

DSG Policy Memorandum  
Administrative Interpretation  
#11-01



**DEVELOPMENT SERVICES GROUP**

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**TO:** DSG Staff  
**FROM:** Tim Stewart, AICP, Development Services Director  
**DATE:** February 15, 2011  
**RE:** Interpretation of Electric Vehicle Charging Stations  
**CC:** City Attorney

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**MICC SECTION(S) INTERPRETED**

MICC 19.02.010, 19.02.020(E), 19.03.020, 19.04.040, 19.05.020, 19.11.110, and 19.16.010

**ISSUE**

In 2009 the Washington State Legislature House Bill 1481 requiring that all local governments in Washington State allow electric vehicle charging stations in most of zoning categories.

The law addresses electric vehicle infrastructure which are defined as the structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

**FINDINGS**

An analysis of the existing zoning regulations related to charging station finds that it is classified as an "accessory use" or in an "accessory building" if in conjunction with the primary use.

1. For single family zones, MICC 19.02.010(A)(2) state that "Accessory buildings incidental to the main building" are an allowed use, outright, in the single family zones (R-8.4, R-9.6, R-12, and R-15). MICC 19.16.010 (G) defines a "garage" as "an accessory building or an accessory portion of the main building designed and/or used customarily for parking or storage of vehicles, trailers, and boats by the occupants of the main building, which does not meet the definition of a carport." Vehicles are customarily incidental and accessory to the use of a single-family dwelling unit, as garages are defined as an accessory building. While infrastructure for liquid gas is not customary for a single family dwelling, electrical supply, including outlets, is an essential part of dwelling units, customarily incidental, and accessory to such. Appurtenances of single-family residences include electrical service leads, garages, and utilities.

2. For multi-family zones, MICC 19.03.010(C)(7)(a) states *“Single-family residential accessory uses are permitted outright.”* and MICC 19.03.010(C)(7)(c) states *“Accessory uses customarily incidental to a principal use [are] permitted outright in this section.”*
3. For non-residential uses in all zones, off-street parking stalls are required for the primary use of a site within single-family and non-single family zones per MICC 19.02.010, 19.02.020(E), 19.03.020, 19.04.040, 19.05.020, and 19.11.110.

MICC 19.16.010 defines “Accessory Use” as *“A use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.”* MICC 19.16.010 defines an “Appurtenance” in the Town Center and Multifamily Zones as *“a subordinate element added to a structure which is necessarily connected to its use and is not intended for human habitation or for any commercial purpose, other than the mechanical needs of the building, such as areas for mechanical and elevator equipment, chimneys, antennas, communication facilities, smoke and ventilation stacks.”* Appurtenance for the Business (B), Commercial Office (CO), Planned Business Zone (PBZ), and Public (P) zones are not defined by MICC 19.16.010.

The Mercer Island City Code provides the requirements for the “number” of parking stalls that must be provided for various uses. No section within Title 19 of the Mercer Island City Code requires parking stalls to be provided without restriction to access. If an electric vehicle charging station is associated with the required parking for the primary use, the Code Official finds that the charging station is incidental, and supports the primary use.

4. However, MICC 19.16.010 (S) defines Service Stations as *“Establishments retailing automotive fuels (e.g., gasoline, diesel fuel, gasohol) and automotive oils. These establishments may also provide repair and maintenance services for automotive vehicles and/or convenience store retailing.”* Therefore, the establishment would meet the definition of a service station if the primary use is the refueling of petroleum or electric vehicles. The service station would be allowed only in those areas that permit such defined uses.

## **CONCLUSIONS**

1. Charging of electric vehicles is permitted in single family zones and multi-family zones, when incidental to the primary use, and not for commercial purposes.
2. Electric vehicle charging stations are allowed in all other zones if associated with the primary use. Additional off-street parking is not required of a development when required off-street parking stalls are reserved for charging licensed electric vehicles whose parking is associated with the primary use.
3. If the primary use is the retailing of electric charging for a vehicle, the automotive fuel for electric vehicles, then the use meets the definition of a “service station”, and is only permitted in areas zoned for service stations.
4. Any installation for an accessory charging station may be subject to all other applicable permits, such as electric permits. Service stations may be subject to design review, as provided in MICC 19.15.040(D).