

EMERGENCY ORDINANCE NO. 2021-08-033

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LAND USE REGULATIONS; DECLARING AN EMERGENCY; ADOPTING AND RENEWING AN EMERGENCY MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR AND THE CONSTRUCTION OF NEW DETACHED OR ATTACHED SINGLE-FAMILY DWELLING UNITS IN RESIDENTIAL MULTI-FAMILY ZONES; AND SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM.

WHEREAS, the City Council asked staff to “leave no stone unturned” in seeking solutions to the City’s housing crisis; and

WHEREAS, through a series of focused discussions, staff identified several approaches that could result in increased housing choice and variety for people of all ages, abilities and incomes. Key to these discussions was City Council’s direction to find ways to allow smaller, less expensive homes; and

WHEREAS, staff’s analysis of these options indicated that many areas zoned Residential Multi (RM or multi-family) have been significantly underdeveloped with densities much less than what’s intended in the Bellingham Comprehensive Plan. In many cases, these areas have been developed predominantly with lower density single-family homes; and

WHEREAS, changes to the Bellingham Municipal Code (BMC) to facilitate the uses envisioned for RM zones have the potential to not only result in a broader range of housing types, but to also advance many goals and policies of the Comprehensive Plan, including those related to small-scale, context-sensitive housing, climate change and efficient land use; and

WHEREAS, on August 26, 2019, City staff presented its preliminary analysis to the City Council Planning and Community Development Committee and was directed to further identify the necessary changes to facilitate intended development in RM zones; and

WHEREAS, staff has undertaken a new RM project that includes a simplified ranged zoning system for all RM zones, an expansion of infill housing toolkit forms in RM zones, and minimum densities in RM zones; and

WHEREAS, the RM project will include amendments to the BMC and neighborhood plans, which are subject to a Type VI process, including public hearings with the Planning Commission and City Council; and

WHEREAS, on January 9, 2020, staff presented an overview of the RM project to the Planning Commission; and

WHEREAS, an emergency exists necessitating adoption of a moratorium concerning the processing of applications and the construction of new single-family dwelling units in RM zones in order to preserve opportunities for achieving intended densities in these zones; and

WHEREAS, a moratorium enacted under RCW 36.70A.390 and/or RCW 35.63.200 is one way local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, on March 9, 2020, the City Council adopted Ordinance No. 2020-03-006, which established a twelve-month moratorium on single family development in residential multi zones; and

WHEREAS, on March 8, 2021, the City Council adopted Ordinance No. 2021-03-010, which extended and renewed the moratorium for six-months; and

WHEREAS, on June 10, 2021, the Planning Commission adopted Findings of Facts and Conclusions of Law and recommended the City Council adopt new development regulations for RM zones; and

WHEREAS, Ordinance No. 2021-03-010 will expire on September 7, 2021 if not renewed and extended; and

WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the City Council to adopt and renew a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing as long as a public hearing is held within at least 60 days of its enactment; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least 60 days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal"; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this moratorium ordinance is exempt from the requirements of a threshold determination under the State Environmental

Policy Act (SEPA) and future permanent zoning regulations will be reviewed in accordance with SEPA Rules; and

WHEREAS, the moratorium will provide the City with additional time to review and amend its land use regulations and its neighborhood plans, related to the establishment of minimum densities in RM zones; and

WHEREAS, the City Council concludes that it has the authority to establish an emergency moratorium and that the City must adopt an emergency moratorium on the processing of applications and the construction of new single-family dwelling units in City's RM zones in order to preserve the status quo in the RM zones while it considers options for achieving the intended densities in these zones; and

WHEREAS, the City Council adopts the foregoing recitals as its findings of facts justifying the adoption of this ordinance.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to draft new regulations that may include a simplified ranged zoning system for all RM zones, densities bonuses for projects that meet location-efficient criteria in RM zones, an expansion of infill housing toolkit forms in RM zones, and minimum densities in RM zones. This moratorium will prohibit the processing of applications for and the construction of new single-family dwelling units in RM zones in order to prevent development that is inconsistent with the intended densities of RM zones.

Section 3. Moratorium Imposed. The City Council hereby renews and extends the moratorium on the acceptance, processing, review or issuance of any land use or building application or permit for the construction of any new, detached or attached single-family dwelling unit or residence, or land divisions that create new single-family lots in any and all Residential Multi zoned areas for an additional six (6) months unless in compliance with this ordinance.

Exceptions to this moratorium include:

1. Additions, repairs, remodels or other minor alterations to pre-existing single-family residential structures; or
2. Applications to replace in-kind, repair, maintain, or otherwise improve an existing mobile home or manufactured home; or
3. The reconstruction of a single-family residence on a like-for-like basis when destroyed or damaged by earthquake, flood, fire, vehicular collision or similar accidental cause; or

4. Applications for new cluster subdivisions using a lot bonus provision as provided for in BMC 23.08.040 C.; or
5. Any project approved under BMC 20.28 – Infill Housing - that achieves the maximum allowed density for the project site; or
6. Development of a lot that is determined to have vested status under BMC 23.20.060; or
7. Land use or building applications or permits that are deemed complete or have received approval by the date of this moratorium; or
8. Land use or building applications or permits for the creation of new accessory dwelling units (BMC 20.10.036) in RM zones; or
9. Land use or building applications or permits for single-family dwelling units that the planning and community development director finds that because of special circumstances applicable to the subject property (including size, shape, topography, location, or surroundings) and not the result of the owner's action, the site cannot be developed with multi-family units or other types of development under the exemptions listed herein.

Section 4. Applicability. This moratorium shall apply to the use of land within areas which have been designated by the zoning tables (BMC 20.00) to have a Residential Multi general use type or mixed-use type and as identified on EXHIBIT A.

Section 5. Duration of Moratorium. This moratorium shall be in effect for an additional six (6) months, beginning on August 30, 2021, and ending on February 28, 2022, unless an ordinance is adopted amending the Bellingham Municipal Code and rescinding the moratorium before February 28, 2022.

Section 6. Public Hearing Required. As required by RCW 36.70A.390, within 60 days of passage of this ordinance, the City Council will hold a public hearing on this moratorium.

Section 7. Work Plan. During the renewed moratorium period, City staff will continue to study the issues concerning the nature of single-family dwelling units and minimum densities in RM zones and will include that work with the ongoing legislative review process for the RM project. Staff will prepare a draft ordinance with appropriate revisions to the City's land use regulations and, if necessary, neighborhood plans, perform SEPA review of the draft ordinance, and conduct a public review process for the amendments, which includes public hearings before the City's Planning Commission and City Council.

Section 8. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this ordinance take effect immediately and that this moratorium ordinance must be imposed as an emergency measure to prevent development that would

result in densities incompatible with those established for RM zones, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

Section 9. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130 and City Charter Section 3.05.

Section 10. Conflict with Other BMC Provisions. If the provisions of this moratorium are found to be inconsistent with other provisions of the Bellingham Municipal Code, this moratorium shall control.

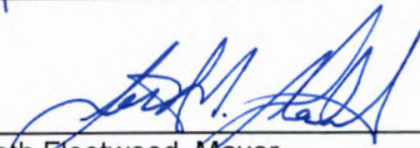
Section 11. Severability. If any section, sentence, clause or phrase of this moratorium ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this moratorium ordinance.

PASSED by the Council this 30th day of August, 2021.

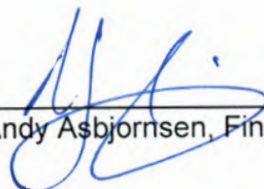


Hannah Stone, Council President

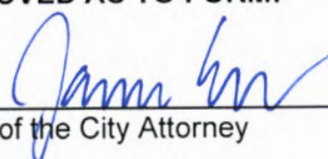
APPROVED by me this 10 day of September, 2021.



Seth Fleetwood, Mayor

ATTEST: 

Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published:

September 3, 2021

EXHIBIT A

