



PLANNING COMMISSION MEETING AGENDA
Council Chambers, 1000 Laurel Street

November 4, 2019
Monday

Regular Meeting
4:00 p.m.

- 1. Call to Order and Flag Salute**
- 2. Roll Call**
- 3. Welcome**
- 4. Additions/Deletions to Agenda**
- 5. Citizen Participation**
- 6. Approval of Minutes**
 - A. September 11, 2019 Regular Meeting
- 7. Regular Agenda**
 - A. Accessory Dwelling Units-Beginning Phase
 - B. Vacant Building Regulations-Update
 - C. Planning Commission Protocols
 - D. Planning Commission Work Plan 2020
 - E. Bridge Point I-5 project
- 8. Commissioner Reports**
- 9. Next Meeting Date and Topics**
- 10. Adjournment**

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PLANNING COMMISSION MINUTES

Regular Meeting
Wednesday, September 11, 2019
7:00 p.m.

1. CALL TO ORDER AND FLAG SALUTE

Chair Whalen called the meeting to order at 7:00pm and Commissioner Gillespie led the flag salute.

2. ROLL CALL

Present: Chair Whalen, Vice Chair LaVergne, Commissioners Gillespie, Sweat, Boyle and Balsley.

Absent: Commissioner White

Staff & Electeds Present: Clerk Trisha Summers and Mayor Styron Sherrell

Motion "to excuse Commissioner White from tonight's meeting"
(Boyle/LaVergne) **Passed 6/0**

3. ADDITIONS, DELETIONS TO AGENDA

None

4. CITIZEN PARTICIPATION

Mayor Shanna Styron Sherrell

Mayor spoke about the common thread that she hears from the commission is that they need support. She talked about ways to support the group such as changing meeting times, education, etc. and expressed her thanks and appreciation for the planning commission and the work they do.

5. APPROVAL OF MINUTES

A. August 14, 2019 minutes

Motion “to approve minutes for August 14, 2019.” (Sweat/Gillespie)
Passed 6/0

6. REGULAR AGENDA

A. Chairman’s Report to Commission on meeting with Mayor and Staff

Chair Whalen met with the Mayor and during their conversation, was encouraged to change meeting times to afternoons at city hall to gain access to staff as needed during their working hours.

B. Planning Commission’s meeting schedule

Commissioners talked about the possibility of changing their meeting day and times to gain access to staff. After much discussion amongst the group, they decided on a time and day that would work for them all.

Motion “to change meeting day to the first Monday of each month from 4pm-6pm effective October 7, 2019.” (Gillespie/Balsley) **Passed 6/0**

C. Joint Planning Commission – Council Meeting

Chair Whalen spoke about a joint meeting with council and got direction from the Commissioners that they would like to do it during their next meeting on October 7th. Chair Whalen will be putting together an agenda of the items for discussion and will review it with the commissioners before the joint meeting.

D. Accessory Dwelling Units (ADU)

Chair Whalen shared handouts that she printed from MRSC website regarding accessory dwelling units. The commission previously discussed the topic in June 2018. The group was encouraged to research using the handouts and also the Milton Municipal Code and be prepared for more discussion on ADU’s at the next meeting.

Commissioner Boyle shared research he found about why cities would and wouldn’t want ADU’s in their cities. Commissioner Balsley shared that she has noticed the different kinds of ADU’s in other cities.

E. Update on Vacant Building Regulations

The commission decided to not do any more work on this topic at this time but instead to speak to council in the joint meeting about the work plan and what council expects of them regarding this topic.

F. Development Status Report

Report on status of current development projects was reviewed.

7. COMMISSIONER REPORTS

Chair Whalen

- Appreciate all the hard work the 9/11 committee did to bring the monument to the community and look forward to the opportunity for remembrance.

Vice Chair LaVergne

- Nothing to add

Commissioner Sweat

- Updated on civil service commission

Commissioner Gillespie

- Hosting a BBQ on September 14th from 6-9, all commissioners welcome

Commissioner Balsley

- Updated on Milton Days and appreciation for all the volunteers. Noted all commissioners were in attendance in volunteer capacities.
- Spirit Halloween is temporarily in the former hardware store space and the community is happy to see business in the location again.
- Bazaar is October 11 & 12th. Bake sale donations welcome.

Commissioner Boyle

- Nothing to add

8. ADJOURNMENT

The meeting was adjourned at 9:03 PM.

Chair Jacquelyn Whalen

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1 **TO:** Milton Planning Commission, Mayor, Council, and Staff

2 **FROM:** Jacquelyn Whalen, Chairman

3 **MEETING DATE:** November 04, 2019; Regular Planning Commission Meeting

4 **TOPIC:** Beginning the Commission’s work on Accessory Dwelling Units [ADUs]

5 -----

6 **WORK PLAN ITEM and DESCRIPTION:**

7 Accessory Dwelling Units [ADUs] – Updating Standards

8 Consider if the City’s existing ADU standards are sufficient for Milton’s current needs.

9

10 **ATTACHMENTS**

- 11 I. Accessory Dwelling Units Under the Microscope
- 12 II. Accessory Dwelling Units – a brief overview; MRSC topics-page discussion
- 13 III. Examples of Local ADU Codes in WA State
- 14 IV. Summary of Selected ADU Ordinances (WA State)
- 15 V. City of Milton Regulations:
 - 16 a. Title 17 Zoning – Table of Contents;
 - 17 b. Table of Uses – Chapter 17.14;
 - 18 c. Selected definitions from MMC Zoning – Chapter 17.08;
 - 19 d. Zoning District regulations for
 - 20 i. Residential (RS) – Chapter 17.20,
 - 21 ii. Residential Moderate Density (RMD) – Chapter 17.22,
 - 22 iii. Residential Multifamily (RM) – Chapter 17.24, and
 - 23 iv. Mixed-Use Town Center (MX) – Chapter 17.30;
 - 24 e. Table of Land Development Dimensional Regulations – Chapter 17.15A;
 - 25 f. Table of Building Bulk Regulations – Chapter 17.05B.
 - 26 g. Off-Street Parking Requirements – Chapter 17.48.040
- 27 VI. Milton Zoning Map
- 28 VII. Summary of Selected Milton Municipal Code Accessory Dwelling Unit Regulations as of November 2019
- 29 VIII. Legislature Paves the Way for Tiny Houses

30

31 **PURPOSE and INTENDED OUTCOMES OF TONIGHT’S AGENDA PACKET and DISCUSSION:**

- 32 1. Provide a general overview of what an accessory dwelling unit [ADU] is
- 33 2. List several of the many ways ADU construction and usage can be regulated
- 34 3. Provide a general overview of current Milton’s ADU regulations
- 35 4. Identify the nature of the problem(s) the City needs to address with its current regulations
- 36 5. Identify current ADU construction and usage in Milton

- 37 6. Learn about Council’s and Staff’s perspectives and concerns regarding ADU activity in Milton
- 38 7. Create a list of questions for our Attorney to research
- 39 8. Create a list of topics for the Commission to research
- 40 9. Begin a conversation on the degree of change that is wanted/needed in the Milton Municipal Code
- 41 10. Define the next steps for the work on ADU Regulations to progress

42

43 **DISCUSSION**

44 **General Comments**

45 The lists of items or questions are ‘starters’ to help generate ideas in advance; they are not a complete
46 lists; in fact, it is hoped that many more questions and items will be discussed at the meeting.

47 While an attempt has been made to provide an outline to help guide discussions, the topics do not always
48 fall into distinct compartments... there is much overlap.

49 For a helpful, more in-depth review of the topic of ADUs, see MRSC’s publication: *Accessory Dwelling*
50 *Units: Issues and Options* available for free online.

51

52 Section A). INTRODUCTION TO ACCESSORY DWELLING UNITS [Parts 1 & 2]

53 **Part [1]. Provide a general overview of what an accessory dwelling unit [ADU] is**

54 Please see Attachments:

- 55 I. Accessory Dwelling Units Under the Microscope
- 56 II. Accessory Dwelling Units – a brief overview; MRSC topics-page discussion

57

58 An ADU is a small, self-contained residential unit located on the same lot as an existing single family home. An
59 ADU has all the basic facilities needed for day-to-day living independent of the main home – such as a kitchen,
60 sleeping area, and a bathroom.

61

62 Proponents of ADUs note that ADUs can provide :

- 63 o a means for rental income, companionship, support for aging in place, more safety and security, and on-
64 site services.
- 65 o housing units to moderate income people who may have difficulty finding homes.
- 66 o a means to accommodate increases in population while maintaining the single family house character of a
67 neighborhood.

68

69 Opposition to ADUs usually arises from concerns about negative impacts to property values, increased density,
70 changes in neighborhood appearance, increased parking congestion, crime and nuisance issues.

71

72 The purpose of Strengthening & Clarifying Milton’s ADU regulations is to protect neighborhood stability, property
73 values, and the single family residential appearance of the neighborhood.

74

75

76 **Part [2].** List several of the many ways ADU construction and usage can be regulated

- 77 Owner Occupancy,
- 78 Dedicated Off-Street Parking,
- 79 Attached ADUs only
- 80 Maximum Number of Accessory Dwelling Units on Site
- 81 Cannot be sold separately from Principal Structure,
- 82 Maximum Number of Occupants
- 83 Maximum Size of ADU,
- 84 Minimum Size of ADU ???
- 85 Design Standards (roof pitch, window style, exterior modulation, and more)
- 86 Bulk and Dimensions of the ADU
- 87 Setback Regulations
- 88 Placement on the lot relative to the principal structure
- 89 Location on the site itself, interior block lots and corner block lots
- 90 Location within specific zones
- 91 Concentration of ADUs within an area
- 92 Impact Fees
- 93 Utility Connection Fees, easements.....
- 94 Maximum housing density
- 95 Building safety and code compliance

96 Please see Attachments:

- 97 I. Accessory Dwelling Units Under the Microscope
- 98 II. Accessory Dwelling Units – a brief overview; MRSC topics-page discussion
- 99 III. Examples of Local ADU Codes in WA State
- 100 IV. Summary of Selected ADU Ordinances (WA State)

101

102 **Section B).** MILTON’S REGULATORY FRAMEWORK FOR ACCESSORY DWELLING UNITS [Parts 3, 4, 5, & 6]

103 **Part [3].** Provide a general overview of current Milton’s ADU regulations

104 Please See Attachments:

- 105 V. City of Milton Regulations: V.a. through V.g.
- 106 VI. Milton Zoning Map
- 107 VII. Summary of Selected Milton Municipal Code Accessory Dwelling Unit Regulations as of November
- 108 2019

109

110 As you can see, Milton’s regulations are silent and a bit unclear on some of the key ways that ADUs are regulated.

111 ADUs in the RS Residential Zone (the yellow color on our zoning map) have more regulations than in the other

112 residential zones where they are allowed as accessory uses (Attachment VII).

113

114 **Part [4].** Identify the nature of the problem(s) the City needs to address with its current regulations

- 115 • Put all the zoning regulations in one place rather than having regulations within the definition for
- 116 *Accessory Apartment.*
- 117 • Deal with illegal, unpermitted, unsafe ADUs currently in place
- 118 • Identify more specific ADU regulations for each of the zoning districts that they are allowed in

- 119 • Identify what is not allowed relative to ADUs
- 120 • *MORE ITEMS.....*
- 121

122 **Part [5]. Identify current ADU construction and usage in Milton**

123 Questions to Staff and Mayor and Council:

- 124 1. Are there many requests at the Building & Planning departments for ADU permits?
- 125 2. What are the ways that people have ‘stretched’ the rules?
- 126 3. How many complaints have come in to the City regarding ADUs?
- 127 4. Are impact fees charged for ADUs?; Should there be?;
- 128 5. Are impact fees for an ADU the same for a duplex unit, for example?
- 129 6. Are separate utility meters required for ADU construction?
- 130 7. Are certificates of availability issued for ADU construction?
- 131 8. Does the City issue a Certificate of Occupancy?
- 132 9. What does the City have to do when an illegal/unpermitted/unsafe ADU is reported?
- 133 10. *MORE QUESTIONS...*
- 134

135 **Part [6]. Learn about Council’s and Staff’s perspectives and concerns regarding ADU activity in Milton**

136 Questions to Council:

- 137 1. What are your worries/concerns about Accessory Dwelling Unit construction in Milton?
- 138 2. What do you want the Commission and the Council to look into?
- 139 3. How big is the scope of this project from your perspective?
- 140 4. What are you willing to budget towards the resources needed to accomplish the work?
- 141 5. Should ADUs have different setback requirements than that of other accessory structures?
- 142 6. *MORE QUESTIONS...*
- 143

144 Questions to Staff:

- 145 1. What regulations need to be added to deal with bringing illegal/unpermitted/unsafe ADUs into
- 146 compliance?
- 147 2. What are your perspectives regarding detached ADUs?
- 148 3. What do you wish was better clarified/written in our regulations?
- 149 4. Are ADUs part of the housing capacity calculations for county buildable lands reports and the
- 150 like?
- 151 5. To what degree is the City workload required for permitting a detached ADU different from the
- 152 City workload required for a short plat?
- 153 6. Does the amount of fees charged reflect that difference in workload accurately?
- 154 7. Can ADUs have a full set of rules that are different than Accessory Structures?
- 155 8. Given that all ADUs are Accessory Structures, but not all Accessory Structures are ADUs - what is
- 156 a better way to write the rules for both within our municipal code?
- 157 9. What goes into the calculation for ‘floor area’ when determining whether a structure is within
- 158 maximum/minimum size requirements? *{note: our definition for ‘floor area’ cites standards for*
- 159 *calculating the ‘floor area ratio’ and determining ‘off-street parking & loading requirements.’}*
- 160 10. *MORE QUESTIONS...*
- 161

162 Section C). GATHER PERSPECTIVES CONCERNS AND QUESTIONS. [Parts 7 & 8]

163 **Part [7].** Create a list of legal oriented questions for our Attorney and Planner(s) to research

164 Tiny Houses:

165 Please see attachment:

166 VIII. Legislature Paves the Way for Tiny Houses

167

168 What are the regulations we must address given recent State legislation = ESSB 5383?

169 Are Tiny Houses a detached ADU outright?

170 Can they be regulated differently than “standard detached ADUs?”

171 Can a permanent foundation be required installations without wheels be regulated differently?

172

173 ADUs in general:

174 What is the difference between a duplex and an attached ADU?

175 If ADUs are allowed for Single Family houses in all zones that allow single family homes... does that mean that

176 duplexes and triplexes can have an ADU for each dwelling unit?

177

178

179 **Part [8].** Create a list of topics for the Commission to research

180

181

182 Section D). LAUNCHING THE COMMISSION’S WORK. [Parts 9 & 10]

183 **Part [9].** Begin a conversation on the degree of change that is wanted/needed in the Milton Municipal Code

184 ☞ Identify what issues Council and Staff consider to be important

185 ☞ Strengthen and Consolidate Milton’s ADU regulations

186

187 **Part [10].** Define the next steps for the work on ADU Regulations to progress

188

189 ➤ Seek Attorney’s guidance in the early stages of the Commission’s work

190 ➤ Define our Community’s needs

191 ➤ Further review Staff and Councils’ concerns and suggestions

192 ➤ Review other municipal codes and select those that would fit our community’s needs

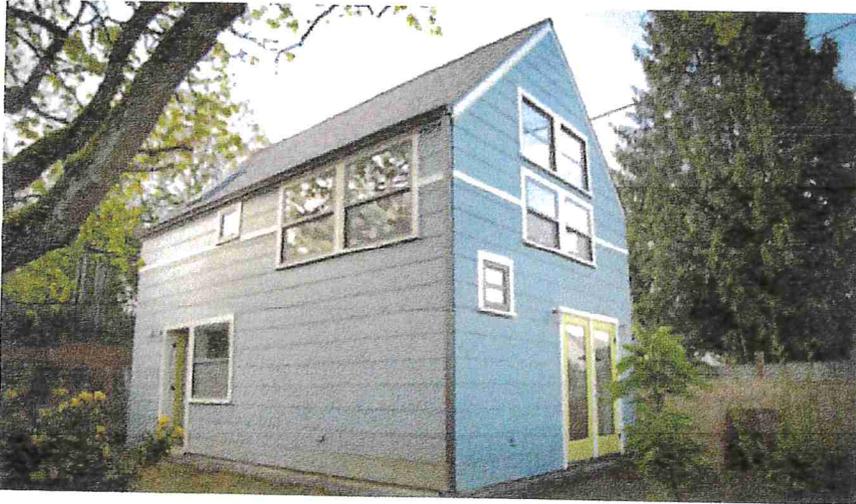
193 ➤ Report back to Staff, Mayor, and Council on initial findings

194

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Accessory Dwelling Units under the Microscope

July 21, 2016 by Steve Butler
Category: Housing



Accessory dwelling units (ADUs) have been around for decades. In many parts of Washington State, the concept is accepted and local governments have revised their regulations to accommodate such housing. Even so, the number of ADUs created in accordance with local standards has remained relatively low, due in part to the difficulty in meeting those regulations and the associated costs related to them. In response, a few local governments are relooking

at their standards and discussing how to make them easier to meet. The potential easing of existing ADU regulations, however, is causing neighborhood homeowners to take notice.

What is an Accessory Dwelling Unit (ADU)?

An accessory dwelling unit (ADU) is a small, self-contained residential unit located on the same lot as an existing single-family home. They are sometimes referred to as "mother-in-law apartments" or "granny flats." An ADU has all the basic facilities needed for day-to-day living independent of the main home, such as a kitchen, sleeping area, and a bathroom.

There are two types of ADUs:

1. **Attached ADU**, which may be created as either:
 - a. A separate unit within an existing home (such as in an attic or basement);
 - b. An addition to the home (such as a separate apartment unit with its own entrance); or
2. **Detached ADU**, created in a separate structure on the lot (such as a converted garage or a new "backyard cottage").

Reasons for Allowing ADUs

State law (see [RCW 43.63A.215](#) and [36.70A.400](#)) requires that certain cities and counties adopt ordinances to encourage the development of ADUs in single-family zones by incorporating the [model ordinance recommendations](#) prepared by the Washington Department of Commerce. In addition to just meeting a statutory

mandate, however, ADUs have also helped local jurisdictions meet their GMA goals related to affordable housing, and provide a variety of housing densities and types, while still preserving the character of single-family neighborhoods. From a planning perspective, it is considered by many to be a "kinder and gentler" method for accommodating population growth in a community, as compared to upzoning land to do so.

Standard ADU Regulations

Most local ADU regulations have standards to address the following issues:

- Maximum Unit Size
- Owner-Occupancy
- Dedicated Off-Street Parking
- Attached ADUs Only
- Maximum Number of Dwelling Units on One Lot
- Separate Entrances /Only One Visible from the Street
- Other Design Standards (especially for detached ADUs) for such items as roof pitch, window style, and exterior material
- Maximum Number of Occupants
- Minimum Lot Size
- Building Code and Other "Life/Safety" Requirements

Communities Starting to Reconsider Their ADU Requirements

Some local governments in Washington and elsewhere are re-examining their existing ADU requirements and questioning the rationale behind them, especially given the low production of new ADUs. As a result, some communities are considering changes to their ADU regulations, such as:

- **Unit Size:** Most current ADU standards set a maximum size (for example, 800 square feet), but some communities are considering an increase to their limit to provide more flexibility.
- **On-site Parking:** Some local governments are looking at a reduction or elimination of standards requiring on-site parking spaces for the ADU's occupants, especially in areas where there is adequate on-street parking. Such a change may face stronger opposition in neighborhoods where street parking is at a premium.
- **Detached ADUs** - Most codes only allow attached ADUs, but more communities are expanding their regulations to permit detached ADUs (which are usually required to be placed in the back half of a residential lot). Even if allowed, the high cost of constructing "backyard cottages" may limit the number that actually get built.
- **Owner-Occupancy** - Most codes require that the property owner needs to occupy either the primary or accessory unit, but some communities (such as Seattle) are considering removing this requirement.
- **Allowing More than Two Dwelling Units** – A cutting-edge regulatory change is to increase the maximum number of dwelling units on a single family lot to three (by allowing one primary dwelling unit, one attached ADU, and one detached ADU). In Seattle, the city council is currently considering proposed code revisions that would include an increase to three units on one lot.

Discussion about these types of changes has caused anxiety for some homeowners, who are concerned about the impacts on neighborhood character and property values. On the other hand, affordable housing advocates consider changing existing regulations as a way to effectively increase the number of legal ADUs.

Regardless of how local governments decide to regulate them, ADUs may be a viable approach to address your community's growth and affordable housing policies in a manner that is acceptable to your residents (especially if they consider the alternatives). Just be sure your regulations and development review process aren't so burdensome that property owners end up either not creating these dwelling units or doing so surreptitiously, without obtaining the required permits.

Recommended Resources

- [Accessory Dwellings](#) website.
- [MRSC Accessory Dwelling Units: Issues & Options](#) publication
- [MRSC Accessory Dwelling Units](#) and [Affordable Housing](#) topic webpages.

Photo courtesy of [AccessoryDwellings.org](#)

MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one [Ask MRSC service](#) to get answers to legal, policy, or financial questions.



About Steve Butler

Steve joined MRSC in February 2015. He has been involved in most aspects of community planning for over 30 years, both in the public and private sectors. He received a B.A. from St. Lawrence University (Canton, New York) and a M.S. in Urban and Regional Planning from the University of Wisconsin-Madison. Steve has served as president of statewide planning associations in both Washington and Maine, and was elected to the American Institute of Certified Planner's College of Fellows in 2008.

[VIEW ALL POSTS BY STEVE BUTLER](#) ▶

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Accessory Dwelling Units

This page provides a brief overview of accessory dwelling units for cities and counties in Washington State, including legal requirements and examples of city and county codes.

What is an Accessory Dwelling Unit?

An accessory dwelling unit (ADU) is a small, self-contained residential unit located on the same lot as an existing single-family home.

An ADU has all the basic facilities needed for day-to-day living independent of the main home, such as a kitchen, sleeping area, and a bathroom. As the term "accessory" implies, ADUs are generally defined to be smaller in size and prominence than the main residence on the lot. Some definitions include specific size limits, and a location that is not readily visible from the street.

In theory, an ADU may be created as a separate unit within an existing home (such as in an attic or basement), an addition to the home (such as a separate apartment unit with separate entrance), or in a separate structure on the lot (such as a converted garage). See the examples shown below.

Some communities, however, only allow ADUs that are within or attached to the main residence, and exclude ADUs housed in a separate structure. Whether attached or detached from the main residence, most codes require that the main residence and the ADU must be owned by the same person and may not be sold separately.

ADUs are sometimes called "mother-in-law apartments" or "granny flats," because they are often used to house extended family. Other codes use terms such as "accessory apartment," "accessory living unit," or "secondary unit," to have a similar meaning.

Examples of Accessory Dwelling Units (ADUs)

ADUs in blue; main residence in white

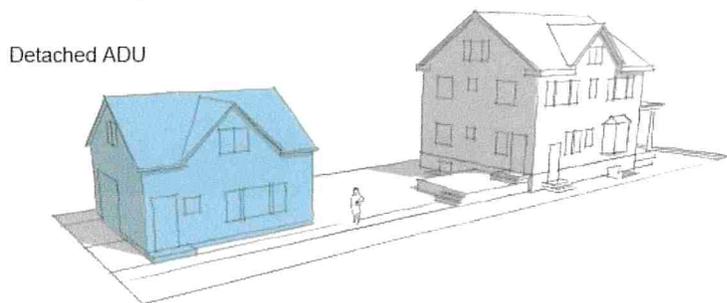
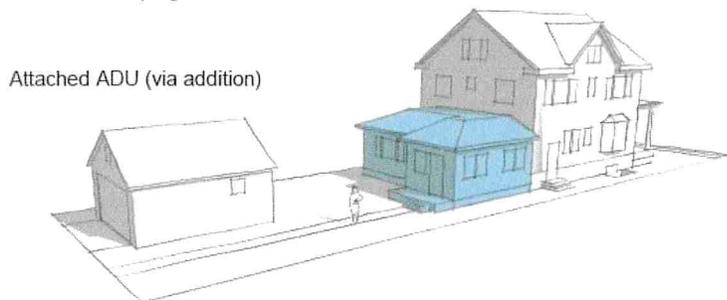
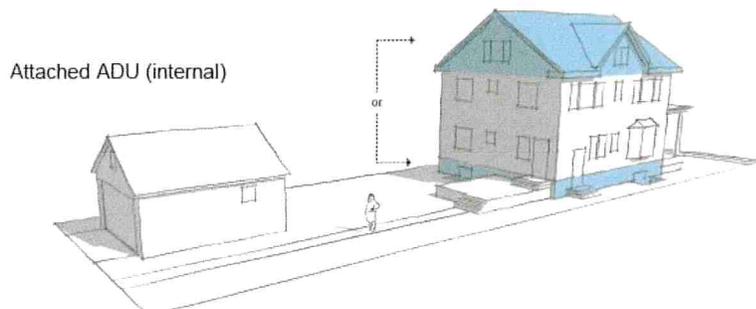


Image credit: City of Saint Paul, MN

Accessory Dwelling Units in Washington State

[RCW 43.63A.215](#) and [RCW 36.70A.400](#), adopted as part of the 1993 Washington Housing Policy Act, require many Washington cities and counties to adopt ordinances encouraging the development of accessory apartments or ADUs in single-family zones. Specifically, this legislation applies to:

- Cities with a population over 20,000
- Counties with a population over 125,000
- Counties that plan under the Growth Management Act (GMA).

Other communities may choose to allow ADUs if so desired.

Local codes must incorporate the [model ordinance recommendations](#) prepared by the Washington State Department of Community, Trade and Economic Development (now Department of Commerce), per [RCW 43.63A.215](#) and [RCW 36.70A.400](#). However, state law allows local communities some flexibility to adapt these recommendations to local needs and preferences.

ADU ordinances have been widely adopted in Washington since the 1993 Act, in part because ADUs have helped local jurisdictions meet GMA goals to encourage affordable housing and provide a variety of housing densities and types while preserving the character of single-family neighborhoods.

Examples of Local ADU Codes

The table below provides examples of accessory dwelling unit codes adopted by cities and counties in Washington State, including a basic comparison of their provisions. (Click on the image to see a larger version.)

Most of these examples allow for both attached ADUs (sometimes called AADUs) and detached ADUs (sometimes called DADUs). With the exception of Vancouver, each requires that one of the units be occupied by the owner of the property. Many of the provisions limit the size of the accessory unit, ranging from 600 to 1,000 square feet. Some also limit the size of the accessory unit relative to the primary unit, ranging from 40 to 75 percent of the area of the primary unit.

Almost all of the code provisions rely on the development regulations of the underlying zones. Several provide maximum heights, onsite-parking, setbacks and other requirements specific to ADUs. Additionally, many of code provisions require the ADU to be similar in design to the primary unit (which may or may not be desirable, depending upon the design of the primary residence).

Washington Examples

Click on the table below to view a summary analysis of selected ADU provisions from cities in Washington State, including links to the actual code provisions.

City	Attached or Detached?	Owner Occupancy required?	Lot Size	Unit Size	Parking	ADU specific requirements	Code Provisions
Bellevue	Attached only	Yes	Not specified	Between 300 and 800 sf, not to exceed 40% of the combined area of the ADU and primary unit	1 space	Limited number of occupants	Sec. 20.20.120
Bellingham	Both	Yes	Alley access, side street access, or greater than 5,000 sf	Limited to 800 sf or 60% of primary structure, and two bedrooms	1 space	Setback and minimum yard	Draft ADU Ordinance (2018) Webpage about ADU Ordinance Update Process
Blaine	Both	Yes	At least 6,000 sf	Varies based on lot size, 600-1000 sf or 50% of primary residence	1 space for each bedroom	Max height, design bonus	Ch. 17.100
Chicope	Both	Yes	Greater than 5,000 sf	Limited to 40% of area of primary units livable area, cannot be more than one bedroom	If on-street parking is available: None If no on-street parking: 1 space	Max height	Ch. 21.67
Everett	Both	Yes	No limit	Limited to 800 sf and two bedrooms, or 50% of livable area of primary unit	Not specified		Ch. 19.34
Everett	Both	Yes	None	Limited to 800 sf or 75% of the gross floor area of the primary unit	1 space, can be waived if there is sufficient on-street parking or public transit access	Max height, setbacks	Ch. 19.07.030
Issaquah	Both	Yes	For DADUs at least 4,000 sf	AADU: limited to 1,000 sf for single-family structure and 650 sf for townhome; DADU: limited to 800 sf for single-family structure and 650 sf for townhomes	1 space, can be waived in urban villages/centers	Max height, entrance location	Sec. 23.64.041 Webpage about ADU ETS Process
Vancouver	Both	No	At least 4,500 sf	Limited to 800 sf or up to 50% of the size of the primary unit, except for basement suites	None		Ch. 20.310

[Click for larger version](#)

Out-of-State Examples

- [Portland, OR: Accessory Dwelling Units](#) – Information on Portland's successful program including code links and [ADU Program Guide](#)
- [Santa Cruz, CA: Accessory Dwelling Unit Development Program](#) – Program assists homeowners seeking to build an ADU, including prototype concepts and a [step-by-step guide](#) on how to plan, design, and obtain permits for an ADU
- [Vancouver, BC: Building your laneway house](#) – Provides prospective ADU builders with a [“how-to” guide](#), examples floor plans, and other resources for their project

Emerging Trends

A few Washington State cities, such as Seattle, are re-examining some of the standards listed above to determine if they are acting as barriers to the construction of new ADUs (see [Seattle study process](#)). One of the alternatives being examined by Seattle's study is streamlining permitting by providing pre-approved ADU plans.

As may be seen in the out-of-state examples above, some cities such as Portland (OR), Santa Cruz (CA), and Vancouver (BC) have actually changed some of their requirements, such as eliminating owner occupancy, in order to encourage the production of more ADUs. Vancouver has also had success getting banks to provide [lending products](#) tailored to ADU projects that take into account the borrowers' future rental income from the new unit. Portland also provides an [ADU Financing Guide](#) that identifies local financial institutions with programs that can be used to fund ADU construction.

The preliminary results appear to show that the reduced zoning requirements have resulted in more ADUs in these cities. For example, since adopting its ADU program in 2009, Vancouver has permitted over 3,000 ADUs and has set the target of adding another 4,000 by 2028. Recent regulatory reform, fee waivers, and public education efforts in Portland have contributed to the doubling of the number of annual ADUs permits, from under 300 in 2014 to over 600 in 2016.

Recommended Resources

- [Seattle Planning Commission: A Guide to Building Backyard Cottages \(2010\)](#) – Detailed guidance for building detached ADUs in Seattle
- [Urban Land Institute: Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle, and Vancouver \(2018\)](#) – Study examining best practices from Portland, Seattle, and Vancouver BC
- [AccessoryDwellings.org](#) – Portland, OR-based website maintained by volunteers provides current ADU news, articles, project examples, and other resources, including a [Model Code for Accessory Dwelling Units](#)
- [Oregon Department of Environmental Quality: Accessory Dwelling Unit Survey for Portland, Eugene, and Ashland \(2013\)](#) – Includes data on ADU use, occupancy, construction, energy use, and demographics
- [MRSC: Accessory Dwelling Units Issues and Options \(1995\)](#) – Detailed publication created after the 1993 Washington Housing Policy Act discusses benefits, regulatory issues, and zoning regulations for ADUs.

Last Modified: January 08, 2019

Examples of Local Accessory Dwelling Unit (ADU) Codes in Washington State

City	Attached or Detached?	Owner-Occupancy required?	Lot Size	Unit Size	Parking	ADU specific requirements	Code Provisions
Bellevue	Attached only	Yes	Not specified	Between 300 and 800 sf, not to exceed 40% of the combined area of the ADU and primary unit	1 space	Limited number of occupants	Sec. 20.20.120
Bellingham*	Both	Yes	Alley access, side street access, or greater than 5,000 sf	Limited to 800 sf or 66% of primary structure, and two bedrooms	1 space	Setback and minimum yard	Draft ADU Ordinance (2018) Webpage about ADU Ordinance Update Process
Blaine	Both	Yes	At least 6,000 sf	Varies based on lot size, 600-1000 sf or 50% of primary residence	1 space for each bedroom	Max height, design bonus	Ch. 17.102
Cheney	Both	Yes	Greater than 5,000 sf	Limited to 40% of area of primary units livable area, cannot be more than one bedroom	If on-street parking is available: None. If no on-street parking: 1 space	Max height	Ch. 21.67
Enumclaw	Both	Yes	No limit	Limited to 800 sf and two bedrooms, or 50% of livable area of primary unit	Not specified		Ch. 19.34
Everett	Both	Yes	None	Limited to 800 sf or 75% of the gross floor area of the primary unit	1 space, can be waived if there is sufficient on-street parking or public transit access	Max height, setback	Ch. 19.07.030
Seattle*	Both	Yes	For DADUs at least 4,000 sf	AADU: limited to 1,000 sf for single-family structure and 650 sf for townhome; DADU: limited to 800 sf for single-family structure and 650 sf for townhomes	1 space, can be waived in urban villages/centers	Max height, entrance location	Sec. 23.44.041 Webpage about ADU EIS Process
Vancouver	Both	No	At least 4,500 sf	Limited to 800 sf or up to 50% of the size of the primary unit, except for basement suites	None		Ch. 20.810

*Jurisdiction is in process of updating or evaluating its ADU ordinances



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Summary of Selected Accessory Dwelling Unit Ordinances

City Population	Owner Occupancy Requirement	Location	Size Requirements	Parking Requirements	Public Hearing Required	Design Standards	Allow in New Construction?	Other
Bellevue 99,140	Yes	Attached	Not less than 300 sq. ft.; not more than 800 sq. ft.; ADU shall not exceed 40% of total residence.	1 additional	No	Second entry facing street prohibited.	No (Primary residence must have existed for three years prior to application for ADU permit)	ADU and home occupation not allowed on the same site. No rent may be charged for owner-occupied unit.
Clyde Hill 2,995	Yes	Must be attached to main unit or a detached garage.	Not less than 300 sq. ft.; not more than 900 sq. ft.; ADU shall not exceed 40% of total residence.	1 additional	No	Second entry facing street prohibited. Maintain single-family appearance.	Yes	Utility department must certify that water and sewer facilities are adequate. ADU must have a separate numbered address.
Everett 78,240	Yes	Attached	ADU floor area shall not exceed 35% of total floor area.	3 for principal and ADU	Property owners within 300 ft. may request hearing.	Second entry facing street prohibited. Maintain single-family appearance.	Yes	Separate water and electric meters prohibited. Annual filing of owner occupancy certificate required. When home abuts alley, ADU parking must be off of alley.
Mercer Island 21,270	Principal unit or ADU must be occupied by owner or immediate family member of owner.	Attached or detached.	Not less than 220 sq. ft.; not more than 900 sq. ft.; ADU shall not exceed 40% of primary dwelling, excluding garage.	3 for principal and ADU	No	Second entry facing street prohibited. Additions must be consistent with roof pitch, siding, and windows of principal unit.	Yes	Notice of permit application mailed to property owners within 300 ft. with 14 day comment period.
Richland 35,430	Yes	Attached	Not less than 300 sq. ft.; not more than 800 sq. ft.; ADU shall not exceed 40% of total floor area.	1 additional	No	Second entry within same facade as main entry prohibited.	Yes	ADU may not have separate utility service (except telephone and television).

City Population	Owner Occupancy Requirement	Location	Size Requirements	Parking Requirements	Public Hearing Required	Design Standards	Allow in New Construction?	Other
Spokane 185,600	Yes	Attached	Not less than 300 sq. ft.; not more than 700 sq. ft.; ADU shall not exceed 30% of total floor area or have more than 2 bedrooms.	Must meet standards of underlying zone.	No	Second entry should be on side or rear or "very unobtrusive" from same view encompassing primary entrance.	Yes	Occupancy of ADU limited to family members or persons providing nursing care to owner. Additions for ADU shall not increase sq. ft. of structure by more than 10%. Home occupations prohibited in either principal or ADU unit.
Seattle 531,400	Yes	Attached	Floor area of at least one of the dwelling units shall not exceed 1,000 sq. ft.	2 parking spaces required (1 for primary unit and 1 for ADU)	No	Only one entrance may be located on each front or street side of residence.	Yes	Notice of permit issuance mailed to property owners within 200 ft. explaining standards and procedure for filing complaints.
Tacoma 182,800	Yes	Attached	Not less than 300 sq. ft.; not more than 800 sq. ft.; shall not exceed 33% of total floor area.	1 additional. (Must be located in rear of lot where access is available)	No	Second entry within same facade as main entry prohibited. Additions must be consistent with existing facade, roof pitch, siding and windows.	Yes	Notice of permit issuance mailed to property owners within 400 ft. Home occupations allowed in either ADU or main building, but not both.
Turnwater 11,200	Yes	Within existing (at least 2 years old) attached or detached structures.	Principal and accessory structures must have at least 2,000 sq. ft. gross floor area; ADU shall not exceed 25% of total floor area and can have no more than 2 bedrooms.	1 additional	No	Only one entrance may be visible from front. No external evidence of occupancy by more than one family.	No (may be installed only in structures at least two years old)	No additions to existing floor area allowed for conversion.
Walla Walla 28,730	Yes	Attached or detached	Not more than 800 sq. ft. or 33% of living area of primary structure, whichever is smaller.	1 additional (must be in rear or on a driveway)	No	No more than one entrance on front of house.	Yes	Home occupations prohibited. Reasonable deviations from standards allowed to facilitate accessibility for people with disabilities.

Title 17
ZONING¹

Chapters:

- 17.04 General Provisions
- 17.08 Definitions
- 17.12 Districts Generally
- 17.14 Table of Uses
- 17.15 *Repealed*
- 17.15A Table of Land Development Dimensional Regulations
- 17.15B Table of Building Bulk Regulations
- 17.15C Table of Landscape Regulations
- 17.20 Residential (RS) District
- 17.22 Residential Moderate Density (RMD) District
- 17.24 Residential Multifamily (RM) District
- 17.28 Business (B) District
- 17.30 Mixed Use Town Center (MX) District
- 17.32 Community Facilities (CF) District
- 17.36 Light Manufacturing (M-1) District
- 17.38 Planned Development (PD) District
- 17.41 Open Space (OS) District
- 17.42 Special Uses
- 17.43 Design Standards and Guidelines
- 17.44 General Use Regulations
- 17.48 Off-Street Parking and Loading
- 17.50 Sign Code
- 17.52 Nonconforming Buildings and Uses
- 17.56 Temporary Uses
- 17.58 Wireless Communication Facilities
- 17.60 Mobile Home Parks
- 17.61 *Repealed*
- 17.62 Site Plan Approval
- 17.64 Conditional Use Permits
- 17.65 Variances
- 17.66 *Repealed*
- 17.67 Comprehensive Plan Amendments
- 17.68 Zoning Code Amendments
- 17.69 Electric Vehicle Infrastructure
- 17.70 Application Requirements
- 17.71 Permit Decision and Appeal Processes
- 17.72 Performance Guarantees

1. Code reviser's note: See Chapter 3.48 MMC for connection fees and permit charges.
Prior legislation: Ords. 1277, 1289 and 1349.

Chapter 17.14
TABLE OF USES

Sections:
17.14.010 Table of uses.

17.14.010 Table of uses.

Description of Use	RS	RM	RMD	MX	B	M-1	CF	OS
Residential Use Category								
Accessory apartment	acc ¹	acc	acc	acc				
Accessory structure larger than principal building	cup							
Adult day care facility	cup	au	au	au				
Adult family home	au	au	au	au				
Adult retirement community		au	au	au				
Apartment		au	cup	au				
Assisted living facility		cup	cup	cup				
Carport	acc	acc	acc	acc				
Dwelling, multifamily		au	cup	au				
Dwelling, single-family	au	au	au	au				
Dwelling, two-family	au ²	au	au	au				
Garage, private	acc	acc	acc	acc	acc	acc		
Group homes	cup	au	cup	au				
Mobile home park	cup	cup	cup					
Parking area, private	acc	acc	acc	acc	acc	acc		
Swimming pool, private	acc	acc	acc	acc				
Commercial Use Category								
Adult entertainment business					cup			
Ambulance service				au	au	au		
Amusement parks				su2	su2	su2	su2	su2
Animal hospital					au	au		
Auction house/barn (no vehicle or livestock)					au	au		
Automobile service station				cup	au	au		
Automobile wash					au	au		
Automobile, repair					au	au		
Automobile, sales					au	au		
Banks, savings and loan association				au	au			
Beauty/barber shop			cup	au	au			
Bed and breakfast	cup	au	cup	au				
Billiard hall and pool hall				au	au	au		
Child day care, commercial	cup	cup	cup	au	au	cup	cup	
Child day care, family	au	au	au	au				
Commercial recreation < 2 ac.		cup		cup	au		au	au

acc: Accessory Use au: Authorized or Permitted Use
cup: Conditionally Permitted Use su1: Type I Special Use su2: Type II Special Use

17.08.020

except when the context clearly indicates otherwise:

A. The present tense includes the future, and words used in the singular include the plural, and the plural the singular.

B. The word "shall" is mandatory and not discretionary.

C. The word "may" is permissive.

D. The word "lot" includes the words "piece" and "parcel"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for." (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.020 Definitions generally.

In the construction of this zoning code the definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.021 Accessory apartment.

"Accessory apartment" means a dwelling unit that has been added onto, or created within, a single-family house where the owner occupies the principal dwelling. Such dwelling unit shall contain not more than one bedroom, and its floor area shall not exceed 60 percent of the floor area of the principal dwelling. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.030 Accessory building or use.

"Accessory building or use" means one which:

A. Is subordinated to and serves a principal building or principal use; and

B. Is subordinate in area, extent or purpose to the principal building and principal use served; and

C. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and

D. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot

with the building or use served. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.032 Addition.

"Addition" means:

A. A structure added to the original structure at some time after the completion of the original;

B. An extension or increase in floor area or height of a structure. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.033 Adult day care facility.

"Adult day care facility" means an establishment providing for regularly scheduled care and supervision of adults whose age or medical condition warrants such care, and where such care is provided for periods of less than 24 hours. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.034 Adult entertainment business.

For the purposes of this title "adult entertainment business(es)" refers to those businesses defined at MMC 5.44.010(A) and (B). (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.035 Adult family home.

"Adult family home" means a private home to care for up to six residents that is licensed by the Department of Social and Health Services. Licensed providers provide care to functionally disabled adults and the frail elderly. Services provided in an adult family home include room, board, laundry, any required supervision, personal care, and social services. Minimal nursing supervision may be provided in homes operated by a licensed nurse. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.036 Adult retirement community.

"Adult retirement community" means a residential development for persons who are at least 55 years of age. Such development may include the following as accessory uses:

A. Social and recreation activities;

B. Communal meal service;

C. Limited health care facilities;

D. Transportation facilities; and

17.08.250 Dwelling.

“Dwelling” means a building, or portions thereof, designed or used exclusively for residential occupancy including one-family dwellings, two-family dwellings and multifamily dwellings, but not including hotels, motels, or lodging houses. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.260 Dwelling, multifamily.

“Multifamily dwelling” means a building designed exclusively for occupancy by three or more families living separately from each other and containing three or more dwelling units. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.270 Dwelling, single-family.

“Single-family dwelling” means a detached building designed exclusively for occupancy by one family and containing one dwelling unit. A single-family dwelling unit shall measure not less than 15 feet in width; it shall have a roof with a pitch of not less than three feet in 12; and it shall be set on a permanent perimeter foundation.

Roofs with a pitch of less than three feet in 12 may be permitted on buildings of more than one story. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.280 Dwelling, two-family.

“Two-family dwelling” means a building designed exclusively for occupancy by two families living separately from each other and containing two dwelling units. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.290 Dwelling unit.

“Dwelling unit” means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation but not for more than one family. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.291 Electric transmission substation.

“Electric transmission substation” means a facility that is moderate in size that serves the

electrical needs of a sub-area by converting current into a usable form for household, commercial, and industrial uses. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.295 Espresso stand.

“Espresso stand” means an establishment that offers for sale espresso or other coffee beverages with or without drive-through facilities. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.300 Establishment, business or commercial.

“Business or commercial establishment” means a place of business carrying on an operation, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot and where access is separate and distinct from access to any other establishment. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.305 Facility or facilities.

“Facility” or “facilities” means all contiguous land, including “buffer zones” and structures, other appurtenances and improvements. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.08.307 Family.

“Family” means one or more persons related by blood, marriage, adoption or a group of not more than five persons (excluding servants) not related by blood or marriage living together as a single housekeeping unit in a dwelling unit. More than five unrelated persons may be construed as a family if necessary to comply with state or federal statutory or constitutional requirements, such as the federal Fair Housing Act. (Ord. 1912 § 1, 2017; Ord. 1579 § 1, 2003).

17.08.310 Fence.

“Fence” means that which is built, constructed or grown, or composed of parts joined together of material in some definite manner in which the prime purpose is to separate, divide, partition, enclose or screen a parcel or parcels

Chapter 17.20

RESIDENTIAL (RS) DISTRICT

Sections:

- 17.20.005 Purpose.
- 17.20.010 Authorized uses.
- 17.20.020 Uses requiring conditional use permit.
- 17.20.030 Accessory uses.
- 17.20.040 RS development and bulk regulations.

17.20.005 Purpose.

The purpose of the RS zoning district is to provide a safe, attractive and stable environment for residential development, where the predominant development pattern will be single-family dwellings. Uses other than single-family dwellings shall be allowed only to the extent that they support low-density residential development. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.20.010 Authorized uses.

Authorized uses in the RS district are set forth in Chapter 17.14 MMC, subject to the off-street parking requirements, and other general provisions and exceptions set forth in this code beginning with Chapter 17.44 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.20.020 Uses requiring conditional use permit.

Uses permitted subject to the granting of a conditional use permit in the RS district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.20.030 Accessory uses.

Accessory uses in the RS district are set forth in Chapter 17.14 MMC. Notwithstanding MMC 17.08.030, the total area of all accessory structures may exceed the area of the principal structure if the applicant satisfies the criteria for a conditional use permit. In addition to complying with the conditional use criteria specified in Chapter 17.64 MMC, the hearing examiner shall also consider the following cri-

teria in determining whether a conditional use permit should issue:

A. All accessory structures or uses in the residential zone shall support and enhance the residential nature of the property.

B. The maximum size of any single accessory structure shall not exceed 2,500 square feet.

C. All accessory structures shall not exceed 15 feet in height.

D. All accessory structures shall be screened from surrounding properties by walls and landscaping, intended to break up the visual bulk of the structure, and reduce the visual impact of the structure.

E. No accessory structures subject to this code shall be devoted partially or totally to the pursuit of home occupations.

F. All principal structures and accessory structures shall not exceed 50 percent of the lot area.

G. Accessory structures must be located to the rear of the principal structure. (Ord. 1912 § 1, 2017; Ord. 1586 § 2, 2003; Ord. 1405 § 2, 1999).

17.20.040 RS development and bulk regulations.

A. General dimensional, density and bulk regulations for single-family dwellings are set forth in Chapters 17.15A and 17.15B MMC.

B. The construction or creation of an accessory apartment is authorized on lots that are at least 9,600 square feet in area. Accessory apartments are not included in the calculation of maximum net density.

C. The construction of duplex homes is authorized on all lots that are at least 12,000 square feet in area, provided the net density calculation can be met.

D. Setback requirements for accessory uses shall be the same as for other uses except that the minimum rear yard setback for accessory uses shall be seven and one-half feet. (Ord. 1912 § 1, 2017; Ord. 1750 § 6, 2010; Ord. 1405 § 2, 1999).

Chapter 17.22

RESIDENTIAL MODERATE DENSITY (RMD) DISTRICT

Sections:

- 17.22.005 Purpose.**
- 17.22.010 Authorized uses.**
- 17.22.020 Uses requiring conditional use permit.**
- 17.22.030 Accessory uses.**
- 17.22.040 RMD development and bulk regulations.**

17.22.005 Purpose.

The purpose of the RMD zoning district is to provide a safe, attractive and stable environment for residential development where the predominant development pattern will be single-family dwellings. Uses other than residential dwelling units shall be allowed only to the extent that they support moderate density residential development. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.22.010 Authorized uses.

Authorized uses in the RMD district are set forth in Chapter 17.14 MMC, subject to the off-street parking requirements and other general provisions and exceptions set forth in this code beginning with Chapter 17.44 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.22.020 Uses requiring conditional use permit.

Uses permitted subject to the granting of a conditional use permit in the RMD district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.22.030 Accessory uses.

Accessory uses in the RMD district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.22.040 RMD development and bulk regulations.

A. General dimensional, density and bulk regulations for the RMD district are set forth in Chapters 17.15A and 17.15B MMC.

B. The established minimum lot size of 4,000 square feet is intended to mesh with the historic pattern of development, and is not intended to allow for new developments at residential densities higher than those set in that pattern. In any development where there may be a conflict between the minimum lot size allowance and the maximum net density, the maximum net density shall govern.

C. Accessory apartments require a minimum lot size of 8,000 square feet and the establishment of an accessory apartment shall be exempt from the calculation of maximum net density.

D. The construction of duplex homes is authorized on lots that are at least 10,000 square feet in area, provided the maximum net density calculation can be met.

E. A density increase of 50 percent is allowed for the construction of an adult retirement community, provided the resulting maximum net density will not exceed 18 du/ac for the development of an adult retirement community, otherwise the standard net density applies. (Ord. 1912 § 1, 2017; Ord. 1750 § 7, 2010; Ord. 1405 § 2, 1999).

Chapter 17.24

RESIDENTIAL MULTIFAMILY
(RM) DISTRICT

Sections:

- 17.24.005 Purpose.**
- 17.24.010 Authorized uses.**
- 17.24.020 Uses requiring conditional use permit.**
- 17.24.030 Accessory uses.**
- 17.24.040 RM development and bulk regulations.**

17.24.005 Purpose.

The purpose of the RM zoning district is to provide adequate area for the development of a range of housing types at a moderate density, consistent with the carrying capacity of the city's resources. Uses in the RM zone other than residential are allowed only to the extent that they promote and support moderate density residential development. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.24.010 Authorized uses.

Authorized uses in the RM district are set forth in Chapter 17.14 MMC, subject to the off-street parking requirements, landscaping requirements and other general provisions and exceptions set forth in this code beginning with Chapter 17.44 MMC, and the requirements set forth in Chapter 17.62 MMC, Site Plan Approval. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.24.020 Uses requiring conditional use permit.

Uses permitted subject to the granting of a conditional use permit in the RM district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.24.030 Accessory uses.

Accessory uses in the RM district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.24.040 RM development and bulk regulations.

A. General dimensional, density and bulk regulations for principal buildings are set forth in Chapters 17.15A and 17.15B MMC.

B. The minimum lot size of 8,000 square feet is required for the first dwelling unit on any lot.

C. A density increase of 50 percent is allowed for the construction of an adult retirement community, provided the resulting maximum net density will not exceed 18 du/ac for the development of an adult retirement community, otherwise the standard net density applies. (Ord. 1912 § 1, 2017; Ord. 1750 § 8, 2010; Ord. 1405 § 2, 1999).

Chapter 17.30

**MIXED USE TOWN CENTER
(MX) DISTRICT**

Sections:

- 17.30.010 Purpose.**
- 17.30.020 Authorized uses.**
- 17.30.030 Uses requiring conditional use permit.**
- 17.30.040 Accessory uses.**
- 17.30.050 Bulk regulations.**

17.30.010 Purpose.

The purpose of the mixed use town center district is to encourage the development of a compact town center within the city of Milton, in furtherance of the goals of the comprehensive plan. It is envisioned that this town center will contain a mixture of land uses which will promote pedestrian access and small-scale shops and services within walking distance of residential areas. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.30.020 Authorized uses.

A. Uses authorized within the mixed use town center district are set forth in Chapter 17.14 MMC.

B. All uses authorized in the mixed use town center district require site plan approval, as set forth in Chapter 17.62 MMC, with the exception of single- and two-family dwellings. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.30.030 Uses requiring conditional use permit.

Uses within the mixed use town center district which require a conditional use permit are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.30.040 Accessory uses.

Uses allowed as accessory uses within the mixed use town center district are set forth in Chapter 17.14 MMC. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.30.050 Bulk regulations.

A. All provisions for building height, lot coverage, and minimum setbacks are set forth in Chapter 17.15B MMC.

B. A residential density increase of 50 percent is allowed on any lot for either of the following:

1. Construction of an adult retirement community; or
2. Residential development on upper floors of any building where the first floor is used primarily for retail or personal service establishments. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

Chapter 17.15A

TABLE OF LAND DEVELOPMENT DIMENSIONAL REGULATIONS

Sections:

17.15A.010 Land development dimensional regulations table.

17.15A.010 Land development dimensional regulations table.

STANDARDS	RS ⁴	RMD ⁴	RM ⁴	MX ⁴	B	M-1	OS	CF
Minimum Lot Area	8,000 sq. ft.	4,000 sq. ft.	8,000 sq. ft.	3,000 sq. ft.	3,000 sq. ft.	12,000 sq. ft.	0 sq. ft.	3,000 sq. ft.
For an Accessory Apartment	9,600 sq. ft.	8,000 sq. ft.	n/a	n/a	n/a	n/a	n/a	n/a
For a Duplex Unit	12,000 sq. ft.	10,000 sq. ft.	n/a	n/a	n/a	n/a	n/a	n/a
Standard Net Density for Multiple Units	n/a	12 du/ac	12 du/ac	12 du/ac	n/a	n/a	n/a	n/a
Maximum Net Density ¹	5.45 du/ac ¹	18.00 du/ac ²	18.00 du/ac ²	18.00 du/ac ³	n/a	n/a	n/a	n/a
Minimum Lot Width	75 ft.	45 ft.	60 ft.	40 ft.	40 ft.	75 ft.	n/a	20 ft.

¹ The net density may not be exceeded.

² These densities can only be achieved through the development of an adult retirement community, otherwise the standard net density applies.

³ These densities can only be achieved through the development of mixed business and residential developments (in the MX zone) or the development of adult retirement community housing (in the RM or MX zones), otherwise the net standard density applies.

⁴ In the RS, RMD, RM and MX zones the maximum density and the minimum lot size shall be met.

(Ord. 1912 § 1, 2017; Ord. 1853 § 4, 2014; Ord. 1750 § 3, 2010).

Chapter 17.15B

TABLE OF BUILDING BULK REGULATIONS

Sections:

17.15B.010 Building bulk table.

17.15B.010 Building bulk table.

STANDARDS	RS	RMD	RM	MX	B	M-1	OS	CF
Maximum Height	35 ft.	35 ft.	35 ft.	45 ft.	45 ft.	40 ft.	35 ft.	35 ft.
Maximum Building Coverage ¹	n/a	50%	n/a	90%	60%	60%	n/a	60%
Maximum Net or Phased Floor/Lot Ratio: Square Feet ²	n/a	n/a	n/a	3 to 1	1 to 1	1 to 1	n/a	1 to 1
Minimum Setback from Right-of-Way ^{3, 4}	20 ft.	20 ft.	20 ft.	0 ft.	0 ft.	10 ft.	20 ft.	10 ft.
Minimum Side Yard Setback ⁵	7.5 ft.	7.5 ft.	7.5 ft.	5 ft.	0 ft.	0 ft.	5 ft.	5 ft.
Minimum Rear Yard Setback ⁶	25 ft.	10 ft.	25 ft.	0 ft.	0 ft.	0 ft.	20 ft.	20 ft.
Minimum Rear Yard Setback: Accessory Structure ⁶	7.5 ft.	7.5 ft.	7.5 ft.	0 ft.	0 ft.	0 ft.	7.5 ft.	7.5 ft.

¹ Maximum building coverage refers to the area in which structures occupy the site. "Structures" do not include paved parking or driveway areas.

² Net or phased floor/lot ratio means the total floor area of the building or buildings on a lot divided by the net area of the lot once land required for roadway dedication, or critical area protection, or related purposes, is subtracted from the gross lot area. Each phase must be computed on the percentage of the site that it represents.

³ Any garage or other structure shall be set back the minimum necessary to allow on-site parking on any driveway without blocking a sidewalk; for proposals without garages, there shall be sufficient area on the site to allow for required on-site parking without blocking a sidewalk.

⁴ Improvements such as but not limited to rockeries and retaining walls which are required by the city as part of street frontage improvements and which are located on a public easement may be constructed in the setback if no feasible alternative exists.

⁵ In the RMD and RM zones, the minimum distance between primary structures located on the same parcel shall be 15 feet.

⁶ Emergency vehicle access requirements must be maintained. The minimum rear yard setback in the B and M-1 zones shall be 20 feet where such zones abut residential districts.

(Ord. 1912 § 1, 2017; Ord. 1750 § 4, 2010).

Table 17.48.020

Aisle and Driveway Dimensions

Stall Angle	45°	60°	90°
Stall Width			
Regular space	12'9"	10'5"	9'0"
Compact space	11'3"	9'4"	8'0"
Stall Depth			
Regular space	20'7"	20'10"	20'0"
Compact space	17'6"	18'7"	17'0"
Driveway Aisle			
One-way	14'0"	18'0"	20'0"
Two-way	17'0"	18'0"	20'0"

Thirty percent of the required parking spaces, whenever 10 or more spaces are required, may be compact stalls. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.48.030 Parking spaces – Location.

A. Off-street parking facilities shall be located as specified in this section.

B. Where a distance is specified, the distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building that the facility is required to serve.

1. For a single-family dwelling or multifamily dwelling the parking facilities shall be located on the same lot or building site as the building they are required to serve. This requirement may be waived or modified for mixed-use developments which include multi-family dwellings.

2. For any other building or structure, off-street parking facilities shall be located not more than 300 feet from the building or structure. (Ord. 1912 § 1, 2017; Ord. 1405 § 2, 1999).

17.48.040 Off-street parking requirements.

The minimum number of off-street parking spaces required shall be as follows:

Accessory apartment	1 space per accessory dwelling unit
Adult day care facility	1 space for each employee, plus 1 space for every 5 clients or fraction thereof; if the clients may not own vehicles, 1 space per 600 s.f. of gross floor area
Adult entertainment business	1 space per 100 s.f. of gross floor area
Adult retirement community	1 space per unit
Agricultural buildings	1 space per 2,000 s.f. of floor space
Agricultural crops; orchards	—
Ambulance service	1 space for each employee, plus 1 space per vehicle used in coordination with the service
Amusement parks	1 space per 200 s.f. of area within enclosed buildings plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate
Animal hospital	1 space per employee plus 1 space per 600 s.f. of gross floor area
Apartment	2 spaces per dwelling unit plus 1 space per 4 dwelling units for guests
Assisted living facility	.75 spaces per unit
Auction house/barn (no vehicle or livestock)	1 space per 4 seats
Automobile service station	2 spaces per service bay
Automobile wash	5 spaces per washing stall in addition to the stall itself
Automobile, repair	1 space per 200 s.f., plus 2 spaces per service bay, plus 1 space for each employee
Automobile, sales	1 space per 5,000 s.f. of lot area used for vehicle display, plus 1 space per 300 s.f. of showroom area
Ballfield	50 spaces per field
Banks, savings and loan association	1 space per 400 s.f. of floor area up to 20,000 s.f., plus 1 per 500 s.f. of floor area in excess of 20,000 s.f.
Bed and breakfast	1 space per guest room

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Summary of Selected Milton Municipal Code Accessory Apartment Regulations as of November 2019

Compiled by Jacquelyn Whalen, Planning Commissioner. ** This paper represents the rules as understood by Commissioner Whalen and does not cite all of the Milton Municipal Code that would be applied to the Construction and Regulation of Accessory Dwelling Units in Milton in all circumstances in specifying the regulations below... there were several instances where the MMC needed to be more specific. <<JW ... CORRECTIONS ARE WELCOME

Owner Occupancy: Owner occupies the principle dwelling. [Definition Accessory Apartment MMC 17.08.021]

Location:

- Accessory Apartments are allowed in the RS, RM, RMD, MX zoning districts – as “accessory uses”. [Table of Use, Chapter 17.14]
- “Added onto or Created Within a Single Family House.”: [Definition Accessory Apartment MMC 17.08.021] {*Comment: But not specific as to the degree of, or means of attachment.*}

Size Requirements:

- Minimum Lot Area:
 - RS zone: 9,600 sq. ft. Exempt from calculation of net-density. [MMC17.20.040.B]
 - RMD zone 8,000 sq. ft. Exempt from calculation of net-density. [MMC17.22.040.C]
 - RM and MX zones: Nothing said in zoning district descriptions (MMC 17.24 & 17.30), “ n/a” per the dimensions table MMC 17.15A)
- Maximum Floor Area - Accessory Apartment:
 - Up to 60% of floor area of principle dwelling. [Definition Accessory Apartment MMC 17.08.021]
- Maximum Size of any single Accessory Use structure is 2,500 sq. ft. [RS Zone MMC 17.20.030.B]
- Maximum Height 15 feet [RS District MMC 17.20.030.C] Nothing specific to Accessory DUs or accessory uses fi RMD, RM, MX zones
- All Principal and Accessory Structures shall not exceed 50% of the Lot Area [RS District MMC 17.20.030.F]
- Setbacks: {*please see MMC 17.15B – Building Bulk Regulations*}

Off-Street Parking Requirements: 1 Parking Space [MMC17.48.040]

Public Hearing Required: {Generally, no; but there may be circumstances where a hearing &/or a neighborhood meeting is called for}.

Design Standards: 1 bedroom maximum; [Definition Accessory Apartment MMC 17.08.021]

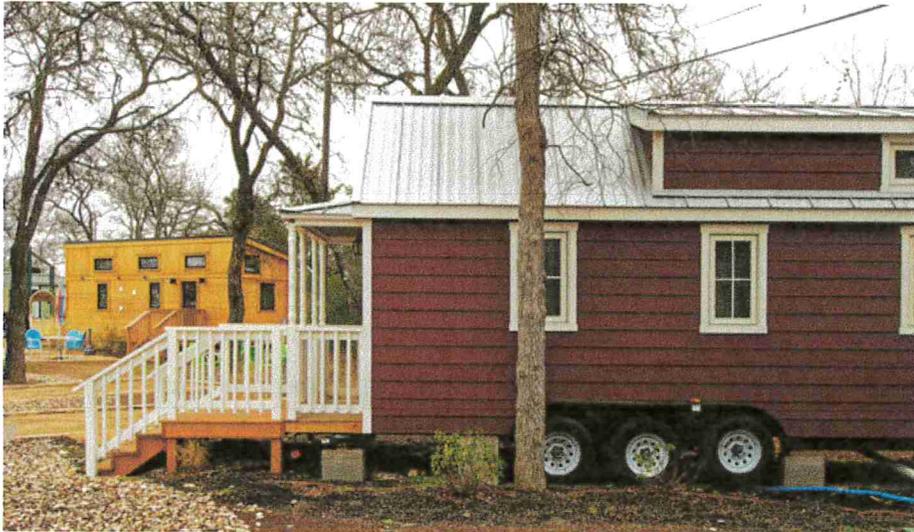
Allow in New Construction: MMC is silent

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Legislature Paves the Way for Tiny Houses

May 14, 2019 by [Jill Dvorkin](#)

Category: [Housing](#), [New Legislation and Regulations](#)



Living in tiny houses (also called tiny homes) is both an increasingly attractive and affordable housing option as well as a trending alternative lifestyle choice. However, because of significant regulatory barriers, this housing option has not yet gained traction in Washington State. This should hopefully change with the passage of [ESSB 5383](#)—a bill intended to enable the development of tiny house villages or communities throughout the state.

Background

Some of the perplexing questions associated with regulating tiny houses have been:

What are they?

Are they recreational vehicles? Are they mobile homes? Are they site-built structures? Unfortunately, tiny houses don't often fit neatly into any of these categories. Some tiny houses are on wheels; some are built on permanent foundations. Many are the manifestation of creative DIYers and defy categorization.

Depending on their characteristics, a different regulatory structure might apply. For example, recreational vehicles (RVs) must be certified with the Department of Labor and Industries (L&I). However, the certification process has historically been challenging and not suited to a custom-built RV or a tiny house on wheels. (Note, however, there is now [a self-directed process](#) available that makes it easier for custom RVs/tiny houses on wheels to obtain certification from L&I.)

Site-built structures, on the other hand, must comply with the local building codes. Tiny houses typically have not been able to meet both the size and technical specifications for single-family dwellings in local building codes.

Where can they go and how long can they stay?

If a tiny house is on wheels, local jurisdictions typically will look at this as an RV. Unless sited in a mobile-home/RV park or some other limited exception in a local zoning code applies (e.g., RV used as a caretaker's residence), RVs may not typically be used as permanent residences.

If a tiny house is to be built on a foundation, the greatest obstacles relate to complying with the building codes (as noted above). However, local zoning and development regulations also present challenges, such as minimum size and parking requirements. Further, occupancy limits and limits on numbers of accessory dwellings on residential lots limit the potential for community living.

For a deeper dive into the regulatory challenges associated with tiny houses, take a look at this [MRSC Insight blog post](#) and [Legalizing the Tiny House](#) from Sightline Institute.

What Does the New Legislation Do?

ESSB 5383 supports the development of tiny houses in several ways, as outlined in this section.

Defines tiny houses

The new legislation defines "tiny houses" and "tiny houses with wheels" as:

a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code.

This distinguishes tiny houses from recreational vehicles and other types of housing, so that these structures can be regulated in their own category and used as permanent residences.

Directs adoption of building code standards for tiny houses

In 2018, the International Code Council issued tiny house building standards in [Appendix Q](#) of the International Residential Code (IRC). ESSB 5383 directs the State Building Council to adopt standards specific to tiny houses by December 31, 2019. The legislature expects the newly-issued IRC guidance to become the basis for these standards. Local governments, in turn, can amend their building codes to include these new provisions.

Also, just last year the state legislature passed a bill authorizing local governments to adopt regulations eliminating any minimum gross floor area requirements for single-family dwellings (See [HB 1085](#)).

Includes prefabricated tiny houses in definition of factory-built housing

The bill expands the definition of factory-built housing in [RCW 43.22.450](#) to include tiny houses and tiny houses with wheels, thereby incorporating prefabricated tiny houses into the L&I certification process for factory-built housing.

Creates a regulatory pathway for permitting tiny house communities

Currently [RCW 58.17.040\(5\)](#) allows the use of a binding site plan:

for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land.

ESSB 5383 expands this section of the subdivision statute to include tiny houses and tiny houses with wheels, thus allowing the use of a local binding site plan process to create tiny house communities or villages. In addition, a new section is added to [Chapter 35.21 RCW](#) that will allow a city or town to adopt an ordinance to regulate the creation of tiny house communities.

The bill also amends [RCW 35.21.684\(3\)](#) to prohibit cities or towns from adopting ordinances that would prevent tiny houses with wheels from being used as a primary residence within manufactured/mobile home communities. However, a local government may require that the tiny houses contain at least one internal toilet and shower or that the mobile home community provide such toilets and showers.

Extends protections under Manufactured/Mobile Home Landlord-Tenant Act (MHLTA)

The legislation extends protections of [Chapter 59.20 RCW](#) to tenants of tiny house communities. The Northwest Justice Project offers [a summary of a tenant's rights and obligations under the MHLTA](#).

Waives competitive bidding requirements for construction of tiny houses by students

School districts, higher-education institutions, and other government entities that offer eligible training programs for students can contract with community organizations, nonprofits, and others to build tiny houses for low-income housing, without regard to competitive bidding requirements.

Next Steps for Local Governments

Local governments interested in expanding opportunities for use of tiny houses can start the planning process for adopting local regulations consistent with the new legislation. These actions could include:

- Forming stakeholder advisory committees and encouraging community engagement.
- Reviewing zoning maps and comprehensive plans to determine where tiny house communities could be located.
- Identifying existing barriers to tiny houses in code (e.g., minimum size requirements).
- Amending binding site plan regulations to include tiny houses and tiny houses with wheels.
- Amending the local building code to incorporate new state standards for tiny houses (once adopted later this year).
- Drafting regulations for siting tiny house communities.

Resources and Further Reading

- [ESSB 5383 Final Bill Report](#)
- [MRSC Insight Blog: Tiny Houses as a Workable Option to House the Homeless \(2017\)](#)
- [The Spokesman-Review: Tiny house notion \(2019\)](#)

As part of its [Missing Middle Housing initiative](#), the City of Olympia developed white pages on current conditions for tiny houses, as well as recommended policy changes in the areas listed below to encourage the construction of tiny homes, duplexes, triplexes, and fourplexes.

- [Impact fees](#)
- [Design review](#)
- [Parking requirement](#)
- [Utility fees](#)
- [Zoning provisions](#)
- [Tiny house code change recommendations](#)

MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one [Ask MRSC service](#) to get answers to legal, policy, or financial questions.



About Jill Dvorkin

Jill joined MRSC as a legal consultant in June 2016 after working for nine years as a civil deputy prosecuting attorney for Skagit County. At Skagit County, Jill advised the planning department on a wide variety of issues including permit processing and appeals, Growth Management Act (GMA) compliance, code enforcement, SEPA, legislative process, and public records. Jill was born and raised in Fargo, ND, then moved to Bellingham to attend college and experience a new part of the country (and mountains!). She earned a B.A. in Environmental Policy and Planning from Western Washington University and graduated with a J.D. from the University of Washington School of Law in 2003.

[VIEW ALL POSTS BY JILL DVORKIN](#) ▶

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1 **TO:** Milton Planning Commission, Mayor, Council, and Staff
 2 **FROM:** Jacquelyn Whalen, Chairman
 3 **MEETING DATE:** November 04, 2019; Planning Commission Regular Meeting
 4 **TOPIC:** Vacant Building Regulations Update

5 -----

6 **WORK PLAN ITEM and DESCRIPTION:**

7 Vacant Building Regulations
 8 Consider possible land use regulations that would incentivize a lower vacancy rate in commercial buildings.

9

10 **ATTACHMENTS:**

- 11 I. Annotated copy of the Commission’s work product from their June 2018 agenda packet
- 12 II. Our Land Use Attorney Daniel P. Kenny’s memo included in the June 2018 Commission agenda packet
- 13 III. *Milton Municipal Code Chapter 15.03 Dangerous Buildings*
- 14 IV. *Compilation of Ideas for Vacant Building Regulations*

15

16 **PURPOSE and INTENDED OUTCOMES OF TONIGHT’S AGENDA PACKET and DISCUSSION:**

- 17 1. Report on the background and the results of the Planning Commission’s work
- 18 2. Discuss impact of our attorney’s comments on the Commission’s work
- 19 3. Present a potential way to integrate the Commission’s work product into the Milton Municipal Code
- 20 4. Get Staff’s perspective
- 21 5. Get Council’s perspective
- 22 6. Get Council’s direction as to whether the Commission and Staff shall continue work on the topic of
- 23 incentivizing occupancy of commercial buildings/spaces.

24

25 **DISCUSSION:**

26 **Part [1].** Report on the background and the results of the Planning Commission’s work

27 **BACKGROUND**

28 The Commission understood some of the problems caused by the unprecedented rate of vacancies in commercial
 29 buildings in Milton to be: a threat to the vitality of our City’s commercial districts; a downgrading of City aesthetics
 30 and community pride of place; a magnet for vandalism and crime; an obstacle to enhancing economic
 31 development; causing a public nuisance; and a threat to public safety. The loss of choice in commercial goods and
 32 services for Miltoners has forced them to seek out goods and services elsewhere causing many negative effects.

33 The decline in commercial activity within Milton has hurt all of our community in another way. Our City
34 government's ability to provide necessary and essential services at optimal levels is severely compromised - due to
35 far less sales tax revenue to fund those services.

36 It is difficult to understand how at a time of significant and continued growth in our region's economy, our City's
37 location adjacent to major roadways plus a major increase in local population, and many more positive City
38 attributes - that the commercial buildings/spaces in our City are vacant.

39 One would think that the lease/rental income would be incentive enough for property owners, and that the
40 management of those properties would be focused on strengthening the economic opportunity of their tenants.

41 One would think that (particularly in the case of the two shopping centers along Meridian Avenue East) that empty
42 commercial spaces impede the viability of the remaining businesses/tenants because of fewer customers on site;
43 more failing businesses only further jeopardizes the property owner's profits.

44 Looking at the matter from a supply and demand perspective –there should not be any vacancies along Meridian
45 Avenue. The demand for goods and services is here, the capacity (buildings and infrastructure) is here, but the
46 businesses are not locating here. Some research done by members of the Commission found the problem to be
47 artificially high rents, which supports the premise that the lease/rental income losses are of an economic
48 advantage to the property owners. Indeed it is a complicated issue with several factors that the City cannot
49 control.

50 Obviously, the City is not in the position to offer further positive incentives (e.g.: reduced utility rates, rent
51 subsidizes, free City services.....). Roadway improvements on Meridian and Milton Way are complete. The recent
52 proposal (Council Study Session of October 14, 2019) to correct the City's Building and Planning Departments' fees
53 for services, demonstrates the substantial degree to which the City has been financially incentivizing development
54 and redevelopment for over 10 years by undercharging for services provided. Yet the commercial vacancy rate
55 continued to increase.

56 **RESULTS**

57 **Thus**, the Commission embarked on a "Fee-in-Lieu of Occupancy" approach. The incentive being – no fee required
58 if the commercial space, or commercial building was occupied. So the property owner would be getting lease
59 income and avoiding a fee!

60 Other main components of the proposed regulations regarding vacant commercial spaces included:

- 61 ○ an annual registration and an annual fee;
- 62 ○ a requirement for inspection of the space upon vacancy and an inspection fee;
- 63 ○ performance standards for maintaining the exterior of the commercial space; and
- 64 ○ requirements to have attractive store fronts / window displays (to avoid adverse impacts on character of
65 streetscape).

66

67

68

69 **Part [2]. Discuss impact of our attorney’s comments on the Commission’s work**

70 Following this agenda bill discussion is a copy of the Planning Commission’s vacant building regulations with
71 commentary from our Attorney Daniel P. Kenny, along with his memo regarding the Commission’s work. This is
72 included to show where the Commission was in their work and their ideas in addressing the assignment.

73 The annotated copy is not easy to read for several reasons:

74  the document that the Commission started working on was a compilation of regulations from multiple
75 sources, offering a few different ways to address the same issue within the one starting document;

76
77  the strikethrough/underline revisions resulting from Commission discussions were not converted to a
78 ‘clean-copy’ version each time as the Commission’s discussions progressed over several meetings;

79
80  the Commission’s questions to the Attorney were embedded within the document as a method of
81 communicating concerns to the Attorney for resolution.

82
83  the Attorney was not sent a ‘clean’ version of the document, he received the ‘work-in-progress’ version in
84 May 2019; and

85
86  therefore, the document that he sent back to the Commission shows his suggested revisions and
87 comments written on top of the edits, etcetera done by the Commission.

88 **The Attorney’s memo** well identifies and summarizes his over-riding concerns as indicated in his comments
89 throughout the rough draft. The primary takeaways are clear enough - the removal of the key incentive, the ‘fee-
90 in-lieu-of-occupancy’ and his guidance to work within our regulations dealing with building nuisance violations.

91 **Impact on the Commission:** The fact that Mr. Kenny could have written his May 2019 memo verbatim based on
92 the starting draft of December 2018, and the significant degree of change to the Commission’s approach to the
93 task as he suggested - caused the Commissioners to stop and assess their protocols/methodology when working to
94 complete an assignment. The results of that reassessment are covered in a separate agenda bill.

95

96

97 **Part [3]. Present a potential way to integrate the Commission’s work product into the Milton Municipal Code**

98 If Council wants to do more to enhance MMC 15.03 Dangerous Buildings with the Planning Commission’s work
99 product, a Commission Subcommittee could work with Staff to take what was not deleted by the Attorney that
100 could be useful, and add it to Milton’s nuisance violations regulations, MMC Chapter 15.03 Dangerous Buildings

101 Please see the attached *Compilation of Ideas for Vacant Building Regulations* for ideas that may be incorporated
102 into the *MMC Chapter 15.03 Dangerous Buildings*.

103

104

105 **Part [4]. Get Staff's perspective / suggested topics**

- 106 → What are the challenges in administering the existing code in achieving the goal of reducing vacancy in
- 107 commercial buildings and spaces?
- 108 → What are Staffs suggestions regarding incentivizing occupancy of vacant commercial buildings and spaces?
- 109 → Does Staff support the general intent of the proposed changes to the Dangerous Buildings regulations?
- 110 → What parts of the draft Vacant Building regulations would be beneficial in ensuring public safety and
- 111 adherence to the building codes?
- 112 → What are the challenges in administering the code with the proposed changes to the MMC?
- 113 → What does it take to get rid of the dangerous buildings?
- 114 → How would Staff go about using this code to incentivize occupancy?
- 115 → PLEASE IDENTIFY the resources (people, time, money, etc.) and actions will be needed in order to
- 116 complete the merging the proposed language into the MMC <<<

117

118

119 **Part [5]. Get Council's perspective / suggested topics**

- 120 → Is it worthwhile to pursue / continue working on this topic?
- 121 → Does Council agree with the logic of amending the nuisance violations regulations portion of the MMC by
- 122 adding the ideas from the Commission's work-product?
- 123 → What are Council's thoughts and concerns?

124

125

126 **Part [6]. Get Council's direction as to whether the Commission and Staff shall continue work on the topic of**
127 **incentivizing occupancy of commercial buildings**

Ordinance: Register/Establish Fees for Vacant Buildings in ~~Up-Town and Business District~~ the city of Milton, Washington

ORDNANCE NO. ____

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, TO CREATE A POLICY TO IDENTIFY AND REGISTER VACANT BUILDINGS; TO ESTABLISH A PROCESS TO IMPROVE COMMUNITY SAFETY AND PROMOTE THE WELL BEING OF AREA BUSINESS; TO REPEAL ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MILTON, WASHINGTON:

 PURPOSE

The purpose of this article is to protect the public health, safety and welfare of Milton by establishing a program for identification and registration of vacant commercial buildings, determining the responsibilities of owners of vacant commercial buildings and structures, and providing for administration, enforcement, and penalties.

 ADMINISTRATION

This chapter will be administered by the building official, who may adopt administrative rules and regulations consistent with its terms. The building official (and his/her designee), or code enforcement officer, or both are authorized to enforce this chapter. (Ord. _____)

 DEFINITIONS

“City” means the city of Milton, its officers, employees, and agents.

“Commercial activity” means having the objective of supplying commodities (goods and services) and ancillary business functions. {Should we use MMC 17.08.130?}

“Commercial building” means a building with more than fifty (50) percent of its floor space used for commercial activity. For the purposes of this section, floor space shall be designated as the area on the main or street level of the building. {Do we need this definition?}

“Commercial space” means any portion of a structure in the City of Milton that is not intended for residential use.

“Dangerous structure” means a structure that is potentially hazardous to persons or property, including, but not limited to: (a) a structure that is in danger of partial or complete collapse; (b) a structure with any exterior parts that are loose or in danger of falling; or (c) a structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, that are accessible and that are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.

“Occupied” means a permitted, nonresidential use that is physically located and lawfully operating in a commercial space for at least six consecutive months.

Should we keep only the terms that we use in code in this ordinance?

Commented [DPK1]: <http://mrsc.org/Home/Explore-Topics/Legal/Regulation/Nuisances-Regulation-and-Abatement/Building-Nuisances.aspx>

Most often situations like this are dealt with using nuisance regulations of varying types. The only one with regulations like this that I am aware of is Everett. As a result I do not know if this would withstand legal challenge. A well developed nuisance regulation is much more common and focuses on ensuring safety and security, rather than forcing payment and registration.

"Owner" means the person, persons, or entity shown to be the owner of record on the records of the Pierce County or King County Register of Deeds, those identified as the owner or owners on a vacant building registration form, holder of an unrecorded contract for deed, a mortgage or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lessor state therein. Any such person, person's or entity, shall have a joint and several obligations for compliance with the provisions of this article.

"Responsible person" means any person, firm, association, corporation or any agent ~~thereof, owning, leasing, renting or having lawful possession of a structure in the City of Milton~~ of the owner.

"Secured by other than normal means" means a building secured by means other than those used in the design of the building.

~~"Unoccupied" means a building which is not being used for a legal occupancy. The storage of products and materials does not constitute occupancy unless authorized by the zoning ordinance of the city. ^{**}Attorney, please review definition^{**}~~

Commented [DPK2]: You define Occupied. Do you also need unoccupied?

~~(Still in question and request this to be looked at by city attorney)~~

"Unsecured" means a building or portion of the building that is open to entry by unauthorized persons without the use of tools.

"Vacant commercial building" means a building structure or portion of a building structure that is:

- (1) ~~Unoccupied and secured;~~
- (2) ~~Unoccupied and unsecured;~~
- (3) ~~Unoccupied and secured by other than normal means;~~
- (4) ~~Unoccupied and a dangerous structure;~~
- (5) ~~Unoccupied and condemned;~~
- (6) ~~Unoccupied and has city code violations; or~~
- (7) ~~Condemned and illegally occupied.~~

Commented [DPK3]: Why would these structures be an issue?

VACANT COMMERCIAL BUILDING does not mean any structure being constructed pursuant to a valid permit to the city building code.

~~(street level removed)~~

"Vacant commercial space" means any portion of a commercial space that, on or after (date of ordinance), is not occupied and has not been occupied during the preceding ninety days.

Commented [DPK4]: Couldn't you just use nuisance provisions for these?

GENERAL MINIMUM MAINTENANCE REQUIREMENTS

All responsible persons shall perform the following with respect to each structure they own, lease, rent, or lawfully possess:

- A. Maintain all exterior surfaces, including but not limited to doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.
- B. Protect exterior wood surfaces, other than decay-resistant woods, from the elements and decay with paint or other protective covering or treatment. If protection of the surface is

Commented [DPK5]: This section matches 16.16.040 from Everett.

compromised, restore adequate protection within a reasonable time; for example, remove peeling, flaking or chipped paint and repaint the compromised surface.

- C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather-resistant and watertight.
- D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair and free from obstructions.
- G. Maintenance of overall property, inclusive of parking spaces.

VACANT COMMERCIAL SPACE REGISTRATION

A. At least one responsible person for each vacant commercial space must register that space with the city within ~~10~~ **14 consecutive** calendar days of the date the space becomes vacant commercial space, as that term is defined in section , unless:

1. The space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay; or

2. The space meets all applicable codes and regulations that apply to a permitted nonresidential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage and not over pricing the property from the going rate in that particular area); or *****Ask Attorney what suggestions for these might be*****

3. The property the commercial space is located on is the subject of a land use application for redevelopment for which approval has been granted but building permits have yet to be issued.

B. A space will be considered registered on the date the city receives, on a form provided by the building official and properly completed and signed by a responsible person, the following information:

- 1. The street address and parcel number of the vacant commercial space;
- 2. The name, address, daytime and evening telephone numbers of each responsible person for the vacant commercial space, including any owner or tenant;
- 3. The period of time the vacant commercial space is expected to remain vacant;
- 4. Any other information requested by the building official for the administration of this chapter.

C. For every registered vacant commercial space, a responsible person must record a notice that the space is registered with the city as a vacant commercial space with the Pierce County or King County

Commented [DPK6]: This seems to be overly broad and vague. The above sections specifically call out maintenance of certain things, then this just says everything.

I would remove this and rely on the specific requirements.

Commented [DPK7]: This will be the definitions section above in this chapter.

Commented [DPK8]: This seems to get too far into the business practices of the seller.

What about appropriate signage and an active listing in a real estate database?

This might be the MLS, or another database of real estate listings.

~~Auditor. The notice must be approved by the building official, and a copy of the recorded notice must be received by the city no later than thirty days from the date the space is registered. ****Ask Attorney what anyone gains with this, does this really matter?***~~

~~To be reviewed by Legal if not necessary, delete~~

~~CD.~~ A responsible person must post the following a notice with the information identified below on a form provided by the building official inside every vacant commercial space, to be clearly visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the space:

1. This Vacant Commercial Space is registered with the City of Milton.

~~2. This Vacant Commercial Space may not meet all applicable codes and regulations, which may include codes and regulations required to occupy the space for a permitted use in the City of Milton.~~

23. The Vacant Commercial Space was registered on (date).

DE. A responsible person must renew the registration of each vacant commercial space on or before January 1st of each year that the space remains vacant. A responsible person must submit the renewal application to the city on forms provided by the building official.

EF. Upon satisfactory proof to the building official that the vacant commercial space is occupied as defined in Section __, the vacant commercial space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy must also include documentation, which ~~may include evidences~~, but is not limited to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or city business and occupation tax statements indication the subject space is the official business address of the person or business claiming occupancy.

FG. The determination of the number of vacant commercial spaces a structure contains will be at the reasonable discretion of the building official.

WINDOW DISPLAYS FOR COMMERCIAL SPACES **NOT OCCUPIED VACANT FOR THIRTY DAYS**

When commercial space is unoccupied for more than thirty days, a responsible person must take steps to maintain a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the following measures to all ground-floor windows that face sidewalks, streets, or public open space:

- A. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;
- B. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space;
- C. Other measures consistent with these examples approved by the building official.

FEES (not taxes) FOR VACANT COMMERCIAL SPACE REGISTRATION

{DPK1946222.DOCX;1/13018.900000/ }

Page 4 of 7

Commented [DPK9]: Agreed. I do not see utility in recording this type of notice with the auditor. I would not include this provision.

Commented [DPK10]: Wat is the purpose of this?

I would worry that this will be required to be on the notice and may be a deterrent to a potential purchaser. Places doubt about the property.

A seller may then make a claim that the required notice deflated the purchase price or scared away purchasers altogether. I would avoid this and delete this section.

Commented [DPK11]: Not sure the City would want, or has the right to, the details of private commercial leases. The terms may be confidential.

Commented [DPK12]: I would remove.

~~(Example: Hometown Hardware has 21,058 sq. ft on the interior and 1,000 sq. ft on the exterior. Total sq. ft is 22,058, leasing at \$13.00 per sq. ft is \$286,754.00 per month with a 10 year lease. The fee charged would be \$8,823.20 per month with an annual fee of \$105,878.00.~~

~~2. F. Fees will be billed annually. The legal department city will file lawsuits against those who do not pay the fee and place liens on their property.~~

~~3. G. Violation of the Milton Sign Code Definition 17.50.020 Abandon Sign (a sign that has not been changed or removed within 180 days of ceasing to be relevant) and fall under 17.50.200 of the sign code Penalty for Violations which fall under MMC 9.04.040.~~

{Option 2}

1. Two hundred fifty dollars for each space vacant for less than one year;
2. Five hundred dollars for each space vacant for at least one year but less than two years;
3. Seven hundred dollars for each space vacant for at least two years but less than three years;
4. One thousand dollars for each space vacant for at least three years and for each year thereafter until the building is occupied.

DELINQUENT REGISTRATION FEES-COLLECTION

If a responsible person fails to pay the registration fee within 30 days following by the due date and after being notified by the City of such failure to pay the registration fee, the city is authorized to take action to collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs incurred by the city as a result of the collection process will be assessed to the responsible person or responsible persons in addition to the registration fee. ****Is it a necessity to notify prior to enforcement?**-Ask Attorney**

DUTY TO AMEND REGISTRATION STATEMENT

Responsible persons for any registered vacant commercial space shall advise the building official, in writing, of any changes to the information on the registration form within thirty days of the occurrence of the change.

INSPECTIONS

The building official (and his designee), or code enforcement officers, or both are authorized to conduct inspections consistent with the law to enforce the provisions of this chapter.

ENFORCEMENT

A. Enforcement of the provisions of this chapter will be performed in accordance _____

Commented [DPK17]: I would always recommend notice.

Presumably, the registration informed them of the need to pay the annual fee. The City could also reach out at the anniversary to collect the fee, then if no action is taken, the City could move forward.

B. No responsible person may violate or fail to comply with any provisions of this chapter. Each responsible person commits a separate offense for each day they commit, continue or permit a violation of any provision of this chapter.

C. All responsible persons for a commercial space are jointly and severally responsible with respect to that commercial space for compliance with the provisions of this chapter and for any payments that they may be required to be made to the city under this chapter. If the commercial space is subject to a lease, the city shall have discretion to determine whether to enforce this chapter against the commercial space owner, the tenant or both. The city shall consider in this determination whether the lease provides that the compliance with this chapter is the responsibility of the commercial space owner or the tenant.

ANNUAL REPORT

The building official shall make a report to the city council in January of every odd year on the status of the vacant commercial space registration program.

References:

Huntington, West Virginia

Weeping Water, Nebraska

Everett, WA

Tucson, AZ

Drafted by: Jim Gillespie

Commented [DPK18]: This will add up quick...

Commented [DPK19]: I would always use Washington state codes as reference. Washington law is not the same as other states and we do not want to get caught up in something that is unsupported by Washington law.

If useful, request sample codes from me as a starting place.

Further, picking a sample code to work from will take some thought and consideration as the city may have different circumstances, the code may be erroneous for some reason, etc.

The majority of this code appears to be from Everett. I am not aware of what process they went through to get to this code. I am also not aware whether this code has withstood legal challenge. I am concerned that this forces payment for non-use of a structure beyond ensuring safety and security of the structure. This feels like overreach, but I do not have a case to point to on this topic.

Trisha Summers

From: Trisha Summers
Sent: Wednesday, May 29, 2019 2:22 PM
To: Planning Commission
Cc: Shanna Styron-Sherrell
Subject: Vacant Building Ordinance
Attachments: Vacant Building Ordinance - DPK response (1946222x7ACF2).docx

Please see the email below that I received from our Attorney. Do not respond ALL to this email. Hopefully this will get you to the finish line!

Trisha Summers
City Clerk

From: Daniel P. Kenny <dpkenny@omwlaw.com>
Sent: Wednesday, May 29, 2019 2:09 PM
To: Trisha Summers <tsummers@cityofmilton.net>
Subject: FW: Planning Commission Ordinance Review

Trisha,
Attached is a revised ordinance that include a number of comment boxes with comments and questions.

I think my main first point is that I've noticed that the planning commission tends to start their tasks, whether it is parking regulations or vacant buildings, with some other code they find. In this case, it was a compilation of 4 codes - 3 of which were from out of state. Then, the commission revises or adds to that code. Finding the right code to start with is important for many reasons. First, it is important to understand the context of the selected code and what they were trying to accomplish along with other code provisions. The goals of the specific city can, and often do, lead to different types of codes. Second, some codes are crafted around a structure that has not been challenged or is in the minority. Here, Everett has a code that I am not aware has been challenged. Further, most cities use nuisance law as the mechanism to accomplish these goals. So, they are doing it differently. Finally, I would only ever look to Washington state municipal codes because state law differs.

I would like to offer to be a resource to help find a starting place for code revisions in the future. I might be able to point the PC towards a code that is generally known to be legally defensible and workable. This will help set the project out on the right foot.

Next, as I express in my comments in the document, I am generally fine with a registration fee that is directly tied to the costs of the program (which would not be very high), but if the fee goes beyond that, it could be viewed as a tax and may not be allowed. You'd need lots of support to accomplish something like that.

Further, the typical way to deal with these types of properties is to utilize or create nuisance laws that will keep the properties in check. Registrations, fees, and mandatory maintenance – beyond that which is necessary for life and safety – feels like an invitation to challenge the ordinance.

I'd be happy to review this again after the planning commission reviews and updates as they see fit.

Daniel P. Kenny | Attorney

Ogden Murphy Wallace P.L.L.C.
901 Fifth Avenue, Suite 3500
Seattle, WA 98164
phone: 206.447.2258 | fax: 206.926.2861 | email: dpkenny@omwlaw.com
www.omwlaw.com

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From: Trisha Summers <tsummers@cityofmilton.net>
Sent: Thursday, May 16, 2019 9:14 AM
To: Daniel P. Kenny <dpkenny@omwlaw.com>
Subject: Planning Commission Ordinance Review

The Planning Commission is working on a Vacant Building Ordinance that they have modeled after four cities around the US and one of them being Everett, WA. They have been working on this for about 3 meetings and feel that they are at a place where they need some attorney input. I highlighted the questions they had for you on the attached document. The next meeting is June 12th so I am hoping we can get some of these things answered for them by the 5th of June so I can get their packets out to them the week before. Thank you so much! Feel free to weigh in on other areas I didn't highlight if you have comments on anything else.

Trisha Summers
City of Milton

Chapter 15.03 DANGEROUS BUILDINGS

Sections:

- 15.03.010 Purpose and findings.**
- 15.03.020 Definitions.**
- 15.03.030 Duties of the director.**
- 15.03.040 Unfit buildings.**
- 15.03.050 Substandard buildings.**
- 15.03.055 Vacant structures and land.**
- 15.03.060 Nuisances.**
- 15.03.070 Complaint.**
- 15.03.075 Voluntary correction.**
- 15.03.080 Hearings before the director.**
- 15.03.090 Hearings before the hearing examiner.**
- 15.03.100 Enforcement.**
- 15.03.110 Costs.**
- 15.03.120 Permit required.**
- 15.03.130 Rules and regulations.**
- 15.03.140 Penalties.**
- 15.03.150 Emergencies.**

15.03.010 Purpose and findings.

The city council of the city of Milton finds that unsafe, unsanitary, vacant and otherwise improperly maintained premises and structures within the city of Milton, in addition to the obvious hazards which these conditions pose to the public health, safety and welfare, adversely affect the value, utility and habitability of property within the city as a whole and specifically cause substantial damage to adjoining and nearby property. This chapter is an exercise of the city's police power, and it shall be liberally construed to effect this purpose. This chapter shall also be construed in accord with Chapter [35.80](#) RCW, as now or hereafter amended. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1677 § 2, 2006; Ord. 1531 § 1, 2002. Formerly 8.24.010).

15.03.020 Definitions.

Unless specifically defined below or unless context clearly requires a different meaning, terms used in this chapter have the meaning given them by the currently adopted edition of the International Building Code. Gender and number are interchangeable. Defined terms or concepts from MMC Title [17](#) generally apply to this chapter.

A. "Abandoned" refers to any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicia that no person is presently in possession, e.g., disconnected utilities, accumulated debris, uncleanliness, disrepair and, in the case of chattels, location. Length of time or any particular state of mind of the owner or person entitled to possession is not conclusive in determining that property is abandoned.

B. "Boarded up building" means any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving the appearance the building is not used or occupied.

C. "Building" means any building, dwelling, structure, or mobile home, factory-built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

D. "Director" means the planning and community development director, his authorized deputies and representatives.

E. "Hearing examiner" means the hearing examiner of the city of Milton as provided in Chapter [2.54](#) MMC.

F. "Health officer" means the head of either the Tacoma-Pierce County health department or Seattle-King County health department, his authorized deputies or representatives.

G. "Nuisance" includes a nuisance defined by statute or ordinance; or a nuisance at common law, either public or private.

H. "Owner" means any person having any interest in the real or personal property in question as shown upon the records of the office of the Pierce or King County auditor, or who establishes his interest before the director or hearing examiner. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

I. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

J. "Repeat violation" means a violation of the same regulation in any location by the same person for which voluntary compliance has been sought within two years, or a notice of violation has been issued within two years.

K. "Vacant" when referring to a building means a commercial structure that is not actively and commercially in use for more than six months, an industrial or warehouse structure that is not actively in use for more than one year and residential property that is not actively in use as a residence for more than four months. "Vacant" when referring to real property with no commercial, industrial or residential structure refers to property that is not maintained, weed infested, overgrown, littered, or otherwise not maintained as are surrounding properties. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1663 §§ 6, 7, 2006; Ord. 1531 § 1, 2002. Formerly 8.24.020).

15.03.030 Duties of the director.

The director's duties and powers for the purposes of this chapter include:

- A. Investigation of all buildings, properties and premises which he has reasonable grounds to believe may be unfit, substandard, boarded up, abandoned, vacant or a nuisance;
- B. Preparation, service and posting of complaints against buildings, property or premises believed to be in violation;
- C. Conducting administrative hearings and rendering decisions based upon written findings; and
- D. Doing all things necessary and proper to carry out and enforce this chapter. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.030).

15.03.040 Unfit buildings.

A. In reaching a judgment that a building is unfit for human habitation, the director shall consider:

1. Dilapidation;
2. Disrepair;
3. Structural defects;
4. Defects increasing the hazards of fire, accidents or other calamities, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
5. Inadequate ventilation;
6. Uncleanliness;
7. Inadequate light;
8. Inadequate sanitary facilities;
9. Inadequate drainage;
10. Substandard conditions.

B. If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the building's occupants, or the occupants of neighboring buildings or of other residents of the city of Milton, and if (1) structural deterioration is of such degree that (a) vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base, or (b) 33 percent of the supporting members show damage or deterioration; or (2) the cost of restoration exceeds 60 percent of the value of the building; or (3) the building has been damaged by fire or other calamity, the cost of restoration exceeds 30 percent of the value of the building and it has remained vacant for six months or more (value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the director; cost of restoration is the actual estimated cost, which may be determined in the same manner as "value"), the director shall order the building or premises demolished and the land suitably filled and cleared, or shall order the property immediately vacated and secured as completely as possible pending demolition.

C. An undertaking entered into, at or prior to the hearing, by a party in interest creates a presumption that the building or premises can be reasonably repaired. The failure to accomplish such an undertaking within 30 calendar days is grounds for the director to order demolition. If by reason of any of the above conditions a building is unfit, but no public necessity is found for its immediate demolition, the director may take other action, such as causing the property to be cleaned, cleared, vacated, secured or otherwise repaired, which will promote the public health, safety or general welfare. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.040).

15.03.050 Substandard buildings.

A. In reaching a judgment that a building or premises is substandard, the director shall be guided by such factors as:

1. Structural unsoundness;
2. Improper sanitation;
3. Improper safety;
4. Improper weatherproofing;
5. Defective or hazardous wiring, including wiring which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good condition; or
 - c. Is not being used in a safe manner;
6. Defective or hazardous plumbing, including plumbing which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good condition; or
 - c. Is not being used in a safe manner;
7. Defective or hazardous heating or ventilating equipment, including equipment, vents and piping which:
 - a. Did not conform with law applicable at the time of installation; or
 - b. Has not been maintained in good and safe condition;
8. Fire hazard, including any building, device, apparatus, equipment, combustible waste or debris, or vegetation which may cause fire or explosion or provide ready fuel to augment the spread or intensity thereof;
9. Nuisance.

B. If these or similar conditions are found to exist, the director shall order the building or premises repaired, cleaned, cleared or otherwise brought into compliance with current codes, and may order the property vacated and secured as completely as possible pending such repair or other action. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.050).

15.03.055 Vacant structures and land.

A. All vacant structures and premises must comply with this code. Vacant buildings and premises thereof shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause blight or adversely affect the public health, safety, quality of life or value of adjoining property.

1. Appearance. All vacant buildings must appear to be occupied, or appear able to be occupied with little or no repairs unless boarded up.
2. Removal of Graffiti. All vacant buildings must be maintained free of graffiti.
3. Security. All vacant buildings must be secured against outside entry at all times. Security shall be by the normal building amenities such as windows and doors having adequate strength to resist intrusion. All doors and windows must remain locked. There shall be at least one operable door into every building and into each housing unit. Exterior walls and roofs must remain intact without holes.
 - a. Architectural (Cosmetic) Structural Panels. Architectural structural panels may be used to secure windows, doors and other openings provided they are cut to fit the opening and match the characteristics of the building. Architectural panels may be of exterior grade finished plywood or medium density overlaid plywood (MDO) that is painted to match the building exterior or covered with a reflective material such as plexi-glass.

Exception. Untreated plywood or similar structural panels may be used to secure windows, doors and other openings for a maximum period of 30 days.
 - b. Security Fences. Temporary construction fencing shall not be used as a method to secure a building from entry.

Exception. Temporary construction fencing may be used for a maximum period of 30 days.
4. Weather Protection. All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration. All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All

siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust and corrosion, and all surfaces with rust or corrosion, shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

5. Fire Safety.

a. Fire Protection Systems. All fire suppression and alarms systems shall be maintained in a working condition and inspected as required by the fire department.

b. Flammable Liquids. No vacant building or premises or portion thereof shall be used for the storage of flammable liquids or other materials that constitute a safety or fire hazard.

c. Combustible Materials. All debris, combustible materials, litter and garbage shall be removed from vacant buildings, their accessory buildings and adjoining yard areas. The building and premises shall be maintained free from such items.

d. Fire Inspections. Periodic fire department inspections may be required at intervals set forth by the fire marshal or his designee.

6. Plumbing Fixtures. Plumbing fixtures connected to an approved water system, an approved sewage system, or an approved natural gas utility system shall be installed in accordance with applicable codes and be maintained in sound condition and good repair or removed and the service terminated in the manner prescribed by applicable codes. The building's water systems shall be protected from freezing.

7. Electrical. Electrical service lines, wiring, outlets or fixtures not installed or maintained in accordance with applicable codes shall be repaired, removed or the electrical services terminated to the building in accordance with applicable codes.

8. Heating. Heating facilities or heating equipment in vacant buildings shall be removed, rendered inoperable, or maintained in accordance with applicable codes.

9. Interior Floors. If a hole in a floor presents a hazard, the hole shall be covered and secured with three-quarter-inch plywood, or a material of equivalent strength, cut to overlap the hole on all sides by at least six inches.

10. Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

11. Termination of Utilities. The code official may, by written notice to the owner and to the appropriate water, electricity or gas utility, request that water, electricity, or gas service to a vacant building be terminated or disconnected.

12. Restoration of Service. If water, electricity or gas service has been terminated or disconnected, no one except the utility may take any action to restore the service, including an owner or other private party requesting restoration of service and not until written notification is given by the code official that service may be restored.

B. Enforcement. Violations of this section shall be enforced according to the provisions and procedures of and subject to the monetary penalties contained in this chapter.

1. Abatement. When a building or structure accessory thereto that remains vacant and open to entry after the required compliance date is found and declared to be a public nuisance, the director is hereby authorized to summarily abate the violation by closing the building to unauthorized entry. The costs of abatement shall be collected from the owner in the manner provided by law.

2. Unsafe or Substandard Buildings and Equipment. Any vacant building or equipment therein declared unsafe is subject to the provisions of MMC [15.03.040](#) and the demolition provisions contained therein. (Ord. 1928 § 2, 2017).

15.03.060 Nuisances.

A. In determining that a nuisance exists, the director will consider whether the conditions:

1. Offend the senses;
2. Unlawfully interfere, obstruct, tend to obstruct or endanger the passage of any stream, park, parkway, square, street, sidewalk, easement or way;
3. Render others insecure in life or use of property;
4. Obstruct the full use of property so as to essentially interfere with the comfortable enjoyment of life or property;
5. Include vacant or boarded up structures; and

6. Violate any provision of this code, especially MMC Titles 9, 15, and 17; or

B. If the director finds a nuisance to exist, they shall order it abated and may order the property otherwise secured pending abatement. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.060).

15.03.070 Complaint.

If, after a preliminary investigation of any building or premises, the director finds that it is unfit, substandard, vacant, boarded up, required to be boarded up, or upon a verified complaint or declaration of a citizen, a nuisance, he shall cause the owners to be served, either personally or by first class and certified mail with return receipt requested, and shall post in a conspicuous place on such property a complaint stating in what respect such building is unfit for human habitation or other use or is substandard, vacant or that it is or should be a boarded up building or that the premises is a nuisance, together with the corrective action to be taken and the fees and costs to be paid. If the whereabouts of such person is unknown and cannot be ascertained by the director in the exercise of reasonable diligence, he shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the notice and orders by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located, or at the address known to the county assessor. A copy of the notice and order shall also be mailed, addressed to each person, at the address of the building involved in the proceedings, if different, and to each person or party having a recorded right, title, estate, lien, or interest in the property. Such complaint shall contain a notice that a hearing will be held before the director at a place therein fixed, not less than 10 days nor more than 30 days after the service of such complaint; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. A copy of such complaint shall also be filed with the auditor of Pierce or King County, and such filing of the complaint or order shall have the force and effect of lis pendens. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.070).

15.03.075 Voluntary correction.

A. The director may secure voluntary correction by agreement with the owner.

B. The voluntary correction agreement is a contract between the city and the owner in which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary agreement must include:

1. The name and address of the owner or person bound under the contract;
2. The street address and a legal description sufficient to identify the premises;
3. A description of the violation and a reference to the provisions of this code or other regulation that has been violated;
4. The corrective action to be taken, and a date and time by which the corrective action must be completed;
5. An agreement by the owner that the city of Milton may abate the violation and recover its costs and expenses pursuant to this chapter if all terms of the voluntary agreement are not met;
6. A waiver by the owner of his right to any administrative or legal review of the violations, the appropriate corrections, and all other rights except those in the agreement;
7. The administrative costs to be paid and by whom;
8. Permission by the owner for the city to enter upon the property at any time or, in the case of occupied property, at reasonable times until the violation is abated or the property reoccupied; and
9. An acknowledgement.

C. The director may grant an extension for corrections or modifications if the owner has been diligent and made substantial progress but has been unavoidably delayed. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.075).

15.03.080 Hearings before the director.

A. Unless, prior to the time fixed for hearing in the complaint issued by the director, arrangements satisfactory to the director for the repair, demolition, boarding up, vacation or reoccupancy of the building or premises are made, including the proper application for permits, or abatement of the nuisance, the director shall hold a hearing for the purpose of determining the immediate disposition of the building or premises. The hearing will be canceled if the director approves the completed corrective action.

B. The director shall conduct a hearing. The director or his designee and the owner may participate as parties in the hearing and each party may call witnesses. Any complainant or person affected by the violation may appear and present evidence. The city shall have the burden of demonstrating by a preponderance of evidence that a violation has occurred and that the required corrective action is reasonable. If the owner fails to appear at the scheduled hearing, the director will enter an order finding that the violation occurred and assess the appropriate costs.

C. Within 10 days of the completion of the hearing the director shall issue an order to the owner that contains the following information:

1. The decision regarding the alleged violation including findings of fact and conclusions based thereon.
2. The required corrective action.
3. The date and time by which the correction must be completed.
4. The costs assessed and the monthly assessment if the property is vacant or boarded up.
5. The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.
6. The decision shall state that the owner has the right to appeal to the hearing examiner within 30 days and, unless he does appeal or comply with the order, the city shall have the power, without further notice or proceedings, to vacate and secure the building or premises and do any act required of the owner in the order of the director, and to charge any expenses incurred thereby to the owner and assess them against the property.

D. The director shall mail by certified mail a copy of the order to the owner or occupant within 10 working days following the hearing.

E. If no appeal is filed, a copy of such order shall be filed with the auditor of Pierce or King County and shall be a final order. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.080).

15.03.090 Hearings before the hearing examiner.

A. The purpose of the hearing examiner is to review the proceedings and orders of the director and to affirm, modify or vacate said orders.

B. Within 30 days from the date of service and posting of an order of the director, an owner may file an appeal with the hearing examiner by filing a written notice of appeal with the city clerk setting out the reasons he believes the findings or order of the director to be erroneous. The hearing examiner shall set a hearing not less than 10 nor more than 30 days from the date of said appeal or referral. Notice of the time and place of the hearing shall be made in accord with MMC [15.03.070](#). The matter of the appeal will be scheduled for public hearing before the hearing examiner so as to allow 10 days' notice of the hearing to the appellant and all interested parties and to permit final decision thereon to be made within 60 days after the filing of the appeal. The filing of the notice of appeal shall stay the order of the director, except so much thereof as requires temporary measures, such as securing of the building to minimize any emergent danger to the public health or safety.

C. Upon the public hearing of the appeal, the hearing examiner shall consider the file of the proceedings before the director and such other evidence as may be presented. After the hearing, the hearing examiner may affirm, modify or vacate the order of the director, or may continue the matter for further deliberation or presentation of additional evidence. Normally, the hearing examiner will not accept new evidence or evidence not made available to the director in the absence of good cause. The hearing examiner's review is on the record, not de novo. The determination of the director shall be accorded substantial weight. A record of the proceedings shall be made and kept for one year or until the matter is final, whichever is longer. The hearing examiner shall cause his findings of fact and order to be made in writing; provided, the hearing examiner may adopt the findings and order of the director, or so much thereof as supports his decision. Such findings and order shall be served and posted in the same manner as an order of the director. In addition, such notice shall state that the owner has the right to petition the superior court of Pierce or King County for appropriate relief within 30 days after the order becomes final.

D. Any action taken by the hearing examiner shall be final 60 days after the filing of a notice of appeal unless continued with consent of the owner or occupant. In the event that the hearing examiner fails to reach a decision or continues the hearing beyond 60 days after the filing of an appeal, the director's order and finding shall be that of the hearing examiner's, and shall be final and subject to petition to the superior court; provided, any continuance at the request or with the consent of any owner or occupant shall suspend the running of the 60 days allowed for final decision, for the length of the continuance. (Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.090).

15.03.100 Enforcement.

A. The order of the director or the hearing examiner may prescribe times within which demolition shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the director may cause the building to be demolished and the premises to be suitably filled and cleared as provided by MMC [15.03.040](#). If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the director or the hearing examiner may extend the time for completion of the work. If satisfactory or substantial progress has not been made, the director or the hearing examiner may cause the building to be demolished and the premises suitably filled and cleared as provided by MMC [15.03.040](#). The director shall let bids for any demolition in accordance with MMC [15.03.110](#).

B. If other action ordered by the director or the hearing examiner is not taken within the time prescribed, or if no time is specified within the time for appeal, the director may cause the action to be taken by the city.

C. If the director deems it necessary to have the building secured as an interim measure for the protection of the public health and welfare while pending action, he may so order. If the owner is unable or unwilling to secure the building within 48 hours, the director may order the building secured by the city, at the expense of the owner. A structure so secured shall be assessed the fee for a boarded up or vacant structure.

D. If the owner is unable to comply with the director's or hearing examiner's order within the time required, and the time for appeals to the hearing examiner or petition to the court has passed, he may, for good and sufficient cause beyond his control, request in writing an extension of time. The director or the hearing examiner may grant a reasonable extension of time after a finding that the delay was beyond the control of the owners. There shall be no appeal or petition from

the director's or the hearing examiner's ruling on an extension of time. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.100).

15.03.110 Costs.

A. 1. The costs of abatement, repair, alteration or improvement, or vacating and closing, or removal or demolition, when borne by the city, shall be assessed against the real property upon which such costs were incurred unless said costs were previously paid. The director shall forward such costs to the city clerk-treasurer, who shall certify them to the county treasurer for assessment on the tax rolls.

2. Bids for demolition shall be let only to a licensed contractor. The contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require bidders to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of his bid accordingly. The contract price fixed by acceptance of such a bid shall not be adjusted to reflect the actual salvage value. Such bids may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order for demolition is final. The director shall have the authority to sign the contract on behalf of the city.

3. There shall be charged against the owner and assessed against the property of any boarded up building an annual inspection fee of \$500.00. Such fee shall be payable at the time the building becomes a boarded up building. The hearing examiner or director shall order a refund of the proportional amount not due if the building is reoccupied or demolished. Subsequent annual fees shall be payable on or before the preceding annual fee has been exhausted.

B. Actual costs and expenses will be assessed in accord with the provisions of this section.

C. In addition to actual abatement costs, the following administrative fees shall be assessed and collected in the same manner:

1. Where abatement is accomplished prior to director hearing:

- a. Nuisance, vacant or boarded up structure: \$200.00;
- b. Substandard building: \$400.00;
- c. Unfit building: \$600.00;

provided, the director may waive these fees for a first offense if abatement is complete 48 hours prior to a director hearing; provided further, that where abatement is accomplished by voluntary agreement, the director shall charge at least \$50.00 per month per acre or fractions thereof.

2. Where abatement is accomplished subsequent to or less than 48 hours prior to a director hearing:

- a. Nuisance, vacant or boarded up structure: \$1,000;
- b. Substandard building: \$2,000;
- c. Unfit building: \$3,000.

3. Where abatement is accomplished following breach of an agreement or understanding between a property owner and director or hearing examiner:

- a. Nuisance, vacant or boarded up structure: \$2,000;
- b. Substandard building: \$4,000;
- c. Unfit building: \$6,000.

4. Where the abatement is accomplished by the city following hearing or default of the property owner:

- a. Nuisance, vacant or boarded up structure: \$2,000;
- b. Substandard building: \$4,000;
- c. Unfit building: \$6,000.

5. For cases heard by the hearing examiner add \$1,000.

6. For repeat violations, costs shall be doubled.

7. Vacant and boarded up properties will be assessed \$400.00 per month for residential properties and commercial and industrial property shall be assessed one-fifth percent (0.2 percent) of the assessed value of the property per month, or fraction thereof, for each month the property remains vacant or boarded up.

D. The director or hearing examiner may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant. In setting costs, they may reduce the costs to an owner who has acted in good faith. They may increase costs if it appears that the scheduled costs are inadequate to make the city whole with respect to a particular violation. (Ord. 1928 § 1, 2017; Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.110).

15.03.120 Permit required.

Any work, including construction, repairs or alterations under this chapter to rehabilitate any building or structure, may require a permit in accord with other provisions of this code. (Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.120).

15.03.130 Rules and regulations.

The director may make and promulgate such rules and regulations as will effectuate the purposes of this chapter and do substantial justice. (Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.130).

15.03.140 Penalties.

It shall be unlawful and a violation of this chapter to knowingly:

- A. Occupy or suffer to be occupied any building or premises ordered vacated;
- B. Fail to comply with any order issued pursuant to this chapter; or
- C. Obstruct any officer or agent of the city of Milton or other governmental unit in the enforcement of this chapter.

Violation of this chapter is a gross misdemeanor. (Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.140).

15.03.150 Emergencies.

The provisions of this chapter shall not prevent the director or any other officer of the city of Milton or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property. (Ord. 1862 § 2 (Exh. A), 2015; Ord. 1531 § 1, 2002. Formerly 8.24.150).

The Milton Municipal Code is current through Ordinance 1974, passed October 7, 2019.

Disclaimer: The city clerk's office has the official version of the Milton Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cityofmilton.net/>

City Telephone: (253) 922-8733

[Code Publishing Company](#)

1 **Scope.**

2 The provisions of this chapter apply to all structures in the City of Milton unless otherwise stated. All responsible
3 persons (as defined in Section XXXXX) shall comply with the requirements of this chapter.

4

5 **Administration.**

6 This chapter will be administered by the building official, who may adopt administrative rules and regulations
7 consistent with its terms. The building official (and his designee), or code enforcement officers, or both are
8 authorized to enforce this chapter.

9

10 **Definitions.**

11 For the purposes of this chapter:

12 "City" means the city of Milton, its officers, employees, and agents.

13 "Commercial space" means any portion of a structure in the City that is not intended for residential use.

14 Occupied. A commercial space is considered occupied if a permitted, nonresidential use is physically located and
15 lawfully operating in the space for at least six consecutive months.

16 "Responsible person" means any person, firm, association, corporation or any agent thereof owning, leasing,
17 renting or having lawful possession of a structure in the urban mixed zone.

18 "Vacant commercial space" means any portion of a street-level commercial space that, on or after January 1, 2020,
19 is not occupied and has not been occupied during the preceding ninety days.

20

21 **General minimum maintenance requirements.**

22 All responsible persons shall perform the following with respect to each structure they own, lease, rent or lawfully
23 possess:

24 A. Maintain all exterior surfaces, including but not limited to doors, windows, door and window frames, cornices,
25 porches, trim, balconies, decks, and fences, in good condition.

26 B. Protect exterior wood surfaces, other than decay-resistant woods, from the elements and decay with paint or
27 other protective covering or treatment. If protection of the surface is compromised, restore adequate protection
28 within a reasonable time; for example, remove peeling, flaking or chipped paint and repaint the compromised
29 surface.

30 C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows,
31 doors, and skylights to be weather-resistant and watertight.

32 D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to
33 inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from
34 exterior surfaces.

35 E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks, and loose or decaying materials.
36 Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.

37 F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that
38 admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and
39 deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair
40 and free from obstructions. (Ord. 3127-09 § 4, 2009)

41

42 **Vacant commercial space registration.**

43 A. At least one responsible person for each vacant commercial space must register that space with the city within
44 10 calendar days of the date the space becomes vacant commercial space, as that term is defined in Section
45 16.16.030, unless:

46 1. The space is the subject of a current, valid building permit for repair or rehabilitation and the
47 responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or
48 rehabilitation is proceeding without significant delay; or

49 2. The space meets all applicable codes and regulations that apply to a permitted nonresidential use,
50 and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced,
51 in part, by appropriate signage); or

52 3. The property the commercial space is located on is the subject of a land use application for
53 redevelopment for which approval has been granted, but building permits have yet to be issued.

54 B. A space will be considered to be registered on the date the city receives, on a form provided by the building
55 official and properly completed and signed by a responsible person, the following information:

56 1. The street address and parcel number of the vacant commercial space;

57 2. The name, address, and daytime and evening telephone numbers of each responsible person for the
58 vacant commercial space, including any owner or tenant;

59 3. The period of time the vacant commercial space is expected to remain vacant;

60 4. Any other information requested by the building official for the administration of this chapter.

61

62 C. For every registered vacant commercial space, a responsible person must record a notice that the space is
63 registered with the city as a vacant commercial space with the Snohomish County auditor. The notice must be
64 approved by the building official, and a copy of the recorded notice must be received by the city no later than
65 thirty days from the date the space is registered.

66

67 D. A responsible person must post the following notice inside every vacant commercial space so as to be clearly
68 visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the
69 space:

70 This Vacant Commercial Space is registered with the City of Milton.

71 This Vacant Commercial Space may not meet all applicable codes and regulations, which may
72 include codes and regulations required to occupy the space for a permitted use in the [RS, RMD,
73 RM, MX] Zone.

74 The Vacant Commercial Space was registered on [date]

75 E. A responsible person must renew the registration of each vacant commercial space on or before January 1st of
76 each year that the space remains vacant. A responsible person must submit the renewal application to the city on
77 forms provided by the building official.

78 F. Upon satisfactory proof to the building official that the vacant commercial space is occupied as defined in
79 Section XXXXX, the vacant commercial space will be unregistered. Proof of physical occupation may include, but is
80 not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space
81 that are consistent with the unit's intended use, and persons regularly present at and using the space for its
82 intended use. Proof of physical occupancy must also include documentation, which may include, but is not limited
83 to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from
84 the month the space is occupied, or valid state and local business licenses, federal income tax or city business and
85 occupation tax statements indicating the subject space is the official business address of the person or business
86 claiming occupancy.

87 G. The determination of the number of vacant commercial spaces a structure contains will be at the reasonable
88 discretion of the building official.

89

90 **Window displays for commercial spaces not occupied for thirty days.**

91 When commercial space is unoccupied for more than thirty days, a responsible person must take steps to maintain
92 a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the
93 following measures to all ground-floor windows that face sidewalks, streets, or public open space:

94 A. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;

95 B. Display works of art or provide other displays of cultural or educational value, using background panels or
96 other methods to screen views from the street of the unoccupied space;

97 C. Other measures consistent with these examples approved by the building official

98 **Fees for vacant commercial space registration.**

99 A. At least one responsible person shall pay an annual registration fee for each registered vacant commercial
100 space. At least one responsible person must pay the fee to the city at the time the space is registered and on

101 January 1st of each year that the space remains vacant. The fee will be based on the duration of the vacancy as
102 determined by the following scale:

- 103 1. Two hundred fifty dollars for each space vacant for less than one year;
- 104 2. Five hundred dollars for each space vacant for at least one year but less than two years;
- 105 3. Seven hundred fifty dollars for each space vacant for at least two years but less than three years;
- 106 4. One thousand dollars for each space vacant for at least three years and for each year thereafter until
107 the building is occupied.

108 B. The fees are intended to defray the costs of administering this section through Section XXXX and may be
109 changed by resolution of the council to meet these costs.

110

111 **Delinquent registration fees—Collection.**

112 If a responsible person fails to pay the registration fee by the due date, the city is authorized to take action to
113 collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs
114 incurred by the city as a result of the collection process will be assessed to the responsible person or responsible
115 persons in addition to the registration fee. (Ord. 3127-09 § 8, 2009)

116

117 **Duty to amend registration statement.**

118 Responsible persons for any registered vacant commercial space shall advise the building official, in writing, of any
119 changes to the information on the registration form within thirty days of the occurrence of the change.

120

121 **Inspections.**

122 The building official (and his designee), or code enforcement officers, or both are authorized to conduct
123 inspections to enforce the provisions of this chapter.

124

125 **Enforcement.**

126 A. Enforcement of the provisions of this chapter will be performed in accordance with Chapter XXXXX.

127 B. No responsible person may violate or fail to comply with any provisions of this chapter. Each responsible
128 person commits a separate offense for each and every day they commit, continue or permit a violation of any
129 provision of this chapter.

130 C. All responsible persons for a commercial space are jointly and severally responsible with respect to that
131 commercial space for compliance with the provisions of this chapter and for any payments that they may be
132 required to make to the city under this chapter. If the commercial space is subject to a lease, the city shall have

133 discretion to determine whether to enforce this chapter against the commercial space owner, the tenant or both
134 of them, but the city shall consider in this determination whether the lease provides that the compliance with this
135 chapter is the responsibility of the commercial space owner or the tenant.

136

137 **Annual report.**

138 The building official shall make a report to the city council in January of every odd year on the status of the vacant
139 commercial space registration program.

140

141 -----

142

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1 **TO: Milton Planning Commission, Mayor, Council, and Staff**
2 **FROM: Jacquelyn Whalen, Chairman**
3 **MEETING DATE: November 04, 2019; Planning Commission, Regular Meeting**
4 **TOPIC: Improving the Commission's Protocols**

5 -----
6 **Work-Plan Assignment:**

7 On July 07, 2019, the Planning Commission requested Council to pause the 2019 work-plan so the Commission
8 could focus on analyzing and discussing the many challenges faced during the process of completing their work.
9 The Commissioners needed time to identify and consider the nature of the problems that are negatively impacting
10 the effectiveness and success of the Commission's efforts to fulfill their work-plan as assigned by Council.

11 **Outcomes Sought for this Joint Commission - Council Meeting:**

- 12 • Inform Council, Mayor, Staff, and Citizenry of –
13 o Commission's new process of producing recommendations to Council and Staff,
14 o Change in the Commission's work-product.
15 • Build stronger cohesion and rapport among the Commission, Mayor, Council, and Staff.
16 • Listen and learn from Mayor, Staff, and Council on how the Commission can improve our methodology

17
18 **The purpose of this agenda item is to:**

- 19 • Report on the results of the Commission's discussions.
20 • Update Council, Mayor and Staff on how the Planning Commission will be functioning as an advisory body
21 to Council on Land Use Issues – within our current level of Staff support.
22 • Highlight the changes in the Planning Commission's methodology as it works to respond to Council's
23 work-program assignments.

24
25 **BACKGROUND:** At the Commission's June 12, 2019 meeting, Commissioners discussed the necessity to improve
26 the way that they go about accomplishing their work, improve accountability, and improve productivity. This
27 paper is the culmination of the comments and discussion of the Commission's protocols at their July, August, and
28 September 2019 meetings. The discussions were directed towards answering the question:

29 ***WHAT IS THE PROCESS – THE PROTOCOL – THE METHODOLOGY THAT IS NECESSARY IN ORDER FOR THE PLANNING COMMISSION***
30 ***TO BE MORE SUCCESSFUL IN ACHIEVING EFFECTIVE RESULTS FOR CITY STAFF & COUNCIL?***
31

32 The objective was to be specific. Commissioners wanted to clearly identify what they do - before they could
33 promote an improvement in how work is completed and the effectiveness of the results..

34

35 **The intent of this paper is to summarize the Commission's discussions on:**

- 36 ↳ The action-steps that need to be taken;
- 37 ↳ The sequence of the steps involved in working through an assignment;
- 38 ↳ The resources the Commission needs as their work progresses; and
- 39 ↳ Naming who is involved in providing support to the Commission's process of completing work.

40 **In essence:** WHO does WHAT, WHEN, and WHY.

41

42 **The primary areas for improvement in the success and effectiveness of the Commission's work are:**

- 43 ➔ **Protocols / Methodology / Process**
- 44 ➔ **Resource Management**
- 45 ➔ **Communication**

46

47 **Commission Protocols are herein discussed as general guidelines for proceeding on a work assignment.**

48 **Resource Management and Communication follow as separate appendices.**

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Milton Planning Commission Protocols
When Creating Recommendations on Land Use Issues & Regulations

**Create The Planning Commission’s Work-Plan
to Address Land Use Issues & Regulations.**

Gather a list of potential topics from Staff, Commissioners, Citizens, and Council.

- ☞ What are the areas of the Milton Municipal Code that need clarity and strengthening?
- ☞ What Land Use topics need to be addressed in our municipal code?
- ☞ Are there policy or procedural changes that need to be evaluated to promote better land use and land development in Milton?
- ☞ What programs and major documents (i.e. City’s Comprehensive Plan, Shoreline Master Program, Planning Area Design Standards...) are due for an update or major revision?
- ☞ What new State/Federal regulations have been enacted and what judicial rulings have been made - that now cause our City to have to amend or add to our municipal code?
- ☞ Are there any requests to change a zoning designation?

Prioritize the list.

- All Commissioners meet with All Councilmembers to discuss the topics and the goal of the work on each topic. City land use Attorney provides some general guidance (ideally the Attorney attends the prioritization meeting).
- General discussion on the resources (information, people, and money) needed for each topic.
- Council defines the work to be done and the sequence of topics to be addressed.

Work Begins On A Topic.

Commission strategy meeting:

- ✓ What are the problems to be addressed?
- ✓ What are the goals of the legislation and write them out.
- ✓ What are the issues involved?
- ✓ What resources are needed and when, and from whom?
- ✓ What are Staff’s perspectives?
- ✓ Who is going to take on the tasks?

84

85 **Commissioners get education on the topic, and do preliminary research and analysis.**

- 86 ❖ Get Staff & Attorney input on which areas of our code are involved
- 87 in addressing the topic.
- 88 ❖ Attorney and/or Staff may provide starting points for the research.
- 89 ❖ Get a sound understanding of how our code works. Study other city's codes.
- 90 ❖ Seek out educational resources.
- 91 ❖ What are the key issues involved in addressing the topic?
- 92 ❖ Assign tasks.

93

94 **Results are presented and discussed at subsequent Commission meeting(s).**

95 Discussion points would include:

- 96 ○ Primary components of the potential regulations;
- 97 ○ Advantages/disadvantages, potential problems;
- 98 ○ Effectiveness of other city's regulatory approaches;
- 99 ○ Scope of change to our code; and
- 100 ○ Consideration of which solution(s) are a good fit for our community.

101

102 **Commission determines a course of action.**

- 103 ① Attorney confers with the Commission.
- 104 ① Scope of the project is defined.
- 105 ① Tasks are assigned.

106

107 **Identify the Key Building Blocks -**
108 **The Primary Content - of the Regulations/Standards and Their Intent.**

109 **Commissioners work on the intent of the components of the regulations.**

110 Commissioners may look to regulations from other cities as a starting point for the general concepts and
111 possible wording of the proposed regulations.

112 A Commissioner or two meets with the Staff members &/or Consultant involved in implementing the new
113 regulations and seek their guidance.

114

115 **Commissioners organize the information into a rough draft of the main concepts.**

116 The Commission writes out the concepts

117

118

119 **Confirm That The Commission Is On The Right Track.**

120 **The Commission reports to Council on their initial findings.**

121 All Members participate in a Joint Planning Commission - Council Meeting intended to:

122 > Seek additional input from Council.

123 > Discuss next steps.

124 > Identify additional resource-needs.

125

126

127

128 *******EVENT HORIZON*******

129 **If needed funding is not budgeted for the necessary resources required to complete the task –**

130 **the Planning Commission delivers their work-product to City Mayor, Staff, and Council.**

131 **Work on the topic would be resumed when funding and resources are available.**

132

133

134

135

136 *****WHEN RESOURCES BECOME AVAILABLE...**

137 **THE PLANNING COMMISSION'S WORK RESUMES ON THE TOPIC**
138 **IN ORDER TO COMPLETE THE TASK.*****

139

140 **Produce the Preliminary Final Draft of Proposed Regulations/Standards.**

141 Define *who* will do *what*, and *when*.

142 Full Commission discusses and decides how to produce the preliminary final draft.

143

144 Staff - Attorney - Consultant - Commissioner(s) work to create a proposed draft.

145 Subcommittee appointed to shepherd the project through this next phase of production in order to work
146 with Staff/Consultants/Attorney.

147 The main components of the regulations/standards are now written out in more formalized regulatory
148 language; grammar/spelling/editing details are principally handled at this point. The work now is more
149 detailed; much of it done outside of the Planning Commission's regular meetings. Additional
150 Subcommittee work-sessions will likely take place.

151

152 Entire Commission comments on the work as it progresses.

153 At a regular meeting, in discussion format – Commission continues to guide Subcommittee's work. The
154 primary goal is to ensure that the full Commission's intent is incorporated into the draft document.
155 Additional deliberation continues on issues as they arise during the preliminary final draft process.

156

157

158 **Preliminary Final Draft is Presented to the Entire Commission.**

159 Commission comments on the proposed refined draft.

160 Final and formal amendments are made. Commission takes formal action: '*...move to approve the*
161 *document, and have it forwarded onto Staff and Council final action.*'

162

163

164 **Commission-Approved Document is Sent to Council For Their**
165 **Discussion and Deliberations.**

1 Appendix A

2

3 RESOURCES RESOURCES RESOURCES

4 What are the resources we utilize in order to do our work effectively.

5 How can we better manage our resources?

6

7 -----

8 TO: Milton Planning Commission, Mayor, Council, and Staff

9 FROM: Jacquelyn Whalen, Chairman

10 DATE: November 07, 2019 Joint Commission-Council Meeting

11 TOPIC: Improving the Resources and Tools of the Planning Commission

12 -----

13 **PURPOSE**

14

15 To present a summary of Planning Commissioner discussions identifying what the Commission needs to
16 do in order to improve the effectiveness of their work through **better resource management**.

17

18

19 **BACKGROUND**

20 One of the key themes of our discussion at our June 12, 2019 Planning Commission meeting was
21 Resource Management; particularly the scarcity of Planning resources, & the timing of Legal advice.

22 The intent of this paper is to begin creating a framework for discussion based on comments received at
23 our June, July, and August 2019 meetings regarding:

- 24 a) the resources that we have – the strengths and the weaknesses;
- 25 b) the resources that we need; and
- 26 c) ideas on what we can do to make the best use of what we have to work with.

27 My hope is that after our discussions along with additional input, that the ways to improve our Resource
28 Management could be presented as an Action Plan and/or added to the *Improving the PC's Protocols*
29 document as an appendix.

30

31

32 **PLANNING COMMISSIONER RESOURCES and SKILLS**

33

34 ❖ **Our TIME invested in the role of being a Planning Commissioner**

35

36 ☞ **How much of our time do we - as individuals and as a group - wish to invest in our work?**

37 ☞ **What is the best way to use our time?**

38 ☞ **What are the ways we use our time?**

39 → **Meetings:**

40

41 ▪ Does our schedule need to change to have better access to City Staff and
42 Consultants

43

44 ▪ Do we wish to:

45 ○ Meet more frequently

46 ○ Change the day of the month and/or the time of day

47 ○ Add workshop sessions

48

49 ▪ What can we do to have more effective meetings

50

51 → **Research and Study:**

52

53 → **Creating Presentations**

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55 → **Attending Education Programs**

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57 → **Canvassing / Surveying Our Community**

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❖ **Our KNOWLEDGE SKILLS PERSPECTIVE TALENT INSPIRATION**

☞ **What do we have?**

Common Sense

Sense of Fairness

Open-mindedness

Sense of Purpose

Ability to:

- Listen, Learn, and Take Action;
- Communicate (especially within the constructs of a public meeting);
- Build Consensus;
- Compromise;
- Analyze and Envision;

Knowledge of:

- Milton Municipal Code;
- Legal principles of planning;
- Role of a Planning Commissioner

Willingness to:

- Do the work to be prepared for our meetings
- Make meaningful contributions to the discussions
- Contemplate and understand the long-term impact of development decisions and regulations

An understanding of Community concerns;

Relevant experience

90 **☞ Where and how can we build proficiency?**

91

92 Independent study;

93 *Short Course on Local Planning* presentations;

94 Webinars;

95 Field trips;

96 Hearing Examiner proceedings;

97 Developer Neighborhood meetings

98

99 **☞ What do we need?**

100 More education and training

101

102 Strengthening of *what we already have* (as listed above)

103

104 Stronger study of City's Public Notice postings, and participation in the process

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106

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108 **NECESSARY RESOURCES = EXPERTISE SKILLS = BEYOND THOSE OF A**
109 **PLANNING COMMISSIONER’S ABILITIES, IN GENERAL**

- 110 ❖ Advice from a Land Use Attorney’s perspective
- 111 ❖ Advice from a Short Term Planner’s perspective
- 112 ❖ Advice from a Long Range Planner’s perspective
- 113 ❖ Advice from our Police, Public Works, and Finance Departments’ perspectives
- 114 ❖ Legislative/Regulatory Writing Skills

115
116

117 **CONCLUSION = ACTION PLAN**

118 → **The best way to manage our resources is.....**
119

- 120 ☞ To strongly advocate for the success of our work
- 121 ☞ To identify and ask for the help that we need
- 122 ☞ To ensure that all Parties understand specifically what is it that we are asking for
- 123 ☞ To understand what we Commissioners can, and cannot, do; and not continue on with a
124 project that is beyond our skills and talents.
- 125 ☞ To not stop at the first ‘no’ to our requests for help/resources, and take action to better
126 inform others of the Commission’s needs and the likely outcomes if help is not provided.
- 127 ☞ ...
- 128 ☞ ...
- 129 ☞ ...

130
131

1 **Appendix B**

2

3 **COMMUNICATION – COMMUNICATION – COMMUNICATION**

4 **What can be done to improve the Commission’s Communication with our**
5 **Mayor / Staff / Council / Community.... And between Commission Members?**

6

7

8 TO: Milton Planning Commission, Mayor, Council, and Staff

9 FROM: Jacquelyn Whalen, Chairman

10 DATE: November 04, 2019 Joint Commission-Council Meeting

11 TOPIC: Improving the Commission’s Communication

12

13 **PURPOSE**

14 To present a summary of Planning Commissioner discussions during their June, July, and August 2019
15 meetings identifying what the Commission needs to do in order to improve the effectiveness of their
16 work **through better communication** amongst people and departments that the Commission works with
17 and needs support from.

18

19 **BACKGROUND**

20 One of the key themes of our discussion at our June 12, 2019 Planning Commission meeting was
21 Communication problems regarding:

22 **PC** Clarity and Content of information

23 **PC** How and When the communication between people and groups occurs

24 **PC** Strengthening Continuity and Understanding between people and groups

25 My hope is that after our discussions, that the ideas and solutions to our communication shortfalls
26 noted in this paper (along with ongoing input) could be presented as an Action Plan and/or added to
27 *Improving the PC’s Protocols* document as an appendix.

28

29

30 **ACTIONS Directed towards Resolving the Disconnect – Improving the Clarity –**
31 **Enhancing the Content – Upgrading the Understanding of All Parties Involved in**
32 **the Planning Commission’s Work**

- 33 • **Generate a better understanding of the Work Plan ----- by all Parties involved**

34 ASPECTS TO ADDRESS:

- 35 ➤ Clarity on the topic from whomever is proposing the idea
36 ➤ Clarity on what Council and Staff are seeking to achieve
37 ➤ Understanding what is involved in accomplishing the task
38 ➤ Reasonableness of expectations
39 ➤ Specifying the scope of the task

40

- 41 • **Increase the Cohesion / Interconnection of Commission and Council**

42 POSSIBLE REMEDIES:

- 43 ➤ Commissioner(s) attend Council meetings; designated liaison reports to Commission
44 ➤ Ensure that a Commissioner will be present and ready to speak on behalf of the
45 Commission when a Planning Commission work-product is discussed or voted on by
46 Council
47 ➤ Present periodic (monthly) in-person updates to Council by a designated member(s) of
48 the Commission
49 ➤ Provide copies of Commission meeting minutes to Council
50 ➤ Provide annual written reports to Council
51 ➤ Have Joint-Meetings; all members of Council and Commission meet together to discuss:
52 ○ the work-plan overall, as well as
53 ○ during the process of the Commission’s work on an individual item
54 ➤ Council Members attend Commission meetings; designated liaison reports to Council

55

- 56 • **Strengthen the Interconnection with our Mayor and Staff**

57 POSSIBLE REMEDIES:

- 58 ➤ Subcommittee of Commission meets with Mayor and Staff on the first Monday of every
59 month [when our attorney is present] – prior to the Council meeting - to discuss
60 Planning Commission questions, concerns, and needs in working to complete a task.
61 ➤ Change the Commission’s meeting day and time in order to be at City Hall during regular
62 Staff work hours.

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- **Have direct communication with Staff members to get their guidance and perspective on topics that involve them directly**

POSSIBLE REMEDIES:

- Get a current directory of Staff member contact information - along with the protocols for communicating with them

- **Have a better understanding of development activity within Milton**

POSSIBLE REMEDIES:

- Make the Commissioners 'parties of record' regarding all Hearing Examiner decisions and Staff reports/decisions to Applicants.
- Make the Commissioners 'parties of record' receiving digital copies of all land use public notices (including neighborhood meetings) – at the time that the notice is made public.
- Receive a development status report from the building department

- **Get more clarity on how the Administration wishes to have the Planning Commission seek advice from the City's Land Use Attorney**

- **Improve communication with our Community**

POSSIBLE REMEDIES:

- Provide informative meeting Minutes
- Make the audio recording of Commission meetings available on the City's website along with our agenda packets
- Have an information booth at the *Milton Days* City Picnic

POLICY QUESTIONS / LEGAL GUIDANCE

What are the Dos and Don'ts regarding communication in our roles as Planning Commissioners?

To what degree does Council direct the results of our work while the Commission is working on a topic?

TO: Milton Planning Commission, Mayor, Council, and Staff
FROM: Jacquelyn Whalen, Chairman
MEETING DATE: November 04, 2019; Planning Commission, Regular Meeting
TOPIC: Planning Commission Work-Plan for 2020

Based on the content of this meeting's discussions, the Planning Commission wishes to make suggestions for Council's consideration in assigning the Commission's work-plan for 2020.

- ✦ Accessory Dwelling Units
- ✦ Rezone Requests
- ✦ Land use and policy issues as they arise - with Council's approval to work on those items
- ✦ Planning and Policy documents that may be due for an update or full revision

The Commission respectfully asks that the City Budget for 2020 apportion the financial resources necessary to:

- ❖ Complete the tasks assigned by Council
- ❖ Provide training opportunities to improve Planning Commissioner skills