

ORDINANCE NO. 2018-03

AN ORDINANCE of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; amending Section 4 of Ordinance No. 2018-02 to amend and clarify certain exclusions to the moratorium; providing for severability; declaring an emergency; and establishing an immediate effective date.

WHEREAS, on January 9, 2018, the Bainbridge Island City Council enacted Ordinance No. 2018-02 and thereby established a temporary emergency moratorium on the acceptance and processing of certain Permit Applications, as defined in Section 2 of Ordinance No. 2018-02; and

WHEREAS, Section 4 of Ordinance No. 2018-02 establishes several types of Permit Applications that are excluded from the moratorium; and

WHEREAS, the City Council and City staff have received feedback and comment from individuals related to the moratorium and, based on that comment and feedback, the Council has determined that certain exclusions to the moratorium need to be amended to clarify the Council's intent regarding such exclusions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as additional and supplemental findings of fact to the City Council's initial findings of fact in support of the moratorium, as established by Ordinance No. 2018-02.

Section 2. Moratorium Amended. Section 4 of Ordinance No. 2018-02 is hereby amended as follows related to the exclusions to the moratorium:

- A. "Legislative Approvals" and "Quasi-Judicial Decisions by City Council" as identified on Table 2.16.010-1 of BIMC 2.16.010 for projects that are already vested.
- D. Permits and approvals for additions, alterations, or remodels to existing buildings ~~when such additions, alterations, or remodels do not require a Site Assessment Review because they are exempt from such review pursuant to BIMC 15.19.040.~~
- F. Permits and approvals, the sole purpose of which is for the ~~for~~ removal and replacement of hazardous trees or invasive plant species.
- I. Permits and approvals for affordable housing projects that qualify as Housing Design Demonstration Project (HDDP) Tier 3 projects pursuant to BIMC 2.16.020.Q. and Table 2.16.020.Q-1.
- O. Permits and approvals Building permit applications for single family residences in existing plats, in the R-0.4, R-1, and R-2 zones for single family residences that are not part of an approved subdivision, provided that the applicant owned the property as of the effective date of this ordinance Ordinance No. 2018-02, and further provided that a person, or entity, or group of commonly-owned entities may only use this exclusion once,

unless the development would result in the conversion of three-quarter acres, or more, of vegetation to lawn or landscape areas, or would convert 2.5 acres, or more, of native vegetation to pasture.

- ~~P. Building permit applications for a single family residence in a zone other than zones R-0.4, R-1, and R-2, provided that the building permit application for the single family residence is not for a permit that is part of an approved subdivision.~~
- Q. Building permit applications Permits and approvals for complete site plan and design review applications or other complete land use applications that had been submitted prior to the effective date of the moratorium, and any such applications that have been approved and for which such approval has not expired.
- ~~R. Building permit applications for single family residences that in addition to fully complying with the current critical areas ordinance also voluntarily comply with the new critical areas ordinance, 2018-01, specifically in regard to BIMC 16.20.100.E., Native Vegetation Protection Area Requirement. To be eligible for this exclusion, all such building permit applications for single family residences submitted during the moratorium and until the newly updated critical areas ordinance is effective will not be accepted until the applicant has signed a certification provided by the City in which the applicant certifies that they will comply with the new critical areas ordinance, that they are voluntarily waiving their right to vest under the City's current critical areas regulations, and that they will not seek to revise or amend their application except as allowed under the new critical areas ordinance.~~

Section 3. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Declaration of Emergency; Effective Date; Duration. This ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "Whereas" clauses above and the "Whereas" clauses in Ordinance No. 2018-02, all of which are adopted by reference as findings of fact as if fully set forth herein. This ordinance amending the moratorium shall take effect immediately, and shall remain effective for the six (6) month period as established by Ordinance No. 2018-02, unless terminated earlier by the City Council. Provided, that the Council may, at its sole discretion, renew the moratorium for one or more six month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council this 16th day of January, 2018.

APPROVED by the Mayor this 16th day of January, 2018.



Kol Medina, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, City Clerk

FILED WITH THE CITY CLERK	January 16, 2018
PASSED BY THE CITY COUNCIL	January 16, 2018
PUBLISHED:	January 26, 2018
EFFECTIVE DATE:	January 16, 2018
ORDINANCE NO:	2018-03