



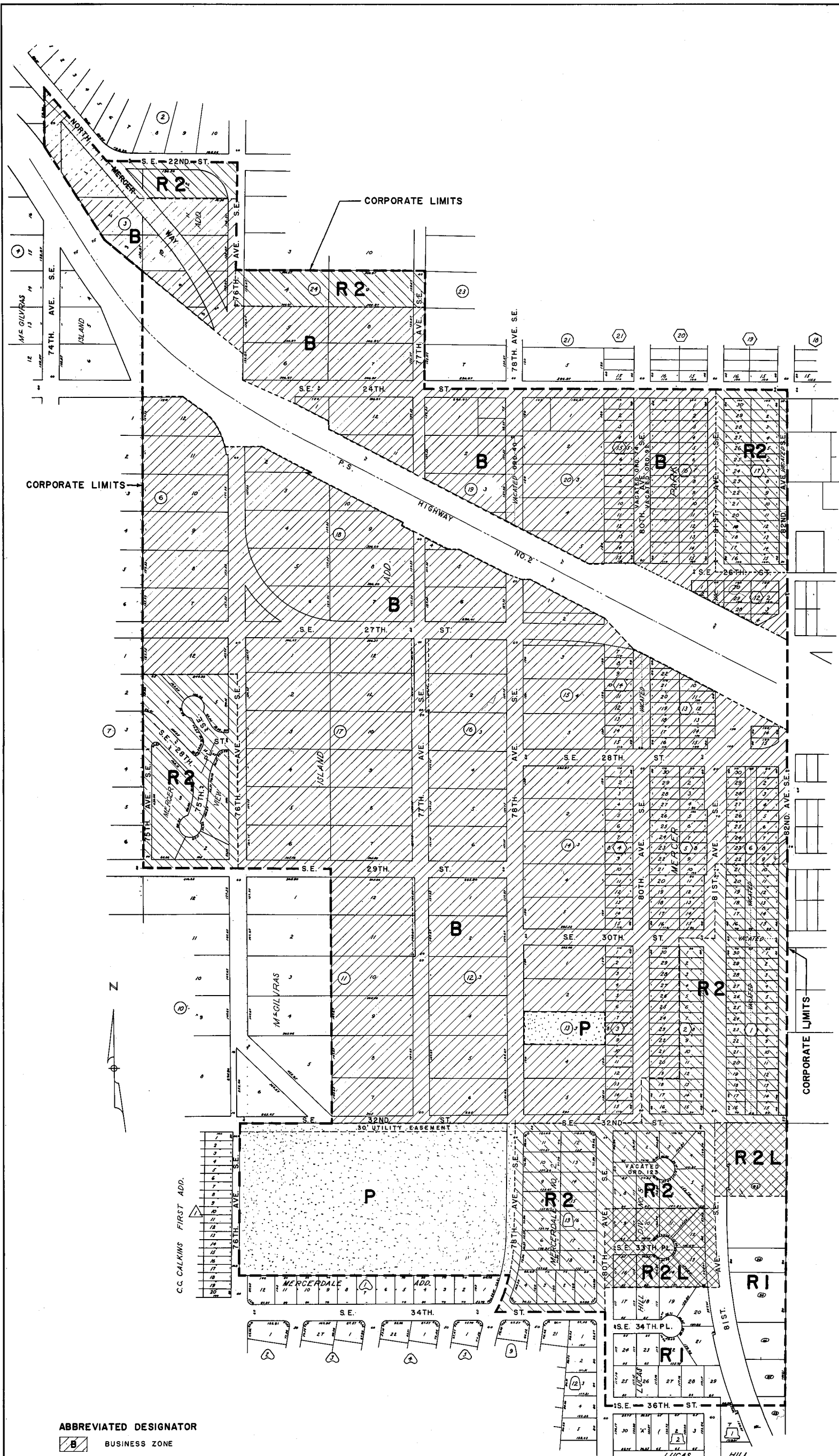
TOWN of
MERCER
ISLAND

Ordinance No. 137

Passed and Approved August 2, 1965

Ordinance No. 138

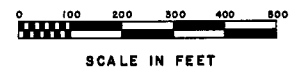
Passed and Approved August 16, 1965



- ABBREVIATED DESIGNATOR**
- BUSINESS ZONE
 - RESIDENTIAL ZONE LIMITED MULTIPLE FAMILY
 - RESIDENTIAL ZONE MULTIPLE FAMILY
 - PUBLIC INSTITUTION
 - RESIDENTIAL ZONE SINGLE FAMILY

ZONING MAP
TOWN OF MERCER ISLAND

PREPARED BY:
G.T. SPARROW & ASSOCIATES
1965



CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS IS THE ZONING MAP OF THE TOWN OF MERCER ISLAND AS ADOPTED BY ORDINANCE NUMBER 137 ON THE 2 DAY OF August, 1965.

MAYOR
TOWN CLERK



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ORDINANCE NO. 137

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 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 44, Laws of 1935, State of Washington.

Section 3. DEFINITIONS.

Sub-section 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. The term "Council" when used, shall mean the Town Council of the Town of Mercer Island of King County, Washington, and the term "Planning Commission" shall mean the Town Planning Commission of the Town of Mercer Island, Washington.

Sub-section 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 lot. Where an accessory building is attached to and made a part of the main building for at least

3.02 cont.

fifty (50) per cent 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) per cent 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 lot or a building or other structure located upon the same lot.

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.

Sub-section 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: 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:

1. The local position of an edifice, town, monument, etc.
2. The seat or scene of any (specified) thing.

Sub-section 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 code.

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.

CONDITIONAL USE: Conditional use means a use listed among those

classified in a given zone but permitted to locate in another zone only after review by the Board of Adjustment and granting of a Conditional Use Permit.

Sub-section 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, TWO-FAMILY: A building containing two kitchens and designed to be occupied by two families living independently of each other.

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

Sub-section 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 area bounded by the exterior faces of the building.

Sub-section 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.

Sub-section 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, hangars 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, public and private clubs, and any such building of any nature whatsoever so occupied, designed 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.

Sub-section 3.09.

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

Sub-section 3.10.

LOT: A distinct portion or plat of land; specifically, one of the smaller portions of land (as a division of a block) into which cities, towns or villages are laid out.

LOT, INTERIOR: A lot fronting on one street.

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

LOT, WIDTH: The dimension of the lot lines of the street or in an irregular-shaped lot the dimension across the lot at the building line or in a corner lot the narrow dimension at a street or building line.

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.

Sub-section 3.11.

MOTEL: A group of two or more detached or semi-detached living or sleeping units having one or more structures and designed for use primarily of automobile transients.

Sub-section 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.

Sub-section 3.13.

OCCUPANCY: The purpose for which a building is used or intended to be used. Change of occupancy is not intended to include change of tenants or proprietors.

Sub-section 3.14.

PARKING SPACE: An off-street space normally nine by twenty (9x20) feet minimum used to temporarily 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 be occupied by one or more families who live therein.

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

Sub-section 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, sub-division, 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.

Sub-section 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.

SHOPPING CENTER: Two or more retail businesses or business establishments on the same site.

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 or 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 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 the supporting members of a building or structure such as bearing walls, columns, beams, or girders, floor joists or roof joists.

Sub-section 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.

Sub-section 3.18.

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.

Sub-section 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 lot on which a building is situated.

YARD, FRONT: Setback or required open space extended across the full width of the front of the lot between street line and main structure, and measured between the street line of the lot 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 lots the front yard shall be measured from the street line abutting the narrowest dimension of the lot.

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

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

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

Sub-section 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:

Zones	Abbreviated Designator
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

Sub-section 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 of the Town of Mercer Island, and which 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. Each copy of this Ordinance prepared by or under the direction of the Town, shall include a reduced facsimile of the official zoning map.

Sub-section 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 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 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.

Sub-section 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.

Sub-section 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.

Sub-section 5.02. No Required Lot Area, Required Yard, or Other Open Space Shall Be Reduced. No required lot area, required yard, or other open space or a legally established off-street parking or loading area existing on or after the effective date of this Ordinance shall be reduced in area or dimension below a minimum required by this Ordinance; nor shall any existing required lot area, required yard, or other open space or legally established off-street parking or loading area less than the required open spaces be used as the required lot area, required yard, off-street parking or loading area for another structure or building except as provided in Sub-section 10.08, 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 the provisions of Sub-section 10.04 of this Ordinance.

Sub-section 5.03. Non-Conforming uses and Buildings - Continuing. Any non-conforming building or use existing as of the date of this Ordinance becomes effective may be continued, subject, however, to the provisions of Sub-sections 5.04 through 5.06 below.

Sub-section 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.

Sub-section 5.05. Non-Conforming Uses and Buildings - Termination. Any non-conforming use not involving a structure or one involving a structure having 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.

Sub-section 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 re-occupied except by a conforming use. A building, structure or part thereof which has been unoccupied continuously for one (1) year 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 if 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 such 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-I RESIDENTIAL SINGLE FAMILY ZONE.

Sub-section 6.01. Principal Uses Permitted Outright.

(1) Single Family Dwellings.

Sub-section 6.02. Accessory Uses Permitted Outright.

(1) Off-street parking space and private garages, as provided in

Section 10 below.

- (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.

Sub-section 6.03. Building Site Area Requirements. The minimum lot areas shall be not 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; and lot depth shall be not less than eighty (80) feet.

Sub-section 6.04. 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 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.

Sub-section 6.05. Prohibited Uses.

- (1) Any use not permitted by this Section or any use expressly prohibited by Sub-sections 7.06 and 8.06 below.

Section 7. R-2. MULTIPLE FAMILY RESIDENTIAL ZONE.

Sub-section 7.01. Principal Uses Permitted Outright.

- (1) Any use permitted in R-1 and R-2L 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) per cent 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 one and one-half parking spaces for each family unit contained therein.
- (4) Motels, 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 sleeping unit.
 - (b) 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 exterior sign advertising such coffee shops will be allowed.
- (5) Hotels 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.
 - (b) Business uses must be conducted and entered entirely from within the building.
 - (c) Not more than thirty-five (35) per cent of the lot shall be covered with structures.
- (6) Retirement Homes and Nursing Homes, PROVIDED that the following conditions shall be fulfilled:
 - (a) Must meet all conditions prescribed by State 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) per cent of the site shall be covered with structures.
 - (d) Shall meet drainage and health standards of the Town of Mercer Island, Seattle-King County Health District, and the State of Washington.
- (7) 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-2 L" 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) Not more than thirty-five (35) per cent of lot shall be covered with structures.
 - (d) Must meet conditions prescribed by State Law.
- (8) General 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 300 square feet of rentable space and does not include public corridors and stairways. Minimum required parking of four (4) cars.
 - (b) Business uses must be conducted and entered entirely from within the building.

(c) Not more than forty-five (45) per cent of the lot shall be covered with structures.

(d) Front yard depth: Ten (10) feet or more

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

Side yard abutting interior lines: Five (5) feet or more

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

Sub-section 7.02. Principal Conditional Uses. Any use permitted in R-1 and R-2 L zones, providing the appropriate conditions as prescribed in Section 6.01 above be fulfilled.

Sub-section 7.03. Accessory Use Permitted Outright.

(1) R-1 and R-2 L Accessory uses permitted outright as specified and regulated in Sub-section 6.02 above, unless modified in Section 7 herein.

(2) Accessory uses customarily incidental to a principal use permitted outright in this Section except of the type prohibited in Sub-section 7.07 below.

Sub-section 7.04. Building Site Area Requirements: The minimum area of the lot shall be Six Thousand (6,000) square feet; lot width shall be not less than sixty (60) feet fronting on a public street or highway; and lot depth shall be not less than eighty (80) feet; EXCEPT that apartments, dwelling groups or multiple family dwellings shall have an additional one thousand (1,000) square feet of site area for each family or housekeeping unit in excess of one (1).

Sub-section 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 lines: Five (5) feet or more.

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

Sub-section 7.06. Identification Signs. Identification signs shall be permitted as follows: One sign identifying the premises on which located or the occupant of the premises, shall be permitted upon issuance of a building permit by the Town Engineer and a sign permit by the Planning Commission.

Sub-section 7.07. Prohibited Uses.

(1) Any use not permitted by this Section or any use expressly prohibited by Sub-section 8.06 below.

(2) Any advertising signs of any kind or nature are expressly prohibited, except as provided for in this Section.

Section 8. B. BUSINESS ZONE.

Sub-section 8.01. 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 Town Council upon recommendation of the Planning Commission.

(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.

Sub-section 8.02. Uses Permitted Outright.

(1) Hotels and Motels.

(2) Animal Hospitals and clinics when structurally enclosed.

- (3) Banks.
- (4) Barber Shops.
- (5) Business or professional offices or studios.
- (6) Custom cabinet work.
- (7) Decorating shops.
- (8) Electric shops.
- (9) Employment agencies.
- (10) Laundries, clothes cleaning and pressing.
- (11) Locksmith, shoe and other repair shops.
- (12) Printing establishments and newspaper printing presses.
- (13) Public garages and auto repair shops.
- (14) Real estate sales office.
- (15) Restaurants, cafeterias, catering and bakeries.
- (16) Retail stores.
- (17) Retail trade shops or shops for custom work.
- (18) Sales rooms or storerooms for motor vehicles and other articles of merchandise.
- (19) Service stations.
- (20) Tailors.
- (21) Telephone exchanges or telegraph offices.
- (22) Commercial recreational facilities.

Sub-section 8.03. Principal or Accessory Conditional Uses Authorized by the Board of Adjustment upon review of the Planning Commission. The following uses permitted when authorized by the Board of Adjustment in accordance with Sub-section 15.03.

- (1) Any use determined by the Board of Adjustment to be of the same general character as the principal uses permitted outright in this Section and also compatible with the aforesaid principal uses, subject to the provisions of Sub-section 8.01 and also subject to any other conditions which the Board of Adjustment or Planning Commission may impose as a requirement for its authorization.

Sub-section 8.04. Accessory Uses. The following uses:

- (a) Accessory uses customarily incidental to a principal use permitted outright in this chapter.
- (b) Any accessory uses permitted in R-1, R-2, and R-2L Zones.

Sub-section 8.05. Yard Requirements:

- (1) Non-residential 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, and that the placement of the tanks in the setback be by revocable permit, and that ingress and egress approved by the Town Engineer be required.

Sub-section 8.06. Prohibited Uses:

- (1) Manufacturing, fabricating, processing, and other related industries.
- (2) Warehouses and other storage facilities for wholesale purposes.
- (3) Bulk fuel storage yards, oil refineries and any other installation involving the storage of flammable materials EXCEPTING those businesses where such materials are sold on the premises on a retail basis and upon condition that such businesses comply fully with the Fire Prevention Code (Ordinance No. 33) and Ordinance No. 130.

(4) Any use not permitted by this Section is expressly prohibited.

Section 9. PUBLIC INSTITUTION ZONE.

Sub-section 9.01. 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 10 below.

Sub-section 9.02. Principal Uses Permitted Outright.

- (1) Public Fire Protection Stations.
- (2) Public Police Stations.
- (3) Public Schools under the Administration of the Mercer Island School District No. 400.
- (4) Public parks.
- (5) Municipal buildings and uses.

Sub-section 9.03. Accessory Uses Permitted. Accessory uses customarily incidental to a principal use permitted outright in this Section, PROVIDED the approval of the Town Engineer is first obtained.

Section 10. OFF-STREET PARKING REQUIREMENTS.

Sub-section 10.01. Building Permits and Parking Plans: No building permit shall be issued until plans showing provisions for the required off-street parking, as determined in this Section, have been submitted and approved by the Town Engineer. 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.

Sub-section 10.02. Approval. The off-street parking facilities as provided for herein, shall comply with all Town Ordinances and shall be provided with means of ingress and egress as approved by the Town Engineer.

Sub-section 10.03. 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 Engineer with a surety bond or other sufficient security guaranteeing to the Town the installation and improvement of the required parking facilities within not to exceed six (6) months following the completion of the building or buildings for which such facilities are to be provided.

Sub-section 10.04. Location. Off-street parking shall be located on the same lot or on an adjoining lot or lots 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 no intersecting streets between the parking area and building to be served and further provided that the Planning Commission gives its approval to such non-adjoining parking areas.

Sub-section 10.05. 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.

Sub-section 10.06. 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 as determined by the Town Engineer. The parking area should 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,

Sub-section 11.04, 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, unless otherwise approved by the Town Planning Commission.

Sub-section 11.05, Building Site Area Requirements: The minimum area of the lot shall be Six Thousand (6,000) square feet; lot width shall not be less than sixty (60) feet fronting on a public street or highway; and lot 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).

Sub-section 11.06, 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 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.

Sub-section 11.07, Prohibited Uses.

(1) Any use not permitted by this section or any use expressly prohibited, except as provided for in this Section.

Section 12. GENERAL PROVISIONS.

Sub-section 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.

(2) Fences.

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

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

(ii) On interior lots a fence not exceeding 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-2 L zones shall not be permitted within 10 feet of front property line;

(iv) On corner lots a fence not exceeding 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 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 lot;

(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 existed;

(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 42 inches in height may be erected at the top of the retaining wall, and any portion of such fence above the 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 per cent (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 the B zone, PROVIDED the following conditions are met: A fence not exceeding 42 inches in height may be located in any required yard. Fences within the building area of the tract are limited to the height limit for structures in the zone.

(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 construction, requires a building permit when height is in excess of 72 inches. Retaining walls over 48 inches in height require a building permit.

The provisions 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 schoolgrounds 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 top board, rail or wire to 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 top surface of wall to the lowest natural grade on either side of the wall.

(3) Temporary Permits. Temporary Permits may be issued by the Town Council for specific jobs and application of a governmental agency covering highway, road and street construction. Such permits are to be issued after a report of the Town Engineer showing that the work is in the public interest. Such permits are to be issued only on condition that the most modern type of smoke and dust collecting equipment will be provided in order that there be a minimum of air pollution while the plant is operating. When excavation is permitted, the permittee will be required to abide by all the regulations contained in the Washington Standard Specifications for Road and Bridge Construction. No permit shall be issued for a period in excess of ninety (90) days.

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Sub-section 12.02. Permits Requiring Formal Resolutions. The following uses are declared by the Town Council to represent matters requiring legislative determination. Applications for such uses shall be filed and processed in the same manner as provided for in dealing with reclassifications, except the action by the Town Council shall be by resolution granting a special permit which permit may recite conditions which shall apply. In considering applications for such uses, the Planning Commission

and the Town Council shall give due consideration to those factors set forth in Sub-section 15.03.

(1) Utility rights-of-way lines such as high voltage transmission lines and rail lines shall be allowable in any zone upon issuance of a permit by the Town Council. This is not applicable to construction on public highways covered by franchise and/or permit.

Sub-section 12.03. Building Height Limit Requirements:

(1) Towers, spires, cupolas, water tanks, 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 structures in excess of the allowable building height shall be used for sleeping or eating quarters or for any commercial purposes other than such use as may be incidental to the permitted use 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 elevation of the property line, an additional story will be permitted on the downhill side of any building in an R-1 zone only.

Sub-section 12.04. 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 sub-division 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) The minimum lot of irregularly shaped lots or tracts shall be measured at the front building line. 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.

Sub-section 12.05. Yard Requirements:

(1) Whenever at least fifty (50) per cent of all the 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 lot 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.

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 as a conditional use permit 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. BOARD OF ADJUSTMENT.

Sub-section 14.01. Creation of Board. There is hereby created a Board of Adjustment of the Town of Mercer Island, which Board shall consist of five (5) members, each to be appointed by the Mayor and approved by the Town Council, to serve without compensation for a term of three (3) years, subject to removal by the Mayor, approved by the Town Council; provided, that two of the five members of the Board of Adjustment shall be selected from the Town Planning Commission. Original appointees to the Board of Adjustment shall serve staggered terms of: One for one year, two for two years, and two for three years, respectively, provided that the term of office for members of the Board of Adjustment selected from the Planning Commission shall run concurrently with their term of office on the Planning Commission. All decisions of the Board of Adjustment may be appealed to the Town Council.

Section 15. VARIANCES AND CONDITIONAL USE PERMITS.

Sub-section 15.01. Board of Adjustment may grant a variance from the 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.

Sub-section 15.02. Require 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.

Sub-section 15.03. Board of Adjustment May Grant Conditional Use Permits. Upon application therefor the Board of Adjustment may grant conditional use permits for such uses and under such circumstances as are set forth below. When considering an application for conditional use permit, the Board of Adjustment shall consider the applicable standards, criteria and policies established by this Ordinance as they pertain to the proposed use and may impose specific conditions precedent to establishing the use and said conditions may include:

- (a) increasing requirements in the standards, criteria or policies established by this resolution;

- (b) stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;
- (c) require structural features or equipment essential to serve the same purpose set forth in item (b) above;
- (d) impose conditions similar to those set forth in items (b) and (c) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, etc., provided the Board of Adjustment may not in connection with action on a conditional use permit reduce the requirements specified by this Ordinance as pertaining to any use nor otherwise reduce the requirements of this Ordinance in matters for which a variance is the remedy provided.

Sub-section 15.04. Scope of Authority on Conditional Use Permits. In addition to other standards which the Board of Adjustment may impose by virtue of other provisions of this Ordinance, the Board of Adjustment may require such conditions as will:

- (a) assure that the degree of compatibility made the purpose of this Ordinance shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses within the general area in which such use is proposed to be located; and
- (b) recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors and hazard or public need; and
- (c) the Board of Adjustment shall have the authority to adjust any and all prescribed standards or conditions for a conditional use permit as provided in Sub-section 15.02.

Sub-section 15.05. Notice of Hearing on Applications for Variances or Conditional Use Permits - Setting Hearing. Upon the filing of an application for a variance or a conditional use permit by 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 300 foot radius of the external boundaries of subject property not less than twelve days prior to the hearing. The application shall set forth the grounds and facts deemed necessary to justify the granting of the variance or conditional use permit. A list of all property owners of record within a 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.

Sub-section 15.06. 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, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this Ordinance.

Sub-section 15.07. 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.

Sub-section 15.08. 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

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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.

Sub-section 15.09. 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.

Sub-section 15.10. 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, conditional use permit 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 or a conditional use permit, it shall also recite the conditions and limitations that are imposed.

Sub-section 15.11. Notice of Decision of the Board of Adjustment. Not later than seven (7) days following the rendering of a decision ordering that a variance, conditional use permit 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.

Sub-section 15.12. 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.

Sub-section 15.13. 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 a variance, conditional use permit or appeals from administrative determination. It may prepare and provide printed forms for such purpose 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.

Sub-section 15.14. 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.

Sub-section 15.15. 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.

Sub-section 15.16. Filing Fees. A filing fee of twenty dollars (\$20.00) shall be paid upon the filing of an application for a variance or conditional use permit; provided, however, this fee shall not apply to any governmental agency or municipal corporation.

Section 19. REPEALING. 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. Ordinance No. 44 of the Town of Mercer Island is hereby expressly repealed.

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 2nd day of August, 1965.

TOWN OF MERCER ISLAND

BY Joseph F. Lightfoot

Mayor

Henry Borgendale

A. C. Burton

Frances E. Cook

James R. Crenshaw

Albert Miller

Councilmen

Approved as to form:

J. Dimmitt Smith

Town Attorney

Attest:

Norine Martin

Town Clerk

Published August 5, 1965.

ORDINANCE NO. 138

TOWN OF MERCER ISLAND,
WASHINGTON

AN ORDINANCE adopting a building code, describing regulations governing the construction of buildings and structures in the Town of Mercer Island, providing for permits to be required for such construction, providing for the Town Engineer to enforce this code and defining his powers and duties therein, and repealing Ordinance No. 59, Ordinance No. 113 and Ordinance No. 116 of the Town of Mercer Island. ✓

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

Section 1. ADOPTION OF BUILDING CODE. There is hereby adopted by the Town Council of the Town of Mercer Island, for the purpose of prescribing regulations governing the construction of buildings and structures within the Town of Mercer Island, that certain code known as the Uniform Building Code published by the International Conference of Building Officials, being particularly the 1964 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which Uniform Building Code not less than three (3) copies have been and now are filed in the office of the Clerk of the Town of Mercer Island, and the same are hereby adopted and incorporated as fully as set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the Town of Mercer Island, Washington. → 1967

Section 2. PURPOSE OF BUILDING CODE. The purpose of this Code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the Town of Mercer Island and certain equipment specifically regulated in the Uniform Building Code. This Uniform Building Code is also intended to constitute an integral part of the Comprehensive Zoning Ordinance of the Town of Mercer Island effected in Ordinance No. 137.

The scope of this Building Code is identical to that designated in Chapter 1 of the Uniform Building Code adopted by reference hereinabove.

Section 3. ESTABLISHMENT OF BUILDING DEPARTMENT.

(1) There is hereby established in the Town of Mercer Island the "Building Department" which shall be under the jurisdiction of the Town Engineer, and which is established in accordance with the provisions of the Uniform Building Code. ✓

(2) The Town Engineer is hereby authorized and directed to enforce all the provisions of this Code. For such purposes he shall have the powers of a police officer. ✓

(3) With the approval of the Mayor and the Town Council of the Town of Mercer Island, the Town Engineer may appoint such numbers of officers, inspectors and assistants, and other employees as shall from time to time be necessary and as shall be authorized from time to time. Further, the Town Engineer may deputize such employees as may be necessary to carry out the functions of the Building Department. ✓

(4) Upon presentation of proper credentials, the Town Engineer or his duly authorized representative may enter at reasonable times any building, structure, or premises in the Town of Mercer Island to perform any duty imposed upon him by this Building Code. ✓

(5) Stop Orders. Whenever any building work is being done contrary to the provisions of this Building Code, the Town Engineer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any person shall forthwith stop such work until authorized by the Town Engineer to proceed with the work.

(6) The Town Engineer shall have such other powers and duties as are prescribed in Chapter 2, Section 202 of the Uniform Building Code adopted by reference hereinabove.

Section 4. BUILDING PERMITS REQUIRED.

(1) No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the Town of Mercer Island, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Town Engineer.

(2) To obtain a permit, the applicant shall first file an application therefor in writing, on a form furnished for that purpose. Every such application shall:

(a) Identify and describe the work to be covered by the permit for which application is made,

(b) Describe the lot on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work,

(c) Show the use or occupancy of all parts of the building,

(d) Be accompanied by plans and specifications as required in sub-section No. (3) of this section.

(e) State the valuation of the proposed work,

(f) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority, and

(g) Give such other information as reasonably may be required by the building officials.

(3) Plans and Specifications. With each application for a building permit, and when required by the Town Engineer for enforcement of any provisions of this Building Code, two sets of plans and specifications shall be submitted. These plans and specifications must include such information as is specified in Chapter 3 of the Uniform Building Code adopted hereinabove. The Town Engineer may require plans and specifications to be prepared and designed by an Engineer or Architect licensed by the State of Washington to practice as such.

(4) Issuance of Permit. The application, plans and specifications filed by an applicant for a building permit shall be checked by the Town Engineer. Such plans may be reviewed by the Planning Commission and other Departments of the Town of Mercer Island to check compliance with the laws and ordinances of the Town of Mercer Island. If the Town Engineer is satisfied that the work described in an application for a permit and the plans filed therewith conform to the requirements of this Building Code and other pertinent laws and ordinances of the Town of Mercer Island, and that the fee specified in Section 303 (a) of the Uniform Building Code adopted hereinabove has been paid to the Town Clerk, the Town Engineer shall issue a permit therefor to the applicant.

(5) The issuance of building permits, and validity and expiration thereof, and all other provisions relating to this section shall

be in accordance with those portions of Chapter 3 of the Uniform Building Code which have not already been expressly cited above.

Section 5. DEFINITIONS. Whenever the word "building official" is used in the Uniform Building Code, it shall be held to mean the Town Engineer of the Town of Mercer Island. Wherever the word "City" is used in the Uniform Building Code, it shall be held to mean the Town of Mercer Island.

Section 6. PENALTIES.

(1) It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the Town of Mercer Island, or cause the same to be done, contrary to or in violation of any of the provisions of the Uniform Building Code adopted hereinabove.

(2) Any person, firm, or corporation violating any of the provisions of this Uniform Building Code shall be deemed guilty of misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any other provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than Three Hundred Dollars (\$300.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(3) All actions to enforce penalties as needed under these provisions shall be initiated in the Municipal Court of the Town of Mercer Island, Washington.

Section 7. AMENDMENTS MADE IN THE UNIFORM BUILDING CODE. Section 6004 of the Uniform Building Code adopted hereinabove is hereby deleted in its entirety. Sections 4401, 4402 and 2003 (a) are each hereby amended to read as follows:

Section 4401: No person shall place or store any material or equipment necessary for the work under a building permit on a public street, alley, side-walk or public property, nor shall any work be performed except in accordance with the provisions of this Chapter and only after having first obtained a permit to so occupy the public streets, alley, side-walk or public property. The application for said permit shall be made at the same time as the application for building permit and said permit shall contain an Agreement signed by the owner or permittee holding the Town harmless from any and all claims or causes of action which may arise from the occupation of the said public street or public property and containing a promise on behalf of said owner or permittee to defend the Town against any and all of said claims or causes of action and further agreeing to pay any Judgments rendered against the Town.

No person shall perform any work on any building or structure, if by so doing he endangers pedestrians on the street that abuts the property line, unless the pedestrians are protected as specified in this Chapter.

Any material or structure temporarily occupying public property, including fences and walk-ways, shall be adequately lighted between sunset and sunrise.

Section 4402: Section 4402 is hereby deleted in its entirety.

Section 2003 (a): Exterior Walls and Inner Court Walls.

Exterior walls and inner court walls shall be as set forth in

