



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND, WA**

**AB 4341  
August 4, 2008  
Regular Business**

**CODE AMENDMENTS TO MICC 19.06.050  
REGARDING COMMERCE ON PUBLIC  
PROPERTY WITHIN THE MERCER ISLAND  
TOWN CENTER ZONE (2<sup>nd</sup> READING)**

**Proposed Council Action:**

Conduct Second Reading and Adopt Ordinance  
No. 08C-06

**DEPARTMENT OF**

Development Services Group (Steve Lancaster)

**COUNCIL LIAISON**

n/a

**EXHIBITS**

1. Proposed Ordinance No. 08C-06

**APPROVED BY CITY MANAGER**

*Rich Leonard 7-30-08*

<b>AMOUNT OF EXPENDITURE</b>	\$	n/a
<b>AMOUNT BUDGETED</b>	\$	n/a
<b>APPROPRIATION REQUIRED</b>	\$	n/a

**SUMMARY**

**Background**

Ordinance No. 08C-06 proposes amendments to Section 19.06.050 of the Mercer Island City Code revising the guidelines for the regulation of commerce on public property in the Town Center. The proposed amendments to MICC 19.06.050 address the regulation of occasional, temporary commercial uses of public property in the Town Center zone. On July 21, 2008, the City Council held a First Reading of Ordinance 08C-06. No changes to the proposed ordinance were requested by City Council during the First Reading. Accordingly, no modifications have been made by staff to Ordinance No. 08C-06.

**RECOMMENDATION**

*Steve Lancaster, Development Services Director*

**MOVE TO:** Adopt Ordinance No. 08C-06, amending Mercer Island City Code Section 19.06.050, Commerce on Public Property.

**CITY OF MERCER ISLAND  
ORDINANCE NO. 08C-06**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON  
AMENDING MERCER ISLAND CITY CODE TITLE 19, UNIFIED LAND  
DEVELOPMENT CODE**

WHEREAS, the City of Mercer Island Municipal Code (MICC) contains Title 19, the Unified Land Development Code (ULDC), adopted on November 15, 1999 as Ordinance No. 99C-13;

WHEREAS, the City's Responsible Official reviewed the proposed amendments to the Chapter 19 under the provisions of the State Environmental Policy Act (SEPA) and issued a Determination of Non-Significance on June 30, 2008;

WHEREAS, the City complied with all public notice requirements for the Planning Commission open record public hearing and the City Council public meeting;

WHEREAS, the Mercer Island Planning Commission held an open record public hearing on July 16, 2008 consistent with ULDC 19.15.010(E) to consider the proposed amendments to Title 19;

WHEREAS, after hearing public testimony and deliberation, the Mercer Island Planning Commission issued a recommendation of approval of the proposed amendments to the Mercer Island City Council;

WHEREAS, the City Council held a public meeting consistent with ULDC 19.15.010(E) on July 21, 2008 and completed a first reading of this Ordinance;

WHEREAS, the City Council considered this Ordinance for second reading and adoption on August 4, 2008; and

WHEREAS, after considering all public testimony and written comments, the City Council adopts the following Ordinance.

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

**Section 1:**     **Chapter 19.06 General Regulations.** MICC 19.06.050 "Commerce on Public Property" is hereby amended as follows:

**19.06.050 Commerce on public property.**

A. The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property for the benefit of private commerce.

B. The provisions of this section shall apply only to public sidewalks, streets and rights-of-way within the Town Center zone.

C. Any person(s), corporation, or company who wishes to use the public right-of-way for the exchange of goods or services shall apply for a private commerce on public property permit. Such permit shall be in the form specified by the code official and shall contain such information as deemed necessary by the code official.

D. Criteria for Permit. A private commerce on public property permit shall be reviewed based on the following criteria:

1. The applicant business has an active business license for a location immediately adjacent to the public property location where the request has been made.
2. The location of the business activity does not create a safety hazard for motorists, bicyclists or pedestrians.
  - a. The business location maintains sufficient area for the free passage of pedestrians along sidewalk and access to other adjacent businesses.
  - b. The business location does not obstruct the views of motorist turning into or out of a street or parking lot.
3. The business operation does not generate litter, noise or other nuisances that would be objectionable to the public or other businesses in the immediate area.
  - a. Adequate refuse containers shall be provided.
  - b. Hours of operations are sensitive to the surrounding neighborhood.
  - c. No music or sound is amplified.
  - d. The area can be maintained in a clean condition.
  - e. Physical improvements can be removed or secured when not in operation.
4. The design for any improvements ~~are~~is consistent with the design requirements for the Town Center plan.
5. The location and design do not unreasonably obstruct the visibility of any adjacent businesses.
6. The location of a business engaged in the sale of alcoholic beverages is separated from the public space with a barrier, fence, landscaping or other demarcation.

E. A permit to operate a private business on public property shall be reviewed and approved by the design commission, provided that occasional, temporary business operations involving temporary structures and/or temporary right-of-way obstructions may be approved by the Code Official or referred to the design commission at the Code Official's discretion.

F. All permittees must comply with all applicable city, county, state and federal laws, including the International Fire Code.

G. Permits for on-going commercial use on public property shall be ~~renewed~~subject to renewal annually on the date of the original permit approval. Failure to submit a renewal request ~~shall result in the suspension of the permit~~ within 30 days of the annual renewal date shall result in the suspension of the permit.

H. The revocation of a permit shall be governed by MICC 19.15.030.

I. The provisions of this section shall not apply to the annual city-sponsored event known as "Summer Celebration."

J. The Code Official may require a bond or assignment of funds as set out in MICC 19.01.060(C) to ensure that public property subject to commercial use under this section is restored to its former condition immediately following cessation of the commercial use.

K. The Code Official may require evidence of insurance, indemnification or other measures deemed necessary and sufficient to limit the city's liability for the acts or omissions of persons,

corporations, or companies seeking and obtaining permission to use public property for commercial purposes.

**Section 2:**     **Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 3:**     **Effective Date.** This Ordinance shall take effect and be in force on 30 days after its passage and publication.

Passed by the City Council of the City of Mercer Island, Washington at its regular meeting on the \_\_\_ day of \_\_\_\_\_, 2008 and signed in authentication of its passage.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Jim Pearman, Mayor

ATTEST:

\_\_\_\_\_  
Allison Spietz, City Clerk

Approved as to Form:

\_\_\_\_\_  
Katie Knight, Interim City Attorney

Date of Publication: \_\_\_\_\_