



**INTERPRETATION OF THE CITY OF MONROE ZONING CODE
EXISTING SINGLE FAMILY DWELLING UNIT ON LOT WHILE NEW SINGLE
FAMILY DWELLING UNIT IS BEING CONSTRUCTED**

November 29, 2016

MONROE MUNICIPAL CODE SECTIONS

MMC section 18.10.050 Zoning Matrix, MMC section 18.02.010 Definitions, and MMC Section 18.08.020 Interpretations.

SUBJECT

In a situation where a zoning district only permits one single family dwelling per lot, may an existing single family residence be allowed to remain and be occupied while a new single family residence is being constructed (on the same lot), provided that the existing single family residence will be removed upon completion of the new single family residence?

BACKGROUND:

The City has received a building permit application to construct a new single family residence for property in the UR 6000 zoning district. An existing single family residence is on the same lot.

The site plan submitted with the building permit application states that the existing single family residence is to be removed "ON FINAL OF THE NEW RES". The applicant has informed City staff that he proposes to live in the existing single family residence until such time the new single family residence is completed. At that time the applicant indicated that he will move into the new single family residence and demolish the existing single family residence. The proposed outcome would be one single family dwelling on the lot.

Single family residences are allowed in the UR 6000 zone (identified as "Dwelling, Single family" in Monroe Municipal Code MMC section 18.10.050 ("Zoning Land Use Matrix")). Two single family residences on a lot are not allowed.

FINDING OF FACT

1. Monroe Municipal Code MMC section 18.10.050 (“Zoning Land Use Matrix”) permits “Dwelling, Single family” in the UR6000 zone. “Dwellings, duplex” are a permitted use in the UR 6000 zone; provided that the duplex has one and one-half times the underlying minimum lot size. Accessory dwelling units are permitted in the UR 6000 zone, provided that the accessory dwelling unit meets criteria outlined in Chapter [18.40](#) MMC, Accessory Dwelling Units.
2. Per MMC Chapter 18.02 (Definitions), section 18.02.040 “D definitions” includes, among other definitions, definitions of “Dwelling, duplex”, “Dwelling, single-family”, “Dwelling unit”, “Dwelling unit type”, and “Dwelling unit, accessory or accessory dwelling unit”.

3. These definitions are:

“**Dwelling, duplex**” means a building, on a single lot, containing two kitchens and designed to be occupied by two families living independently of each other, sharing a common wall; a “common wall” includes floors or ceilings. This definition does not include single-family dwellings within an approved accessory dwelling unit.

“**Dwelling, single-family**” means a detached building containing only one dwelling unit.

“**Dwelling unit**” means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“**Dwelling unit type**” means:

- A. Single-family residences;
- B. Multifamily, one-bedroom apartment or condominium units; and
- C. Multifamily multiple-bedroom apartment or condominium units.

“**Dwelling unit, accessory**” or “**accessory dwelling unit**” means a separate living unit attached to or contained within the structure of the primary dwelling unit or detached from the primary dwelling unit, but located on the same lot. The accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and conforms to the requirements of Chapter [18.40](#) MMC.

3. MMC section 18.02.060 “F definitions”, includes the following definition of a “Family”

“**Family**” means two or more persons related by blood, marriage, or adoption, or not more than six unrelated persons, living together within a single dwelling unit. For the purposes of this definition, children with familial status within the meaning of Title 42 USC, Section 3602(k), and individuals with disabilities within the meaning of Title 42

USC, Section 3602(h), will not be counted as unrelated persons. Adult family homes, as defined by RCW [70.128.175](#), are included within the definition of "family."

4. MMC Section 18.08.020 "Interpretations" permits the Zoning Administrator to make interpretations of the zoning code. MMC Section 18.08.020 states,

"18.08.020 Interpretations.

All interpretations of this title shall be made by the zoning code administrator. Interpretations shall be reduced to writing and an orderly, retrievable record shall be kept."

5. The proposal would not meet the definition of a "Dwelling, duplex", as the two buildings do not share a common wall. The proposal would also need to meet the requirements of Dwelling unit, accessory" or "accessory dwelling unit" contained in MMC Chapter 18.40 to be an accessory dwelling unit. The building permit application proposes neither option.
6. A review of the building permit application prompting this interpretation, specifically the site plan received by the City on November 9, 2016, shows that the new single family dwelling meets the setback and other applicable bulk and dimensional standards identified in 18.10.140 Bulk requirements. In this case, the provisions of MMC 18.10.065 "Infill development incentives" are applicable to the property.
7. In consultation with the City of Monroe Building Official, sufficient provisions and conditions could be applied to the building permit to ensure that the eventual outcome is not for two single family dwellings to be on a lot. These provisions and conditions include but are not limited to:
 - A. The building permit application shall specifically state the intent to remove the existing single family dwelling upon completion of the new single family dwelling.
 - B. Pursuant to MMC 18.08.040 and 18.08.050, prior to issuance of the building permit for the new single family dwelling, an applicant shall provide a financial guarantee covering the cost of demolishing/removing the existing single family dwelling.
 - C. Prior to issuance of the building permit for the new single family dwelling, the applicant shall submit a complete demolition permit application for the demolition of the existing single family dwelling. The demolition permit shall remain active (e.g. not be allowed to expire) during the entire duration of construction of the new single family dwelling.

- D. Pursuant to MMC Section 18.08.040, a temporary certificate of occupancy shall be issued for the new single family dwelling. A final certificate of occupancy shall not be issued until such time the existing single family dwelling is demolished/removed. At the time of demolition/removal of the existing single family dwelling, the certificate of occupancy may be issued for the new single family dwelling.
 - E. The City shall specify a time period for demolition/removal of the existing single family dwelling to commence and/or be completed. That time period shall set a maximum time from the issuance of the temporary certificate of occupancy for the new single family dwelling to the time of demolition/removal of the existing single family dwelling.
 - F. Only one of the two dwelling units may be occupied at any one time.
 - G. Pursuant to IRC R107.4, the building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.
8. The construction of a new single family dwelling while an existing single family dwelling is on the lot does not violate provisions of applicable international building or fire codes.

CONCLUSIONS ON THE INTERPRETATION OF CODE:

1. MMC Section 18.08.020 permits the Zoning Administrator to make interpretations of the zoning code.
2. Allowing an existing single family residence to be occupied while a new single family dwelling is being constructed on the same lot does not violate zoning requirements, provided that only one dwelling unit is occupied at one time and a single family dwelling unit will be removed within a time frame set by the City following completion and issuance of a temporary certificate of occupancy for the new single family dwelling.
3. Reasonable provisions exist for the City to impose conditions to ensure that two single family dwelling units will not exist on the property for a reasonable time beyond the completion and occupancy of the new single family dwelling.
4. The property is zoned UR6000; however, this interpretation has applicability to a situation in other zoning districts with similar facts.

INTERPRETATION

The Zoning Code Administrator, under the authority granted in MMC Section 18.08.020, does hereby make the following determination regarding the proposal to allow an existing single family on a lot to exist and be occupied while a new single family dwelling is being constructed on the same lot.

An existing single family residence may be allowed to remain and be occupied while a new single family residence is being constructed on the same lot in situations where:

- a) Only one single family dwelling is permitted on a lot; and,
- b) The applicant has expressly stated that the existing single family residence is to be removed upon completion of the new single family residence.

In such cases, it is expected that the City shall impose conditions to the building permit for the new single family dwelling sufficient to ensure the removal of the existing single family residence. The specific conditions may vary on a case by case basis.

Issued this 29th Day of November, 2016



David Osaki
Community Development Director

APPEALS

This interpretation is an administrative decision of the Community Development Director. Appeals to this interpretation must be filed with the City of Monroe Community Development Department within 15 working days of the issuance of this decision. Appeals must therefore be filed by **5:00pm, December 20, 2016**.

Appeals must be made on appeal forms available at Monroe City Hall, 806 West Main Street, Monroe, WA 98272. The adopted appeal fee must be filed with the appeal. Appeals will be held before the City Hearing Examiner. Only parties of interest identified on the appeal shall be considered in the hearing before the examiner.