

ORDINANCE NO. 3712

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, ADDING A NEW CHAPTER TO THE ZONING CODE TO BE NAMED, MOUNT VERNON MUNICIPAL CODE (MVMC) CHAPTER 17.67 PERMANENT SUPPORTIVE HOUSING WITH THE NEW CHAPTER CONTAINING DEVELOPMENT REGULATIONS SPECIFIC TO THE DEVELOPMENT OF PERMANENT SUPPORTIVE HOUSING FACILITIES IN MOUNT VERNON AND TO ADOPT FEES INTO MVMC CHAPTER 14.15 TO COVER THE COSTS OF PERMIT REVIEW

WHEREAS, recent data presented by Community Action of Skagit County's Housing Resource Center shows that those defined as chronically and literally homeless 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, the 2014 Census data indicates that approximately 8.8 percent of the City's housing units are considered overcrowded (defined as having more than one person per room). In addition, compared to the neighboring jurisdictions of: Burlington, Sedro-Woolley, Anacortes, Skagit County, Bellingham, and Everett - Mount Vernon has the highest percent of overcrowding. The City of Burlington's percent of overcrowding is closest to Mount Vernon's; however, they (Burlington) are still 2.2 percent lower than Mount Vernon; and

WHEREAS, in 2014, the poverty threshold for a family of two adults and two children was \$19,073.00. According to 2014 Census data, 16.6 percent of Mount Vernon families were below the poverty level (a total of 1,269 families) with 57 percent of these families having related children under the age of 18. In Mount Vernon between 1989 and 2014 there has been an 8.5 percent increase in the number of individuals below the poverty level; and

WHEREAS, measuring the amount of income spent on housing provides insight into the amount of income left (after paying for housing) to pay for other household needs such as food, transportation, and medical care. The U.S. Department of Housing and Urban Development's (HUD) standard measurement to determine how cost burdened a household is categorizes those that are paying more than 30 percent of their gross (before tax) income on housing (including basic utilities) as being cost burdened. Further, HUD categorizes those paying more than 50 percent of their gross income on housing as being very cost burdened; and

WHEREAS, according to HUD's Comprehensive Housing Affordability Strategy (CHAS) Data Query Tool from 2008 – 2012 thirty-six percent (36%) of Mount Vernon households (both rented and owned) are paying more than thirty percent (30%) their income on housing; and eighteen percent (18%) are paying more than fifty percent (50%) of their income on housing. Collectively this means that fifty-four percent (54%) of Mount Vernon households are burdened with the cost of their housing. This is over half of the City's households; and

WHEREAS, the City of Mount Vernon is dedicated to reducing homelessness while also recognizing the government's role in protecting the public health and safety for the community including both those persons with and without homes; and

WHEREAS, increasing the supply of permanent supportive housing and housing for those defined by HUD as very and extremely low income is integral to the City’s work to promote orderly and sustainable development; and

WHEREAS, the City affirmatively furthers fair housing and is committed to: focusing on the future, working together to build strong neighborhoods, developing a sound economy, and providing a safe community; and

WHEREAS, permanent supportive housing benefits the community as a whole for the following reasons:

1. Permanent supportive housing improves public safety, reduces public sector costs, and helps the most vulnerable members of our city live better lives.
2. Permanent supportive housing is a subset of quality, affordable, accessible housing.
3. Quality, affordable, accessible housing that is well-designed, intentionally located, and professionally managed is a financial and social benefit to neighborhoods and the community at large; and

WHEREAS, the current crisis of homelessness is impacted by a broad number of societal challenges including, but not limited to: a lack of quality affordable housing, increasing numbers of people living in poverty, effectively treating those with mental health and substance abuse problems, the erosion of foster care, cuts to federal and state investment in mental health funding and other safety net systems. These societal challenges have a cumulative and compounding effect resulting in an alarming trend of increased numbers of homeless populations statewide and in our local community; and

WHEREAS, the City’s ultimate goal is to assist with the creation of a framework within which changes to the City’s development regulations are made that will result in the creation of affordable housing and transition of homeless persons to permanent housing to provide these individuals access to services to benefit their personal development to allow them to ultimately meet their needs with reduced assistance, or with no assistance at all; and

WHEREAS, the City Council finds that the proposed development regulations contained herein are consistent with the City’s Comprehensive Plan. Further, the City finds that the following Goal, Objective, and Policies adopted within the Housing Element directly relate to the proposed regulations contained within this Ordinance:

GOAL 5: Promote the development, and collaborate with service providers, to develop a variety of housing solutions for those with special needs including, but not limited to:

- Victims of domestic violence;
- Persons afflicted with alcohol/drug addiction;
- Persons afflicted with behavior health issues;
- Persons coming from corrections and psychiatric institutions, nursing homes and foster care; and,
- Persons that are homeless.

Objective HO-5.1 Work closely with appropriate agencies in the region to develop and implement policies and programs addressing special housing needs for vulnerable populations.

Policy HO-5.1.1 Encourage opportunities for assisted housing for people with special needs by:

- a. Adopting land use policies and regulations that treat government-assisted housing and other low-income housing the same as housing of a similar size and density;
- b. Permitting group living situations, including those where residents receive such supportive services as counseling, foster care or medical supervision in accordance with State and Federal Laws; and,
- c. Encouraging developers and owners of assisted housing units to undertake activities to establish and maintain positive relationships with neighbors.

Policy HO-5.1.2 Encourage coordination among providers of social, health, counseling, and other services to families, children, and persons with special needs including seniors, persons with physical or mental disabilities, persons with terminal illness, or other special needs.

Policy HO-5.1.3 The City should collaborate and support social service agencies that support the development and implementation of a comprehensive approach to the prevention, transition, and stabilization of the homeless. Programs and services that decrease potential homelessness, stop recurring homelessness, and to promote long-term self-sufficiency (such as the Housing First model) should be encouraged.

Policy HO-5.1.4 Support the development of facilities and services for chronically homeless, homeless, and those who are at-risk of becoming homeless by:

- a. Adopting land use regulations that streamline the siting of facilities such as the creation of an overlay zone, or a demonstration zoning ordinance. Consider adopting regulations within an overlay zone, demonstration zoning ordinance, or other mechanism that allows these facilities to be developed based on occupancy characteristics versus density allowed in different zoning designations.

Policy HO-5.1.6 Ensure that facilities and services to meet the health care, treatment, social service, and transit needs of households with special needs are part of housing development plans.

Policy HO-5.1.7 Through the City’s plans and regulations, location of housing for disabled persons and/or seniors should be promoted near or within sites where neighborhood centers, shopping centers, public transportation and/or parks or open space to facilitate their maximum participation in the community.

Objective HO-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).

Policy HO-4.1.2 Evaluate the adoption of zoning regulations that would allow multi-family residential developments that are income-restricted to those at or below 60 percent of the area median income for at least fifty years to be located in zoning districts other than multi-family residential.

Policy HO-4.1.4 Encourage affordable housing to be dispersed throughout the City, within each Census tract, rather than overly concentrated in a few locations.

Policy HO-4.1.7 Ensure during development review processes that all affordable housing created in the city with public funds or by regulatory incentives remains affordable for the longest possible term; at a minimum 50 years.

Objective HO-4.3 Work collaboratively with other jurisdictions, agencies and stakeholders to promote the preservation and creation of local and regional affordable housing strategies.

Policy HO-4.3.2 Encourage, assist, and partner with organizations that can construct, manage, and provide affordable housing to those earning 80% or less of the AMI during all stages of siting and project planning and when applying for county, state and federal funding.

Policy HO-4.3.7 Encourage interjurisdictional cooperative efforts and public-private partnerships to advance the creation of affordable and special needs housing; and

WHEREAS, the City Council finds that:

1. The proposed amendments bear a substantial relation to the public health, safety and welfare.
2. The proposed amendments promote the best long term interests of the Mount Vernon community.
3. By requiring the City contribute financially as a prerequisite to siting a permanent supportive housing facility the City is able to:

- a. Assist in strategically siting such a facility; and,
- b. Earmark funds that will be used to site a facility in the City. Once such a facility is developed it will assist in mitigating the social and economic impacts that chronically homeless individuals have on the City's Police, Fire, Parks, and Public Works Departments.

WHEREAS, the Department of Commerce was notified of the proposed amendments on February 6, 2017, an acknowledgement letter was received from Commerce dated February 7, 2017, and Commerce granted the City expedited review on February 21, 2017 (their identification number: 23366); and as such, the City is in compliance with RCW 36.70A.106 (1); and

WHEREAS, a SEPA Threshold Determination of Non-significance (DNS), non-project action, was issued on February 9, 2017 and published and routed to all applicable Federal, State, and Local Agencies, Utilities, and Tribes on February 13, 2017. The comment period for the DNS ended on February 23, 2017; and the appeal period for the DNS ended on March 6, 2017. There were no comments received or appeals filed; and,

WHEREAS, the requisite Planning Commission hearing held on April 18, 2017; and the City Council hearing held on April 26, 2017 were preceded with appropriate notice published on March 21, 2017; and

WHEREAS, the requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met; and

WHEREAS, the City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum and discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).

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

SECTION ONE. Recitals Incorporated. The City Council adopts the recitals set forth above as findings justifying adoption of this Ordinance and incorporates those recitals as if set forth fully herein. The Council also adopts the following additional findings in support of the adoption of this Ordinance:

1. The overlay zone created with this ordinance departs from a typical land use planning framework wherein site selection is limited to properties already zoned for multi-family uses. The geographic area selected to be included within the subject overlay zone was defined using an opportunity mapping analysis that evaluated the location and proximity of the overlay zone to food resources that provide perishable food such as produce and meat, public transit, service providers and road networks most likely to be ADA compliant.
2. Opportunity mapping is an approach that provides an analytical framework comprehensively measuring opportunity areas to determine access to areas having more opportunities intended to provide residents with access to healthier, more productive lives.
3. Opportunity mapping is a tool used by the U.S. Department of Housing and Urban Development (HUD) to measure social equity and access to opportunity.
4. The location of the floating overlay zone includes opportunity rich areas.

SECTION TWO. PLANNING COMMISSION RECOMMENDATION ADOPTED.

A. Planning Commission Recommendation to the City Council:

At their public hearing on April 18, 2017 the Commission considered the items presented by City staff, the testimony of one individual and written comments by another individual. Following their deliberation of all these items the Planning Commission made a recommendation to adopt the amendments to the Mount Vernon Municipal Code that are contained in this Ordinance.

SECTION THREE. New Section. A new Chapter 17.67, Permanent Supportive Housing, is added to the Mount Vernon Municipal Code as follows:

PERMANENT SUPPORTIVE HOUSING

Sections:

- 17.67.010 Purpose.
- 17.67.020 Definitions
- 17.67.030 Permanent Supportive Housing Facility Requirements
- 17.67.040 Application for Permanent Supportive Housing Facility Permit

17.67.010 Purpose.

The purpose of this chapter is to create a process by which a Permanent Supportive Housing (PSH) facility targeted at individuals experiencing extreme poverty and complex service needs can be sited in a way to provide quality, affordable housing with comprehensive, intensive services delivered in such a way to addresses the root causes of long-term homelessness including, but not limited to, addiction, mental illness, chronic disease and disabilities to those who would benefit from these services.

17.67.020 Definitions. The following words used in this Chapter are defined as follows:

- A. “Area Median Income” (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.

- B. “Arterial Road” means a roadway identified as a principal arterial within the City’s adopted Transportation Element of its Comprehensive Plan.
- C. “Food Resource” means a retail store open to the general public located within a building that is a minimum of 12,000 gross square feet in size whose primary use is for food sales. This definition does not include mini marts, restaurants, or convenience stores.
- D. “Infrastructure Improvements” means the installation/construction of sanitary sewers, storm sewers, detention and/or water quality facilities, and public or private roads.
- E. “Permanent Supportive Housing Facility” (PSH Facility) means a structure that is providing shelter with no limit on length of stay and is intended to provide long-term, rather than transitional housing. These facilities are designed to be occupied by any one, or a combination of, the following:
 - 1. Persons that are experiencing, or at risk of experiencing, homelessness that would benefit from structured supportive services such as case management and on-site facility management to be successful living in the facility; or
 - 2. Persons that are experiencing a disability that presents barriers to employment and housing stability; or
 - 3. Persons that are defined as extremely low (incomes do not exceed 30% AMI) or very low income (incomes are between 31% to 50% AMI).
- F. “Service Provider” means the Department of Social and Health Services, the Employment Security Department, Catholic Community Services, and Community Action of Skagit County.

17.67.030 Permanent Supportive Housing Facility Requirements.

In addition to other requirements imposed by this chapter, a PSH Facility must meet all of the following requirements:

- A. This chapter applies to areas of the City described within the following sub-section (1.) and constitutes an overlay zone over the following described areas only so long as all of the requirements of this chapter are satisfied.
 - 1. The overlay zone shall exist only when property is located within 2,640 linear feet (1/2 mile) of three out of the four following described facilities. Each of the listed facilities must be entirely within the prescribed 2,640 linear feet to count as one of the three required facilities.
 - a. Transit service provided by Skagit Transit
 - b. Arterial road
 - c. Food Resource
 - d. Service Provider
 - 2. The 2,640 linear foot measurement shall be taken in a straight line from the closest property line where the permanent supported housing facility is proposed to the above-listed transit service (provided by SKAT), arterial road(s), food resource(s), and service provider(s).
- B. A PSH facility shall contain no more than 80 dwelling units. There shall be no density requirements for a PSH facility; instead the setbacks, maximum building stories and height, parking, landscaping, and multi-family design guidelines outlined within this Chapter shall apply.
- C. An on-site manager and area(s) to provide on-site services are encouraged. If on-site services are provided they shall be for residents only.

- D. The PSH Facility shall be permitted only on property where the City has made a financial commitment to participate at some level in the purchase of said property; or for which the City has made a commitment to assist with funding of infrastructure improvements to serve the property.
- E. A PSH Facility shall remain affordable to those earning 50% or less of the AMI for a minimum of 50 years following the facility obtaining its final certificate of occupancy. The applicant will need to submit a plan to the City outlining how this will be achieved.
- F. A PSH Facility will be required to comply with the following dimensional requirements:
 - 1. Front yard setback: 25 feet on arterial streets and 20 feet on all other streets. Buildings on corner lots shall observe the minimum setback on both streets.
 - 2. Side yard setback: 10 feet on each side. No portion of a second-story wall shall be closer than 15 feet to the side yard line. No portion of a third or fourth-story wall shall be closer than 20 feet to the side yard line.
 - 3. Rear yard setback: 20 feet.
 - 4. Maximum building height shall be four stories, but not more than 50 feet.
- G. The number of parking spaces required to serve a PSH facility shall reflect the proposed uses for such a facility. The applicant will be required to submit a parking study documenting the number of parking spaces needed to provide parking on a site.
- H. The design, construction, appearance, physical integrity, and maintenance of the housing units shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to tenants' stability. To achieve this, the following standards from the City's Design Standards and Guidelines for Multi-Family Developments shall apply to all new construction:
 - 1. Roof Pitch (Minimum/Maximum);
 - 2. Building Design;
 - 3. Windows; and,
 - 4. Modulation of Exterior Walls.
- I. A minimum of 15% of the gross site area (as defined within MVMC Chapter 17.93) shall be landscaped; with a portion of this landscaping being comprised of 10-foot wide landscape areas planted per the requirements in MVMC 17.93.020(D) installed along street frontages of the project site. In addition, any portion of the project site that abuts property zoned R-1, R-2, R-3, R-O, or MHP shall have Type I landscape screening that complies with MVMC 17.93.040(A) installed.

17.67.040 Application for Permanent Supportive Housing Facility Permit.

A. An application for a Permanent Supportive Housing Facility shall be submitted to the Development Services Department on forms provided by the Department. The application shall contain, at a minimum, all of the following information:

- 1. A completed Master Land Use Form
- 2. A site plan consistent with the requirements contained in MVMC 14.05.220.
- 3. A project narrative consistent with the requirements contained in MVMC 14.05.220 that also includes specific details with regard to the following:
 - a. The roles and commitments of the social service provider(s), property manager(s) and/or owner(s), and tenants.
 - b. The funding mechanisms for: site acquisition, construction of the facility, physical maintenance of the facility, and funding of social services.

- 4. The application for a Permanent Supportive Housing Facility Permit must be accompanied by an application fee of \$1,000.00.
- B. A PSH facility shall be processed as a Type I permit.

SECTION FOUR. The fee schedule that is adopted by reference within MVMC Chapter 14.15 shall have a new fee added under the Land Use Review Fees heading, as follows:

Permanent Supportive Housing (Chapter 17.67)	\$1,000.00
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SECTION FIVE. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

SECTION SIX. City staff are hereby directed to complete preparation of the final ordinance, including correction of any typographical or editorial edits.

PASSED AND ADOPTED this 26th day of April, 2017.

SIGNED AND APPROVED this ____ day of April, 2017.

Doug Voleski, Finance Director

Jill Boudreau, Mayor

Approved as to form:

Kevin Rogerson, City Attorney

Published: _____

Effective Date: _____