one hundred, and one additional foot for each family over one hundred.

4.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

4.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall not be less than eighty-four hundred (8,400) square feet; lot width shall be not less than sixty (60) feet fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be eighty-four hundred (8,400) square feet.

4.05 YARD REQUIREMENTS:

Each lot shall have side and rear yards not less than the depths or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 5. R-9.6 RESIDENTIAL SINGLE FAMILY ZONE.

5.01 USES PERMITTED:

1. Any R-8.4 (4.01) zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.
2. One accessory building for the housing of domestic animals and fowl, having a floor area not to exceed thirty-six (36) square feet for each building site and located not less than sixty-five (65) feet from any place of habitation other than the owners and provided further that the roaming area shall be fenced and located not less than thirty-five (35) feet from any adjacent place of human habitation.

5.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

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Any R-8.4 (4.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

5.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

5.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than ninety-six hundred (9,600) square feet; lot width shall be not less than seventy-five (75) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be ninety-six hundred (9,600) square feet.

5.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

- | | |
|--|--------------------------------|
| Front yard depth: | Twenty (20) feet or more |
| Side yard abutting a street: | Ten (10) feet or more |
| Side yard abutting an interior lot line: | Five (5) feet or more |
| Rear yard depth: | Twenty-five (25) feet or more. |

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 6. R-12 RESIDENTIAL SINGLE FAMILY ZONE.

6.01 USES PERMITTED:

Any R-8.4 (4.01) or R-9.6 (5.01) zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

6.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 (4.02) or R-9.6 (5.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

6.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

6.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than twelve thousand (12,000) square feet; lot width shall be not less than seventy-five (75) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be twelve thousand (12,000) square feet.

6.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 7. R-15 RESIDENTIAL SINGLE FAMILY ZONE.

7.01 USES PERMITTED:

1. Any R-8.4 (4.01), R-9.6 (5.01) or R-12 (6.01) zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.
2. Guest house (one), with not more than two bedrooms, having no kitchen facilities, used or designed for use primarily for sleeping quarters.

7.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 (4.02), R-9.6 (5.02) or R-12 (6.02) zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building site area requirements of this zone.

7.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

7.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than fifteen thousand (15,000) square feet; lot width shall be not less than ninety (90) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each single family dwelling unit shall be fifteen thousand (15,000) square feet.

7.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 8. R-2A RESIDENTIAL TWO FAMILY ZONE.

8.01 USES PERMITTED:

1. Any use permitted in R-8.4 through R-15 Residential Single Family Zone.
2. Two-family dwellings (duplexes).
3. Swimming pools, tennis courts, athletic or recreational club houses or other similar uses when incidental to the principal use of the property and used solely by the owner, tenants and their guests.

8.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT.

Any conditional use permitted in an R-8.4 (4.02) zone.

8.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

8.04 BUILDING SITE AREA REQUIREMENTS:

The lot area shall be not less than eighty-four (8,400) square feet; lot width shall be not less than sixty (60) feet, fronting on a public street or highway or at the building line; and lot depth shall be not less than eighty (80) feet. The minimum lot area required for each duplex shall be eight-four hundred (8,400) square feet.

8.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot line:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) or more

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

SECTION 9. R-2 MULTIPLE FAMILY RESIDENTIAL ZONE.

9.01 USES PERMITTED BUT SUBJECT TO THE FOLLOWING CONDITIONS:

1. Any use permitted in R-8.4 through R-2A zones.
2. Clubs and fraternal societies whose chief activity is not a service customarily carried on as a business.
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.
 - (b) Not more than thirty-five (35) percent coverage of the site area with structures.
 - (c) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, and/or the occupant of the premises on which located, and subject to the setback limitations applicable to other structures on the lot.
3. Flats and apartments:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each family unit contained herein.
 - (b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted upon issuance of a building permit.
4. Fraternity and sorority houses, boarding houses and the renting of rooms for lodging purposes only.
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each three (3) occupants.
 - (b) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located, or the occupant of the premises, and subject to the setback limitation applicable to other structures on the lot.
5. Hotels with stores therein.
 - (a) Off-street parking shall be established and

maintained at a minimum ratio of one (1) parking space for each three (3) rooms plus the required parking spaces for the businesses contained therein.

(b) Business uses must be conducted and entered entirely from within the building.

(c) Not more than thirty-five (35) percent coverage of the area with structures.

(d) One (1) sign identifying the hotel usage of the premises on which located shall be permitted upon the issuance of a building permit.

6. Hospitals, sanitariums, institutions for philanthropic and eleemosynary uses other than correction,

(a) Must be located twenty (20) feet or more from any other lot in an "R" zone.

(b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds.

(c) Not more than thirty-five (35) percent coverage of the site area with structures.

(d) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, or the occupant of the premises and subject to the setback limitations applicable to other structures on the same lot.

7. Rest Homes.

(a) Must meet conditions prescribed by State Law.

(b) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located, or the occupant of the premises and subject to the setback limitations applicable to other structures on the same lot.

(c) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds with a minimum number of four (4) spaces.

(d) Not more than thirty-five (35) percent coverage of the site area with structures.

(e) Must meet drainage and health standards of the City and the State of Washington.

8. Day nurseries and pre-school uses.

(a) Must be located twenty (20) feet or more from any other lot in an "R" zone.

(b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each classroom with a minimum of two (2) parking spaces.

(c) One (1) unlighted sign no larger in area than two (2) square feet identifying the premises on which located or the occupant of the premises and subject to the setback limitations applicable to other structures on the lot.

(d) Not more than thirty-five (35) percent coverage of the site area with structures.

(e) Must meet conditions prescribed by State Law.

9. Structures for use of licensed practitioners (physicians, dentists, etc.)

(a) Must be located twenty (20) feet or more from any other lot in an "R" zone.

(b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.

(c) Not more than thirty-five (35) percent coverage of the site area with structures.

(d) Structure to be consistent with the character of the surrounding area.

(e) Only one (1) sign no larger in area than seventy-two (72) square inches bearing only the name and occupation and located within the setback limitations applicable to other structures on the lot.

10. Community Clubs.

(a) Must be located thirty-five (35) feet or more from any other lot in an "R" zone.

(b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.

(c) Not more than thirty-five (35) percent coverage of the site with structures.

Ord. # 48 11. Public utility and governmental buildings or structures including art galleries, libraries and museums.

(a) Must be located twenty (20) feet or more from any other lot in an "R" zone.

(b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.

(c) Not more than thirty-five (35) percent coverage of site area with structure.

9.02. USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

1. Institutions devoted in whole or part to the treatment of persons suffering from mental illness or habitual alcoholism.

(a) Establish and maintain security measures to safeguard the general public from possible injury or being molested.

(b) Structures must be located one-hundred (100) feet or more from any other lot in an "R" zone.

(c) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each five (5) regular beds.

(d) Not more than thirty-five (35) percent coverage of the site with structures.

(e) One (1) unlighted sign no larger in area than six (6) square feet identifying the premises on which located, or the occupant of the premises on which located and subject to the setback limitations applicable to other structures on the lot.

(f) Must be in compliance with all pertinent State and City Health Regulations.

2. Motels.

- (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit.
- (b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted.
- (c) Coffee shops when operated entirely from within the building as an incidental use to the principal use of the property and used solely by the owner, tenants and their guests. No sign advertising such coffee shop will be allowed.
- (d) Has frontage on a primary state highway.

9.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet unless otherwise approved by the City Council on recommendation of the Planning Commission.

9.04 BUILDING SITE AREA REQUIREMENTS:

The minimum area of any lot shall be eighty-four hundred (8,400) square feet with minimum width fronting on a public right-of-way or at the building line of sixty (60) feet, and a minimum lot depth of eighty (80) feet; except that apartments, dwelling groups or multiple family dwellings shall have an additional one-thousand (1,000) square feet or site area for each family or housekeeping unit in excess of one (1).

9.05 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot lines:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

SECTION 10. R-3 MULTIPLE FAMILY RESIDENTIAL ZONE.

10.01 USES PERMITTED BUT SUBJECT TO THE FOLLOWING CONDITIONS:

1. Any use permitted in R-8.4 through R-15, R-2A and R-2 zones.

2. Motels and motor courts.

(a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit.

(b) One (1) sign identifying the premises on which located or the occupant of the premises shall be permitted.

(c) Coffee shops when operated entirely from within the building as an incidental use to the principal use of the property and used solely by the owner, tenants and their guests. No sign advertising such coffee shop will be allowed.

10.02 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

10.03 BUILDING SITE AREA AREA REQUIREMENTS:

The minimum area of any lot shall be eighty-four (8,400) square feet with a minimum width fronting on a public right-of-way or at the building line of sixty (60) feet, and a minimum lot depth of eighty (80) feet; that any use must meet the requirements of the zone in which previously allowed and motels and motor courts shall have an additional one-thousand (1,000) square feet of site area for each family or housekeeping unit in excess of one (1).

10.04 YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth:	Twenty (20) feet or more
Side yard abutting a street:	Ten (10) feet or more
Side yard abutting interior lot lines:	Five (5) feet or more
Rear yard depth:	Twenty-five (25) feet or more

Motor courts, when built with all their outside entrances from the front of the building only and opening into a court, may reduce the rear yard depth to not less than ten (10) feet. Motor courts over one (1) story high shall increase their side yard setback to ten (10) feet and their rear yard setback to twenty (20) feet.

SECTION 11: B-P BUSINESS PARKING ZONE.

11.01 USES PERMITTED:

1. Restricted or public parking of automobiles or trucks whether for fee or without charge.
2. Parking area for places of public assembly.
3. Parking area for all types of business, commercial or manufacturing areas where cars are parked.
4. Trees, landscaping, walks, screening, light standards and equipment and other similar uses provided they do not reduce or impair the required parking area.
5. Service station pump islands and canopies not including signs, provided they meet yard requirements of Section 13, Primary Business Zone, Sub-Section 13.04, Yard Requirements.

11.02 USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Public utility and governmental buildings or structures:

- (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
- (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.
- (c) Not more than thirty-five (35) percent coverage of site area with structures.
- (d) Public utilities must be shielded from abutting properties and highways by a sight-obscuring protective strip of trees or shrubs.

11.03 LOADING SPACE REQUIREMENTS:

An off-street loading space, having access to a public thoroughfare, shall be required adjacent to each business building, hereafter erected or enlarged, if the use of such building entails deliveries to it or shipments from it, and such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

11.04 PARKING SPACE REQUIREMENTS:

For a new building or structure, or for the enlargement or increase in size of any existing building or structure, there shall be established and maintained a permanent off-street parking area beginning within five-hundred (500) feet of the front entrance thereof.

11.05 MINIMUM PARKING AREA CAPACITY:

1. Food stores, markets and shopping centers:

(a) Having not more than two-thousand (2,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for the proprietor and each regular employee with a minimum of two (2) parking spaces.

(b) Having more than two-thousand (2,000) square feet but not more than five-thousand (5,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.

(c) Having more than five-thousand (5,000) square feet of gross floor area exclusive of basement shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.

2. Restaurants, taverns and any establishment for the sale and consumption on the premises of food, alcoholic beverages or refreshments shall provide one (1) parking space for each one-hundred (100) square feet of gross floor area of the building.

3. Other retail establishments, such as furniture, appliance, hardware stores, clothing, shoe repair or service shops shall provide one (1) parking space for each four-hundred (400) square feet of gross floor area of the building with a minimum of two (2) spaces.

4. Real estate offices shall provide one (1) parking space for each one (1) employee, plus one (1) parking space for each two-hundred (200) square feet of gross floor area with a minimum of four (4) spaces.

5. Theaters shall provide one (1) parking space for each four (4) fixed theatre seats and be subject to review by the Planning Commission.

6. Banks, business and professional offices including animal hospitals or clinics shall provide one (1) parking space for each two-hundred (200) square feet of gross floor area of the building.

7. Undertaking establishments including mortuaries, funeral homes and crematoriums shall provide one (1) parking space for each five (5) seats in the chapel or nave.

8. Bowling alleys shall provide five (5) parking spaces for each alley.

9. Stadiums, sports arenas, auditoriums and other places of assembly with fixed seats shall provide one (1) parking space for each four (4) seats.

10. Dance halls, exhibition halls and places of assembly without fixed seats shall provide one (1) parking space for each seventy-five (75) square feet of gross floor area of the building.

11. Commercial recreation places such as skating rinks shall provide one (1) parking space for each one-hundred (100) square feet of gross floor area of the building.

12. Wholesale stores, warehouses, storage buildings, motor vehicles or machinery sales shall provide one (1) parking space for each two (2) employees with a minimum of six (6) parking spaces.

13. Manufacturing uses including research and testing laboratories, creameries, soft drink bottling establishments, bakeries, canneries, printing and engraving shops shall provide one (1) parking space for three (3) employees with a minimum of six (6) spaces.

11.06 UNSPECIFIED USES:

In the case of use not specifically mentioned in this section, the requirements for business parking facilities shall be the same as the above mentioned use which in opinion of the Design Commission shall be deemed most similar.

11.07 MIXED OCCUPANCIES:

In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.

11.08 COOPERATIVE PROVISION:

Nothing of this section shall be construed to prevent cooperative provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied cooperatively shall not be less than the sum of the requirements for the various uses computed separately. None of the above provisions shall prevent the overlapping cooperative use of parking facilities when the times during which such facilities are used are not conflicting.

11.09 BUILDING PERMITS:

Before the granting of a building permit for any new building or structure, or for an enlargement thereof, or change of use in any building hereafter constructed involved in any of the aforementioned uses, the applicant for said building permit shall present evidence in writing that arrangements have been made to provide off-street parking to be zoned B-P (Business Parking) in accordance with the above provisions, or that the required amount of parking facilities classified as a business parking area on the City zoning maps has been provided by a satisfactory written contract, or present evidence of participation in an association which is providing adequate public off-street parking so classified.

11.10 PARKING AREA REQUIREMENTS:

All off-street parking areas zoned B-P (Business Parking), or public off-street parking areas required under Sub-Section 11.09, Building Permits, shall be graded, surfaced and maintained to the minimum standards contained in the City's standard plans and specifications for private work on City right-of-way. The party seeking a B-P (Business Parking) zoning shall, submit a plan of said proposed parking area as to type of surfacing and whether or not the area will be fenced or screened with shrubbery and/or lighted. The Design Commission after consultation with the City Engineer's Office will then refer the parking area plan with its recommendations to the City Council for final action.

SECTION 11A. PBZ PLANNED BUSINESS ZONE.

11A.01 USES PERMITTED:

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1. Public utility and governmental buildings or structures including art galleries, libraries and museums.
2. Day nurseries and preschool uses.
3. Structures for use of licensed practitioners (dentist, physicians, etc.).
4. Barbershops and beauty shops.
5. Business or professional studios and offices.
6. Hand laundries, clothes cleaning agencies and pressing shops.
7. Light automobile repairs, battery service and tire shops, service stations and self-contained public garages. Open spaces in this zone may not be used for storage, display, or sale of used vehicles or equipment.
8. Locksmiths, shoe repairing, tailoring and similar light repair shops.
9. Printing establishments and newspaper printing.
10. Real estate sales offices.
11. Restaurants, cafeterias, catering.
12. Retail stores and personal service shops.
13. Banks and theaters.
14. Recreational area commercial.

11A.02 LIMITATIONS ON USES PERMITTED - GENERAL.

1. A planned business zone may be established and shown on the map portion of this Ordinance only if authorized by the Comprehensive Plan, and only within the general area of authority shown on the map portion of the Comprehensive Plan. The zone must abut upon at least one major arterial street.
2. Uses and structures within a planned business zone shall conform to a plot plan, and a separate landscape plan, each showing compliance with this Ordinance, filed with and approved by the Design Commission. Deviation from such plans shall be permitted only on filing and approval of amended plans.

3. Each use established or to be established within a planned business zone shall be shown on the plot plans.

11A.03 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

11A.04 MINIMUM PARCEL AREA REQUIREMENTS:

A planned business zone shall be a parcel at least five (5) acres in area.

11A.05 YARD REQUIREMENTS:

Buildings and off-street parking area shall be set back at least seventy-five (75) feet from the zone boundary. Vehicular access shall be confined to driveways of minimum numbers and adequate width cutting through yards.

11A.06 OFF-STREET PARKING:

In a planned business zone, there shall be devoted to off-street parking, vehicular loading and unloading and internal vehicular circulation, three (3) square feet for each one (1) square foot of gross floor area in the zone. Driveways shall be as found by the City Engineer to minimize traffic hazards on the public streets, and drainage shall be approved by the City Engineer.

11A.07 LANDSCAPING:

Required yards shall be landscaped, the landscaping to include shrubs and trees making the planning business zone compatible with surrounding uses and controlling objectionable views, glares or noise as determined by the Design Commission. The installation and maintenance of such landscaping may be secured by a bond to the City in a reasonable amount if required by the Design Commission.

11A.08 SIGNS:

1. In a planned business zone there may be signs identifying each particular use, or the person carrying on such use; but such a sign shall be attached to the structure wherein the use is carried on, or located within that part of the planned business zone exclusively devoted to the use, and shall not be higher than the building it identifies.

2. In a planned business zone, there may be business directional signs; but no such signs shall be larger than two square feet in area for each use or occupant listed on the sign.
3. In a planned business zone, there shall be no signs of any kind within required yards, except that signs identifying the planning business zone as such, not higher than six (6) feet, may be located in the required yards alongside each driveway.
4. Directional and entrance signs shall not be directly lighted. No signs shall be lighted by intermittent or flashing lights. No sign's lighting shall be located so as to cause a hazard to traffic.

SECTION 12. B-N NEIGHBORHOOD BUSINESS ZONE.

12.01 USES PERMITTED:

1. Any use permitted in R-8.4 and R-2 residence zones provided said uses comply with area, frontage and setback regulations for the zone in which such use is permitted.
2. Barber shops and beauty shops.
3. Business or professional studios and offices.
4. Hand laundries, clothes cleaning agencies and pressing shops.
5. Light repair, battery service and tire shops, service stations and self-contained public garages. Open spaces in this zone may not be used for storage display or sale of used vehicles or equipment.
6. Locksmiths, shoe repairing, tailoring and other light repair shops.
7. Printing establishments and newspaper printing.
8. Real estate sales offices.
9. Restaurants, cafeterias, catering.
10. Retail stores and personal service shops.
11. Banks and theatres.
12. Recreational area commercial.
13. Advertising signs as approved by the Design Commission.

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12.02 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet without approval of the City Council upon recommendation of the Planning Commission.

12.03 BUILDING SITE AREA REQUIREMENTS:

No requirements for non-residential buildings. Residential structures shall comply with the site requirements for that use.

12.04 YARD REQUIREMENTS:

Non-residential structures shall have a minimum setback from any public right-of-way of ten (10) feet, except as provided in Section 16, Sub-Section 16.04, Item 3.

Residential structures shall meet the yard requirements for that use except that where located on the second story or more of a business use structure the minimum setback requirement shall be the same as for non-residential structures.

12.05 PARKING REQUIREMENTS:

Off-street parking shall be provided and maintained as prescribed in Section 11, B-P Business Parking Zone.

SECTION 13. B-1 PRIMARY BUSINESS ZONE.

13.01 USES PERMITTED:

1. Any use permitted in R-8.4 through R-15, R-2, R-3 and B-N zones, provided said use complies with area, frontage and setback regulations for the zone in which such use is permitted.
2. Advertising signs and canopies approved by the Design Commission.
3. Animal hospitals and clinics when structurally enclosed.
4. Banks.
5. Barber shops, beauty shops and personal service shops.
6. Beer parlors, bars, taverns, cabarets or any other similar place where alcoholic beverages of any kind are dispensed or sold.
7. Business or professional offices or studios.
8. Custom cabinet work using total power not in excess of two (2) horsepower with not more than three (3) persons engaged at any one time in the fabricating, repairing or processing of materials.
9. Decorating shops.
10. Electric shops.
11. Employment agencies.
12. Hand laundries, clothes cleaning and pressing.
13. Locksmith, shoe and other repair shops.
14. Lumber, coal, fuel yards and feed stores provided that when unhoused they shall be surrounded by an eight (8) foot solid wall or sight-obscuring fence herein known as a structure.
15. Printing establishment and newspaper printing.
16. Public garages and repair shops.
17. Real estate sales office.
18. Restaurants, cafeterias, catering.
19. Retail stores and wholesale markets.

20. Retail trade shops or shops for custom work or the making of articles not manufactured by chemical processes, using total power not in excess of two (2) horsepower with not more than three (3) persons engaged at any one time in the fabricating, repairing or processing of materials.
21. Sales rooms or store rooms for motor vehicles and other articles of merchandise.
22. Service stations, except as provided in Sub-Section 13.04, Yard Requirements.
23. Tailors.
24. Telephone exchanges or telegraph offices.
25. Theaters, dance halls, bowling alleys and similar indoor uses subject to conditions of any applicable City license requirements and provided further that no moving picture theater, or any structure for the exhibition of moving pictures shall be permitted within three hundred seventy (370) feet of the property line of any public school grounds nor shall any dance hall, bowling alley, skating rink, or other commercial amusement places be permitted within five hundred (500) feet of the property line of any such park, school or playground. Said distance shall in all cases be measured along street margins and the same produced across street intersections by the shortest route.
26. Undertaking establishments including mortuaries, funeral homes and crematoriums.
27. Accessory uses and uses incidental to uses allowed in this zone.

13.02 BUILDING HEIGHT LIMIT:

Except as provided in Section 16, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet without approval of the City Council upon recommendation of the Planning Commission.

13.03 BUILDING SITE AREA REQUIREMENTS:

No requirements for non-residential buildings. Residential buildings shall comply with the site area requirements for that use.

13.04 YARD REQUIREMENTS:

1. Non-residential buildings shall have a minimum setback

from any public right-of-way of ten (10) feet, except service station pump islands which shall have a setback from the street line of at least of at least fifteen (15) feet to provide for safe access to or from such street, and that the placement of the tanks in the setback be by revokable permit and that approved ingress and egress be required and except as provided in Section 27, Sub-Section 16.04, Item 3.

2. Residential buildings shall meet the yard requirements for that use except that where located on the second story or more of a business use building, the minimum setback requirements shall be the same as for non-residential structures.

13.05 PARKING REQUIREMENTS:

Off-street parking shall be provided and maintained as prescribed in Section 11, B-P Business Parking Zone.

SECTION 14. C-O COMMERCIAL OFFICES ZONE (Dispersal Type).

14.01 USES PERMITTED:

1. Any professional, legal, medical, governmental, engineering, administrative or commercial office use and may also include clinics, hospitals, research facilities, mortuaries, churches, lodges and similar semi-public uses.
2. Auxiliary uses directly related to the principal use, such as residences of watchmen or employees in training, special employee dormitories, employee cafeterias, auditoriums, service station in connection with authorized motor-pool facilities and similar uses.

14.02 REQUIREMENTS:

1. Uses shall be limited to those which are not objectionable beyond the boundaries of the zone by reason of offensive odors, dust, smoke or gas.
2. The State Pollution Commission shall approve the method of waste materials disposal.
3. No use shall be permitted if it results in industrial noise above five (5) sones as measured at the outer boundary of this zone.
4. Necessary public rights-of-way shall be dedicated to the public either as a portion of a plat or upon acceptance of street dedication by the City Council and each building site shall front on or have access to such public rights-of-way.
5. To protect the contiguous uses, a protective strip of land bordering the external boundaries and along any frontage on public rights-of-way and devoted exclusively to the planting, cultivation, growing and maintenance of sight-obscuring trees, shrubs and plant life shall be established and maintained. The maintenance guarantees of such protective strips and the planned landscaping of the site may be bonded to the City in a reasonable amount if required by the Design Commission. In lieu of such protective strip, under appropriate circumstances, there may be substituted a use classification of the outer margin of this zone consistent with the use classification of the surrounding area.

6. Not more than thirty-five (35) percent of any site area shall be occupied by structures, including outdoor storage area.
7. Outdoor storage facilities, including storage areas for official vehicles, shall be obscured by an approved architectural screen specified on the plot plan and approved by the Design Commission.
8. A plot and building plan showing compliance with the provisions herein stated shall be filed with the Design Commission and the building permit application shall comply with this approved plot plan.

14.03 BUILDING HEIGHT LIMIT:

1. Structures, excluding stacks, shall not exceed thirty-five (35) feet in height and/or three (3) stories except that when the site exceeds five (5) acres the height may be raised one (1) additional story for each additional two and one-half (2½) acres within the site area boundaries when specifically approved by the City Council upon recommendation of the Design Commission in accordance with the following standards:
 - (a) Approval by the Civil Aeronautical Administration.
 - (b) Adequate provision for ultimate off-street parking needs.
2. Outdoor storage facilities shall not exceed twenty (20) feet in height.

14.04 BUILDING SITE AREA REQUIREMENTS:

No requirement except conformance to plot and building plan on file with the Design Commission.

14.05 YARD REQUIREMENTS:

1. The minimum setback from all rights-of-way shall be seventy-five (75) feet with a minimum side and rear yard setback of fifty (50) feet, the same to be clearly set out in the plot and building plan and upon the building permit application when filed.
2. Parking for employees may be provided in the side and rear yard setbacks as specified in Section 11, Business Parking with customer parking permitted in the front yard area but in no case shall the customer parking dominate the front yard landscaping.

14.06 PROHIBITED USES:

1. Lighted signs or commercial advertising signs are prohibited but such prohibition shall not extend to reasonable signs relating to the use of the site stating the name and type of business of the occupant. The sign must be designed as a part of the architecture of the building.
2. Any residential use is prohibited in this zone.

SECTION 15. REPEALED BY ORDINANCE 142

SECTION 16. GENERAL PROVISIONS.

16.01 USES PERMITTED:

1. In all single family residential zones there shall be permanently maintained parking spaces of sufficient size to accommodate automobiles or trucks owned by the resident on the same lot or within one hundred (100) feet of such lot and owned by the lot owner provided that no more than one (1) such space is maintained for each three thousand (3,000) square feet of lot area and provided further that the driveway in the front yard is used for not more than one (1) such parking space.
2. Detached accessory buildings in "R" zones shall conform to the front yard regulations pertaining to the main buildings in the above zones except that detached garages may be built to the side line, provided that a joint agreement be executed and filed with the Auditor of King County by the two property owners concerned. Provided further that where the slope of the front half of the lot is greater than one (1) foot rise or fall in seven (7) feet of run from the existing street elevation at the front property line, or where the elevation of the front half of the lot is more than four (4) feet above or below the existing street elevation at said property line, a garage may be built not less than ten (10) feet from the property line abutting any street, provided that no part of a movable extension of the structure shall extend into said restricted area, and whenever the said rise or fall is greater than eight (8) feet below or above the established street elevation at the property line as described above, then said garage may be built not less than five (5) feet from the property line abutting any street, provided that no part of a movable extension of the structure shall extend into said restricted area.

3. A detached garage may be erected within the rear yard setback.
4. An accessory building, unless attached to and made part of the main building shall not be closer than five (5) feet to the main building.
5. Utility rights-of-way lines such as high voltage transmission lines and rail lines shall be allowable in any zone upon issuance of a conditional use permit. This is not applicable to construction on public highways covered by franchise and/or permit.

6. Fences and Retaining Walls: Regulations

- Ord. # 236
- (a) Fences are allowed in "R" and "B" zones as hereinafter provided.
- (b) Fences are allowed to a maximum of seventy-two (72) inches within the required yards; except, fences are limited to a maximum height of forty-two (42) inches within that portion of any required yard which lies within twenty (20) feet of the right-of-way margin of any public street or of any private street or other motor vehicle easement appurtenant to the lot upon which the fence is located.
- (c) Except in the case of regulated improvements, deviations from the forty-two (42) inch height limitation of Sub-Section (b) above, may be approved by the Director of Planning under the following procedure:
- (1) Two (2) copies of plot plans and elevations, drawn to scale, showing size and construction of the proposed fence, the location of all existing structures, street improvements and driveways, and landscaping, shall be submitted to the Planning Department.
 - (2) The Director of Planning shall review the submitted plans with the City Engineer and shall base his decision to approve or disapprove the requested deviation on factors of traffic visibility, and other public and private safety considerations, lot shape, location and topography, and the nature, location and extent of adjoining public and private structures and other improvements.
- (d) Deviations from the forty-two (42) inch height limitation of Sub-Section (b) above in connection

with regulated improvements, may be approved by the Design Commission under the procedures and criteria set forth in Section 16A.

- (e) Where a retaining wall protects a cut below the natural grade, and is located on the line separating lots or parcels, such retaining wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no retaining wall existed.
- (f) Where a retaining wall contains a fill, the height of the retaining wall shall be considered as subtracting from the normally permitted height of a fence constructed on the wall or on the fill within twenty (20) feet of the wall, provided that, in any event, a protective fence not more than forty-two (42) inches in height may be erected in that area, and any portion of such fence more than seventy-two (72) inches above the foot of the wall shall be an open work fence. An open work fence is one in which the component solid portions are evenly distributed, and constitute no more than fifty (50) percent of the total surface area of the face of the fence.
- (g) Electric fences and barbed wire fences are not allowed.
- (h) No fence shall be located in the right-of-way of any street.
- (i) These provisions do not apply to fences required by State law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds.

7. Signs:

- (a) Directional or other official signs or notices that are required by law.
- (b) Flags, pennants, or insignia of any nations, state, city or other political subdivision.
- (c) Signs identifying a single family dwelling unit.
- (d) Private directional signs.
- (e) Unlighted signs no larger in area than six (6) square feet advertising the sale or lease of the property upon which they are located.

(f) Signs advertising the sale or lease of property within the subdivision within which the signs are located, when authorized by the issuance of a sign permit as hereinafter provided.

(g) Signs advertising a political, educational, charitable, philanthropic, civil, professional, religious or like campaign drive, movement or like event, when authorized by the issuance of a sign permit as hereinafter provided.

(h) Sign permits shall be issued by or under the direction of the City Manager with notice of such action to the Planning Commission. Renewal permits may be issued without charge. Each permit shall specifically describe the sign or signs permitted, require that the sign or signs be maintained in a safe and sightly condition during the life of the permit, and require that the sign or signs be removed at the expense of the applicant at the expiration of the permit or if the signs become unsafe or unsightly. The life of the permit shall be three months with right of renewal for signs authorized by clause (g), one year with right of renewal for signs authorized by clause (f), an indefinite term for other signs.

16.02 BUILDING HEIGHT LIMIT REQUIREMENTS:

1. Towers, gables, spires, scenery lofts, cupolas, water tanks, silos, artificial windbreaks, barns, windmills and similar structures and necessary mechanical appurtenances may be built and used and natural growth may be allowed to grow to a greater height than the limit established for the zone in which structures are located; provided, however, that no structure in excess of the allowable building height shall be used for sleeping or eating quarters or for any commercial purpose other than such use as may be incidental to the permitted uses of the main building.
2. Where the average slope of the lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation of the property line, an additional story will be permitted on the downhill side of any building.

16.03 BUILDING SITE REQUIREMENTS:

Ord.

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1. Any lot may be used for a building site, regardless of area, subject to the other restrictions governing the zone in which it is located, if it came into existence before September 28, 1960.
2. The minimum lot frontage of irregularly shaped lots shall be measured at the front building line. No building will be permitted on a lot without frontage (a) on a public right-of-way or (b) on a private street or easement-of-way established by deeds of record and approved by the Planning Commission as substantially complying with the standards established for public streets.

Ord.

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3. The determination whether a lot complies with the building site area requirements shall exclude the shorelands part of any such lot and/or any part of such lot which is part of a public or private street or is subject to an easement for use of motor vehicles.

Ord.

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4. In subdivisions officially approved by the Planning Commission after April 9, 1972, under the provisions of Section 5, (8), Optional Standards for Development of Two Acres or More, City of Mercer Island Ordinance No. 59, the area of each lot shall be as approved by the Planning Commission but the average lot area shall not be less than 75 percent of the minimum lot area requirements of the use zone in which the subdivision is located, as set forth in Sections 4.04, 5.04, 6.04, 7.04, 8.04, 9.04 of this Ordinance No. 15.

16.04 YARD REQUIREMENTS:

1. Highway Border Districts are hereby established and shall be a part of this Ordinance as each of such districts and maps are developed and approved by the City Council following a recommendation of the Planning Commission and the front, side and rear yard regulations shown on such maps shall supersede the yard requirements contained in other provisions of the Ordinance.
2. Where official highway maps show the future width greater than the dedicated width, then the front yard shall be measured from the margin of the future highway width.
3. Porches, terraces, chimney and fireplace extensions and outside stairways--unroofed, unenclosed, above

and below floor--or steps shall not project more than three (3) feet into any yard. Eaves shall not protrude more than eighteen (18) inches into any minimum required yard.

4. The front yard shall extend across the full width of the front of the lot between street line and main structure, and shall be measured between the street line and (a) the nearest point of the main building, or (b) the nearest point of any enclosed or covered porch, or accessory building, whichever is the lesser distance. Where a lot or tract lacks frontage on a public right-of-way and has frontage only on a private street or easement-of-way, the front yard shall be measured from the margin of such private street or easement-of-way. On corner lots the front yard shall be measured from the street line abutting the narrowest dimension of the lot.

5. The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch.

16.05 USES PROHIBITED:

1. Outhouses for use as privies or lavatory conveniences are prohibited except as an emergency use. The sanitary conveniences must be incorporated within or made a part of the building to which they appertain and must consist of a chemical toilet or installed plumbing property connected with and drained into a covered septic tank, cesspool or closed sewer.
2. In any "R" zone electric fences or any device designed to give an electric shock to any person coming in contact therewith are prohibited.
3. Houseboats and watercraft used for habitation or commercial amusement shall not be moored or located within any established inner harbor line or between the shoreline high water mark and the line of navigability along rivers, streams or bodies of water, and in no case closer than two-hundred and fifty (250) feet to the shoreline low water mark.
4. Excavation and removal from the site as distinguished from grading at the site, of black soil, peat, sand, gravel or other natural deposits.

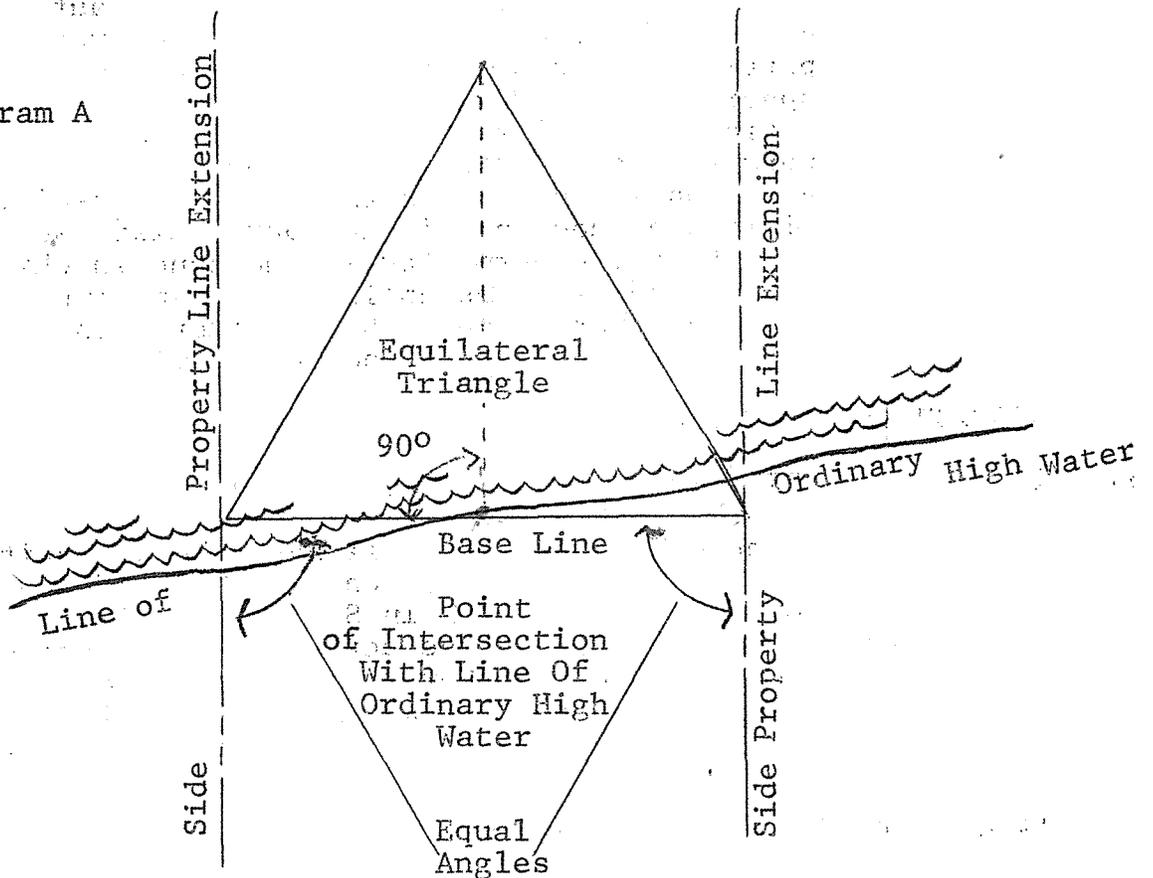
- Ord. # 44 5. Signs, except as herein permitted.
- Ord. # 220 6. The use of any vehicle as a dwelling unit.

Ord. 16.06 WATERFRONT STRUCTURES AND SWIMMING POOLS:

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1. For the purposes of this ordinance, the term "Waterfront Structure" shall include, but shall not necessarily be limited to all docks, piers, wharfs, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water, the line of ordinary high water being that point on the shore to which the water extends at the highest stage of the lake level during the year without regard to the shoreline as created by bulkheads or other artificial structures. High water level elevation on Lake Washington is 21.8 feet above mean-low water in Puget Sound. "Covered Waterfront Structure" shall mean any structure covered in whole or in part by a roof, and "Covered Waterfront Structure Building Area" shall mean the area lying directly beneath that portion of a waterfront structure covered by a roof.
2. No waterfront structure except a shoreline bulkhead shall be permitted within 10 feet of the lateral boundary lines of the shorelands except that a waterfront structure may be built to or straddle a common property line if an agreement to that effect is executed by the property owners concerned and filed with the King County Department of Records and Elections. Provided, that waterfront structures located in semi-private waterfront recreation areas (except shoreline bulkheads) shall conform to the regulations governing such areas.
3. No waterfront structures shall be permitted beyond 100 feet from the line of ordinary high water.
4. (a) The covered portion of a covered waterfront structure shall be located within the area of an equilateral triangle as shown on Diagram A below, and the covered waterfront structure building area shall not exceed 50% of the area of that equilateral triangle.

Diagram A



(b) The total height of a covered waterfront structure shall not exceed 16 feet above high water level and the top of the deck of a dock, pier, wharf, or other similar waterfront structure shall not be more than five feet above high water level.

5. No swimming pool shall be located in a front yard nor closer than five feet to any property line, measured from the edge of the water surface. Provided, that such pools located in public parks and non-commercial recreation areas shall conform to the setback regulations governing such parks and areas.

SECTION 16 A. DESIGN COMMISSION - Supplement No. 1

SECTION 16 B. WATERCOURSE SETBACK REQUIREMENTS - Supplement No. 2

SECTION 17. PREVIOUS USE AND OCCUPANCY PERMITS.

Where prior to May 25, 1959, special authority was granted for the establishment or conducting of a particular use on a particular site and for a specified period of time or as set forth in an action then titled Use and Occupancy, such previous permits are by this Section declared to be continued as a conditional use permit without specified time limit provided that if the particular use as is not otherwise permitted in the zone in which it is located, such established use and improvements incident thereto shall be considered under the terms of this Ordinance as a non-conforming use.

Ord. SECTION 18. VARIANCES.

346 18.01 AUTHORITY TO GRANT VARIANCE:

The Planning Commission shall have the authority to grant a variance from the provisions of this Ordinance when the conditions set forth in Sub-Section 18.02 have been found to exist. The action of the Planning Commission in granting or denying a variance shall be final and conclusive unless an appeal is filed in accordance with the provisions of Section 21 of this Ordinance.

18.02 REQUIRED SHOWING FOR VARIANCE:

Before any variance may be granted, all the following circumstances shall be found to apply:

- (a) That there are special circumstances applicable to the particular lot or tract, such as size, shape, topography, location or surroundings, trees or ground cover or other physical conditions;
- (b) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
- (c) The granting of the variance will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property; and
- (d) The granting of the variance will not conflict with the general purposes and objectives of the Comprehensive Plan.

18.03 PLANNING DEPARTMENT DEVIATION FROM YARD REQUIREMENTS:

The Planning Director may grant a deviation from the required front or rear yard requirements of this Ordinance upon a finding that the circumstances of Section 18.02 apply. Any such deviation shall not exceed 20% of the front or rear yard setback otherwise required by this Ordinance.

Ord. # 385 SECTION 19. CONDITIONAL USE PERMITS.

19.01 AUTHORITY TO GRANT CONDITIONAL USE PERMIT:

The City Council, on the recommendation of the Planning Commission, shall have the authority to grant a conditional use permit for any use for which this Ordinance requires such permit.

19.02 REQUIRED SHOWING FOR CONDITIONAL USE PERMIT:

Before any conditional use permit may be granted, it shall be shown:

1. That such permit is consistent with the restrictions applicable to the zone in which the lot or tract is located for which the permit is sought;
2. That the proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings and membership, and satisfies the purposes of the Island's Comprehensive Plan;
3. That conditions shall be attached to such permit which will assure that such particular use on such particular site will be compatible with other existing and potential uses within the same general area, and shall not constitute a nuisance in fact, recognizing and compensating for variations and degrees of noise, smoke, dust fumes, vibration, odors, hazard or public need, together with available technological processes and equipment for control of such factors; and
4. That such permit shall be subject to revocation or amendment by the City Council, on recommendation of the Planning Commission.

SECTION 20. NONCONFORMING USES.

20.01 APPLICATION OF THIS SECTION:

This section shall apply to buildings, lands and uses which become nonconforming as a result of the application of this Ordinance to them, or from classification or reclassification of the property under this Ordinance or any subsequent amendments hereto. If a use originally authorized by variance or conditional use permit prior to the effective date of the Ordinance is located within a zone in which such use is not permitted by this Ordinance, such use shall become a nonconforming use.

20.02 UPON REMOVAL OR DESTRUCTION OF NONCONFORMING BUILDINGS, FUTURE BUILDINGS AND USES SHALL CONFORM:

If any nonconforming building is destroyed, or is abated, every future use of the land on which the building was located shall conform to this Ordinance.

20.03 RECONSTRUCTION OF BUILDING PARTIALLY DESTROYED OR DAMAGED:

A nonconforming building damaged or partially destroyed to the extent of not more than fifty percent (50%) of its value at the time of the occurrence may be restored and the use of such building or part thereof which existed at the time of the occurrence may be continued, but such restoration shall not extend the abatement date of the original building.

20.04 NONCONFORMING BUILDINGS, STRUCTURAL ALTERATIONS OR ENLARGEMENTS:

1. Unless otherwise specifically provided in this Ordinance, nonconforming buildings may not be enlarged or structurally altered unless an enlargement or structural alteration makes the building more conforming, or is required by law; however, where a building or buildings and customary accessory buildings are nonconforming only by reason of substandard yards or open spaces, structural alterations or enlargements are allowed, if they do not increase the degree of nonconformity of yards or open spaces, and such alterations or enlargements shall observe the yards and open spaces required on the lot.
2. Structural alterations or enlargements are allowed, if necessary to adapt a nonconforming building or buildings to new technologies or equipment pertaining to the uses housed in such building or buildings, but shall not extend the abatement date of the original building.

3. Normal upkeep, repair and maintenance of non-conforming buildings are allowed, but shall not extend the abatement date of the original building.

20.05 CONTINUATION OF NONCONFORMING USE OF A NONCONFORMING BUILDING:

The nonconforming use of a nonconforming building may be continued, and may be expanded or extended throughout such building so long as such nonconforming building remains nonconforming, provided no structural alterations or additions are made except as required by law or as herein specifically allowed. A nonconforming use of a nonconforming building may be changed to another use of the same or more conforming classification, but if the change is to a more conforming use the building cannot thereafter be used by a less restricted use.

20.06 NONCONFORMING USE LIMITS OTHER USES:

While a nonconforming use exists on any lot, no additional use may be established thereon, even though such additional use would be a conforming one, unless an abatement date has been established for the nonconforming use.

20.07 ABATEMENT OF NONCONFORMING USE OF LAND WHERE NO STRUCTURE IS INVOLVED:

In any zone the nonconforming use of land wherein no structure is involved shall be abated within one (1) year from the effective date of this Ordinance, and any future use of such land shall conform to this Ordinance, and during such one-year period the nonconforming use shall not be expanded or extended. If during the one-year period the nonconforming use is discontinued for three (3) months or more, any future use of the land shall conform to this Ordinance.

20.08 ABATEMENT OF ACCESSORY BUILDINGS AND STRUCTURES WHERE NO MAIN BUILDING EXISTS:

Where a nonconforming use has no main building, but has buildings and structures accessory to the main use, then such nonconforming use and such buildings and structures shall be completely removed or altered to conform to uses permitted in the zone in which the property is located, within ten (10) years from the effective date of this Ordinance.

20.09 REMOVAL OF NONCONFORMING STRUCTURES OTHER THAN BUILDINGS:

Any nonconforming structure which is not a building shall be removed within five (5) years from the effective date of this Ordinance.

20.10 NONCONFORMING CHURCHES MAY ALTER OR EXPAND:

Nonconforming churches may be structurally altered or enlarged, provided the requirements of this Ordinance for off-street parking are met and maintained for any seating capacity above that existing on the effective date of this Ordinance.

20.11 ABATEMENT OF NONCONFORMING USE OF CONFORMING BUILDING:

1. "R" zones - Every nonconforming use of a conforming building in an "R" zone shall be discontinued within three (3) years after notice to the owner by the City Council, but not later than five (5) years from the effective date of this Ordinance.
2. "B", "C", or "P" zones - Every nonconforming use of a conforming building in a "B", "C" or "P" zone shall be discontinued within ten (10) years after notice to the owner by the City Council, but not later than twelve (12) years from the effective date of this Ordinance.

20.12 REQUIRED REMOVAL OF NONCONFORMING BUILDINGS:

Every nonconforming building in any "R" zone except residential buildings, churches, schools, and public utility facilities shall be removed or altered to conform to restrictions of the zone in which it is located, within the time periods hereinafter specified, which time periods shall be measured from the date of construction or substantial investment fixed by the City Council as hereinafter provided, but not less than five (5) years after notice to the owner by the City Council.

1. Structure for which building permit is not required - one (1) year.
2. Light combustible frame or wood frame building - twenty (20) years.
3. Heavy timber construction and ordinary masonry building - thirty-five (35) years.
4. Fire resistant building - fifty (50) years.

20.13 ESTABLISHMENT OF ABATEMENT DATE:

When any nonconforming condition exists in any zone, other than the nonconforming use of land where no structure is involved or where the nonconforming structure is not a building or where buildings and structures are

accessory to the nonconforming use, the City Council, on recommendation of the Planning Commission, shall fix the date when the nonconforming building was constructed, or the latest date before the effective date of this Ordinance upon which substantial investment was made in the building, consisting of major structural alterations or enlargements or the installation of major equipment, so that all investment in the building before the effective date of this Ordinance may be amortized. The Planning Commission shall make its recommendation only after hearing the owner or lessee of the building, or person chiefly interested therein. When the City Council shall have fixed the date of construction or substantial investment as aforesaid, it shall also fix the abatement date in accordance with this Ordinance and give notice thereof by mail to the owner of the nonconforming property.

Ord. SECTION 21. ADMINISTRATION.

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- 346 21.01 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ORDINANCE, the Planning Commission shall entertain in the first instance all petitions, applications or other representations by citizens or owners of property within the City or members of the general public pertaining to variances, conditional use permits, reclassification of property, amendment of this Ordinance, or any other matter arising under this Ordinance. The Planning Commission shall prescribe the form and scope of applications and data to be submitted to it, and its procedure for hearing and making recommendations on all such matters and for giving reasonable notice of such hearings, so as to assure the fullest practicable presentation of facts for property consideration of each matter and for a permanent record.
- 21.02 The Planning Commission shall promptly refer to the City Council its recommendation on each proposal to grant a conditional use permit, or reclassify property, or otherwise amend this Ordinance.
- 21.03 Any person or persons aggrieved by any action of the Planning Commission may, within ten (10) days of such action, file with the City Clerk a written notice of appeal of such action, setting forth the reasons for such appeal.
- 21.04 On receiving such recommendation or such notice of appeal, the City Council shall hear and determine the matter and may affirm, modify or disaffirm the action of the Planning Commission.
- 21.05 Each application for a variance (except for a deviation provided for in Section 18.03), conditional use permit,

or reclassification of property shall be accompanied by a fee of fifty dollars (\$50.00).

SECTION 22. ENFORCEMENT.

22.01 Violation of any of the provisions of this Ordinance shall be a misdemeanor and any person found guilty thereof shall be punished by a fine of not to exceed \$100.00 or by imprisonment for not to exceed 30 days, or both. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued or permitted.

22.02 Any building or structure hereafter set up, erected, built, moved or maintained or any use of property contrary to the provisions of this Ordinance shall be a public nuisance; and the City shall immediately commence action to abate such nuisance, in the Superior Court or in some other court of competent jurisdiction. If the City shall fail or refuse to bring such action, on demand, then such action may be brought by any person who owns or resides on property within 300 feet of the structure or use complained of, or who owns or resides on property the use and enjoyment of which in its existing state is impaired by the structure or use complained of, or who owns or resides on property the value of which for any purpose is impaired by the structure or use complained of.

SECTION 23. INTERPRETATION, PURPOSE AND CONFLICT.

In their interpretation and application the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public safety, health, morals and general welfare. It is not intended by the Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or land or upon height or buildings or requires larger space than is imposed or required by other resolutions rules or regulations or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

It is to be noted, however, that where private restrictions are greater than those imposed by this Ordinance, they are not superseded by the provisions of this Ordinance.

SECTION 24. VALIDITY.

If any section, paragraph, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that they would have passed this Ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases be unconstitutional or invalid.

SECTION 25. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its passage, signing and publication.

PASSED by the City Council on the 26th day of September 1960, and signed in authentication of its passage this 26th day of September 1960.

/S/ Harold J. Oliver
Mayor

/S/ Jesse T. Wilkins, Jr.
Councilman

/S/ Mark E. Kirchner
Councilman

SEAL

Attest: /S/ Allan W. Lucas
Acting Clerk

Date of Publication: September 28th, 1960.

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A P P E N D I X

APPENDIX A

RULES AND REGULATIONS FOR CONDUCTING THE BUSINESS OF THE CITY PLANNING COMMISSION OF MERCER ISLAND, WASHINGTON

OFFICERS

The officers of the Commission shall be a Chairman and a Vice-Chairman. The Vice-Chairman shall serve in the absence of the Chairman. In the absence of both the Chairman and the Vice-Chairman, the members present at such meeting may elect a Chairman Pro tempore.

The terms of office for Chairman and Vice-Chairman shall each be the calendar year; for Chairman Pro tempore only for the meeting at which he is elected.

A secretary shall be provided by the Planning Department to prepare minutes and keep such record, arrange proper and legal public notice of hearings, attend to correspondence of the Commission, and perform such other duties as prescribed by the Planning Director.

MEETINGS

The regular meetings of the Commission shall be held on the first and third Wednesday of every month, provided:

A quorum of the Commission at any regular meeting may, by formal action, substitute another day for the regular meeting; if the regular meeting falls on a legal holiday that meeting shall automatically be held on the next day which is not a holiday unless the Commission by formal action sets an alternative day.

If, for any reason, the business to be considered at a regular or alternative meeting day cannot be then completed, the Commission may at such meeting designate the time for an adjourned meeting to consider any matter that can properly be considered at a regular meeting, provided that such action is publicly announced at the meeting; it shall be a standing order that absentee members be advised of such adjourned meeting.

Special meetings may be called:

- (a) By action of the Commission at a regular or adjourned meeting.
- (b) By order of the Chairman, or in his absence, by the Vice-Chairman.
- (c) By the written request of three or more members of the Commission.

Written notice for special meetings shall be provided to members of the Commission. In the event of emergency, a telephone notice shall suffice.

AGENDA AND STAFF REPORTS FOR REGULAR MEETINGS

A copy of the agenda for every regular meeting of the Planning Commission shall be available to each member not less than six (6) days prior to the date of the meeting at which such agenda is to be considered.

None of the following subject matters shall be placed on the agenda for any given public meeting, nor shall any such meeting consider any of the following subject matters, which were not formally filed with the Planning Department or which were not initiated by motion of the Planning Commission more than twenty-three days prior to the date of such meeting:

1. Tentative maps of subdivisions or land plats.
2. Applications for zone reclassifications.
3. Applications for amendments to zoning ordinance text or other official control ordinance.
4. Applications for, or proceedings initiated by the Planning Commission or Planning Department for the consideration of a Comprehensive Plan, amendments to or additions to a Comprehensive Plan.
5. Any matter not enumerated in the foregoing which, by law, is required to be considered at a public hearing by the Planning Commission.

Where any matter is filed with the Planning Department for consideration and action by the Planning Commission, at the next regular public meeting, a request for postponement or withdrawal will be automatically granted provided a written request is received by the Planning Department not later than seven (7) days after the closing date for the meeting for which it has been scheduled. Any request for postponement or withdrawal received after that time shall be considered at the public hearing by the Planning Commission. All meetings or portions of meetings at which formal official action is taken shall be open to the general public.

Where any matter is filed with the Planning Department for consideration and action by the Planning Commission, which is of concern to other departments of the City, the Planning Department shall notify each such interested department of the impending matter. The notification to other departments shall include any pertinent information, maps, or other material and data as will clearly indicate the type of action under consideration. Information resulting from the departmental reports and recommendations, shall be considered by the Planning Commission at the time the matter is before it.

MINUTES AND RECORDS

Minutes of all official meetings shall be kept and made part of a permanent public record along with applications made under provisions of law and the complete files of proceedings and actions taken in connections therewith.

Prior to each meeting of the Planning Commission, each Commissioner shall receive a complete copy of the unapproved minutes of the previous meetings.

All actions of the Planning Commission, whether by motion or by resolution, shall be considered conclusive as to general import as of the date of such action. Details of phraseology, conditions, etc., shall be subject to correction at the time of considering and approving the minutes of the meetings at which such actions were taken, and such corrections and conclusive approval shall apply also to the context of resolutions incorporated by reference in such minutes.

NOTICE OF PUBLIC HEARING

When any matter is by these rules, by ordinance or by law, required to be considered by the Planning Commission at a public hearing, notice thereof shall be given as required by ordinance or by law, and also by publication in the official newspaper in the issue immediately preceding the public meeting at which such public hearing is to be given. Such additional notice as deemed requisite to advise land owners and others may also be given by mail.

QUORUM

A majority of the Planning Commission shall constitute a quorum. For the conduct of business, a majority vote of the members present at a meeting, provided a quorum is present, shall be sufficient to act, except that actions on matters pertaining to a Comprehensive Plan, Official Controls, or other matters required by State Law or City Resolution to have a designated percentage vote of the full membership of the Planning Commission shall be determined only by a vote meeting such requirements. The Chairman of the meeting shall be a full voting member, but may not initiate or second a motion.

CONDUCTING MEETINGS

Roberts' Rules of Order shall govern in the conducting of meetings of the Planning Commission.

Rules for Transaction of Business as approved by the Planning Commission September, 1960.

As amended: 9/15/60
 5/17/61
 8/2/61
 4/15/70
 3/21/73

APPENDIX B

APPLICATION FOR VARIANCE

(Form Prescribed by Mercer Island Planning Commission)

(Note to Applicant: Before preparing the application, read information and instructions on Page 4.)

Application No.: _____ DATE STAMP _____
Name of Applicant: _____
Location of Property _____
Date of Filing: _____ Sec - Twp - R: _____
Receipt No.: _____ Area Map: _____
Date of Hearing: _____ Kroll Page: _____
Action: _____

TO THE PLANNING COMMISSION:

The undersigned applicant __ (is/are) the owner __ of the property described as follows:

(Give legal description, including lot, block, tract, etc.)

The property for which this application is made is located at: (Give street address, if any, or location by reference to streets, alleys, property lines, etc.)

Above described property was acquired by applicant __ on the _____ day of _____, 19___. The present zoning of subject property is _____.

REQUEST: Applicant request a variance on the above described property for the following reasons. State exactly what is intended to be done on, or with, the property which does not conform to existing zoning regulations. State precisely what adjustment is sought.

NOTE TO APPLICANT: The Planning Commission is required by law to make written findings of fact from the showing applicant make and from possible testimony or evidence in addition to information contained on this form that beyond reasonable doubt the below enumerated conditions apply to the property made the subject of this application. State in detail in what respects the facts pertaining to the property or its intended use meet these required showings. (Use additional sheets if necessary.)

1. That because of the conditions recited below there are special circumstances applicable to the particular lot or tract, such as size, shape, topography, location or surroundings, trees or ground cover or other physical conditions:

2. The granting of the variance will not alter the character of the neighborhood, nor impair the appropriate use of development of adjacent property:

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated for the following reasons:

APPENDIX C

APPLICATION FOR CHANGE OF ZONE

(Form prescribed by Mercer Island Planning Commission)

A. FOR OFFICE USE ONLY:

DATE STAMP

Application No. _____
Date of Filing _____
ZA Number _____
Plan. Com. Action _____
Date _____
City Council's Action _____
Date _____

Parking Req'd.?Yes/No _____
Spaces Needed _____
Spaces Provided _____
Spaces Lacking _____
Spaces Leased _____
Basis for Computation: _____
Seating Capacity: _____
Employees _____
Area _____
Other _____

THE PROPERTY IS SITUATED ON (exact location by street/streets) _____

Street Address _____

Applicant to answer all the following questions neatly and accurately

B. TO: MERCER ISLAND PLANNING COMMISSION

I/We, the owner ___ in fee simple or contract purchaser ___ of the real property set opposite our respective name ___, hereby petition the City to amend the zoning map of the City by reclassifying from _____ Zone to _____ Zone to allow: (list all uses by name)

on property described below: (here include complete and accurate legal description of all property/properties for which reclassification is requested; MUST BE TYPED)

(PLACE LEGAL DESCRIPTION HERE)

C E R T I F I C A T I O N

THIS IS TO CERTIFY that the foregoing application has been inspected by me and found to be thorough and complete in every particular and to conform to the rules and regulations of the Planning Commission governing the filing of such application.

Date _____ By _____
Clerk for the Planning Commission

NOTE TO APPLICANT: All changes of zones are based primarily on the following considerations, and any evidence you desire to submit in substantiation of your request may be submitted with this application. Attach extra sheets if necessary to answer these questions fully.

1. Do you consider that public necessity requires the proposed change and that there is a real need in the community for more zoning of the type which you request? EXPLAIN WHY

2. Do you consider that the property involved in this application is more suitable for the uses permitted in the proposed zone than for the uses permitted in the present classification? EXPLAIN WHY

3. Do you maintain that the uses permitted by the proposed zone would not be detrimental to surrounding property? EXPLAIN WHY

4. WE, the undersigned property owners, join with the applicant signing this application in the request that our respective properties be reclassified as herein set forth. (The spaces below are for signatures of owners of property actually included in the requested reclassification; however, the legal description of properties to be included should be added to the legal description appearing at the bottom of Page 1; attached additional sheets, if necessary.)

(Name of Family Only)

(Address)

APPENDIX D

City of Mercer Island

Application for Conditional Use Permit

(For Office Use Only)

(Note to Applicant: Before preparing the application, read information and instructions on Page 4.)

Application No.: _____ DATE STAMP: _____

Name of Applicant: _____

Location of Property: _____

Date of Filing: _____

Receipt No.: _____

Date of Planning Commission Hearing: _____ Section - Twp - R: _____

Date of Council Hearing: _____ Area Map: _____

Action: _____

TO PLANNING COMMISSION: (By Applicant)

The undersigned applicant (is/are) the owner of the property described as follows:

(Give legal description, including lot, block, tract, etc.)

The property for which this application is made is located at: (Give street address, if any, or location by reference to street, alleys, property lines, etc.)

Above described property was acquired by applicant on the _____ day of _____, 19____. The present zoning of subject property is: _____.

REQUEST: To use the above described property for the following use which is permitted under Section 4.02 of Ord. 15 (as amended by Ord. 385) when authorized by the issuance of a Conditional Use Permit (state proposed use in some detail).

NOTE TO APPLICANT: The Planning Commission and City Council conduct quasi-judicial hearings and are required by law to base their decisions on findings of fact presented herein and at the hearings. The required showings and criteria for approval are listed below. The application must be answered accurately and neatly; all questions must be addressed. THIS IS AN OFFICIAL DOCUMENT AND, THEREFORE, MUST BE KEPT IN GOOD ORDER. (Use reverse side or additional sheets, if necessary.)

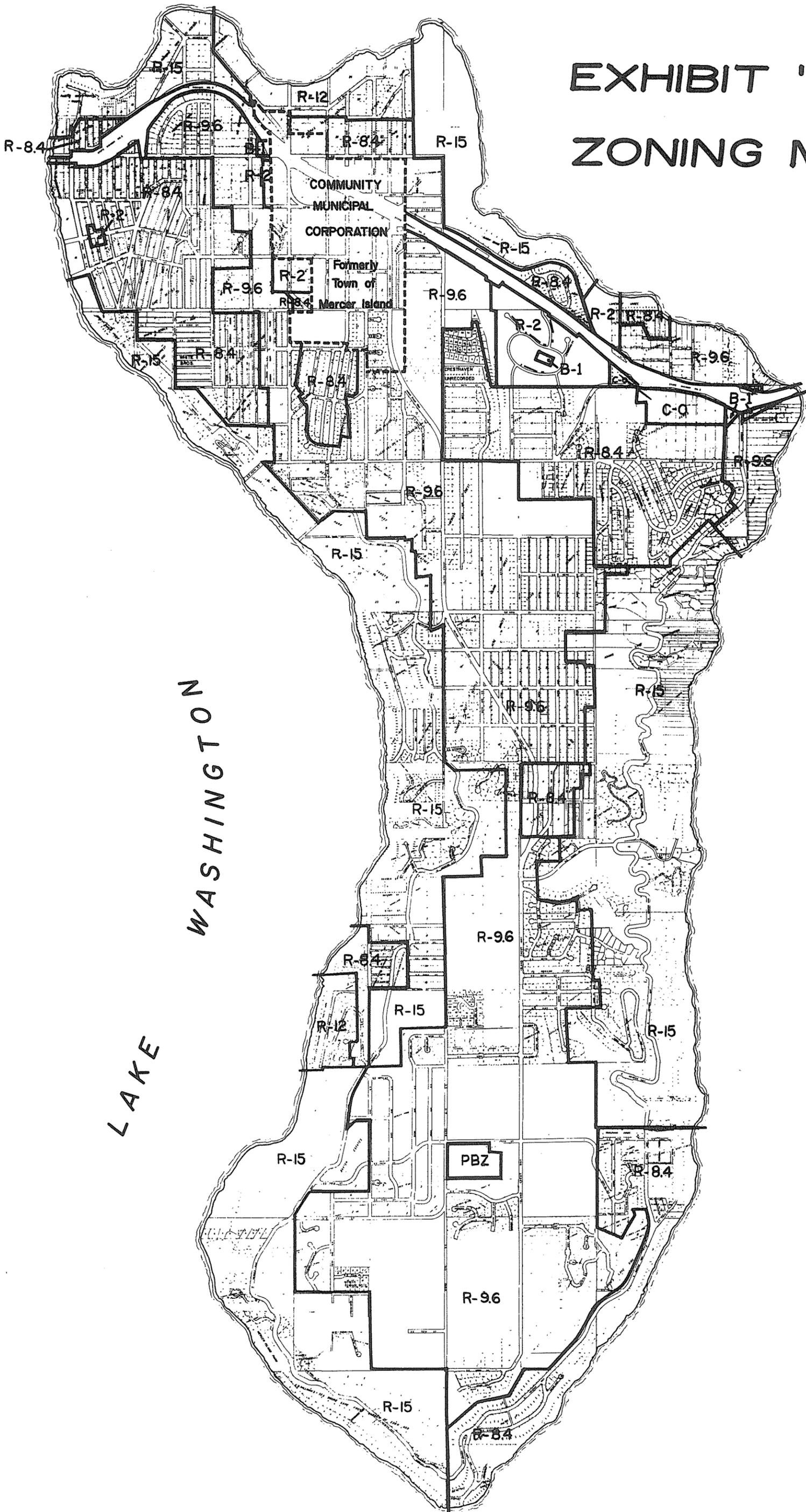
1. That such permit is consistent with the restrictions applicable to the zone in which the lot or tract is located for which the permit is sought:

2. That the proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings and membership, and satisfies the purposes of the Island's Comprehensive Plan:

3. That conditions shall be attached to such permit which will assure that such particular use on such particular site will be compatible with other existing and potential uses within the same general area, and shall not constitute a nuisance in fact, recognizing and compensating for variations and degrees of noise, smoke, dust fumes, vibration, odors, hazard or public need, together with available technological processes and equipment for control of such factors:

4. The applicant understands that such permit shall be subject to revocation or amendment by the City Council, on recommendation of the Planning Commission:

EXHIBIT "A" ZONING MAP



**COMING
ZONING
CODE**

MUN. CORP.

SECRET



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AN ORDINANCE amending Ordinance Number 137 of the Town of Mercer Island, an ordinance establishing land use classification and districts in the Town of Mercer Island; adopting a map dividing the Town into such districts; adopting standards and regulations regulating the use of land therein and the location, use and design of buildings and structures, establishing a Board of Adjustment; establishing procedures for reclassifications and amendments; and providing penalties for the violation of the provisions of this Ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MERCER ISLAND AS FOLLOWS:

SECTION 1. TITLE OF ORDINANCE:

This Ordinance shall be known as the Comprehensive Zoning Ordinance of the Town of Mercer Island.

SECTION 2. GENERAL PURPOSE AND SCOPE:

The general purpose of this Ordinance is to protect and promote health, safety, morals and general welfare through a well-considered Comprehensive Plan for the use of the land. It classifies land within the Town into various zones, each with appropriate zone designations, and within each zone this Ordinance limits the use of land and limits the nature of the buildings and structures on such land and requires space for off-street parking. The economic stability of land use areas and conservation of building values are promoted and protected thereby.

The provisions of this Ordinance are designed to provide adequate light, air and access; to conserve and restore natural beauty and other natural resources; to provide a coordinated development of undeveloped areas; to secure safety from fire and other dangers; to avoid excessive concentration of population in order to lessen traffic congestion and to prevent overcrowding of land; and to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements. Further, this plan is designed to encourage the most appropriate use of land throughout the Town of Mercer Island.

In interpretation and application, the provisions of this Ordinance are minimum requirements, except that, if any provisions contained in this Ordinance result in any ambiguities as to procedures or otherwise, such ambiguities shall be resolved in favor of such interpretation as will conform to the provisions of Chapter 35.63 of the Revised Code of Washington.

SECTION 3 - DEFINITIONS

3.01 INTRODUCTORY: For the purpose of this Ordinance, certain terms and words are hereby defined. When not inconsistent with the context, words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular, and the word "shall" is mandatory and not merely permissive. Upon the annexation of the Town of Mercer Island by the City of Mercer Island effective 1, 1970, the administration and enforcement of this Ordinance was assumed by the City subject to the powers of the Community Council of the Mercer Island Community Municipal Corporation under the provisions of RCW Chapter 35.14. Therefore, as used in this Ordinance and when not inconsistent with the context, the terms "Council" and City of Mercer Island and the terms "Planning Commission: (except where that term has been changed to read "Design Commission") and "Board of Adjustment" shall mean the Planning Commission of the City of Mercer Island.

3.02 ACCESSORY BUILDINGS: A subordinate building or portion of the main building, the use of which is incidental to that of the main building on the same site. Where an accessory building is attached to and made a part of the main building for at least fifty (50) percent of the length of one of the abutting walls of such accessory building, or where the total length of the abutting walls of the accessory building is equal to fifty (50) percent of the longest wall of the accessory building, then the accessory building shall be considered an integral part of the main building and such accessory building shall comply in all respects with the requirements of this Ordinance applicable to the main building. An accessory building, unless attached to and made a part of the main building as provided, shall be not closer than five (5) feet to the main building.

ACCESSORY USE: A use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same building site.

ALLEY: A thoroughfare which has been dedicated or deeded to the public for public use and affords a secondary means of access to abutting property.

APARTMENT: A room or suite of rooms which is occupied or intended or designed to be occupied by one family for living and sleeping purposes.

APARTMENT HOUSE: Any building or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other and doing their cooking in the same building, and shall include flats, duplexes, and apartments.

3.03 BASEMENT: That portion of a story underground and having at least one-half of its height or more than five feet below the joining finished grade.

BUILDING: A structure having a roof, but excluding all forms of vehicles even though immobilized. Where this Ordinance requires, or where special authority granted pursuant to this Ordinance requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade around the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

BUILDING LINE: A line specifying a minimum horizontal distance from the property line and parallel thereto, beyond which no part of the structure shall extend.

BUILDING SITE: Building site means a parcel of land assigned to a use, to a main building, or to a main building and its accessory buildings, together with all yards, parking areas and open spaces required by this Ordinance, whether the area so devoted is comprised of one lot, a combination of lots, or a combination of lots and fractions of lots, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance. Such building site shall have frontage on an improved public street or an approved private street.

3.04 CARPORT: A structure to house or protect motor vehicles owned or operated by occupants of the main building.

CELLAR: A cellar is a basement for the purpose of this Ordinance.

CLUB: An association of persons for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

3.05 DWELLING, SINGLE-FAMILY: A building containing but one kitchen, designed and/or used to house not more than one family, including all necessary household employees of such family.

DWELLING, MULTIPLE FAMILY: A building designed and/or used to house two or more families living independently of each other and including all necessary household employees of each such family.

3.06 FAMILY: A group of related persons living in one house and under one head.

FENCE: A barrier composed of posts or piers connected by boards, rails, panels, wire or a masonry wall designed for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls.

FLOOR AREA, GROSS: The number of square feet of total floor bounded by the exterior faces of the building.

3.07 GARAGE, PRIVATE: An accessory building or an accessory portion of the main building designed and/or used only for shelter or storage of vehicles, boats, except airplanes, owned or operated by the occupants of the main building.

GARAGE, PUBLIC: A building or portion thereof, except a private garage, used or designed to be used for the storage of vehicles, boats, except airplanes, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GRADE: The average finished ground elevation for the entire perimeter of the building. In case walls are parallel to and within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk.

3.08 HELIPORT: An area used by helicopters or by other steep gradient aircraft which area includes passenger and cargo facilities, maintenance and overhaul, fueling service, storage space, tie down space, hangers and other accessory buildings and open spaces.

HELISTOPS: An area on a roof or on the ground used by helicopters or steep gradient aircraft for the purpose of picking up or discharging passengers or cargo, but not including fueling, service, maintenance or overhaul.

HOME OCCUPATION: A use conducted within a dwelling or accessory building provided that such use does not require internal or external structural alterations or involve construction features not customary in a dwelling.

HOSPITAL: An institution receiving in-patients and rendering medical, surgical and/or obstetrical care.

HOTEL: Any building or portion thereof containing six or more guest rooms used or intended or designed to be used, let or hired out to be occupied, or which are occupied by six or more paying guests and shall include hotels, lodging and rooming houses, dormitories, turkish baths, bachelor hotels, studio hotels, and private clubs, and any such building of any nature whatsoever so occupied, designated or intended to be occupied, except jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes or similar buildings where human beings are housed and detained under legal restraint.

3.09 KITCHEN: Any room used for, intended or designed to be used for cooking and/or preparation of food.

3.10 LOT: A lot in the meaning of this Ordinance is a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot and block designation as in a recorded plat.

LOT, INTERIOR: A lot fronting on one street.

LOT, THROUGH: A lot fronting on two streets that do not intersect on the lot lines.

LOT, WIDTH: The dimension of the lot lines on the street or in an irregular-shaped lot the dimension across the lot at the building line or in a corner lot the dimension from the right-of-way to the interior lot line measured at the front building line.

3.11 MEAN DEPTH: The mean depth of a lot is the depth of such lot measured on a line approximately perpendicular to the fronting street and midway between the sidelines of such lot.

MOTEL: A building or group of buildings on a lot, consisting of individual sleeping quarters, attached or connected, not more than fifty percent of which have kitchen facilities, normally used for rental to transients.

3.12 NON-CONFORMING USE: A lawful use of land or structure in existence on the effective date of this Ordinance or at the time of any amendment thereto, and which does not conform to the use regulations of the zone in which such use is located.

3.13 OCCUPANCY: The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

3.14 PARKING SPACE: An off-street space used to park a motor vehicle and having access to a public street or alley.

PLACE OF HABITATION: A building or structure, or part thereof required to have a permanent location and to be occupied by one or more families who live therein.

PRINCIPAL USE: The principal use conducted on the building site or the buildings housing the principal use, as distinguished from any separate buildings housing accessory uses.

3.15 RECREATIONAL AREAS:

COMMERCIAL: An area including facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds and other similar uses operated for a profit, either private or open to the public upon payment of a fee.

NON-COMMERCIAL: An area including facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, and other similar uses maintained and operated by a non-profit club or organization with specified limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specific areas of residence for the exclusive use of members and their guests.

PRIVATE: An area including facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, and other similar uses maintained by an individual for the sole use of his household and guests located on or adjacent to his residence not for the purpose of profit or in connection with any business operated for profit.

REST HOMES: A structure and/or premises for nursing, dietary care, and other personal services rendered to convalescents, invalids and aged persons, but excluding contagious, communicable or mental disease cases and surgery or primary treatments such as are customarily provided in sanitariums and hospitals.

RETAINING WALL: Any wall used to resist the lateral displacement of any material.

RETIREMENT HOME: An establishment operated for the purpose of providing domiciliary care for a group of persons who by reason of age are unable to or do not desire to provide such care for themselves and who are not in need of medical or nursing aid, except in cases of temporary illness.

3.16 **SCREENING:** A continuous fence supplemented with landscape planting or a continuous wall, evergreen hedge or combination thereof, that would effectively screen the property which it encloses. A fence or wall shall be at least 4 feet high unless a greater height is stipulated in the district and is broken only for access drives and walks.

SIGN, ADVERTISING: A structure for the display of advertising, but not including real estate signs advertising the sale or rent of property upon which said sign stands.

SIGN, DIRECTIONAL: A structure which contains only the name and location of a use located elsewhere and intended for guidance only.

STORY: Any portion of a building included between the floor and the finished ceiling next above it or between the finished undersurface of the roof directly over a particular floor.

STREET: A thoroughfare not less than twenty (20) feet in width which has been dedicated or deeded to the public for public use and affords a primary means of access to abutting property.

STREET LINE OR HIGHWAY MARGIN: The dividing line between a lot and a public street, road or highway.

STRUCTURE: A combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground but not including fences, as hereinbefore defined, less than six (6) feet in height or retaining walls, rockeries and similar improvements of less than three (3) feet in height and of minor character.

STRUCTURAL ALTERATIONS: Any change, addition or modification in walls, columns, beams, or girders, floor joists or roof joists.

3.17 **TRAILER:** A vehicle without motor power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a mobile home or trailer coach and any self-propelled vehicle having a body designed for or converted to the same uses as an automobile trailer without motor power.

TRAILER PARK: A tract of land where space is made available for trailer coach occupancy.

3.18 **USE:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

VARIANCE: A variance is the means by which an adjustment is made in the application of the specific provisions of this Comprehensive Zoning Ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies such disparity in privileges. A variance shall be authorized only by the Board of Adjustment and only upon express findings that the literal application of the provisions of this Ordinance would cause undue and unnecessary hardship in view of the specific facts and conditions applying to the property in question.

3.19 YARD: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this Comprehensive Zoning Ordinance, on the site on which a building is situated.

YARD, FRONT: Setback or required open space extended across the full width of the front of the building site between street line and main structure, and measured between the street line of the site and either:

- (a) The nearest line of the main building;
- (b) The nearest line of any enclosed or covered porch or accessory building, whichever is the lesser distance;
- (c) On corner sites the front yard shall be measured from the street line abutting the narrowest dimension of the site.

YARD, REAR: A yard extending across the full width of the site and measured between the rear line of the site (not a street line) and the rear line of the main building nearest said rear line of the site, including an enclosed or covered porch.

YARD, SIDE: A yard on each side of the building between the building and the side of the site and extending from the front yard to the rear yard.

SECTION 4. ESTABLISHING ZONE CLASSIFICATIONS AND REGULATING THE USES OF LAND THEREIN

4.01 **ZONE CLASSIFICATIONS:** In order to carry out the purpose of this Ordinance in the interest of public health, safety, morals and the general welfare, the Town of Mercer Island is hereby divided into five (5) zone classifications designated as follows:

<u>ZONES</u>	<u>ABBREVIATED DESIGNATOR</u>
Residential Single Family Zone	R-1
Limited Multiple Family Residential Zone	R-2 L
Residential Multiple Family Zone	R-2
Business Zone	B
Public Institution Zone	P

4.02 **ZONING MAP:** The above zone classifications and the boundaries of such zones are hereby established as shown on a map of the Town of Mercer Island, Washington, marked Exhibit "A", said map constituting the Official Zoning Map is by this reference made a part of this Ordinance. Such map and all amendments thereto shall be filed in the office of the Town Clerk-Treasurer. Each copy of this Ordinance prepared by or under the direction of the Town, shall include a reduced facsimile of the Official Zoning Map.

4.03 **ZONE BOUNDARIES:** When uncertainty exists as to the boundaries of any zones, the following rules shall apply:

- (a) Where such boundaries are indicated as approximately following street and alley lines or lot lines, such lines shall be construed to be such boundaries.
- (b) In subdivided property and where a zone boundary divides a lot, the location of such boundaries, unless the same are indicated by dimensions, shall be determined by the use of the scale appearing on the Official Zoning Map of the Town of Mercer Island.
- (c) In case any uncertainty exists, the Planning Commission shall recommend and the Town Council shall determine the location of boundaries.
- (d) Where a public street or alley is officially vacated or abandoned, the regulations applicable to abutting property shall apply to such vacated or abandoned street or alley.

4.04 **CHANGES IN BOUNDARIES OF ZONE:** Changes in the boundaries of a zone shall be made by ordinance adopting an amended zoning map, and such changes shall be immediately incorporated in all official maps and copies thereof as designated in Sub-section 4.02 above.

SECTION 5. NON-CONFORMING USES:

- 5.01 ZONING AFFECTS EVERY STRUCTURE: No building, structure or premises shall hereafter be used or occupied and no building or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein specified for the zone in which said building, structure or premises is, or will be located; EXCEPTING those buildings or structures which are provided for in Sub-sections 5.03 through 5.06 of this Ordinance.
- 5.02 NO REQUIRED BUILDING SITE AREA, REQUIRED YARD, OR OTHER OPEN SPACE SHALL BE REDUCED: No required building site area, required yard, or other open space or legally established off-street parking or loading area existing on or after the effective date of this Ordinance shall be reduced in area of dimension below a minimum required by this Ordinance; nor shall any existing required building site area, required yard, or other open space or legally established off-street parking or loading area for another structure or building except as provided in Sub-section 11.09, PROVIDED, however, that with respect to off-street parking and loading areas, a reduction in the existing space may be permitted when other such space is provided in accordance with provisions of Sub-section 11.05 of this Ordinance.
- 5.03 NON-CONFORMING USES AND BUILDINGS - CONTINUING: Any non-conforming building or use existing on the date this Ordinance becomes effective may be continued, subject, however, to the provisions of Sub-sections 5.04 through 5.06 below.
- 5.04 NON-CONFORMING USES AND BUILDINGS - NON-CONFORMING AS TO BULK: Any building conforming as to use but which is a building non-conforming as to bulk as of the effective date of this Ordinance, may be altered, repaired or extended, provided that such alteration, repair, or extension does not cause such building to further exceed the bulk provisions of this Ordinance.
- 5.05 NON-CONFORMING USES AND BUILDINGS - TERMINATION: Any non-conforming use not involving a structure or one involving a structure having an assessed value of less than One Hundred Dollars (\$100.00) on the effective date of this Ordinance may be continued for no longer than one year after said date. Further, any non-conforming use involving a structure having an assessed value of more than One Hundred Dollars (\$100.00) but less than Three Hundred Dollars (\$300.00) on the effective date of this Ordinance may be continued no longer than three (3) years after said date.

5.06

NON-CONFORMING USES AND BUILDINGS - LIMITATIONS:

- (a) Subject to Sub-section 5.05, any non-conforming building or part thereof may be maintained with ordinary repair, PROVIDED, however, that no such building, or part thereof, be extended, expanded, modernized, or structurally altered, except as otherwise required by law or ordinance.
- (b) Any change of a non-conforming use in a conforming building shall be to a conforming use only.
- (c) Any non-conforming use which has been abandoned shall not be reoccupied except by a conforming use. A building, structure or part thereof which has been unoccupied continuously for 6 months, or more shall be deemed to have been abandoned for purposes of this Sub-section. Further, any non-conforming use which is changed, or attempted to be changed, into some other kind of non-conforming use shall also be deemed to have been abandoned. Further, if the owner of such non-conforming building or structure voluntarily destroys or demolishes such building or structure, then the non-conforming use shall be deemed to have been abandoned.
- (d) Nothing in this Ordinance, however, shall prevent the restoration of a non-conforming building or structure destroyed by fire or other Act of God, PROVIDED, however, that not more than 75% of the assessed value of such non-conforming building or structure is demolished.
- (e) A right to non-conforming use shall be forfeited under any of the following circumstances: (i) if an owner of a non-conforming structure, building or premises shall willfully make any material false representations on any application or permit form required under this Ordinance, (ii) if there be any use of such premises that is unlawful; or that is violative of zoning restrictions and not within an authorized non-conforming use of such premises; (iii) if there be any use of such premises which incurs any unreasonable fire hazard, traffic hazard, or other danger to the public health, welfare, safety and morals; (iv) if there be any use of such premises which creates odors, noxious fumes, smoke, noise or other such disturbance as to constitute a nuisance to residents so as to be properly enjoined in an action by the Town.

SECTION 6. R-1 RESIDENTIAL SINGLE FAMILY ZONE:

6.01 PRINCIPAL USES PERMITTED OUTRIGHT:

- (1) Single Family Dwellings.

6.02 ACCESSORY USES PERMITTED OUTRIGHT:

- (1) Off-street parking space and private garages as provided in Section 11 below, provided that R-1 zoned property can only be used as accessory parking for structures located on R-1 zoned property.

- (2) Recreational Areas - Private.

- (3) Accessory Building and Uses which are incidental to that of the main buildings.

- (4) Private structures for plants and flowers.

- (5) The renting of rooms by a resident family, for lodging purposes only, for the accommodation of not more than two (2) lodgers in a single family structure.

- (6) Illuminated signs not exceeding 100 square inches, bearing the name and/or address of the occupant, and non-illuminated signs not exceeding 200 square inches, bearing the name and/or address of the occupant.

- (7) Customary incidental home occupations, including the offices of a resident physician, dentist, architect, engineer or lawyer, when conducted within a dwelling and not an accessory building, provided that no stock in trade is kept or handled and provided that such home occupation does not require internal or external structural alterations or involve construction features or use of mechanical equipment, except as may be used by a resident physician or dentist, and provided further that the entrance to the space devoted to such occupation shall be only within the dwelling. No one who is not a resident in said dwelling shall be employed in any such home occupation.

6.03 BUILDING SITE AREA REQUIREMENTS: The minimum building site areas shall be not less than eighty-four hundred (8,400) square feet; building site width shall be not less than sixty (60) feet fronting on a public street or highway; and building site depth shall be not less than eighty (80) feet.

6.04 YARD REQUIREMENTS: Each building site shall have front, side and rear yards not less than the depth or widths following:

Front yard depth: twenty (20) feet or more.

Side yard abutting a street: ten (10) feet or more.

Side yard abutting interior lot lines: five (5) feet or more.

Rear yard depth: twenty-five (25) feet or more.

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

6.05 PROHIBITED USES

(1) Any use not permitted by this section is expressly prohibited.

(b) ...

(c) ...

(d) ...

(e) ...

R-1 ...

7.03 BUILDING HEIGHT LIMITS ...

7.04 BUILDING SETBACKS ...

SECTION 7. LIMITED MULTIPLE FAMILY RESIDENTIAL ZONE. R-2 L.

7.01 PRINCIPAL USES PERMITTED OUTRIGHT:

- (1) Any use permitted in R-1 zone shall be permitted in this zone.
- (2) Multiple family residential units, PROVIDED that there shall not be more than eight (8) single family apartment units in any one building and PROVIDED FURTHER that said multiple family residential buildings must comply with the following conditions:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of two (2) parking spaces for each family unit contained therein.
 - (b) Parking shall not be allowed in the front yard setback.
 - (c) Each apartment unit must have one (1) or more bedrooms.
 - (d) Group parking areas shall be screened from view from streets and adjoining properties. If screening is solid planting, it shall be of ever-green variety and shall constitute a solid planting within two (2) years.
 - (e) The finished grade must conceal at least one-half of the total foundation area of a daylight basement.

7.02 ACCESSORY USE PERMITTED OUTRIGHT:

- (1) R-1 Accessory uses permitted outright as specified and regulated in Sub-section 6.02 - (1), (2), (3), (4), and (5).

7.03 BUILDING HEIGHT LIMIT: No building constructed pursuant to this section shall be erected to a height in excess of twenty-four (24) feet, nor shall any building comprise more than two (2) stories in addition to a daylight basement.

7.04 BUILDING SITE AREA REQUIREMENTS: The minimum building site area shall be six thousand (6,000) square feet; site width shall be not less than sixty (60) feet fronting on a public street or highway; and site depth shall be not less than eighty (80) feet; EXCEPT that each multiple family residential dwelling shall have an additional one thousand (1,000) square feet of site area for each family or housekeeping unit in excess of one (1).

7.05 YARD REQUIREMENTS: Each site shall have front, side and rear yards, not less than the depth of widths following:

Front yard depth: Twenty (20) feet or more.

Side yard abutting a street: Twenty (20) feet or more.

Side yard abutting interior lot lines: Ten (10) feet or more and a minimum distance between multi-family buildings of twenty (20) feet.

Rear yard depth: Twenty-five (25) feet or more.

7.06 PROHIBITED USES:

- (1) Any use not permitted by this section is expressly prohibited.

REAR YARD: REAR YARD DEPTH: TWENTY (20) FEET OR MORE.
SIDE YARD: SIDE YARD DEPTH: TWENTY (20) FEET OR MORE.
FRONT YARD: FRONT YARD DEPTH: TWENTY (20) FEET OR MORE.

7.05

REAR YARD DEPTH: TWENTY (20) FEET OR MORE.
SIDE YARD DEPTH: TWENTY (20) FEET OR MORE.
FRONT YARD DEPTH: TWENTY (20) FEET OR MORE.
REAR YARD DEPTH: TWENTY (20) FEET OR MORE.
SIDE YARD DEPTH: TWENTY (20) FEET OR MORE.
FRONT YARD DEPTH: TWENTY (20) FEET OR MORE.

BE REAR YARD:

7.06

(1) Any use not permitted by this section is expressly prohibited.

SECTION 8. R-2 MULTIPLE FAMILY RESIDENTIAL ZONE.

8.01 PRINCIPAL USES PERMITTED OUTRIGHT: Any use not permitted by this section is expressly prohibited.

- (1) Any use permitted in R-1 and R-2 zones.
- (2) Clubs and fraternal societies whose chief activity is not a service customarily carried on as a business, PROVIDED that the following conditions shall be fulfilled:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.
 - (b) Not more than thirty-five (35) percent coverage of the site area with structures.
- (3) Apartments, PROVIDED that the following conditions shall be fulfilled:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of two (2) parking spaces for each family unit contained therein.
- (4) Hotels and motels with stores therein, PROVIDED that the following conditions shall be fulfilled:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each rented room or suite, plus the required parking spaces for the businesses contained therein and plus one (1) additional space for each of the full time employees that shall be working on any single shift.
 - (b) Business uses must be conducted and entered to entirely from within the building.
 - (c) Not more than thirty-five (35) percent of the site area shall be covered with structures.
- (5) Retirement homes and nursing homes, PROVIDED that the following conditions shall be fulfilled:
 - (a) Must meet all conditions prescribed by applicable Federal, State, County and Local Law.
 - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each apartment unit. Nursing and convalescent homes shall provide one (1) parking space for each four (4) beds.

(c) Not more than thirty-five (35) percent of the site area shall be covered with structures.

(d) Shall meet drainage and health standards prescribed by all applicable Federal, State, County and Local Law.

(6) Day Nurseries, Pre-School and Private School Uses, PROVIDED that the following conditions must be fulfilled:

(a) Must be located twenty (20) feet or more from any other lot in an R-1 or R-2 or R-2L zone.

(b) Off-street parking shall be established and maintained at the minimum ratio of one (1) parking space for each classroom with a minimum of two (2) parking spaces.

(c) Not more than thirty-five (35) percent of the site area shall be covered with structures.

(d) Must meet conditions prescribed by applicable Federal, State, County and Local Law.

(7) General Office and/or Professional Office Buildings, PROVIDED that the following conditions shall be fulfilled:

(a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area with a minimum of four (4) parking spaces.

(b) Business uses must be conducted and entered entirely from within the building.

(c) Not more than forty-five percent (45%) of the site areas shall be covered with structures.

(d) Front yard depth: Twenty (20) feet or more.
Side yard abutting a street: Twenty (20) feet or more.
Side yard abutting interior lot lines: Five (5) feet or more.
Rear yard depth: Twenty-five (25) feet or more.

8.02 ACCESSORY USES PERMITTED OUTRIGHT:

(1) R-1 and R-2L accessory uses permitted outright as specified and regulated in Sub-section 6.02 above, unless modified in Section 8 herein.

(2) Barber shops, beauty shops, coin-operated laundries, dry cleaning pickup stations, magazine stands, business or professional offices, and other accessory services, when conducted and entered entirely from within the building, with no visible evidence from the outside, and no exterior display or advertising except for one sign, not exceeding 4 square feet, installed flat against the principal building.

(3) Accessory uses customarily incidental to a principal use permitted outright in this section.

8.03 BUILDING SITE AREA REQUIREMENT: The minimum area of the building site shall be six thousand (6,000) square feet; building site width shall be not less than sixty (60) feet fronting on a public street or highway; and building site depth shall be not less than eighty (80) feet; EXCEPT that apartments, dwelling groups or multiple family dwellings shall have an additional one thousand (1000) square feet of site area for each family or housekeeping unit in excess of one (1).

8.04 YARD REQUIREMENTS: Each building site shall have front side and rear yards not less than the depth or widths following:

- Front yard depth: Twenty (20) feet or more.
- Side yard abutting a street: Twenty (20) feet or more.
- Side yard abutting interior lot lines: Five (5) feet or more.
- Rear yard depth: Twenty-five (25) feet or more.

SECTION 9. B-BUSINESS ZONE.

9.01 REQUIRED CONDITIONS: All uses permitted in this zone shall be subject to the following conditions:

- (1) All business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building except as allowed by the Design Commission; PROVIDED, however, that this Sub-section shall not apply to the pumping of gas and other services performed on automobiles on the premises of duly licensed service stations, with the exception of automotive repair work and lubrication work. Such allowance shall be by a temporary permit.
- (2) All goods produced on the premises shall be sold at retail on the premises.
- (3) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water carried waste.

9.02 USES PERMITTED OUTRIGHT: Any use not permitted by this section is expressly prohibited.

- (1) Hotels, motels and apartments.
- (2) Animal hospitals and clinics when structurally enclosed.
- (3) Banks.
- (4) Barber shops.
- (5) Business or professional offices or studios.
- (6) Decorating shops.
- (7) Employment agencies.
- (8) Coin operated laundries, clothes cleaning and pressing shops.
- (9) Locksmith, shoe and other repair shops.
- (10) Printing establishments and newspaper printing presses.
- (11) Public garages and auto repair shops.
- (12) Real estate sales offices.
- (13) Restaurants, cafeterias, catering and bakeries.
- (14) Retail stores.
- (15) Retail trade shops or shops for custom work.
- (16) Sales rooms or storerooms for motor vehicles and other articles of merchandise.
- (17) Service stations.
- (18) Tailors.
- (19) Telephone exchanges or telegraph offices.
- (20) Commercial recreational facilities.
- (21) Pre-schools, nursery schools and day care centers, subject to the following conditions:
 - (a) such facilities shall meet all applicable safety and licensing laws and requirements;
 - (b) all outdoor play areas shall be adequately fenced.

9.03 ACCESSORY USES PERMITTED:

(1) Accessory uses customarily incidental to a principal use permitted outright in this section.

(2) Any accessory uses permitted in R-1, R-2 and R-2L zones.

9.04

STRUCTURE SETBACK REQUIREMENTS: All structures shall have a minimum setback from any public right-of-way of ten (10) feet, except service station pump islands which shall have a setback from the street line of at least fifteen (15) feet to provide for safe access or egress to or from such street.

SECTION 10. P - PUBLIC INSTITUTION ZONE.

10.01 **REQUIRED CONDITIONS:** All uses permitted in this zone shall be subject to the condition that off-street parking be provided and maintained as prescribed in Section 11 below.

10.02 **PRINCIPAL USES PERMITTED OUTRIGHT:**

- (1) **Public Fire Protection Stations.**
- (2) **Public Police Stations.**
- (3) **Public Schools under the administration of Mercer Island School District No. 400.**
- (4) **Public Parks.**
- (5) **Municipal Buildings and Uses.**

10.03 **ACCESSORY USES PERMITTED:** Accessory uses customarily incidental to a principal use permitted outright in this section.

SECTION 11. OFF-STREET PARKING REQUIREMENTS

- 11.01 BUILDING PERMITS AND PARKING PLANS: No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved. The continued use of a building or structure or property for which off-street parking is required, shall be dependent on the continued existence of such off-street parking. If the required off-street parking ceases to exist in connection with the use for which it was reserved, and no equivalent off-street parking is provided, such occupancy and use of the building or structure or property becomes illegal and the occupancy permit shall become void. The off-street parking requirements of this section shall be permanently maintained.
- 11.02 MINIMUM PARKING LOT REQUIREMENTS: Minimum parking lot requirements shall be as set forth in the diagrams on page 23.
- 11.03 REPEALED BY ORDINANCE 297.
- 11.04 SURETY BOND REQUIRED: Before a building permit is issued for any building or structure for which this Ordinance requires off-street parking facilities and where such off-street parking facilities are not to be contained within the building for which the building permit is requested, the applicant shall provide the Town Clerk with a surety bond or other sufficient security guaranteeing to the Town the installation and improvement of the required parking facilities within not more than three (3) months following the completion of the building or buildings for which such facilities are to be provided.
- 11.05 LOCATION: Off-street parking shall be located on the same site or on an adjoining site or sites to the building to be served, EXCEPTING that off-street parking may be located in an area beginning within five hundred (500) feet of the front entrance of the building to be served, PROVIDED that there are not intersecting streets between the parking area and building to be served.
- 11.06 INGRESS AND EGRESS PROVISIONS: The Town Engineer shall have authority to fix the location, width and manner of approach of a vehicular ingress or egress from a building or parking area to a public street and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and the general welfare.
- 11.07 PARKING AREA REQUIREMENTS: All off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an occupancy permit for the building to be served is issued. All traffic control devices such as parking strips designating

car stalls, directional arrows or signs, bull rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate parking stalls and directional arrows. Gravel parking areas shall use wood or concrete bull rails or wheel stops and posted signs to show car stalls. For the use of foot traffic only, any pedestrian walks shall be curbed, or raised six (6) inches.

11.08 MINIMUM PARKING AREA CAPACITY: The capacity of the parking areas shall be as follows for the following listed uses:

- (1) Food stores and markets:
 - (a) Exclusive of basement storage, shall provide one (1) parking space for each two hundred (200) square feet of gross floor area of the building.
- (2) Restaurants, taverns and any establishment for the sale and consumption on the premises of food, alcoholic beverages or refreshments shall provide one (1) parking space for each one hundred (100) square feet of gross floor area of the building.
- (3) Other retail establishments, such as furniture, appliance, hardware stores, clothing, shoe repair or service shops shall provide one (1) parking space for each four hundred (400) square feet of gross floor area of the building with a minimum of two (2) spaces.
- (4) Real estate offices shall provide one (1) parking space for each one (1) employee plus one (1) parking space for each two hundred (200) square feet of gross floor area with a minimum of four (4) spaces.
- (5) Theaters shall provide one (1) parking space for each four (4) fixed theater seats.
- (6) Banks, business and professional offices including animal hospitals or clinics shall provide one (1) parking space for each two hundred (200) square feet of gross floor area of the building.
- (7) Bowling alleys shall provide five (5) parking spaces for each alley.
- (8) Stadiums, sports arenas, auditoriums and other places of assembly with fixed seats shall provide one (1) parking space for each four (4) seats.
- (9) Dance halls, exhibition halls and places of assembly without fixed seats shall provide one (1) parking space for each seventy-five (75) feet of gross floor area of the building.

(10) Commercial recreation places such as skating rinks shall provide one (1) parking space for each one hundred (100) square feet of gross floor area of the building, or as deemed necessary by the Planning Commission.

(11) Warehouses and storage buildings for retail purposes, motor vehicles or machinery sales shall provide one (1) parking space for each two (2) employees with a minimum of six (6) parking spaces.

(12) Hotels and motels shall provide one (1) parking space per each sleeping unit, plus one (1) space for each full time employee on duty on any given shift, and apartments shall provide two (2) parking spaces per each dwelling unit.

(13) Pre-schools, nursery schools and day care centers shall provide two (2) parking spaces, plus one (1) parking space for each employee and shall provide adequate off-street loading and unloading facilities, taking into consideration the expected number of children, location, and traffic on adjacent streets.

11.09 MIXED USES: In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.

11.10 COOPERATIVE PROVISION: Nothing of this section shall be construed to prevent cooperative provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied cooperatively shall not be less than the sum of the requirements for the various uses computed separately. None of the above provisions shall prevent the overlapping cooperative use of parking facilities when the times during which such facilities are used are not conflicting.

11.11 LOADING SPACE REQUIREMENTS: An off-street loading space, having access to a public thoroughfare, shall be required adjacent to each business building, hereafter erected or enlarged, if the use of such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

11.12 REPEALED BY ORDINANCE 297.

SECTION 12. GENERAL PROVISIONS.

12.01 UNOCCUPIED TRAILER PARKING

(1) The occupant of a dwelling in R-1 zone may store a trailer on the premises provided it shall occupy no required front or side yard spaces and provided further it be not used for habitation purposes. No more than one trailer may be stored on the premises at any time.

12.02 FENCES:

(a) Fences or Masonry Walls are allowed in any R-1, R-2, or R-2L zone, PROVIDED the following conditions are met:

(i) A fence not exceeding forty-two (42) inches in height may be located on any part of an R-1 zone lot;

(ii) On interior lots a fence not exceeding seventy-two (72) inches in height may be located anywhere on the lot to the rear of the rear line of the required front yard;

(iii) Fencing in R-2 and R-2L zones shall not be permitted within ten (10) feet of front property lines.

(iv) On corner lots a fence not exceeding seventy-two (72) inches in height may be located anywhere on the lot to the rear of the rear line of the required front yard except that a fence shall not exceed forty-two (42) inches in height when located within the required side yard which abuts and runs parallel to a public street, road or highway or within that portion of the required rear yard which abuts the front yard of an interior building site;

(v) Where a retaining wall protects a cut below the natural grade, and is located on the line separating lots or parcels, such retaining wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no retaining wall existing

(vi) Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a fence provided that in any event a protective fence not more than forty-two (42) inches in height may be erected at the top of the retaining wall, and any portion of such fence above the seventy-two (72) inch maximum height shall be openwork fence. An openwork fence means a fence in which the component solid portions are evenly distributed and constitute no more than fifty percent (50%) of the total surface area of the face of the fence.

(vii) Electric fences and barbed wire fences shall not be permitted in any zone.

(b) Fences are allowed in B zones, PROVIDED the following condition is met: A fence not exceeding forty-two (42) inches in height may be located in any required yard.

(c) Height and Measurement of fences in any zone. The height of any fence when located within the building area, not required yard area, may equal the height permitted for structures within that zone.

A fence, regardless of zoning, location on property or stage of construction, requires a building permit when the height is in excess of seventy-two (72) inches.

Retaining walls over forty-eight (48) inches (in) height shall require a building permit.

The provision of this regulation pertaining to height and location on property shall not apply to fences required by State Law to enclose public utilities or chain link fences enclosing school grounds or public playgrounds. No fence shall be located in any public right-of-way. The height of a fence shall be the vertical distance from the top board, rail or wire to the ground directly below the fence; however, when fences are mounted on top of retaining walls, the top of the retaining wall shall be considered the bottom of the fence.

The height of masonry walls used as fences shall be the vertical distance from the top surface of the wall to the lowest natural grade on either side of the wall.

12.03 REPEALED BY ORDINANCE NO: 297 - See Gold Section.

12.04 REPEALED BY ORDINANCE NO: 297 - See Gold Section.

12.05 BUILDING SITE AREA REQUIREMENTS:

(1) Any lot may be used for a building site, subject to the restrictions governing the zones in which it is located, if it lies within the following category as of the date this Ordinance becomes effective. Any lot shown upon an official subdivision map duly approved and recorded or shown on an unrecorded plat or for which a deed is of record in the office of the County Auditor of King County or for which a contract or sale is in full force and effect as of the date this Ordinance becomes effective may be used as a building site.

(2) No building will be permitted on a lot or tract without frontage on an officially improved public right-of-way without specific approval of the Town Engineer as to the sufficiency of access to such right-of-way.

12.06 YARD REQUIREMENTS:

(1) Whenever at least fifty percent (50%) of all property fronting on one side of a street between two intersecting streets is improved with buildings and the majority of all the buildings in said area have a front yard less or greater than the required minimum, then no new building on an interior site shall be required to have a less or greater front yard than the average depth of the two front yards nearest on each side; the minimum front yard depth in no case shall be less than ten (10) feet. Yard requirements governing corner lots, whether the streets are improved or not, whether the balance of the property fronting on the street is built upon or not, must be followed.

(2) Porches, terraces, chimney and fireplace extensions and outside stairways unroofed, unenclosed, above and below floor or steps shall not project more than three (3) feet into any yard. Eaves shall not protrude more than eighteen (18) inches into any minimum required yard.

12.07 CERTAIN SIGNS PROHIBITED: Portable signs, spinners, flashers, streamers, pennants and other similar attention getting devices, whether used for advertising identification or any other purpose, are expressly prohibited.

SECTION 12 A. DESIGN COMMISSION - Supplement No. 1.

SECTION 12 B. WATERCOURSE SETBACK REQUIREMENTS - Supplement No. 2.

SECTION 13. PREVIOUS USE AND OCCUPANCY PERMITS: Where prior to the date of effectiveness of this Ordinance, special authority was granted for the establishment or conducting of a particular use on a particular site and for a specified period of time by the Town of Mercer Island such previous permits are by this Section declared to be continued without specified time limit, provided that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incident thereto shall be considered under the terms of this Ordinance as a non-conforming use.

SECTION 14. REPEALED BY ORDINANCE NO. 297.

SECTION 15. VARIANCES.

- 15.01 **AUTHORITY FOR GRANTING A VARIANCE:** Board of Adjustment may grant a variance from provisions of this Ordinance when in the opinion of the Board of Adjustment the conditions as set forth in Sub-section 15.02 herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this Ordinance so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.
- 15.02 **REQUIRED SHOWINGS FOR VARIANCES:** Before any variance may be granted, it shall be shown:
- (a) That there are special circumstances applicable to subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone;
 - (b) That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;
 - (c) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the subject property is located;
 - (d) That the granting of such variance will not adversely affect the Comprehensive Plan.
- 15.03 **NOTICE OF HEARING ON APPLICATIONS FOR VARIANCES - SETTING HEARING:** Upon the filing of an application for a variance by a property owner, or by a lessee, the Board of Adjustment shall set a time and place for a public hearing to consider the application as provided in their Rules for Transaction of Business. A written notice thereof shall be mailed to all property owners of record within a three hundred (300) foot radius of the external boundaries of subject property not less than twelve (12) days prior to the hearing. The application shall set forth the grounds and facts deemed necessary to justify the granting of the variance. A list of all property owners of record within a three hundred (300) foot radius of the external boundaries of the subject property shall be supplied by the applicant not less than fifteen (15) days prior to the date set for hearing.
- 15.04 **THE BOARD OF ADJUSTMENT SHALL HEAR AND DECIDE APPEALS:** The Board of Adjustment shall have the authority to hear and decide appeals from any order, requirements, permit, decision or

determination made by an Administrative Official in the administration or enforcement of this Ordinance.

- 15.05 APPEALS - TIME LIMIT: Appeals may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau of the Town affected by any decision of an Administrative Official. Such appeals shall be filed in writing in duplicate with the Board of Adjustment within twenty (20) days of the date of the action being appealed.
- 15.06 APPEAL - NOTICE OF TIME AND PLACE: Upon the filing of an appeal from an administrative determination, the Board of Adjustment shall set the time and place at which the matter will be considered. At least a ten (10) day notice of such time and place, together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least ten (10) days notice of the time and place shall also be given to the adverse parties of record in the case. The officer from whom the appeal is being taken shall forthwith transmit to the Board of Adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent.
- 15.07 SCOPE OF AUTHORITY ON APPEAL: The Board of Adjustment may, in conformity with this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.
- 15.08 BOARD OF ADJUSTMENT SHALL ANNOUNCE FINDINGS AND DECISION BY WRITTEN ORDER: Within twenty (20) days following the termination of a public hearing on a variance, or an appeal from an administrative determination, the Board of Adjustment shall enter its order. In making said order, it shall include in a written, non verbatim record of the case, the finding of fact upon which the decision is based. If such order grants a variance, it shall also recite the conditions and limitations that are imposed.
- 15.09 NOTICE OF DECISION OF THE BOARD OF ADJUSTMENT: Not later than seven (7) days following the rendering of a decision ordering that a variance or appeal from an administrative determination be granted or denied, a copy of the order shall be mailed to the applicant at the address shown on the application filed with the Board of Adjustment, to the Administrative Official involved in appeal cases, and to any other person filing a written request for a copy.

- 15.10 RECORDS: Application filed pursuant to this Ordinance, written order announcing a decision, evidence of notice, and other material submitted as evidence in a case shall become a part of the official records of the Board of Adjustment.
- 15.11 BOARD OF ADJUSTMENT SHALL PRESCRIBE FORM FOR APPLICATIONS AND TYPE OF REQUIRED INFORMATION: The Board of Adjustment may prescribe the form in which applications are made for variances or appeals from administrative determinations. It may prepare and provide printed forms for such purposes and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.
- 15.12 SIGNATURES OF PERSONS SUPPORTING OR OPPOSING APPLICATIONS: If signatures of persons other than the owners of property making the application are offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the Town of Mercer Island as represented by the Board of Adjustment.
- 15.13 HEARINGS MAY BE CONTINUED: If, for any reason, a public hearing cannot be completed on the date set for such hearing, the presiding officer at such public hearing may, before the adjournment or recess thereof, publicly announce the time and place to, and at which, said hearing will be continued and no further notice is required.
- 15.14 FILING FEES: A non-refundable filing fee of \$50.00 shall be paid upon the filing of an application for a variance; PROVIDED, however, that this fee shall not apply to any governmental agency or municipal corporation.

SECTION 16. AMENDMENTS AND CHANGES.

- 16.01 Whenever the owner of any land or building desires a re-classification of his property, he shall present to the Planning Commission a petition duly signed and acknowledged by him requesting an amendment or supplementary change of regulations described for such property. Said petition shall be referred to the Town Council by the Planning Commission after hearing on such amendments, extension or addition to the Zoning Plan and other such matters as may be related to such petition.
- 16.02 The said Planning Commission shall cause to be made an investigation of the matters involved in such petition, and shall duly investigate and consider the facts stated in such petition and any relevant facts involving the property in question and other property in the vicinity thereof. Said Planning Commission shall then determine whether or not such changes of district or exceptions are necessary for the preservation and enjoyment of any substantial property right of the petitioner and are materially detrimental to the public welfare or the property of other persons located in the vicinity thereof, and said Planning Commission shall transmit to the Town Council a report recommending either that such petition be granted or rejected.
- 16.03 If upon receiving such report, the Town Council deems it necessary or expedient, it may set the matter for hearing upon such notice to interested parties as it may deem proper.
- 16.04 There shall be a \$100.00 non-refundable fee for each petition for reclassification (re-zoning) payable upon the filing thereof.

SECTION 17. VALIDITY.

If any section, paragraph, sub-section, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each section, paragraph, sub-section, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases be unconstitutional or invalid.

SECTION 18. REPEALING.

ORDINANCE NO. 124

All ordinances of the Town of Mercer Island inconsistent herewith, to the extent of such inconsistency, and no further, are hereby repealed, with the exception of Ordinance No. 124.

This Ordinance will take effect and be in force immediately upon its passage, approval and publication as required by law.

PASSED at the Regular Meeting of the Town Council of the Town of Mercer Island and approved by the Mayor on the 18th day of November, 1963.

TOWN OF MERCER ISLAND

By Arthur C. Burton, Mayor

Earl D. Ballard

Kenneth J. Berchtold

Frances Cook

Joseph F. Lightfoot

Albert Miller
Councilmen

Approved as to form:

David D. Hoff, Town Attorney

ATTEST:

Norine Martin, Town Clerk-Treasurer Published: December 5, 1963.

ORDINANCE NO. 124

TOWN OF MERCER ISLAND

AN ORDINANCE regulating the location of filling stations, or other establishments where motor fuel or lubricating oil are stored or motor services are rendered

WHEREAS, the Town Council of the Town of Mercer Island is concerned with the traffic conditions in the business district, and

WHEREAS, the Town Council of the Town of Mercer Island has considered the most appropriate use of property and the good and necessity of more gas stations in the community, the speed on the highway, now, therefore,

BE IT ORDAINED BY THE TOWN OF MERCER ISLAND AS FOLLOWS:

Section 1. No filling station or other establishment where motor fuel or lubricating oils are stored or motor services are rendered, may be located within 300 feet of any property upon which a church, school, hospital, institution, theatre, or public assembly seating over 50 persons, is located, nor may a filling station be within 900 feet of another filling station, and said distances shall be measured on a straight line or air line from the outer boundary or property line, in the one instance to the nearest property or boundary line.

PASSED at the regular meeting of the Town Council of the Town of Mercer Island, and approved by the Mayor, on the 5th day of October, 1964.

TOWN OF MERCER ISLAND

BY: Joseph F. Lightfoot, Mayor

ATTEST:

Morine Martin, Clerk-Treasurer

Approved as to Form:

J. Dimmitt Smith, Town Attorney
Date of Publication - October 8, 1964

THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION

RESOLUTION NO. 2

A RESOLUTION ADOPTING RULES AND PROCEDURES FOR THE CONDUCT OF COMMUNITY COUNCIL MEETINGS.

THE COMMUNITY COUNCIL OF THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION DOES RESOLVE AS FOLLOWS:

SECTION I: MEETINGS

A. Regular Meetings

1. Time: The Community Council shall meet regularly at 7:00 P.M. on the first Wednesday of each month; except that when this day falls on a legal or national holiday, the Council shall meet on the next succeeding day not being a holiday.
2. Place: The Mercer Island Justice Court Room, City Hall, 3505 88th Avenue S.E.; Mercer Island, Washington.

B. Special Meetings - May Be Called

1. By action of the Council at a regular or adjourned meeting.
2. By order of the Chairman or, in his absence, by the Vice-Chairman.
3. By the written request of three or more members of the Council.

Records: The Clerk of the Community Council shall prepare accurate minutes of regular or special meetings. A verbatim record shall be kept of public hearings by means of a magnetic tape recording.

SECTION II: AGENDA

All matters pertaining to land uses in the service area, reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Community Council shall be delivered to the Clerk of the Community Council by 12:00 Noon on the Friday preceding the Community Council meeting.

The Clerk of the Community Council shall, in cooperation with the Chairman, arrange a list of such matters according to the order of business and send each member of the Community Council, the Chairman, and other interested persons a copy of the agenda at least forty-eight hours before the next meeting.

SECTION III. ATTENDANCE

If a Community Council member accumulates three unexcused absences from three consecutive regularly scheduled meetings, his seat may be declared vacant by a majority vote.

SECTION IV. OFFICERS

1. The officers to the Council shall be a Chairman and a Vice-Chairman. The Vice-Chairman shall serve in the absence of the Chairman. In the absence of both the Chairman and the Vice-Chairman, the members in such meeting may elect a Chairman Pro Tempore.
2. The terms of office for Chairman and Vice-Chairman shall each be the calendar year; for Chairman Pro Tempore only for the meeting at which he is elected.
3. A secretary shall be provided by the City Planning Department to prepare minutes and keep such records, arrange proper and legal public notice of hearings, attend to correspondence of the Council and perform such other duties as may be deemed necessary.

SECTION V. RULES OF ORDER

The Robert's Rules of Order, Revised, shall govern the deliberations of the Council.

SECTION VI. RESOLUTIONS

Resolutions shall be reduced to writing prior to Council approval.

PASSED by the Community Council in a regular meeting and approved by the Chairman this third day of August, 1970.

Joseph F. Lightfoot, Chairman

ATTEST:

Gerald M. Bacon, Clerk for the Community Council

AMENDED BY RESOLUTION NO. 13

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DESIGN PERMISSION

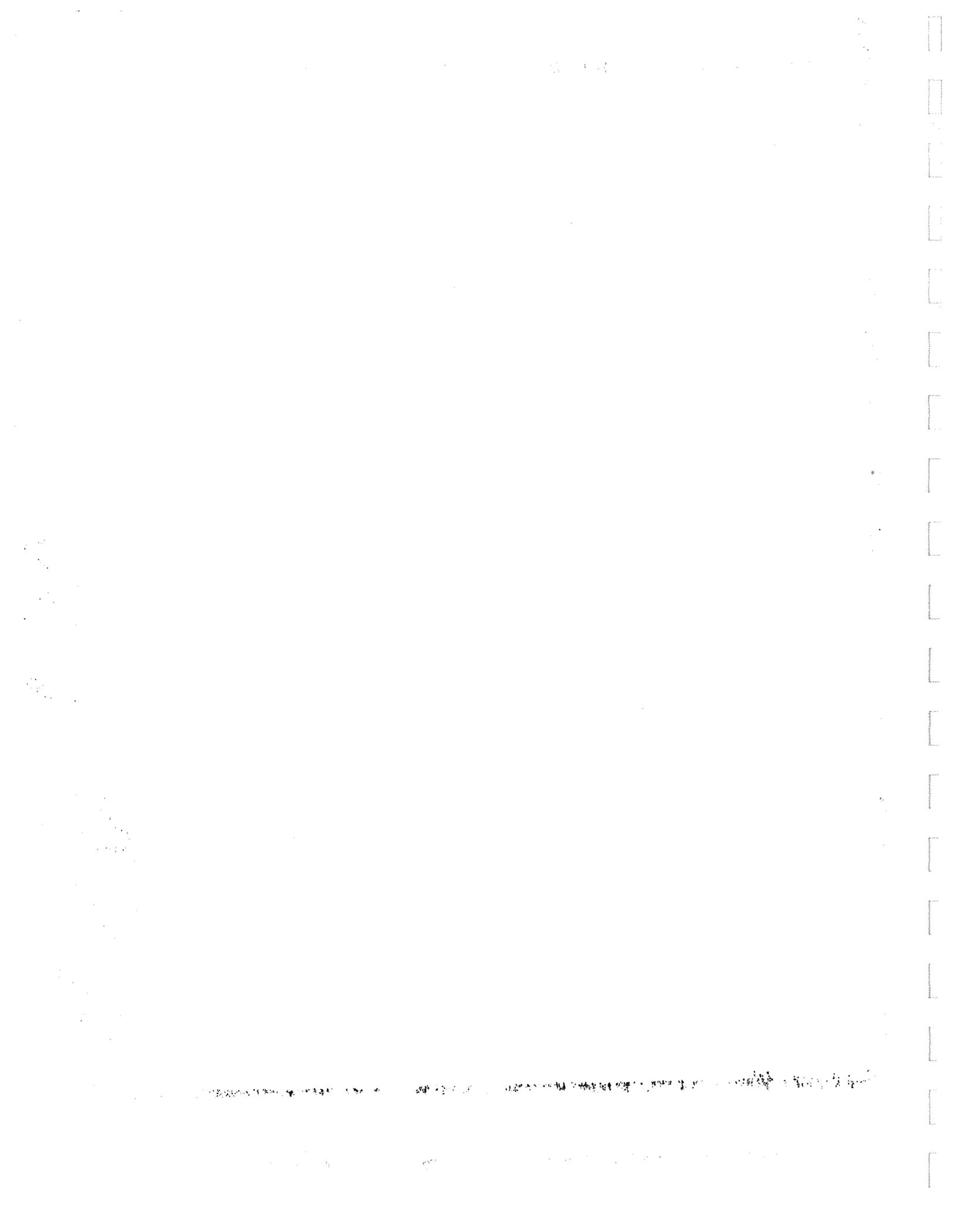


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PREFACE.

The history of this proposed ordinance dates back two and a half years when the Planning Department recommended that the City create an agency that would be charged with the responsibility of implementing various environmental and aesthetic goals as set forth in the Island's Comprehensive Plan. This recommendation was caused by a strong belief that many of the projects (public and private) on the Island were conceived and developed with little or no regard for environmental and aesthetic considerations. Furthermore, it was painfully clear that the City's legislation was simply not structured to induce aesthetic and design considerations into the planning process.

Recent literature indicates that there are nearly six hundred public design agencies throughout the nation. The former Town of Mercer Island created a Municipal Design Commission in July of 1969; however, it was short lived by virtue of annexation to the City in July of 1970. In addition the City has worked with the King County Design Commission on certain projects that are financed in part by Forward Thrust monies. One of our objectives in formulating the proposed ordinance is to have a local design commission that may act on the Island's behalf for various street and park Forward Thrust projects.

During the research phase of this project, the Planning Staff accumulated numerous ordinances from the local area and across the Country. It became immediately apparent that the structure and authority sections in these ordinances were quite varied. For example, many design agencies particularly in larger cities deal exclusively with capital projects, and on the other end of the spectrum the smaller municipalities consider all structures. From the research phase we prepared preliminary drafts during which time we had several discussion sessions with the Planning Commission, Community Council and City Council. In addition, comments were gained from the Park Board, Road Committee, City Staff, School District, and Executive Board of the Chamber of Commerce. Input was also sought from numerous architects particularly with reference to formulating design criteria.

In order to have the Design Commission function as an integral part of the planning process, we opted to weave the agency into the City and former Town Zoning Codes. As a result, the Planning Department and City Attorney assembled a list of technical and functional conflicts that would be created by virtue of incorporating the Design Commission into the Zoning Codes. For example, we are proposing to transfer the responsibility of approval for building and landscape plans for quasi-public facilities from the Planning Commission to the Design Commission. This type of action requires an amendment to the existing zoning legislation.

The legal aspects of this type of legislation are interesting and challenging. As noted in a legal opinion dated January 19, 1971 from the City Attorney, the Courts throughout the nation are beginning

to recognize aesthetics and urban design as a valid subject of legislative concern and permissible exercise of police power. However, there is virtually no legal precedent in the State of Washington. While the law libraries contain numerous cases involving aesthetics, the most frequently cited law suit is the 1954 U.S. Supreme Court Case of Berman vs. Parker where Justice Douglas expressed the following opinion:

"The concept of the public welfare is broad and inclusive. The value it represents is spiritual as well as physical, aesthetic as well as monetary. It is well within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious, as well as clean, well balanced as well as carefully controlled."

MONTGOMERY, PURDUE, BLANKINSHIP & AUSTIN
Attorneys At Law
1515 Norton Building
Seattle, Washington 98104

January 19, 1971

Mr. Jerry Bacon, Planning Director
City of Mercer Island
3505 88th Avenue Southeast
Mercer Island, Washington 98040

Re: Design Commission

Dear Jerry:

Reference is made to your memo to me of December 8, 1970 and to our discussions regarding the validity, policy power bases, etc. of architectural control or design commission regulations. As you know, for many years the rule has been that land use regulations based on aesthetic considerations are invalid. However, in recent times Courts have begun to recognize that public welfare (in the police power sense) may embrace land use regulations aimed at such things as the orderliness of community growth, protection and enhancement of property values, the minimization of discordant and unsightly surroundings, and other aesthetic objectives. Several Washington communities have legislated in this field, but to my knowledge there are no Washington Court decisions dealing directly with the validity of such regulations.

With this in mind, I would answer the questions set forth in your memo as follows:

1. Absent specific statutory authority, it is not possible to require state or federal agencies to comply with local land use regulations. Other public agencies, such as school and other special purpose districts, probably can be required to comply with such regulations, so long as the particular regulation does not directly interfere with the carrying out of the district's mandated duties. In order to include such districts within the regulatory ambit of a design commission ordinance, the ordinance should expressly name them or refer generally to all public agencies.

2. As you and I discussed, most design control regulations exclude the control of single family residences in single family zones and to do otherwise on Mercer Island would not appear to be appropriate or feasible. Other privately owned developments (e.g., multiple residential, business, commercial, etc.) are generally included within the regulations. If challenged, the test of the validity of such regulations will be whether they are a necessary exercise of the police power. Thus, in drafting the regulations, particular attention should be taken to set forth in express terms the police power reasons which make such regulations necessary.

Mr. Jerry Bacon, Planning Director -2-
City of Mercer Island

January 19, 1971

3. The ordinance may provide for a direct appeal to the Superior Court. As a compromise for those who would favor a local appeal process before court action, the ordinance could be drafted to grant to the aggrieved party the option of an intermediate appeal to the City Council or a direct appeal to the Superior Court. If the ordinance provides for an appeal to the City Council, the scope of the appeal should be limited so that the Council will merely review the Board's action for procedural errors, arbitrary or capricious conduct, etc. so that the Council is not put in a position of second guessing the professional judgments of the Board.

4. It would seem to me that Mercer Island's unique location and features will certainly strengthen our legal position and the ordinance should contain an express statement of those factors in the section which sets forth the intent of and purpose for the regulations.

Let me know if there are any further questions.

Yours very truly,

MONTGOMERY, PURDUE, BLANKINSHIP
& AUSTIN

By: /s/ Alan F. Austin
City Attorney

AFA:kr

cc: Mr. Donald L. Hitchman, City Manager

Supplement No. 1

ORDINANCE NO. 297

AN ORDINANCE RELATING TO THE REGULATION OF LAND USE WITHIN THE CITY OF MERCER ISLAND AND THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION: AMENDING CITY OF MERCER ISLAND ZONING CODE, CITY ORDINANCE NO. 15, AND THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF MERCER ISLAND, TOWN ORDINANCE NO. 199, BY ADDING A NEW SECTION THERETO WHICH CREATES A DESIGN COMMISSION AND PRESCRIBES ITS POWERS, DUTIES AND FUNCTIONS: AND AMENDING CERTAIN OTHER SECTIONS OF SUCH ORDINANCES.

WHEREAS, the City Council of the City of Mercer Island having determined that these regulations will promote the public health, safety and general welfare of Mercer Island and be in the best interests of its citizens, now, therefore

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERCER ISLAND AS FOLLOWS:

Section 1. City of Mercer Island Zoning Code, City Ordinance No. 15, as previously amended, and the Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, as previously amended, are each hereby amended by adding the following new section thereto, to be denominated and referred to herein as Section 16A in said City Ordinance No. 15 and to be denominated and referred to herein in parentheses as Section 12A in said Town Ordinance No. 199:

Section 16A (12A). DESIGN COMMISSION.

16A.01 (12A.01) INTENT AND PURPOSE.

These regulations are intended to implement and further the Comprehensive Plan of the City and the Mercer Island Community Municipal Corporation and are adopted for the following purposes:

(a) To promote the public health, safety and general welfare of the citizens of the City.

(b) To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government.

(c) To protect, preserve and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of Mercer Island.

(d) To promote and enhance construction and maintenance practices that will tend to promote visual quality throughout Mercer Island.

(e) To recognize environmental and aesthetic design as an integral part of the planning process.

16A.02 (12A.02). DEFINITIONS.

(a) "Architectural feature" shall mean the exterior architectural treatment and general arrangement of the portions of an improvement and site as shall be open to external view, including, but not by way of limitation, the kind, color and texture of building materials, types of windows and doors, attached or detached signs, landscaping, screens, parking lots, exterior lighting, walkways, and other fixtures appurtenant to such portions.

(b) "Capital improvement" shall mean any improvement by the City upon property owned by or under the control of the City.

(c) "Improvement" shall mean any building, structure, or other improvement to real property. It shall include, but not by way of limitation, street improvements, street furniture, park developments, private and public schools, commercial and business developments, public utility and governmental buildings and structures, religious institutions, hotels, motels, apartment houses, and other multiple family dwellings, hospitals, rest homes and other similar developments, and commercial and non-commercial recreational areas. It shall not include underground wires, pipes or other similar underground utility installations.

(d) "City" shall mean the City of Mercer Island, Washington and when that term is used in a territorial sense, it shall include the territory of the Mercer Island Community Municipal Corporation located within the City.

(e) "Regulated improvements" shall mean any improvement upon any property within the City, not owned by or under the control of the City, other than single family residences and buildings, structures and uses accessory thereto upon land zoned "R."

(f) "Street furniture" shall mean improvements located in streets or rights-of-way and parking lots or other similar open spaces on a site, including, but not limited to, light standards, utility poles, newspaper stands, bus shelters, planters, traffic signs, traffic signals, benches, guard rails, rockeries, retaining walls, mail boxes, litter containers, and fire hydrants.

16A.03 (12A.03). CREATION OF DESIGN COMMISSION.

There is hereby created a Design Commission for the City which shall have the powers, duties and functions as hereinafter provided.

16A.04 (12A.04). MEMBERS, QUALIFICATIONS AND TERMS.

The Design Commission shall consist of seven members, of which at least one shall be selected from each of the professions of architecture, landscape architecture, urban planning, civil engineering, and at least two lay members. All members shall be appointed by the Mayor, subject to the confirmation of the City Council. In making appointments to the Design Commission, the Mayor shall seek to appoint persons who are knowledgeable in matters of design and aesthetic judgment by virtue of training, education, and/or experience and who possess qualities of impartiality and broad judgment. A majority of the Design Commission shall be residents of Mercer Island. Members shall serve without compensation. The initial appointment of members of the Design Commission shall be for the following respective terms: two for two years, three for three years, and remaining members for four years, thereafter, all appointments shall be for a term of four years. No member shall serve more than two consecutive terms. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term. No member of the Design Commission shall participate in discussions or vote on any matter involving any client he is serving or from any business of which he is owner, or corporation officer or employee. The Mayor, with concurrence of a majority of the Council, shall have the authority to remove any members without cause.

16A.05 (12.05). RULES AND RECORDS.

The Design Commission shall adopt rules and regulations for the conduct of its business, subject to the approval of the City Council. A majority of the membership shall constitute a quorum for the purpose of transacting business. Action by the Design Commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and a denial of the application. The Planning Director or his duly authorized representative shall serve as Executive Secretary of the Design Commission and shall be responsible for all records. All meetings of the Design Commission shall be open to the public. The Design Commission shall keep minutes of its proceedings and such minutes and a copy of its rules shall be kept on file in the office of the City Clerk and open to inspection by the public.

16A.06 (12A.01). POWERS OF THE COMMISSION.

(a) No building or other required permit shall be issued by the City for any regulated improvement except upon prior approval of the Design Commission and no significant changes shall be made in or to an architectural feature of any regulated improvement without the prior approval of the Design Commission. Deviations from a plan approved by the Design Commission shall be permitted only upon the filing and approval of an amended plan.

(b) The Design Commission may require a bond to the City in a reasonable amount to secure the installation and maintenance of landscaping, screens, parking lots, exterior lighting, walkways and other similar site improvements.

(c) When the City Council deems it necessary to retain consultants for a proposed capital improvement, the Council shall seek recommendations from the Design Commission as to the selection of consultants to provide design services.

(d) Consultants or City officials charged with the design responsibility for a capital improvement shall hold preliminary discussions on the proposed project with the Design Commission to obtain preliminary recommendations from the Design Commission as to aesthetic, environmental and design principles and objectives which should be sought in the development of the improvement. In addition, the Design Commission shall review substantial capital improvements at the completion of the design development phase and construction document phase, or at any time they deem necessary. A capital improvement approved by the City Council after review and recommendations by the Design Commission may be implemented on a phasing basis without further review so long as the improvement is developed in substantial conformity with the reviewed plan. Significant deviations from an approved plan shall be submitted to the Design Commission for its further review and recommendations.

(e) The Design Commission shall complete its review and make its decision and/or recommendations within sixty days after a matter is submitted to it, unless an extension is authorized by the City Council. Decisions of the Design Commission shall be based upon the criteria set forth in Section 16A.09 (12A.09) below.

16A.07 (12A.07). ADDITIONAL FUNCTIONS.

(a) The Design Commission may assist any person, group, or agency who requests design advice on matters not requiring formal Commission action.

(b) The Design Commission shall consult and cooperate with the Planning Commission, Park Board, Community Council of the Mercer Island Community Municipal Corporation, and other governmental bodies on matters affecting the appearance of the Island. The Design Commission may offer recommendations to the appropriate City agencies and officials on legislation to promote aesthetic and environmental values.

16A.08 (12A.08). PROCEDURE.

An Applicant seeking Design Commission approval shall submit to the Planning Director a site plan and exterior elevations and such other data as will assist the Design Commission in evaluating the proposed improvement. Preliminary drawings may be submitted for review and for a preliminary advisory opinion by the Design Commission.

No formal Design Commission action shall be taken except upon final plans and elevations. Final plans and elevations shall be drawn to scale and shall indicate the nature and extent of the work proposed and shall show in detail they conform with the provisions of this Ordinance and other applicable laws and regulations. The Planning Director shall refer all applications to the Design Commission at its next regular meeting. The Design Commission may approve, approve with conditions, or disapprove an application. In no instance shall the Design Commission's action conflict with the Zoning, Subdivision, Building or other applicable City Ordinances or with State or Federal requirements. All formal decisions of the Design Commission shall be reduced to writing and shall include Findings of Fact and a statement of the reasons deemed controlling to the decision.

16A.09 (12A.09). CRITERIA.

(a) RELATIONSHIP OF BUILDING TO SITE.

1. The site should be planned to accomplish a desirable transition with the streetscape, and to provide for adequate planting, and pedestrian movement.
2. Parking and service areas should be located, designed, and screened to be obscured from public view.
3. The height and scale of each building should be compatible with its site and adjoining buildings.

(b) RELATIONSHIP OF BUILDING AND SITE TO ADJOINING AREA.

1. Buildings and structures should be made compatible with adjacent buildings of conflicting architectural styles by such means as screens, site breaks, and materials.
2. Harmony in texture, lines, and masses should be encouraged.
3. Attractive landscape transition to adjoining properties should be provided.
4. Public and quasi-public buildings and structures should be consistent with the established neighborhood character.

(c) LANDSCAPE AND SITE TREATMENT.

1. Where existing topographic patterns contribute to beauty and utility of a development, they should be preserved and developed.
2. Grades of walks, parking spaces, terraces, and other paved areas should provide an inviting and stable appearance.
3. Landscape treatment should be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.

4. In locations where plants will be susceptible to injury by pedestrian or motor traffic, they should be protected by appropriate curbs, tree guards, or other devices.

5. Where building sites limit planting, the placement of trees or shrubs in parkways or paved areas is encouraged.

6. Screening of service yards, and other places which tend to be unsightly, should be accomplished by use of walls, fencing, planting, or combinations of these. Screening shall be effective in winter and summer.

7. In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone, gravel, etc. should be used.

8. Exterior lighting, when used, should enhance the building design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the building and adjacent areas. Lighting should be shielded, and restrained in design. Excessive brightness and brilliant colors should be avoided.

(d) BUILDING DESIGN.

1. Architectural style is not restricted - evaluation of a project should be based on quality of its design and relationship to surroundings.

2. Buildings should be to appropriate scale and be in harmony with permanent neighboring development.

3. Building components - such as windows, doors, eaves, and parapets - should have good proportions and relationship to one another.

4. Colors should be harmonious, with bright or brilliant colors used only for accent.

5. Design attention should be given to mechanical equipment or other utility hardware on roof, ground or buildings so as to screen from view.

6. Exterior lighting should be part of the architectural concept. Fixtures, standards and all exposed accessories should be harmonious with building design.

7. Monotony of design in single or multiple building projects should be avoided. Variety of detail, form, and siting should be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.

(e) SIGNS.

1. Signs should be part of the architectural concept. Size, materials, color, lettering, location, number, and arrangement should be harmonious with the building design.

2. The number of signs should be minimized in order to avoid visual clutter.

3. Colors should be used harmoniously and with restraint. Excessive brightness and brilliant colors should be avoided. Lighting should be harmonious with the design. If external spot or flood lighting is used, it should be arranged so that light source is shielded from view.

(f) MISCELLANEOUS STRUCTURES AND STREET FURNITURE.

1. Miscellaneous structures and street furniture located on private property, public ways and other public property should be designed to be part of the architectural concept of design and landscape. Materials should be compatible with buildings, scale should be appropriate, colors should be in harmony with buildings and surroundings, and proportions should be to scale.

2. Lighting in connection with miscellaneous structures and street furniture should meet the criteria applicable to site, landscape, buildings, and signs.

16A.10 (12A.10). APPEALS.

Any person or persons feeling aggrieved by any action of the Design Commission may file a notice of appeal with the City Council setting forth the reasons for such appeal. Appeals must be filed with the City Clerk within ten days from the date of formal action by the Design Commission. The filing of an appeal shall suspend the issuance of any building or other required permit until the Council has taken final action on the appeal. The City Council shall take final action within forty-five days of the filing of a notice of appeal. Review by the City Council shall be confined to the decision and record of proceedings before the Design Commission, except that the City Council may elect to take additional testimony bearing on the issue of alleged procedural irregularities in the proceedings before the Design Commission, not shown in the record. The City Council shall, upon request, consider oral and written arguments. The City Council may affirm the decision of the Design Commission, remand to the Design Commission for further proceedings, or reserve the decision of the Design Commission if it finds that the substantial rights of the appellant conclusions or decision of the Design Commission was in violation or in excess of its authority or jurisdiction, made upon unlawful procedure, clearly erroneous in view of the entire record as submitted and the public policy contained in this Ordinance, or arbitrary or capricious.

Section 2. Enforcement of the provisions of this Ordinance shall be in accordance with Section 22 of City of Mercer Island Zoning Code, Ordinance No. 15.

Section 3. City of Mercer Island Zoning Code, City Ordinance No. 15, and ordinances amendatory thereto, are hereby further amended...

Section 4. The Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, as previously amended, is hereby amended...

Section 5. If any section, paragraph, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 6. The City of Mercer Island Zoning Code, City Ordinance No. 15, as previously and hereby amended, is hereby ratified and confirmed and continued in full force and effect.

Section 7. The Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, as previously and hereby amended, is hereby ratified and confirmed and continued in full force and effect.

Section 8. This Ordinance shall take effect within the City and within the territorial limits of the Mercer Island Community Municipal Corporation thirty days after its passage, signing, and publication and upon either the approval of the Community Council of the Mercer Island Community Municipal Corporation or the failure of such Community Council to disapprove within sixty days of its passage.

PASSED BY the City Council of the City of Mercer Island at its regular meeting on the 24th day of January, 1972 and signed in authentication of its passage this 24th day of January, 1972.

/s/ Aubrey Davis, Jr. Mayor

/s/ Ben J. Werner Councilman

/s/ Marguerite Sutherland Councilman

ATTEST:

/s/ Robert C. Weiss
City Clerk

Date of Publication: February 10, 1972.

RULES AND REGULATIONS FOR CONDUCTING
THE BUSINESS OF THE CITY OF MERCER
ISLAND DESIGN COMMISSION

ARTICLE I GENERAL PROVISIONS

These rules and regulations are supplementary to Ordinances 297 and 298 of the City of Mercer Island and Mercer Island Community Municipal Corporation.

ARTICLE II OFFICERS AND THEIR DUTIES

Section 1. The officers shall consist of Chairman and Vice Chairman and shall be elected at the first regular meeting of the calendar year.

Section 2. In the absence of the Chairman and Vice Chairman, a Chairman Pro-tem shall be elected by the remaining members of the Design Commission and shall serve only for the meeting at which he is elected.

Section 3. A secretary shall be provided by the City Planning Department to prepare minutes and keep such record, attend to correspondence of the Design Commission, and perform such other duties as may be deemed necessary.

ARTICLE II MEETINGS

Section 1. Regular meetings of the Design Commission shall be held on the second and fourth Wednesday of each month at 7:30 P.M. in the School Administration Building or such other place as the Design Commission may determine. Any regular meeting may be cancelled or re-scheduled by the Chairman or in his absence by the Vice Chairman.

Section 2. If a regular meeting falls on a legal holiday, that meeting shall automatically be held on the next day which is not a holiday unless the Commission by formal action sets an alternative day.

Section 3. Special meetings of the Design Commission may be called by any of the following: Chairman or in his absence by the Vice Chairman, City Manager, Mayor. The scheduling and holding of all Design Commission meetings is to be done in accordance with the State Statutes.

Section 4. A majority of the Design Commission membership shall constitute a quorum. For the conduct of business, a majority vote of the members present at a meeting, provided a quorum is present shall be sufficient to act. The Chairman of the meeting shall be a full voting member, but may not initiate or second a motion. The motion which decides the issue or makes the recommendations shall be in the form of findings of fact and shall state the reasons for the findings of the Design Commission.

ARTICLE IV CONDUCT OF MEETINGS

Section 1. All meetings of the Design Commission shall be conducted in accordance with the Roberts' Rules of Order.

Section 2. All meetings shall be conducted in accordance with the agenda.

Section 3. Non-members of the Commission may address the Design Commission only after being recognized by the Chairman of the meeting and shall confine their remarks to the subject before the Commission. The Chairman of the meeting shall endeavor to minimize the amount of cumulative redundant testimony by the public.

Section 4. Minutes of all regular meetings shall be kept and made part of a permanent public record. All actions of the Design Commission shall be considered conclusive as to general import as of the date of such action. Details of phraseology, conditions, etc., shall be subject to correction at the time of considering and approving the minutes of the meetings at which such actions were taken.

Section 5. Any member of the Design Commission who has a material, direct or individual interest in any matter before the Design Commission shall publicly so indicate, shall then absent himself from the meeting during the period of discussion and action thereon and shall refrain from any prior discussion of such matter with other members of the Design Commission.

ARTICLE V ATTENDANCE

Section 1. Attendance of regular and special meetings is expected of all Design Commission members.

Section 2. Any member anticipating absence from a meeting should notify the Chairman or City Planning Department.

Section 3. Any absence may be excused by the Design Commission, even for an extended period. Chronic unexcused absence of any member shall be referred by the Design Commission to the City Council.

ARTICLE VI AGENDA AND STAFF REPORTS

Section 1. An agenda for every regular meeting shall be prepared and distributed by the City Planning Department to each member not less than five (5) days prior to the date of the meeting at which such agenda is to be considered. The agenda shall be accompanied with a complete copy of the unapproved minutes of the previous meeting, staff reports, and such material, illustrations, petitions, etc. as may pertain to the agenda.

Section 2. All matters requiring Design Commission consideration shall be filed with the City Planning Department at least fifteen (15) days prior to the date of any regular meeting. Under special circumstances, this filing date may be waived by the Chairman or City Manager for Capital Improvement Projects; however, in no instance shall the Design Commission take official action on any matter that is not included on the agenda.

ARTICLE VII AMENDMENTS TO RULES AND REGULATIONS

These rules and regulations may be amended by a majority vote of the entire membership of the Design Commission, and subject to the approval of the City Council.

Date Approved: Design Commission 4/26/72

City Council 4/24/72

Amended:

ORDINANCE NO. 298

AN ORDINANCE RELATING TO SIGNS WITHIN THE
MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION
AND REPEALING TOWN OF MERCER ISLAND ORDINANCES
NOS. 122 AND 174.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
MERCER ISLAND AS FOLLOWS:

Section 1. Town of Mercer Island Ordinance No. 122 and Town
of Mercer Island Ordinance No. 174 are each hereby repealed.

Section 2. This ordinance shall become effective within the
Mercer Island Community Municipal Corporation thirty days after its
passage, signing and publication and upon either the approval of the
Community Council of the Mercer Island Community Municipal Corporation
or the failure of such Community Council to disapprove within sixty
days of its passage.

PASSED BY the City Council of the City of Mercer Island at its
regular meeting on the 24th day of January, 1972 and signed in
authentication of its passage this 24th day of January, 1972.

/s/ Aubrey Davis, Jr. Mayor

/s/ Ben J. Werner Councilman

/s/ Marguerite Sutherland Councilman

ATTEST:

/s/ Robert C. Weiss
City Clerk

Date of Publication: February 10, 1972.

SUPPLEMENT NO. 2

ORDINANCE 332

AN ORDINANCE RELATING TO THE REGULATION OF LAND USE WITHIN THE CITY OF MERCER ISLAND AND THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION: AMENDING CITY OF MERCER ISLAND ZONING CODE, CITY ORDINANCE NO. 15, AND THE COMPREHENSIVE ZONING ORDINANCE OF THE FORMER TOWN OF MERCER ISLAND, TOWN ORDINANCE NO. 199, BY ESTABLISHING WATERCOURSE SETBACK REQUIREMENTS.

Whereas, the City Council of the City of Mercer Island having determined that these regulations will promote the public health, safety, general welfare of Mercer Island and be in the best interests of its citizens, now, therefore,

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERCER ISLAND AS FOLLOWS:

Section 1. City of Mercer Island Zoning Code, City Ordinance No. 15, as previously amended, and the Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, as previously amended, are each hereby amended by adding the following new section thereto, to be denominated and referred to herein as Section 16B in said City Ordinance No. 15 and to be denominated and referred to herein in parentheses as Section 12B in said Town Ordinance No. 199:

Section 16B. (12B). WATERCOURSE SETBACK REQUIREMENTS.

Section 16B.01 (12B.01). INTENT AND PURPOSE.

These regulations are intended to implement and further the Comprehensive Plans of the City and the Mercer Island Community Municipal Corporation and are adopted for the following purposes:

- (a) To prevent undue hazards to public health, safety, and welfare.
- (b) To conserve and protect the natural watercourses on Mercer Island by minimizing the disturbance to the watercourses;
- (c) To enhance and preserve the water quality in Lake Washington;
- (d) To minimize public expenditures for storm drainage improvements;
- (e) To prevent damage from erosion or siltation and prevent slippage and slides;
- (f) To preserve and enhance the Island's natural amenities;

(g) To reassert and facilitate the preservation of the rights of the public and other property owners to utilize the natural receivers of surface waters for the disposal thereof and to protect and defend their properties from damages from such surface waters;

(h) To provide for orderly development of undeveloped or partially developed parcels of land that contain or are adjacent to watercourses;

(i) To provide for alternate building line setback requirements where appropriate for individual land parcels that contain a watercourse;

(j) To further the Island's comprehensive storm drainage plans and

(k) To implement the goals and objectives of the Washington State Environmental Policy Act and Shoreline Management Act.

Section 16B.02 (12.02): DEFINITIONS.

(a) "City" shall mean the City of Mercer Island, Washington, and when the term is used in a territorial sense, it shall include the territory of Mercer Island Community Municipal Corporation located within the City.

(b) "Code Official" shall mean the City Manager or his designated representative.

(c) "Improvement" shall mean any building, structure or other physical addition and alteration to real property. It shall include initial land clearing, excavation and/or fill, diversion of watercourses, and underground wires, pipes, or other similar underground utility installations; PROVIDED THAT the following shall not be considered an improvement under the watercourse setback provisions of this ordinance:

1. General property and utility maintenance, landscaping and gardening.
2. Single family utility connections.
3. Fences except where they divert or block watercourses.
4. Accessory buildings of less than 100 square feet of gross floor area.
5. Projects which require approval of the City Design Commission or City Council. However, such projects shall comply with the intent and purpose of this Ordinance.

(d) "Watercourse" shall mean

1. A course or route, formed by nature and generally consisting of a channel with a bed, banks, or sides throughout

substantially all its length, along which surface waters, with some regularity (annually in the rainy season), naturally and normally flow in draining from higher to lower lands; and

(2). It shall not include any ponds or man-made drainage ditches, or the like.

Section 16B.03 (12B.03). MAP.

The map attached to this ordinance and designated "Exhibit B", which is by reference incorporated herein, is an inventory of locations of the watercourses within the City. In the case of incorrect locations of the watercourses on this map, the actual condition and location on the ground as determined by the Code Official shall control.

Section 16B.04 (12B.04), SETBACKS FROM WATERCOURSES.

Except in the case of a deviation approved by the City Planning Commission under the provisions of Section 16B.05(12B.05) below or in the case of emergency situations involving immediate danger of life or property, no improvements shall be erected, installed, constructed or otherwise placed or located within, and no existing improvements shall be moved, altered, added to or enlarged so as to encroach upon an area within twenty-five (25) feet from the centerline of a watercourse. In the case of improvements made in emergency situations, a report of such improvements shall forthwith be made to the Code Official and an application for a deviation under Section 16B.05 (12B.05) if this ordinance shall be made within thirty days of the execution, installation or construction of the emergency improvement. The outer ten feet (10) of the twenty-five (25) feet setback from a watercourse may be utilized for access if necessary during construction provided that plans for restoration within six months of the project completion are approved by the Code Official. These setback distances shall be measured without regard to contours by use of a planimetric map projection. On any lot where these watercourse setback regulations apply and normal development practices cannot be observed, the Code Official shall have discretion to grant exceptions from the front and rear yard requirements of Ordinance No. 15 to within ten feet of the front and rear yard lot lines, respectively. In granting any such exception, the Code Official may require the submission of such of the information and documents described below in Section 16B.05 (a) (12B.05 (a)) below as he deems necessary and shall base his decision on the criteria set forth in Section 16B.05 (d) (12B.05 (d)) below.

Section 16B.05 (12B.05). DEVIATIONS.

(a) The City Planning Commission shall have the authority to grant deviations from the twenty-five (25) foot watercourse setback requirements of this Ordinance.

(b) An application for such deviation shall be made in writing on forms provided by the City and the applicant shall furnish the following documents and information as are determined to be necessary by the Code Official:

1. Four prints of a map or plot plan setting forth the following information:

(aa) Name, address, and telephone number of applicant and owner of property.

(bb) Legal description of the property.

(cc) Date, north arrow, and adequate scale as determined by the Code Official.

(dd) Contours at five foot intervals or at an interval deemed appropriate by the Code Official.

(ee) Location of proposed improvements, including but not limited to, structures, driveways, utilities, and storm drainage facilities.

(ff) Location of building and watercourse setback lines and approximate demarcation of land cuts, including but not limited to, foundations, retaining walls, and driveways.

(gg) Location of watercourse and approximate width and centerline thereof.

(hh) Type of building foundation; e.g., spread footing, piling (poured concrete or driven wood), precast blocks, single pier block, etc.

(ii) Location and type of watercourse crossing or culverts for roads, driveways, or other purposes.

(jj) Treatment of excavation and fill.

2. Photographs as deemed necessary by the Code Official.

3. Other related information as deemed reasonably necessary by the Code Official:

(c) The Planning Commission shall approve or disapprove the requested deviation within thirty-five (35) days from the date a complete application is submitted. Lack of Planning Commission action within the prescribed period shall constitute approval of the request.

(d) The Planning Commission's decision shall be made from an analysis of the information submitted under Subsection (b) above, and shall be based on the following criteria:

1. Relationship of the proposed development to the site (for example, degree of land excavation or fill, type of foundation, construction, etc.);

2. Access and parking; traffic visibility, turning radii;
3. History and recent inventories of soil, geology and hydrology conditions;
4. Consequence of proposed action or development on up-stream and downstream properties;
5. Relationship of the proposed development to the adjacent properties;
6. The method of handling surface or storm drainage waters;
7. Relationship of the proposed improvements to the current comprehensive storm drainage plans; and
8. Any other relevant physical or environmental factors.

(e) Before any deviation shall be granted, it shall be shown that:

1. The proposed deviation will not constitute a hazard to the public health, welfare, and safety; nor is injurious to affected property and watercourses in the vicinity;
2. The proposed deviation is necessary to the reasonable enjoyment of property rights of the applicant; and
3. The proposed deviation is not in conflict with the general intent and purpose of this ordinance as set forth in 16B.01 (12B.01).

Section 16B.06 (12B.06). PERFORMANCE BOND.

The City Planning Commission, as a condition to the granting of a deviation, may require a performance bond to the City in a reasonable amount to secure proper installation of alterations within the water-course setback area as set forth on the approved plans. Implementation of a deviation approval by the Planning Commission shall be completed within one (1) year from the approval date. Upon a showing of good cause, the Planning Commission may extend the completion period an additional twelve (12) month period.

Section 2. Appeals from any action of the City Planning Commission under this ordinance shall be in accordance with Section 21 of the City of Mercer Island Zoning Code, Ordinance No. 15, and Town Ordinance No. 199.

Section 3. Enforcement of the provisions of the Ordinance shall be in accordance with Section 22 of the City of Mercer Island Zoning Code, Ordinance No. 15, and Town Ordinance No. 199.

Section 4. If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

Section 4. This ordinance shall take effect immediately upon its passage, signing, and publication.

PASSED BY THE CITY COUNCIL of the City of Mercer Island at its regular meeting on the 17th day of December, 1973, and signed in authentication of its passage this 17th day of December, 1973.

Aubrey Davis, Jr.
Mayor

Robert V. Norton
Councilman

Lissa Wells
Councilman

ATTEST:

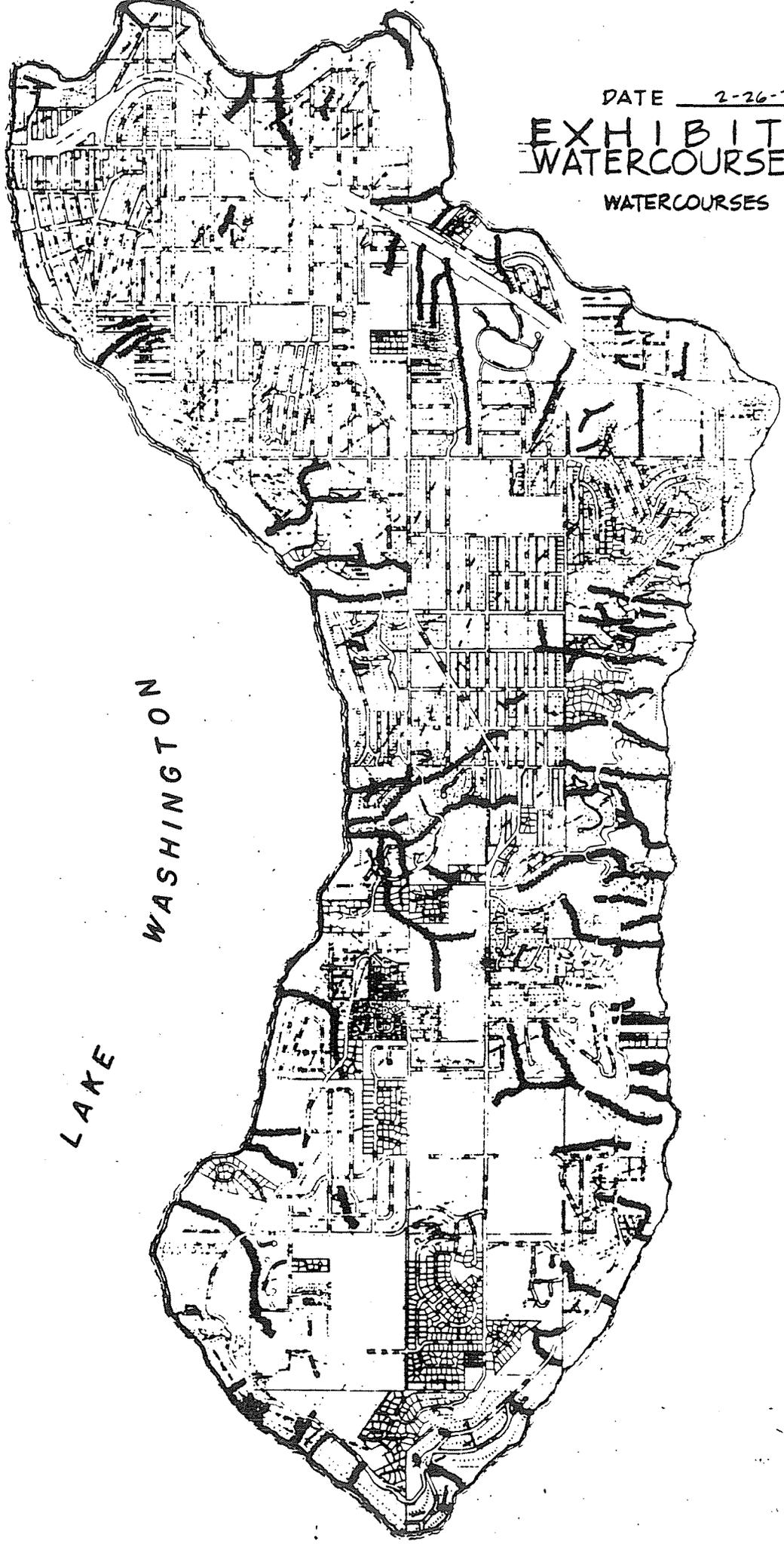
Robert C. Weiss, City Clerk

January 10, 1974
Date of Publication

DATE 2-26-79

EXHIBIT "B" WATERCOURSE MAP

WATERCOURSES 



LAKE
WASHINGTON

CITY OF MERCER ISLAND ORDINANCE NO. 471
ORDINANCE NO. 471

AN ORDINANCE RELATING TO THE REGULATION OF LAND USE WITHIN THE CITY OF MERCER ISLAND AND THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION, AMENDING CITY OF MERCER ISLAND ZONING CODE, CITY ORDINANCE NO. 15, AND THE COMPREHENSIVE ZONING ORDINANCE OF THE FORMER TOWN OF MERCER ISLAND, TOWN ORDINANCE NO. 199, AND AMENDING THE CITY WATERCOURSE ORDINANCE NO. 332, BY ADOPTING AN AMENDED EXHIBIT "B" WHICH IS A GENERAL DESCRIPTION OF THE LOCATION OF THE WATERCOURSES WITHIN THE CITY.

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND DO ORDAIN AS FOLLOWS:

Section 1. City of Mercer Island Watercourse Ordinance No. 332 which amends City of Mercer Island Zoning Code, City Ordinance No. 15, and the Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199 and City Ordinance No. 15 as previously amended and Town Ordinance No. 199 as previously amended, Section 16 B. 03 (12 B. 03) Map, is hereby amended to read as follows:

"Section 16 B. 03 (12 B. 03) Map. The map attached to this ordinance and designated "Exhibit B" which is by reference incorporated herein, generally describes the location of watercourses within the City. Notwithstanding the fact that a watercourse is

shown on the map, it is intended that actual conditions existing on the property, as found by the Code Official, shall control the determination as to whether a watercourse exists. If a watercourse is found to exist, the Code Official shall determine its actual location on the property."

Section 2. City of Mercer Island Ordinances Nos. 15 and 332 and Town of Mercer Island Ordinance No. 199, as previously amended, and as hereby amended, are hereby ratified and confirmed and continued in full force and effect.

Section 3. City of Mercer Island Ordinance No. 398 is hereby repealed.

Section 4. This Ordinance shall take effect 5 days after its passage, signing and publication.

PASSED BY THE CITY COUNCIL at its public meeting on the 26th day of February 1979.

Ben J. Werner
Mayor

ATTEST

Jack W. Bunnell
City Clerk

Ronald Dickinson
City Attorney

PUBLISHED MARCH 7, 1979 IN THE MERCER ISLAND REPORTER.

ORDINANCE

471