



Ordinance

Number 3909

Date 3/12/2025

Keywords Municipal Code Amendment, Chapters 17.73, 17.09, and 17.102, Accessory Dwelling Units

ORDINANCE NO. 3909

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, RATIFYING, RENEWING, CONFIRMING, AND CONTINUING INTERIM LAND USE REGULATIONS PREVIOUSLY ADOPTED BY THE CITY COUNCIL OF MOUNT VERNON, WA THROUGH ORDINANCE 3887 PASSED ON MARCH 13, 2024 AND AMENDED THROUGH ORDINANCE 3892 PASSED ON MAY 8, 2024 PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390; RELATING TO ACCESSORY DWELLING UNITS, AND UPDATING THE WORK PLAN TO ESTABLISH PERMANENT REGULATIONS.

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorizes the City of Mount Vernon to enact interim zoning ordinances and regulations while new plans or regulations are considered and prepared and will not be rendered moot and to hold a public hearing on such regulations within 60 days of the commencement; and

WHEREAS, pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW, the City Council has adopted the City of Mount Vernon Comprehensive Plan and Title 17 MVMC, the City of Mount Vernon Zoning Code, for the areas within the City of Mount Vernon's Urban Growth Area; and

WHEREAS, RCW 35A.62.220 and RCW 36.70A.390 authorizes the City Council to renew an interim zoning ordinance or interim official control for one or more six month-periods if a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, on March 13, 2024, at a regularly scheduled City Council meeting, the City Council declared an emergency and adopted immediate interim regulations by unanimous passage of Ordinance 3887 regulating accessory dwelling units, adopting findings of fact, and directing City staff schedule the necessary public hearings as required by law within 60-days; and

WHEREAS, Ordinance 3887 included a work plan and findings of fact allowing the regulations in this Ordinance to be in effect for up to one year; and

WHEREAS, on May 8, 2024, the Mount Vernon City Council (Council) held a public hearing on Ordinance 3887 and adopted Ordinance 3892 affirming an emergency, the adoption of revised interim control regulations for accessory dwelling units; and adopting additional findings of fact to justify the City Council's action (Exhibit A); and

WHEREAS, Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, the interim ADU regulations placed into effect through Ordinance 3887, as amended through Ordinance 3892, will expire unless City Council takes action to renew the regulations; and

WHEREAS, public notice of the City Council's March 12, 2025 hearing was published in the Skagit Valley Herald's classified section on February 27, 2025; and,

WHEREAS, On March 12, 2025, the City held a public hearing regarding the continuation of the interim controls established by Ordinance 3887 and amended by Ordinance 3892; and

WHEREAS, the City finds an emergency continues to exist as set forth in Ordinance No. 3887 and Ordinance No. 3892 and that there remains an urgent need to increase overall the affordable housing inventory in the City to mitigate the impacts of homelessness and financial strain being suffered by individuals and families.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. RECITALS INCORPORATED. City Council adopts the recitals set forth above as additional findings of fact justifying adoption of this Ordinance and reaffirms the adoption of the findings in Ordinance 3887 and 3892 enacting interim and official controls and incorporates those findings (including their recitals) as if set forth fully herein. The Council may adopt additional findings in the event additional public hearings are held or evidence presented to the City Council. The City Council makes the following additional findings in support of the adoption of this Ordinance and Ordinance 3887, as amended through Ordinance 3892:

SECTION 2. ADDITIONAL FINDINGS. The City Council adopts these additional findings and conclusions:

1. After hearing all public testimony, reviewing staff reports, the City's Comprehensive Plan and the legislative record in its entirety the City Council finds that: i) an emergency exists, and ii) the continuance of interim controls regulating accessory dwelling units, as amended, is justified until the City can fully study the issue and that permanent development regulations be adopted through the City's normal legislative process; and
2. The Comprehensive Plan contains policies concerning ADUs (e.g., Housing Element, Policy 2.1.4) not consistent with state legislation signed into law under Engrossed House Bill (EHB) 1337, amending RCW 36.70A, which required cities like Mount Vernon to enact significant changes to how ADUs are regulated. The Comprehensive Plan policies must be revised before permanent regulations can be adopted to ensure consistency between implementing regulations and policies, as required by law including but not limited to RCW 36.70A.130(1)(e).
3. The activities identified in the work plan adopted with Ordinance 3887 have not been satisfied. Necessary changes to the City's Comprehensive Plan identified in the work plan require coordination with the City's mandated periodic update to the Comprehensive Plan.
4. The work plan adopted with Ordinance 3887 is therefore hereby amended to align with the work plan for the City's periodic update to the Comprehensive Plan (Exhibit B).

SECTION 3. That the City Council hereby ratifies, continues, and renews the interim controls and zoning regulations in their entirety adopted through Ordinance 3887 as amended by Ordinance 3892 (Exhibit A). The interim regulations in Ordinance 3887 and Ordinance 3892 (Exhibit A) will remain in effect for six months period of time or until the City completes the otherwise required legislative process for the adoption of code amendments whichever is sooner. City Council shall make a decision to terminate the interim controls and regulations by ordinance, and termination shall not otherwise be presumed to have occurred. The City shall hold all necessary public hearings and adopt new findings as required under RCW 35A.63.220 and RCW 36.70A.390 if necessary and justified to continue the imposition of this Ordinance and Ordinances 3887 and 3892 until the City's review has been completed.

SECTION 4. EFFECTIVE PERIOD. This ordinance shall apply for a maximum of six-months from adoption unless earlier terminated or not renewed after a subsequent public hearing is held.

SECTION 5. CITY TO CONSIDER PERMANENT REGULATIONS. The City Council hereby directs that the City's Development Services Department continue research on ways to encourage accessory dwelling units, and to continue with drafting proposed permanent regulations to be considered through the City's public participation process including allowing for public input and providing for public hearings before the Planning Commission and City Council.

SECTION 6. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 7. EFFECTIVE DATE AND DECLARATION OF EMERGENCY. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. The adoption of the interim regulations within this Ordinance need to be immediately implemented to address the on-going housing crisis. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

SECTION 8. ORDINANCE TO BE TRANSMITTED TO DEPARTMENT. Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED this 12th day of March, 2025

SIGNED AND APPROVED this 17th day of March, 2025.



Peter Donovan, Mayor

Attest:



Becky Jensen, City Clerk

Approved as to form:



Kevin Rogerson, City Attorney

Published March 15, 2025

EXHIBIT A
ORDINANCE 3892



Ordinance

Number 3892

Date 5/8/2024

Keywords Municipal Code Amendment, Chapters 17.73, 17.09, and 17.102, Accessory Dwelling Units

ORDINANCE NO. 3892

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, RATIFYING, RENEWING, CONFIRMING, AND CONTINUING INTERIM LAND USE REGULATIONS PREVIOUSLY ADOPTED BY COUNCIL THROUGH ORDINANCE 3887 PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390 WITH FURTHER AMENDMENT; RELATING TO ACCESSORY DWELLING UNITS; ADOPTING FINDINGS OF FACT JUSTIFYING ITS ACTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorizes the City of Mount Vernon to enact interim regulations while new regulations are considered and prepared; and requires the City to hold a public hearing on interim regulations within 60-days of adoption; and

WHEREAS, on March 13, 2024, at a regularly scheduled City Council meeting, the City Council declared an emergency and adopted immediate interim regulations by unanimous passage of Ordinance 3887 regulating accessory dwelling units, adopting findings of fact, and directing City staff schedule the necessary public hearings as required by law within 60-days; and

WHEREAS, Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, Ordinance 3887 included a work plan and findings of fact allowing the regulations in this Ordinance to be in effect for up to one year; and

WHEREAS, on May 8, 2024, the City held a public hearing regarding the continuation of the interim controls established by Ordinance 3887; and

WHEREAS, prior to the May 8, 2024 the City through further review and study finds that the number of new parking spaces required on properties wishing to construct accessory dwelling unit(s) through existing development regulation when legal non-conforming properties wish to construct accessory dwelling units constitutes a further chilling effect on the development of accessory dwelling units; and

WHEREAS, the City finds that additional on-site parking to bring legal non-conforming properties into conformance is unnecessary; and

WHEREAS, to address the concerns regarding the number of parking spaces on sites where accessory dwelling units could be developed this Ordinance further amends regulations set forth in MVMC 17.102.020, Expansion, alteration, or reconstruction of nonconforming buildings utilized for conforming uses to address additional on-site parking space concerns as set forth therein; and

WHEREAS, the City finds an emergency continues to exist as set forth in Ordinance No. 3887 and that there remains an urgent need to increase overall the affordable housing inventory in the City to mitigate the impacts of homelessness and financial strain being suffered by individuals and families.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. RECITALS INCORPORATED. City Council adopts the recitals set forth above as additional findings of fact justifying adoption of this Ordinance and reaffirms the adoption of the findings in Ordinance 3887 enacting interim and official controls and incorporates those findings (including their recitals) as if set forth fully herein. The Council may adopt additional findings in the event additional public hearings are held or evidence presented to the City Council. The City Council makes the following additional findings in support of the adoption of this Ordinance and Ordinance 3887:

SECTION 2. ADDITIONAL FINDINGS. The City Council adopts these additional findings and conclusions:

1. After hearing all public testimony, reviewing staff reports, the City's Comprehensive Plan and the legislative record in its entirety the City Council finds that: i) an emergency exists, and ii) the continuance of interim controls regulating accessory dwelling units, as amended, is justified until the City can fully study the issue and that permanent development regulations be adopted through the City's normal legislative process; and
2. Continuing Ordinance 3887 as amended herein with the new on-site parking regulations contained with this Ordinance, are necessary for the immediate preservation of the public welfare, economic vitality, and continued creation of housing until additional review has been completed, any necessary code revisions have been adopted by the City Council and is a legitimate exercise of the City's police power.
3. The work plan adopted with Ordinance 3887, which includes tasks for related studies with target completion dates providing for a longer period than six months, remains in place to justify the interim regulations being in place for more than six months.

SECTION 3. That the City Council hereby ratifies, continues, and renews the interim controls and zoning regulations in their entirety adopted through Ordinance 3887 as amended herein and its associated attachments. The interim regulations in Ordinance 3887 along with amendments herein the new on-site parking regulations contained within this Ordinance, will remain in effect until the City completes the otherwise required legislative process for the adoption of code amendments. City Council shall make a decision to terminate the interim controls and regulations by ordinance, and termination shall not otherwise be presumed to have occurred. The City shall hold all necessary public hearings and adopt new findings as required under RCW 35A.63.220 and RCW 36.70A.390 if necessary and justified to continue the imposition of this Ordinance and Ordinance 3887 until the City's review has been completed.

SECTION 4. That Mount Vernon Municipal Code 17.102.020, Expansion, alteration, or reconstruction of nonconforming buildings utilized for conforming uses, be amended as follows:

- A. Ordinary maintenance and repair of a nonconforming building or structure and its equipment or fixtures are permitted; provided, that the value of the repair does not exceed 50 percent of the fair market value as established by an insurance company, appraisal, or other equal and fair method. If a nonconforming building is damaged or destroyed by fire, earthquake, explosion, act of God, or public enemy, or other similar event beyond the control of the property owner, it may be reconstructed to the extent of 100 percent of the replacement cost of the structure. Such damaged or destroyed building or structure may be reconstructed and utilized for any conforming use based on dimensions that do not exceed those contained in the footprint at the time of the damage or destruction, and within the height of the structure at the time of the damage or destruction, and except for any applicable setback provisions, must conform to the building code and applicable underlying zoning district development

standards for reconstruction of nonconforming structures; provided, that (1) application is made for the permits necessary to restore the building within six months of the date the damage occurred, (2) all permits are obtained, and (3) the restoration is completed within two years of permit issuance.

- B. Except as set out below, an existing nonconforming building or structure utilized for a conforming use may be enlarged or expanded only if it conforms to the regulations of this document and of the building code such that, when completed, it will no longer be a nonconforming building or structure. Structures or buildings located within the “urban mixed-use” environmental designation under the city’s shoreline master program (or any successor thereto) that were (1) legally established; and (2) are utilized for a conforming use; but (3) are nonconforming with regard to setback requirements may be enlarged or expanded and utilized for any conforming use under the applicable zoning classification; provided, that any such enlargement or expansion: (4) does not result in a further extension of the building footprint into restricted setbacks under the applicable zoning classification; (5) does not extend the footprint of the structure any closer to the shoreline than the current design; (6) will not interfere with or obstruct dedicated public access routes to the shoreline, per applicable requirements set out herein; (7) will meet any construction standards enacted by the city to protect adjacent flood risk reduction structures; and (8) will otherwise adhere to underlying development and building regulations.
- C. Existing structures shall not be considered nonconforming when being converted to an accessory dwelling unit if they violate current code requirements for setbacks or lot coverage.
- D. Existing structures and sites shall not be considered nonconforming when accessory dwelling unit(s) are constructed within or attached to an existing structure, or when accessory dwelling unit(s) are constructed on a site when the existing code requirements for off-street parking are not code compliant.

SECTION 5. The Mount Vernon Municipal Code 17.73.110, Accessory Dwelling Units, is amended as follows:

17.73.110 Accessory dwelling units.

- A. Accessory dwelling units shall be outright permitted uses in the following zoning districts: Single-Family Residential, Two-Family Residential, Multi-Family Residential, and Residential Agricultural codified within Chapters 17.15, 17.18, 17.24, 17.27, and 17.12 MVMC, respectively.
- B. Accessory dwelling units are required to comply with the below listed regulations:
 - 1. Accessory dwelling units may be established in or attached to a single-family, duplex, or multi-family dwelling unit(s), or in or attached to a detached structure on a legal lot by any one or by a combination of the following methods:
 - a. Alteration or conversion of interior space of a dwelling; or
 - b. Addition of attached living area onto an existing dwelling or accessory structure; or
 - c. Construction of a detached living area.
 - 2. Each single-family dwelling on a legal building lot shall have not more than two (2) accessory dwelling units.
 - 3. The floor area of each accessory dwelling unit shall not exceed 1,000 square feet.

4. One off-street parking spaces shall be provided for each accessory dwelling unit located on a lot greater than 6,000 square feet; and one off-street parking space shall be provided for each accessory dwelling unit located on a lot smaller than 6,000 square feet. This parking for each accessory dwelling unit shall be in addition to other parking requirements for the single-family, duplex, or multi-family structures required under Chapters 17.15 or 17.84 of the Mount Vernon Municipal Code.
5. Accessory dwelling units detached from a single-family, duplex, or multi-family dwelling unit(s) can be located on a property line abutting an alley.
6. Accessory dwelling units must be created at the same time, or following, the construction of a primary/principal use on a site in the form of a single-family detached, duplex, or multi-family residential structure(s) depending on the site zoning. Accessory dwelling units shall not be classified as accessory structures under the provisions of MVMC 17.06.010 definitions for “accessory building” or “accessory use”.
7. A permit for an accessory dwelling unit shall not be transferable to any lot other than the lot described in the application.
8. All accessory dwelling units shall also be subject to the condition that such a permit shall automatically expire whenever:
 - a. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the approved plans; or
 - b. The subject lot ceases to maintain the number of off-street parking spaces required for the Accessory Dwelling Unit under MVMC 17.73.110(4); or
 - c. The applicant ceases to own or reside in either the principal or the accessory dwelling unit.
9. One of the dwelling units shall be occupied by one or more owners of the property as the owner’s permanent and principal residence. “Owners” shall include title holders and contract purchasers. The owner shall file a certification of owner-occupancy with the development services department prior to the issuance of the permit to establish an accessory dwelling unit.
 - a. The owner of a single-family dwelling with an accessory dwelling unit shall file an owner’s certificate of occupancy in a form acceptable to the city attorney no later than April 1st of each year. Any person who falsely certifies that he or she resides in a dwelling unit at the stated address to satisfy the requirements of this section shall be subject to the violation and penalty provisions of MVMC Title 19.

SECTION 6. EFFECTIVE PERIOD. This ordinance shall apply for a maximum of one year from the adoption of Ordinance 3887 unless earlier terminated or not renewed after a subsequent public hearing is held.

SECTION 7. CITY TO CONSIDER PERMANENT REGULATIONS. The City Council hereby directs that the City’s Development Services Department continue research on ways to encourage accessory dwelling units, and to continue with drafting proposed permanent regulations to be considered through the City’s public participation process including allowing for public input and providing for public hearings before the Planning Commission and City Council.

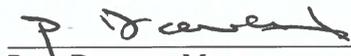
SECTION 8. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 9. EFFECTIVE DATE AND DECLARATION OF EMERGENCY. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. The adoption of the interim regulations within this Ordinance need to be immediately implemented to address the on-going housing crisis. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

SECTION 10. ORDINANCE TO BE TRANSMITTED TO DEPARTMENT. Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED this 8th day of May, 2024

SIGNED AND APPROVED this 13th day of May, 2024.



Peter Donovan, Mayor

Attest:



Becky Jensen, City Clerk

Approved as to form:



Kevin Rogerson, City Attorney

Published May 11, 2024

EXHIBIT A
ORDINANCE 3887

ORDINANCE NO. 3887

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, ENACTING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS AMENDING PORTIONS OF MOUNT VERNON MUNICIPAL CODE CHAPTERS 17.73, 17.06, AND 17.102 RELATED TO ACCESSORY DWELLING UNITS (ADUs), DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ENACTION OF INTERIM CONTROLS, ENTERING LEGISLATIVE FINDINGS, PROVIDING FOR SEVERABILITY, ADOPTING A WORK PLAN, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, cities have the right and general responsibility to enact laws for the protection of the public health, safety, general welfare, economic vitality, economic growth, and morals; and

WHEREAS, the City of Mount Vernon is a Code City planning under the Washington State Growth Management Act (GMA) pursuant to RCW 36.70A.040; and

WHEREAS, on May 8, 2023 Governor Inslee signed into law Engrossed House Bill (EHB) 1337, amending RCW 36.70A requiring cities like Mount Vernon to enact significant changes to how ADUs are regulated; and

WHEREAS, the State Legislature made (in part) the following findings in EHB 1337 which the City, in turn, also adopts as findings particular to its jurisdiction:

- i. Washington state is experiencing a housing affordability crisis.
- ii. Many communities across the state are in need of more housing for renters across the income spectrum.
- iii. Many cities dedicate the majority of residentially zoned land to single detached houses that are increasingly financially out of reach for many households.
- iv. Due to their smaller size, accessory dwelling units can provide a more affordable housing option in those single-family zones.
- v. The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options; and

WHEREAS, ADU's are frequently rented below market rate and provide additional affordable housing stock and options; and

WHEREAS, data (including point in time data of persons experiencing homelessness in Skagit County collected over the years) presented by Community Action of Skagit County's Housing Resource Center shows that those defined as chronically homeless and those at imminent risk of losing housing in Skagit County are on the rise. This county-wide trend is of concern to the City because Mount Vernon has the greatest number of residents of any incorporated city or town in Skagit County; and

WHEREAS, there is an urgent need to increase overall the affordable housing inventory in the City to mitigate the impacts of homelessness and financial strain of individuals and families at imminent risk of losing housing; and

WHEREAS, early adoption of state requirements pertaining to ADU's set forth in EHB 1337 shall mitigate impacts to persons facing homelessness or imminent risk of homelessness by providing increased housing opportunities and increased opportunity for home security in the City earlier in time than what is mandated in state law; and

WHEREAS, early adoption of state requirements pertaining to ADU's set forth in EHB 1337 will increase supply and variety of housing options early in time to address the insufficient housing Mount Vernon, and most other jurisdictions in the State of Washington, are experiencing (Washington State Department of Commerce. (August 2023). *Guidance for Accessory Dwelling Units in Washington State*. Olympia, WA. Retrieved on February 15, 2023 <https://mrsc.org/explore-topics/housing-homelessness/housing/accessory-dwelling-units>); and

WHEREAS, the City adopts as findings the Washington State Department of Commerce below-listed benefits of ADUs in their publication titled "Guidance for Accessory Dwelling Units in Washington State" published in August of 2023. The City further adopts the Department of Commerce conclusion that "ADUs can be an effective and 'gentle' way of helping to accommodate the state's growing population."

- i. Add to the diversity of housing options.
- ii. Provide a housing type that blends in well with existing low density residential neighborhoods.
- iii. Cater to our state's changing demographics, including more seniors and smaller household sizes.
- iv. Provide housing that is typically more affordable than traditional detached single-family homes.
- v. Add housing units without expanding urban growth areas.
- vi. Correct historic economic and racial exclusion by opening up single-family neighborhoods to more diverse housing and household types.
- vii. Reduce climate impacts because ADUs tend to be smaller and use less energy than traditional single-family homes.
- viii. Use existing infrastructure such as sewer, water and streets; and

WHEREAS, adoption of the Ordinance is consistent with the City's Comprehensive Plan including the following as goals, objectives and policies:

Goal, Objectives and Policies from the Housing Element of the Comprehensive Plan:

- i. Housing Goal 1: Enhance Mount Vernon's cultural and economic vitality by encouraging the development of housing solutions of all types that provide for varied densities, sizes, costs and locations that are safe, decent, accessible, attractive, appealing and affordable to a diversity of ages, incomes, and cultural backgrounds.
- ii. Objective 1.1: In City plans and zoning regulations, accommodate a variety of housing types that are attractive and compatible in design, and available to all economic segments of the community.
- iii. Objective 2.1: Promote infill housing that is compatible with abutting housing styles and with the character of the existing neighborhood.
- iv. Objective 4.1: Encourage the creation of ownership and rental housing that is affordable for all households within the City, with a particular emphasis on low, very-low, and extremely-low income households as defined by the U.S. Department of Housing and Urban Development (HUD).
- v. Policy 4.1.4: Encourage affordable housing to be dispersed throughout the City, within each Census tract, rather than overly concentrated in a few locations.
- vi. Objective 4.2: Prioritize the preservation of the affordability, health, safety and quality of the City's existing housing stock.

Policies from the Land Use Element of the Comprehensive Plan:

- i. Policy 1.1.4: Continue to promote plans and policies that encourage in-fill residential projects in close proximity to neighborhood centers, shopping and retail facilities, parks, transit routes and other service uses.
- ii. Policy 5.1.7: Encourage re-investment and rehabilitation of existing housing.
- iii. Policy-5.1.12: Create and encourage development regulations that encourage in-fill development such as accessory dwelling units (ADUs) or zero lot line developments.

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorizes that, so long as a subsequent public hearing is held and a work plan is adopted, interim zoning controls can be in place for up to one year; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize cities to adopt interim land use regulations the Mount Vernon City Council deems it to be in the public interest and to adopt the regulations set forth in this ordinance under this authority and its broad statutory authority of home rule; and

WHEREAS, consistent with RCW 35A.63.220 and RCW 36.70A.390 the City will hold a public hearing on the interim control within 60 days of adoption of this ordinance, and

WHEREAS, the City Council finds that an emergency exists within the City, and the interim regulations in this ordinance will stimulate the creation of additional ADU's; and

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. RECITALS INCORPORATED. That the City Council adopts the recitals set forth above as its findings of fact justifying adoption of this Ordinance enacting official controls as set forth herein and incorporates those recitals as if set forth fully herein. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council.

SECTION 2. ADDITIONAL FINDINGS. The City Council adopts the additional findings and conclusions:

- A. That pursuant to WAC 197-11-880, the adoption of this ordinance is necessary to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation and is exempt from the requirements of a threshold determination under the State Environmental Policy Act.
- B. That the City adopts the proposed work plan which includes tasks for related studies with target completion dates providing for a longer period than six months attached as **Exhibit "A"** and incorporated herein by this reference.

SECTION 3. That Mount Vernon Municipal Code 17.73.110, Accessory dwelling units, be amended as follows:

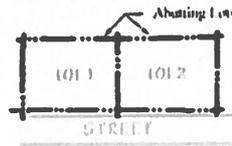
17.73.110 Accessory dwelling units.

- A. Accessory dwelling units shall be outright permitted uses in the following zoning districts: Single-Family Residential, Two-Family Residential, Multi-Family Residential, and Residential Agricultural codified within Chapters 17.15, 17.18, 17.24, 17.27, and 17.12 MVMC, respectively.
- B. Accessory dwelling units are required to comply with the below listed regulations:
 - 1. Accessory dwelling units may be established in or attached to a single-family, duplex, or multi-family dwelling unit(s), or in or attached to a detached structure on a legal lot by any one or by a combination of the following methods:
 - a. Alteration or conversion of interior space of a dwelling; or
 - b. Addition of attached living area onto an existing dwelling or accessory structure; or
 - c. Construction of a detached living area.
 - 2. Each single-family dwelling on a legal building lot shall have not more than two (2) accessory dwelling units.
 - 3. The floor area of each accessory dwelling unit shall not exceed 1,000 square feet.
 - 4. One off-street parking spaces shall be provided for each accessory dwelling unit located on a lot greater than 6,000 square feet; and one off-street parking space shall be provided for each accessory dwelling unit located on a lot smaller than 6,000 square feet. This parking for each accessory dwelling unit shall be in addition to other parking requirements for the single-family, duplex, or multi-family structures required under Chapters 17.15 or 17.84 of the Mount Vernon Municipal Code.
 - 5. The accessory and principal dwelling unit(s) shall comply with all applicable requirements of the building, fire, and zoning codes in effect when a technically complete application for an accessory dwelling unit is submitted to the city.
 - 6. Accessory dwelling units detached from a single-family, duplex, or multi-family dwelling unit(s) can be located on a property line abutting an alley.
 - 7. Accessory dwelling units must be created at the same time, or following, the construction of a primary/principal use on a site in the form of a single-family detached, duplex, or multi-family residential structure(s) depending on the site zoning. Accessory dwelling units shall not be classified as accessory structures under the provisions of MVMC 17.06.010 definitions for “accessory building” or “accessory use”.
 - 8. A permit for an accessory dwelling unit shall not be transferable to any lot other than the lot described in the application.
 - 9. All accessory dwelling units shall also be subject to the condition that such a permit shall automatically expire whenever:
 - a. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the approved plans; or
 - b. The subject lot ceases to maintain the number of off-street parking spaces required under MVMC 17.73.110(4); or

- c. The applicant ceases to own or reside in either the principal or the accessory dwelling unit.
10. One of the dwelling units shall be occupied by one or more owners of the property as the owner's permanent and principal residence. "Owners" shall include title holders and contract purchasers. The owner shall file a certification of owner-occupancy with the development services department prior to the issuance of the permit to establish an accessory dwelling unit.
- a. The owner of a single-family dwelling with an accessory dwelling unit shall file an owner's certificate of occupancy in a form acceptable to the city attorney no later than April 1st of each year. Any person who falsely certifies that he or she resides in a dwelling unit at the stated address to satisfy the requirements of this section shall be subject to the violation and penalty provisions of MVMC Title 19.

SECTION 4. That the definitions of "Accessory Building", "Accessory Use", and "Alley" within Mount Vernon Municipal Code 17.06.010, A definitions, be amended as follows:

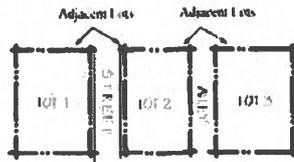
"Abutting" means to have boundaries that touch. When two parcels have a street or alley that runs between the two parcels, the two parcels are not abutting.



"Accessory building" means a subordinate building, the use of which is incidental to the use of the main building on the same lot where the building shall not exceed the height of and 50 percent of the existing gross floor area of the principal or main building. This definition shall not apply to Accessory Dwelling Units regulated under MVMC 17.73.110.

"Accessory use" means a use incidental and subordinate in area, extent and purpose to the principal use and located on the same lot or in the same building as the principal or main use served on the same lot. This does not preclude the subject property from being subdivided through a binding site plan process at the time of development or following the development of the proposed primary and accessory uses. Construction or initiation of an accessory use shall be concurrent with the primary permitted use or following the development and/or the commencement of the primary permitted use. Accessory dwelling units regulated under MVMC 17.73.110 are not required to be incidental and subordinate in area, extent and purpose to the principal use.

"Adjacent" means lots located across a public street, railroad, or right-of-way.



“Affordable Housing”
the definition found in

and “Affordable Housing Unit”. See
Chapter 17.73 MVMC.

“Agricultural use” means:

- A. The growing of crops, except marijuana;
- B. The sale of products produced on the premises except marijuana; provided, that the lot area is greater than two acres; and provided, that only one sales stand, 450 square feet or less, shall be permitted; and
- C. The raising of livestock, except commercial hogs; provided that the operation conforms to all applicable health laws; and provided, that no more than one hoofed animal (excluding sucklings) shall be permitted for each one-half acre lot area. In no case shall any building housing livestock be located less than 200 feet from any property line.

“Alley” means a public thoroughfare which affords secondary access to the rear of abutting property and is not intended for general traffic circulation.

“Alteration” means a change or rearrangement of structural parts, or an enlargement by extension of the existing structural parts, of a building, or the moving of a building from one location to another, or any change in addition to or modification of occupancy, business, commercial, industrial, or similar uses. The installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration.

Area, Building. “Building area” means the total ground coverage of a building or structure which provides shelter, measured from the outside of its external walls or supporting members or from a point four feet in from the outside edge of a cantilevered roof.

“Area median income” or “AMI,” means an income estimate developed with U.S. Census data and an inflation factor based on the Congressional Budget Office (CBO) forecast of the national Consumer Price Index (CPI). The U.S. Department of Housing and Urban Development (HUD) calculates and releases this data on a yearly basis.

Area, Site. “Site area” means the total horizontal area within the property lines, excluding external streets.

“Awning” means a shelter, typically for a pedestrian walkway, that projects from and is supported by the exterior wall of a building. Awnings have noncombustible frames but may have combustible coverings. Awnings may be fixed, retractable, folding or collapsible. Any structure which extends above any adjacent parapet or roof of a supporting building is not included within the definition of awning.

SECTION 5. That Mount Vernon Municipal Code 17.102.020, Expansion, alteration, or reconstruction of nonconforming buildings utilized for conforming uses, be amended as follows:

- A. Ordinary maintenance and repair of a nonconforming building or structure and its equipment or fixtures are permitted; provided, that the value of the repair does not exceed 50 percent of the fair market value as established by an insurance company, appraisal, or other equal and fair method. If a nonconforming building is damaged or destroyed by fire, earthquake, explosion, act of God, or public enemy, or other similar event beyond the control of the property owner, it may be reconstructed to the extent of 100 percent of the replacement cost of the structure. Such damaged or destroyed building or structure may be reconstructed and utilized for any conforming use based on dimensions that do not exceed those contained in the footprint at the time of the damage or destruction, and within the height of the structure at the time of the damage or destruction, and except for any applicable setback provisions, must conform to the building code and applicable underlying zoning district development standards for reconstruction of nonconforming structures; provided, that (1) application is made for the permits necessary to restore the building within six months of the date the damage occurred, (2) all permits are obtained, and (3) the restoration is completed within two years of permit issuance.
- B. Except as set out below, an existing nonconforming building or structure utilized for a conforming use may be enlarged or expanded only if it conforms to the regulations of this document and of the building code such that, when completed, it will no longer be a nonconforming building or structure. Structures or buildings located within the “urban mixed-use” environmental designation under the city’s shoreline master program (or any successor thereto) that were (1) legally established; and (2) are utilized for a conforming use; but (3) are nonconforming with regard to setback requirements may be enlarged or expanded and utilized for any conforming use under the applicable zoning classification; provided, that any such enlargement or expansion: (4) does not result in a further extension of the building footprint into restricted setbacks under the applicable zoning classification; (5) does not extend the footprint of the structure any closer to the shoreline than the current design; (6) will not interfere with or obstruct dedicated public access routes to the shoreline, per applicable requirements set out herein; (7) will meet any construction standards enacted by the city to protect adjacent flood risk reduction structures; and (8) will otherwise adhere to underlying development and building regulations. (Ord. 3513 § 3, 2011).
- C. Existing structures shall not be considered nonconforming when being converted to an accessory dwelling unit if they violate current code requirements for setbacks or lot coverage.

SECTION 6. That Mount Vernon Municipal Code 17.102.025, Expansion, alteration, or reconstruction of nonconforming buildings and uses, be amended as follows:

17.102.025 Expansion, alteration, or reconstruction of nonconforming buildings and uses.

An existing nonconforming building and/or nonconforming use may not be enlarged, expanded, altered, or reconstructed for the continuance of its nonconformity or nonconformities, except as allowed under

MVMC 17.102.020 and by granting of a nonconforming alteration permit under this chapter. (Ord. 3873 § 3, 2023; Ord. 3775 § 17, 2019).

SECTION 7. EFFECTIVE PERIOD. This ordinance shall apply for one year from the date of its adoption unless earlier terminated or not renewed after a subsequent public hearing is held.

SECTION 8. HEARING TO BE HELD. Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, the City Council shall hold a public hearing on this of its moratorium within 60 days on the adopted interim ordinance.

SECTION 9. CITY TO CONSIDER PERMANENT REGULATIONS. The City Council hereby directs that the City's Development Services Department continue research on ways to encourage accessory dwelling units, and to proceed with drafting proposed permanent regulations to be considered through the City's public participation process including allowing for public input and providing for public hearings before the Planning Commission and City Council.

SECTION 10. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 11. EFFECTIVE DATE AND DECLARATION OF EMERGENCY. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. The adoption of the interim regulations within this Ordinance needs to be immediately implemented to address the on-going housing crisis. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

SECTION 12. ORDINANCE TO BE TRANSMITTED TO DEPARTMENT. Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED this 13th day of March, 2024

SIGNED AND APPROVED this ____ day of ____, 2024

Peter Donovan, Mayor

Becky Jensen, City Clerk

Approved as to form:

Kevin Rogerson, City Attorney

Published March 16, 2024

EXHIBIT A

**WORK PLAN TO JUSTIFY INTERIM REGULATIONS FOR UP TO ONE YEAR FROM
ADOPTION OF THIS ORDINANCE**

- A. **April to June 2024:** study of potential impacts to existing and future neighborhoods, transportation and utility systems

- B. **July - August 2024:** meetings with City Council, Planning Commission, and other interested parties to discuss the interim regulations

- C. **September to December 2024:** Commerce, SEPA, Notice of Public Hearings

- D. **January - March 2025:**
 - a. Public hearing(s) before the Planning Commission
 - b. Public hearings before the City Council
 - c. Adoption of permanent development regulations

EXHIBIT B

ORDINANCE 3909

WORK PLAN FOR ESTABLISHING PERMANENT REGULATIONS

- A. **March to June 2025:** Study of potential impacts to existing and future neighborhoods, transportation and utility systems
- B. **July 2025:** Meetings with City Council, Planning Commission, and other interested parties to discuss the interim regulations
- C. **July to September 2025:** Commerce, SEPA, Public Hearing, and Adoption
 - a. Commerce 60-day Notice
 - b. SEPA
 - c. Notice of Public Hearing
 - d. Public hearing(s) before the Planning Commission
 - e. Public hearing(s) before the City Council
 - f. Adoption of permanent development regulations

EXHIBIT B

ORDINANCE 3909

WORK PLAN FOR ESTABLISHING PERMANENT REGULATIONS

- A. **March to June 2025:** Study of potential impacts to existing and future neighborhoods, transportation and utility systems
- B. **July 2025:** Meetings with City Council, Planning Commission, and other interested parties to discuss the interim regulations
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 - a. Commerce 60-day Notice
 - b. SEPA
 - c. Notice of Public Hearing
 - d. Public hearing(s) before the Planning Commission
 - e. Public hearing(s) before the City Council
 - f. Adoption of permanent development regulations