

**CITY OF MOUNTLAKE TERRACE**

**ORDINANCE NO. 2542**

**AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE,  
WASHINGTON TO REPEAL AND REPLACE ORDINANCE NUMBERS  
2251 § 6, 2116 § 5.3.G, 2480 § 4, AND TO AMEND ORDINANCE NUMBER  
2447 § 3, AND REPEAL AND REPLACE MTMC 19.110.200, MTMC  
19.35.100, MTMC 19.23.040, AND MTMC 19.23.040 FOR PERMITTING  
CONDITIONAL USES UNDER THE ZONING CODE**

**WHEREAS**, the City Council of Mountlake Terrace ("City Council") has been proactively updating and clarifying its development regulations, including the zoning code, over the last several years; and

**WHEREAS**, in 2009, Planning Commission and City Council identified that the zoning code language affecting conditional uses should be reviewed and considered for potential updates; and

**WHEREAS**, in 2009, a moratorium was placed on conditional uses in the single-household zoning districts, RS 7200 and RS 8400, pending further consideration of zoning code changes affecting conditional uses; and

**WHEREAS**, the zoning code language affecting conditional uses was reviewed and options for updating were considered during the 2009-2010 time period; and

**WHEREAS**, a new Ordinance, the Conditional Uses Zoning Code Amendment Ordinance ("the Ordinance"), was drafted to update and amend the zoning code for conditional uses; and

**WHEREAS**, the Ordinance is consistent with the criteria for zoning text amendments under MTMC 19.110.240 and with the Growth Management Act of the State of Washington; and

**WHEREAS**, after proper public notice, the Planning Commission held a public hearing and adopted findings, conclusions, and a recommendation that the Ordinance be adopted by the City Council; and

**WHEREAS**, after proper public notice, the City Council held a public hearing and adopted findings and conclusions;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE, WASHINGTON DOES ORDAIN AS FOLLOWS:**

**Section 1.** Ordinance No. 2251 § 6 and Ordinance No. 2116 § 5.3.G are hereby repealed

and Mountlake Terrace Municipal Code (MTMC) 19.110.200 is hereby repealed in its entirety and replaced with a new MTMC 19.110.200 entitled "Conditional use permits" which shall read as follows:

**19.110.200 Conditional use permits.**

A. Purpose and Intent. The City of Mountlake Terrace recognizes that certain land uses possess unique and special characteristics with respect to their location, design, size, method of operation, circulation, and public facilities. To help ensure that such uses fit appropriately within the neighborhood context, a conditional use permit is required for conditional uses and accessory conditional uses identified in Chapters 19.20 through 19.105 MTMC. The conditional use permit shall not be used in lieu of a variance to reduce the requirements of this title.

B. Public Hearing. Notice of a public hearing shall be prepared and issued by the Department pursuant to MTMC 18.05.420 for conditional use permit applications heard by the Hearing Examiner. Conditional use permits require one public hearing before the Hearing Examiner.

C. Authority to Impose Conditions. In approving a conditional use permit, the Hearing Examiner may impose any conditions he or she feels necessary to ensure that designated uses or activities are compatible with other uses in the same land use (or zoning) district and in the vicinity of the subject property.

D. Criteria for Review and Conclusions of Law. The Hearing Examiner may approve a conditional use permit only if the request, either conforms to, all the criteria in this subsection or the request will so conform under applicable codes and any specified conditions. The Hearing Examiner shall make written findings and conclusions for the record which support his or her decision. The criteria are as follows:

1. The proposal is in accordance with the goals, policies, and relevant land use designations of the Comprehensive Plan.

2. The proposal will not adversely impact the established character of the surrounding vicinity. For purposes of this section, "character" shall mean:

a. the distinctive features or attributes of buildings and site design, including but not limited to building façade, scale, building modulation, tree cover, landscaping, size and location of signs, amount and location of parking, fencing, and walkability;

b. the level of noise, vibrations, or odors; and

c. the type of vehicular traffic and traffic patterns associated with the permitted uses in the zoning district.

3. The proposed use will not endanger the public health, safety, and general welfare of the community or create obstacles to neighborhood circulation.

4. The proposal complies with the purpose and all requirements of the zoning district classification in which it is located and with the general provisions of the municipal code.

5. The proposal will be served by existing public facilities as may be necessary. This standard may be met if the applicant pays the cost of or installs any additional facilities needed.

E. Final Decision. The Hearing Examiner may approve, conditionally approve, or deny the conditional use permit. The decision shall be final and conclusive unless an appeal, or request for reconsideration, is filed according to the procedure described in Chapter 18.05 MTMC. The decision of the Hearing Examiner shall be deemed issuance of the conditional use permit, if approved. An approved accessory conditional use permit shall be deemed to be

approved for the applicant only at the approved location and shall not run with the land. All other conditional use permit applications shall be deemed to run with (go with) the land, unless the Hearing Examiner states otherwise. The decision of the Hearing Examiner shall become effective immediately upon entry of such order in the official records, unless the Hearing Examiner finds that making the decision effective immediately would create a condition of practical impossibility or unnecessary hardship in which case he or she shall set a new and different effective date which in no event shall be more than 30 days from the date of entry of such order, and this exception is noted in the record.

F. Recording. The Hearing Examiner may stipulate that the conditions of approval that apply to use of the property be recorded with the Snohomish County Assessors Office. For any approval of a minor modification to an approved conditional use, the Director may stipulate that the conditions of approval be recorded with the Snohomish County Assessors Office.

G. Changes or Modifications:

1. Minor. Minor changes to the operational aspects of the approved conditional use or to the approved site plan shall be reviewed and may be approved by the Director in cases where the proposed modifications:

- a. do not significantly alter the originally approved conditional use;
- b. do not add more than 10% in area to the gross square footage of the approved conditional use; and
- c. do not conflict with current requirements of this title or other applicable codes and restrictions.

All such requests shall be made in writing and supported by documentation as required by the Director and be accompanied by the appropriate fee, based on the City's fee schedule. The Director shall make a written determination as to whether the proposed modification is minor, based on the criteria in this section. If the proposal is determined to be a minor modification to the conditional use, the Director shall treat the proposal as a minor amendment to the original approved conditional use and make a written decision to approve, deny, or approve with conditions.

2. Major. If the Director makes a written determination that the proposed changes or modifications do not represent only a minor change, the proposal shall be considered a major modification and processed only under a new conditional use permit application.

H. Time Limits. Any permits necessary to establish or construct an approved conditional use shall be applied for within one year of the effective date of the Hearing Examiner's decision, unless a shorter time limit is imposed. Conditional use permits shall be deemed automatically null and void if applications for any necessary permits or licenses to establish the use are not received by the Department within that period of time or, in such case that no permits or licenses are required, if the approved conditional use has not substantially commenced within that time period.

I. Revocation. The Hearing Examiner may revoke an approved conditional use permit following a public hearing if he or she finds that:

1. The use for which the approval was granted has been abandoned for a period of one year or more; or
  2. Approval of the permit was obtained by misrepresentation of material fact;
- or
3. The permit is being exercised contrary to the terms of approval.

The process to revoke a conditional use permit may be initiated by the Department. Any public hearing conducted by the Hearing Examiner to consider revocation is subject to the notice requirements under MTMC 18.05.420. The Hearing Examiner shall make written findings and conclusions for the record that support the revocation decision.

**Section 2.** Ordinance No. 2480 § 4 is hereby repealed and MTMC 19.35.100 is hereby repealed in its entirety and replaced with a new MTMC 19.35.100 that shall read as follows:

**19.35.100 Neighborhood commercial services.**

A. "Neighborhood commercial services" shall mean "commercial services" as defined in MTMC 19.15.040 excluding any facilities that provide services or products for motor vehicles in a manner that is more than incidental and, furthermore, excluding any facilities that provide drive-up or drive-through service.

B. Neighborhood commercial services in any single building shall not exceed a total of 5,000 square feet in area unless approved up to 10,000 square feet in area under a conditional use permit. A "single building" for this purpose shall include any buildings that are located on the same lot and connected by a walkway or driveway outside of a public right-of-way or by a building element.

**Section 3.** Ordinance No. 2447 § 3 is hereby amended and MTMC 19.23.040 is hereby repealed in its entirety and replaced with a new MTMC 19.23.040 that shall read as follows:

**19.23.060 Commercial service land uses.\***

<b>P – Permitted Use</b> <b>A – Accessory Use</b> <b>C – Conditional Use</b>	<b>RML</b> <b>RMM</b>
Neighborhood commercial services <sup>1</sup>	P/C <sup>1</sup>

\* Any specific requirements pursuant to other regulations for such uses shall apply.

<sup>1</sup> Per MTMC 19.35.100.

**Section 4.** Ordinance No. 2447 § 3 is hereby amended and MTMC 19.23.040 is hereby repealed in its entirety and replaced with a new MTMC 19.23.040 that shall read as follows:

**19.23.040 General services.\***

<b>P – Permitted Use</b> <b>A – Accessory Use</b> <b>C – Conditional Use</b> <b>SF – Secure Facilities Use</b>	<b>RS 8400</b> <b>RS 7200</b>	<b>RML</b> <b>RMM</b>
<b>Specific Land Use</b>		
<b>School/Day Care</b>		
Adult or child day care (with religious facility, school, recreation facility or library)	A	A
Day care centers	C	C/A
Higher education facilities	C	C <sup>2</sup>
Pre-school through 12th grade	C <sup>2</sup>	C <sup>2</sup>
<b>Essential Public Facilities and Public Service Facilities</b>		
Disaster emergency facilities	P/C <sup>4</sup>	P/C <sup>4</sup>
Fire/aid car stations	C	C
Libraries	P	P
Municipal office buildings		C
Police stations	C	C
Public utility facilities	P/C <sup>1</sup>	P/C <sup>1</sup>
<b>Public works facilities</b>		
Recycling collection stations	C	C
<b>Membership Organizations</b>		
Private clubs and lodges	C <sup>3</sup>	C <sup>3</sup>
Religious facilities	C <sup>3</sup>	C <sup>3</sup>
<b>Medical/Health Care</b>		
Health care offices/clinics		P/C <sup>5</sup>
Hospitals/emergency clinics		C
Veterinarian clinics/hospitals		P/C <sup>5</sup>

\* Any specific requirements pursuant to other regulations for such uses shall apply.

<sup>1</sup> If development contains more than 25,000 square feet of gross area, a conditional use permit is required.

<sup>2</sup> Side and rear yards shall each be a minimum of 30 feet. All outdoor lights shall be so arranged as to direct the light away from any adjacent properties.

<sup>3</sup> All structures shall be set back a minimum of 20 feet from property lines. On interior and through lots, the required side yards may be used to provide off-street parking areas and on corner lots the rear yard may be used. The required front yard may not be used for off-street parking. All lights provided to illuminate parking areas or buildings shall be so arranged as to direct the light away from any adjacent properties.

<sup>4</sup> Temporary facilities are a permitted use; permanent facilities are a conditional use.

<sup>5</sup> Allowed as a permitted use up to 5,000 square feet in any single building. Within this category, any use of 5,000 square feet or greater in any single building shall be allowed up to 10,000 square feet only under a conditional use permit. A "single building" for the purpose of the identified land use category in

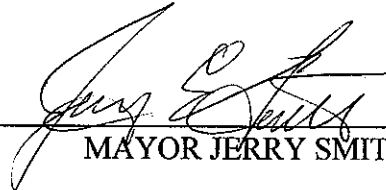
this subsection shall include any buildings located on the same lot and connected by a walkway or driveway outside of a public right of way or by a building element.

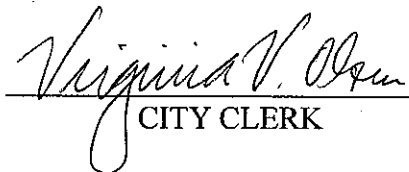
**Section 5. Conflicts.** All ordinances or parts or ordinances of the City of Mountlake Terrace in conflict herewith, be and the same, are hereby repealed.

**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 section, sentence, clause or phrase of this Ordinance.

**Section 7. Summary.** This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE this 6<sup>th</sup> day of July, 2010 and signed in authentication of its passage the 6<sup>th</sup> day of July, 2010.

  
MAYOR JERRY SMITH

ATTEST:   
CITY CLERK

APPROVED AS TO FORM: Gregory G. Schrag, City Attorney