

ORDINANCE NO. 2018-08

AN ORDINANCE of the City of Bainbridge Island, Washington, amending Title 2 of the Bainbridge Island Municipal Code to ensure consistency with the updated 2018 Critical Areas Ordinance.

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

WHEREAS, the City must adopt development regulations that implement the Comprehensive Plan; and

WHEREAS, Ordinance No. 2018-01 (formerly Ordinance No. 2017-01) adopts the update to the City’s Critical Areas Ordinance, and will be effective April 23, 2018; and

WHEREAS, the changes to the Bainbridge Island Municipal Code (“BIMC”) executed through this ordinance are generally procedural or clarifying changes being made to ensure consistency in the City’s regulations and to address associated issues.

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

Section 1. Section 2.16.010, *Land Use Procedures Summary Table – Table 2.16.010-1: Summary Table of Land Use Procedures*, of the Bainbridge Island Municipal Code is amended to read as shown in Appendix A.

Section 2. Section 2.16.020.G, *General Provisions – Preapplication Procedures*, of the Bainbridge Island Municipal Code is amended to read as follows:

3. A preapplication conference may be recommended by the department director for any type of land use application that the director believes may be complex or controversial, but is required prior to submitting an application for the following land use applications unless a waiver is obtained pursuant to this subsection G.3:
 - a. Minor or major conditional use;
 - b. Minor or major variance;
 - c. Minor or major site plan and design review approval;
 - d. Preliminary long subdivision and short subdivision;
 - e. Shoreline substantial development permit, shoreline variance, and shoreline conditional use permit;
 - f. Shoreline substantial development exemption for new shoreline armoring (including bulkheads, revetments, and soft shore designs);

- ~~g. Buffer reduction in geologically hazardous areas;~~
- gh. Comprehensive plan amendment;
- hi. Reasonable use exception;
- ~~ij. Habitat management plans;~~
- ~~k. Habitat buffer averaging;~~
- ~~l. Special use review; and~~
- ~~im. Consolidated project review; and~~
- j. Major critical area permit.

Section 3. Section 2.16.020.G, *General Provisions, Preapplication Procedures*, of the Bainbridge Island Municipal Code is amended to read as follows:

- 4. Except in the case of (a) preliminary short subdivisions and long subdivisions, (b) shoreline substantial development exemptions or permits for new shoreline armoring (including bulkheads, revetments, and soft shore designs), ~~(c) buffer reductions in geologically hazardous areas,~~ (cd) where the HDDP process is being used, and ~~(de)~~ where DRB review is required, a preapplication conference may be waived in writing by the director if the director determines the following:
 - a. The application is consistent with applicable codes and ordinances;
 - b. The proposed use is clearly listed as a permitted use or a conditional use in the zoning district in which it is located; and
 - c. The applicant demonstrates knowledge and understanding of the city's permit processing procedures.

Section 4. Section 2.16.020.K, *General Provisions, Notice Requirement*, of the Bainbridge Island Municipal Code is amended to read as follows:

- 3. Exemptions from Public Notice Requirements on Land Use Decisions. The following land use applications do not require a notice of application and public comment period or notice of decision:
 - a. A building permit or other construction permit, unless a notice of intent to construct in geologically hazardous areas is required under BIMC 16.20.1540.
 - b. An administrative decision that is categorically exempt under SEPA (Chapter 43.21C RCW), unless the permit application procedures require a public comment period or public hearing. Flexible lot design short or long plats are not exempt from notice requirements.

Section 5. Section 2.16.020.N, *General Provisions, Required Notices on Title*, of the Bainbridge Island Municipal Code is amended to read as follows:

Required Notices on Title. Where any provision of the Bainbridge Island Municipal Code requires the recording of a notice on title related to a land condition or land use approval condition, the applicant shall record those notices in the form shown in the Bainbridge Island Municipal Code or administrative manual. In the case of long, short, or large lot subdivisions, the notice shall be recorded prior to or at the recording of the final plat. In the case of other approvals, the notice shall be recorded before the issuance of any building permit related to the approval.

Section 6. Section 2.16.020.O, *General Provisions, Approval Binding*, of the Bainbridge Island Municipal Code is amended to read as follows:

Approval Binding. No person, firm or corporation shall locate or expand a use for which any land use approval is required without first obtaining that land use approval. Once a land use application has been approved, no building or development of any sort shall occur contrary to the approved land use application unless this title includes a procedure for adjustments or modifications and the city has approved those adjustments or modifications. ~~Any critical area or critical area buffers shown on the face of the plat will remain in effect for the life of the plat.~~

Section 7. A new Section 2.16.220, *Critical Area Permits, Minor or Major*, of the Bainbridge Island Municipal Code is added to read as follows:

- A. Purpose. The purpose of this section is to provide an administrative review process for critical area permits to ensure compliance with the city's critical areas regulations, as defined by Chapter 16.20 BIMC, and to provide a mechanism for tracking and monitoring development, uses, and activities within critical areas.
- B. Applicability.
 - 1. Minor projects should be limited to the following unless otherwise determined by the director:
 - a. Tree and vegetation activities requiring a critical area permit pursuant to 16.20.090 BIMC;
 - b. Designation of an aquifer recharge protection area pursuant to 16.20.100.E BIMC;
 - c. Proposals for development, uses, or activities within geologically hazardous areas and their setbacks; and
 - d. Development uses and activities specified in BIMC 16.20.110.G and BIMC 16.20.140.H that do not require submittal of a critical area report as determined by the director.
 - 2. The major critical area permit process shall be used for all other development, uses, and activities within critical areas and their buffers; provided that, submittal of a Reasonable Use Exception or Buffer Enhancement Plan do not require a critical area permit.

C. Procedures. Application materials for critical area permits can be found in the administrative manual.

1. Minor Critical Area Permit. City review and director pre-approval is required. Such authorization may occur over-the-counter and requires written approval. Minor critical area permits may be approved through the building or construction permit process, if one is required for the proposal.
2. Major Critical Area Permit. Major critical area permits shall be reviewed through the general administrative review procedures described in BIMC 2.16.030.

D. Decision Criteria. Applications for critical area permits, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the criteria in BIMC 16.20.070.2.

Section 8. This ordinance shall take effect and be in force on April 23, 2018.

Section 9. 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.

PASSED BY THE CITY COUNCIL this ____ day of March, 2018.

APPROVED BY THE MAYOR this ____ day of March, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK:	March 9, 2018
PASSED BY THE CITY COUNCIL:	March ____, 2018
PUBLISHED:	March ____, 2018
EFFECTIVE DATE:	April 23, 2018
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