

## **ORDINANCE NO. 2018-01**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to critical areas, repealing Chapter 16.20, and adopting an updated Chapter 16.20 of the Bainbridge Island Municipal Code.

**WHEREAS**, this ordinance was previously referred to as Ordinance No. 2017-17 but has now become Ordinance No. 2018-01 because the City Council did not vote on passage of the ordinance in 2017 and forwarded the ordinance for further Council discussion into 2018; and

**WHEREAS**, the adopted City of Bainbridge Island Comprehensive Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

**WHEREAS**, the City of Bainbridge Island (“City”) is required by the Growth Management Act (“GMA”) (see, e.g., RCW 36.70A.130) to conduct a periodic legislative review and update of its comprehensive plan and development regulations to ensure consistency with updated state laws and population and employment projections; and

**WHEREAS**, June 30, 2017, was the deadline to update to the City’s Critical Areas Ordinance; and

**WHEREAS**, the City notified the Washington State Department of Commerce that although the City had been making progress on the review and update of its Comprehensive Plan, it would not meet the June 30, 2017, deadline; and

**WHEREAS**, the Department of Commerce accepted the City’s delayed action, requesting to be kept abreast of the City’s progress; and

**WHEREAS**, the State Growth Management Act (GMA) includes adopted goals and requirements to guide the development and adoption of comprehensive plans and development regulations, including requirements to designate and protect environmentally critical areas; and

**WHEREAS**, the City has considered those adopted goals, policies, and requirements in developing the proposed Critical Areas Ordinance Update; and

**WHEREAS**, the City’s Comprehensive Plan acknowledges the finite nature of the Island’s natural resources and the unpredictable cumulative impacts of climate change in our region by including integration of the precautionary principle to protect and preserve natural resources in accordance with WAC 365-195-920; and

**WHEREAS**, the City researched and assessed work of other jurisdictions related to standards and requirements for regulating critical areas, undertook a Best Available Science (BAS) review and public process in accordance with the requirements of the

GMA, developed Critical Areas Ordinance drafts, and held meetings and hearings throughout the code development process; and

**WHEREAS**, on April 27, May 5, 11, 18, and 25, and on June 1, 8, 15, 19, and 22 the Planning Commission discussed the Critical Areas Ordinance Update; and

**WHEREAS**, each of the 10 Planning Commission meetings included an opportunity for public comment on the 2017 Critical Areas Ordinance Update; and

**WHEREAS**, the Planning Commission conducted a public hearing on the Critical Areas Ordinance Update contained in this Ordinance No. 2018-01 on June 26, 2017; and

**WHEREAS**, the City notified the Department of Commerce on June 30, 2017, of its intent to revise its development regulations relating to critical areas; and

**WHEREAS**, the City issued a State Environmental Policy Act (“SEPA”) Determination of Non-Significance for this Ordinance No. 2018-01 on July 21, 2017; and

**WHEREAS**, the City Council reviewed and considered the 2017 Critical Areas Ordinance Update at regularly scheduled meetings on August 2, 8, and 22 and September 5, 12, and 19, 2017; and

**WHEREAS**, each of the six City Council meetings included an opportunity for public comment on the 2017 Critical Areas Ordinance Update; and

**WHEREAS**, the City provided for continuous public participation in the update process through, for example, notification of public meetings and public hearings, maintenance of a project page on the City’s website, notification through the City Manager’s Report, maintenance of a project email listserv, and development of informational materials available throughout the update process; and

**WHEREAS**, the City Council conducted a public hearing on Ordinance No. 2018-01 on October 3, 2017 and continued the public hearing until November 14, 2017, and further continued public hearing on the ordinance until January 9, 2018; and

**WHEREAS**, the City Council considered and discussed revisions to Ordinance No. 2018-01 at regularly scheduled meetings on October 17 and 24, and December 12, 2017, as well as on January 9, 2018, and during a special meeting on January 30, 2018; and

**WHEREAS**, there has been a substantial public comment period for the 2017 Critical Areas Ordinance Update, beginning on August 2, 2017, and continuing to the closure of the written comment period on November 20, 2017; and thereafter extended to January 9, 2018; and

**WHEREAS**, the Department of Planning and Community Development held a “CAO Information Meeting” for the public on February 12, 2018; and

**WHEREAS**, during the development of the recommended code revisions, the City has been provided feedback and comment on draft work products and guidance from a wide variety of stakeholders, including members of the public, City staff, the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, the Suquamish Tribe, other stakeholders and experts, and the Bainbridge Island Planning Commission; and

**WHEREAS**, as required by law, the City Attorney’s Office conducted an evaluation of the proposed regulatory and administrative actions in this Critical Areas Ordinance Update and determined that those actions avoid unconstitutional takings of private property in the context of, for example, RCW 36.70A.020(6), RCW 36.70A.370, and the Washington State Attorney General’s “Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property;” and

**WHEREAS**, the City Council has determined that it is necessary to repeal Chapter 16.20 of the Bainbridge Island Municipal Code (“BIMC”) and replace it with an updated Chapter 16.20 BIMC, the Critical Areas Ordinance; and

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

**Section 1.** Chapter 16.20 BIMC is hereby repealed.

**Section 2.** An updated Chapter 16.20 BIMC is hereby adopted, as set forth in Exhibit A and as incorporated herein.

**Section 3.** This ordinance shall take effect and be in force on April 23, 2018, after its passage and publication as required by law.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Kol Medina, Mayor

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Christine Brown, City Clerk

FILED WITH THE CITY CLERK:	, 2017
PASSED BY THE CITY COUNCIL:	, 2018
PUBLISHED:	, 2018
EFFECTIVE DATE:	, 2018
ORDINANCE NUMBER:	2018-01

Exhibit A: Chapter 16.20 BIMC