

PLANNING COMMISSION RESOLUTION NO. 2021-168

A RESOLUTION OF THE CITY OF MILL CREEK)
PLANNING COMMISSION, RECOMMENDING) FINDINGS,
APPROVAL TO THE MILL CREEK CITY COUNCIL) REASONS AND
OF AMENDMENTS TO THE MILL CREEK) RECOMMENDATIONS
MUNICIPAL CODE AMENDING CHAPTERS 14.01)
AND 17.22 RELATING TO ACCESSORY)
DWELLING UNITS)

WHEREAS, The Planning Commission is charged with the responsibility for conducting public hearings on proposed regulations concerning the use of land in the City of Mill Creek or amendments to existing regulations and for making recommendations to the City Council for appropriate action on such proposed land use regulations, as set forth in RCW chapter 35A.63 and Mill Creek Municipal Code Chapters 4.10 and 14.03; and

WHEREAS, RCW 36.70A.040 and 36.70A.120, portions of the Growth Management Act, require the City to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan; and

WHEREAS, Engrossed Substitute Senate Bill 6617 was passed by the State Legislature in March 2020, which requires Washington cities to adopt or amend their development regulations, no later than July 1, 2021, to remove any requirement for the provision of off-street parking for an Accessory Dwelling Unit located within one-quarter mile of a major transit stop; and

WHEREAS, On March 26, 2021, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, On March 29, 2021, the City issued a SEPA threshold Determination of Non-Significance for the proposed amendments to the Development Code; and

WHEREAS, On April 15, 2021, the comment period for the Determination of Non-Significance expired. No comments or appeals were received; and

WHEREAS, Notice of a public hearing before the Planning Commission on the proposed amendments was duly posted on the City's website and published in the Everett Herald on April 2, 2021, pursuant to MCMC Section 14.07.030(A); and

WHEREAS, A staff report to the Planning Commission was prepared to present, analyze, and recommend to the Planning Commission adoption of the proposed amendments to the Development Code; and

WHEREAS, On April 15, 2021, the Planning Commission held a public hearing on the proposed amendments to the development code; and

WHEREAS, The Planning Commission considered the staff report, attached hereto as **Exhibit A** and incorporated it in full by this reference, and the proposed amendments to MCMC Chapters 14.01 and 17.22 and found that the proposed amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, including the Comprehensive Plan, and will benefit the public health, safety, and welfare by protecting people and property from flood waters.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MILL CREEK AS FOLLOWS:

Section 1: The Planning Commission finds the proposed amendments as described within the Planning Commission staff report, attached and incorporated in full by reference as **Exhibit A**, are consistent with and implement the policies of the Comprehensive Plan, the Growth Management Act, and other applicable state and federal law, and further finds that the proposed Amendments make appropriate provisions for and further the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings, conclusions, and recommendations contained in the staff report, attached as **Exhibit A**, except as may be expressly modified herein by **Exhibit B**, attached and incorporated in full by reference.

Section 3: The Planning Commission therefore recommends to the City Council adoption of the proposed Amendments as set forth in **Exhibit A** and as may be further modified by specific action of the Planning Commission as set forth in **Exhibit B**.

Passed in open meeting this 15th day of April 2021, by a vote of _____ for, _____ against and _____ abstaining.

CITY OF MILL CREEK PLANNING COMMISSION

STAN EISNER, PLANNING COMMISSION CHAIR

TOM ROGERS, PLANNING COMMISSION SECRETARY

ATTACHMENT: Exhibit A – Staff Report
 Exhibit B – Planning Commission Motion

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EXHIBIT A
DEPARTMENT OF PUBLIC WORKS AND DEVELOPMENT SERVICES
STAFF REPORT
TO THE MILL CREEK PLANNING COMMISSION

PART I - SUMMARY INFORMATION

- PUBLIC HEARING:** April 15, 2021
- REQUESTED ACTION:** Review of Mill Creek Municipal Code (MCMC) amendments that have been proposed to modify the MCMC to be compliant with recently adopted state regulations regarding Accessory Dwelling Units (ADUs). The amendments remove the off-street parking requirement for ADUs within ¼ mile of a major transit stop. Minor housekeeping amendments are also proposed to add a definition for major transit stop and correct an existing inconsistency in the MCMC. The proposed regulations will apply citywide.
- SITE LOCATION:** City of Mill Creek
- PROPONENT:** City of Mill Creek
15728 Main Street
Mill Creek, Washington 98012
- COMPREHENSIVE
PLAN DESIGNATION:** Not applicable.
- ZONING DISTRICT:** Not applicable.

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE:

The proposed amendments to the MCMC are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Thus, an Environmental Impact Statement (EIS) was not required.

On March 29, 2021, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended on April 15, 2021. No comments were received.

PUBLIC NOTICE:

Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), a notice of the public hearing was posted on March 31, 2021 on the City’s webpage as the Mill Creek City Hall is closed to the public due to the COVID-19 virus and published in the Everett Herald on April 2, 2021. All legal requirements for public notice have been satisfied.

**PART III - DESCRIPTION OF PROPOSED AMENDMENTS
TO THE MILL CREEK MUNICIPAL CODE**

ZONING ORDINANCE AMENDMENT:

The provisions governing amendments to the text of the Development Code are found in Section 17.38.020, MCMC. This section states that text amendments may be initiated by the City Council, the Planning Commission, or City staff. The proposed code amendments have been initiated by staff and are provided in strikeout format in **Attachment 1**.

The proposed amendments have been initiated by City staff in order to ensure that the Mill Creek Municipal Code (MCMC) is compliant with Engrossed Substitute Senate Bill 6617 passed by the Legislature in 2020 relating to Accessory Dwelling Unit (ADU) regulations. MCMC Section 17.22.130, currently allows ADUs. To make the MCMC compliant with state regulations, the off-street parking requirement was removed for ADUs within ¼ mile of a major transit stop. In addition, a definition of major transit stop is proposed as well as a housekeeping amendment correcting on inconsistency in the MCMC.

PART IV – FINDINGS, CONCLUSIONS, AND RECOMMENDATION

The proposed amendments to the City’s Municipal Code have been prepared to be consistent with the Growth Management Act, applicable state and federal regulations, the City’s Comprehensive Plan, and the City’s development code amendment process contained in Chapter 17.38. As reflected below, the proposed amendments have been reviewed for consistency with these requirements and are found to be consistent with applicable local, state and federal regulations.

FINDINGS AND CONCLUSIONS:

1. Engrossed Substitute Senate Bill 6617 was passed by the State Legislature in March 2020, which requires Washington cities to adopt or amend their development regulations to remove any requirement for the provision of off-street parking for an ADU located within one-quarter mile of a major transit stop, no later than July 1, 2021.
2. In accordance with the Mill Creek Municipal Code (MCMC) Chapter 17.38, the City staff has the authority to initiate amendments to the code.

3. On March 26, 2021, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106.
4. In accordance to MCMC Chapter 18.04, the proposed code amendments are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Therefore, an Environmental Impact Statement (EIS) was not required.
5. On March 29, 2021, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended April 15, 2021. No comments were received and the DNS is deemed final.
6. Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), notice of public hearing was posted on the City's web site on March 31, 2021, and published in the Everett Herald on April 2, 2021. All legal requirements for public notice have been satisfied.
7. In accordance with Chapter 35A.63 RCW and MCMC Chapters 2.04 and 14.03, the City Council is charged with the responsibility of making decisions on amendments to the existing Mill Creek Municipal Code (MCMC) regulations.

STAFF RECOMMENDATION:

Notwithstanding citizen testimony and any revisions made by the Planning Commission, staff recommends that the Mill Creek Planning Commission adopt the preceding findings and conclusions and adopt the attached Resolution recommending to the Mill Creek City Council adoption of the proposed code amendments as set forth in Attachment 1.

ATTACHMENTS:

Attachment 1 – Proposed Amendments to MCMC 14.01 and 17.22

Attachment 1 – Proposed MCMC Amendments Relating to Accessory Dwelling Units

17.22.050 Accessory buildings.

- A. No accessory building shall be located in any front yard setback area.
- B. No accessory building shall be located closer than five feet to any lot line.
- C. No accessory building shall have a gross floor area greater than 600 square feet, except accessory dwelling units in detached dwellings in accordance with MCMC 17.22.130.
- D. No accessory building housing livestock or for storage of malodorous substances shall be located within 40 feet of a lot line or principal building.
- E. The allowable height for accessory buildings is 15 feet for single-story structures and 25 feet for two-story structures. (Ord. 2009-702 § 2 (Exh. C); Ord. 2005-609 § 2)

17.22.130 Accessory dwelling unit.

- A. Application. The owner of a lot or residence intending to develop an accessory dwelling unit shall make application to the department of community development on forms provided by the department. The department shall maintain a file of all approved accessory units and shall submit a periodic report to the city council on the number of accessory units permitted.
- B. Size and Number. An accessory dwelling unit may be permitted in either the primary residence or an accessory building. Accessory dwelling units shall not be less than 400 nor more than 800 square feet, and in any event not more than 30 percent of the gross floor area of the residence. There shall be no more than one accessory unit per lot or principal residence.
- C. Parking. One off-street space is required in addition to the number of spaces required for the primary residence, except for accessory dwelling units within one-quarter mile of a major transit stop, which shall not require an additional space. However, off-street parking can be required if the city has determined that the accessory dwelling unit is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the accessory dwelling unit.

D. Appearance. One entrance is allowed on the front or street side for residences with an accessory unit. Additional entrances (if any) shall be located on the rear or sides. Exterior alterations or additions for an accessory dwelling unit shall be consistent with the design of the primary building including matching materials, colors, window style, and existing facade.

E. Allowance in New or Existing Residential. An accessory dwelling unit may be established in either existing or new residences.

F. *Repealed by Ord. 2006-633.*

G. Compliance with Standards. An accessory unit shall comply with all zoning and building code requirements.

H. Water and Sewer. When submitting an accessory dwelling unit application, the applicant must provide documentation from the local water and sewer district that the water supply is potable and of adequate flow and that the existing or proposed sewage system is capable of handling the additional demand placed upon it by the accessory dwelling unit.

I. Home Occupations. A single home occupation is allowed per lot or principal residence containing an accessory unit.

J. Recording. The owner of a lot or principal residence containing an accessory dwelling unit shall record a covenant with the Snohomish County auditor acknowledging the provisions of this section and further acknowledging notice to future owners of the limitations of this section and that failure to comply with the provisions of this section will require restoration of the site to a single-family dwelling. A copy of the covenant shall be provided to the department of community development for review prior to approval of the accessory dwelling unit. (Ord. 2011-723 § 2 (Exh. B); Ord. 2006-633 § 2; Ord. 2005-609 § 2)

"MCMC Section 14.01.030 Definitions

"Major transit stop" means:

1. A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;
2. Commuter rail stops;
3. Stops on rail or fixed guideway systems, including transitways;
4. Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or
5. Stops for a bus or other transit mode providing fixed route service at intervals of at least 15 minutes during the peak hours of operation.