

ORDINANCE NO. 2020-01-1060

AN ORDINANCE OF THE CITY OF WHITE SALMON, WASHINGTON, ADOPTED PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390; IMPOSING A TEMPORARY SIX-MONTH MORATORIUM ON DEVELOPMENT IN THE MOBILE HOME RESIDENTIAL DISTRICT (MHR) WSMC CH.17.36, SINGLE FAMILY RESIDENTIAL DISTRICT (R1) CH. WSMC 17.24, SINGLE FAMILY LARGE LOT RESIDENTIAL DISTRICT (RL) WSMC CH. 17.23, TWO FAMILY RESIDENTIAL DISTRICT (R2) WSMC CH. 17.28 AND MULTIFAMILY RESIDENTIAL DISTRICT (R3) WSMC CH.17.32; SETTING FORTH FINDINGS OF FACT IN SUPPORT OF THIS MORATORIUM; IMPOSING THE MORATORIUM; STATING THE EFFECT ON VESTED RIGHTS; PROVIDING FOR EXCLUSIONS; RECOGNIZING THAT A PUBLIC HEARING WILL BE HELD WITHIN 60 DAYS; AUTHORIZING INTERPRETATIVE AUTHORITY; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; SETTING THE DURATION; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt moratoria related to land uses; and

WHEREAS, the City Council of the City of White Salmon ("City") adopted the City's Comprehensive Plan in 2012; and

WHEREAS, the City Council has significant concerns about development and growth in the City under current regulations in the context of the vision and goals of the City's Comprehensive Plan, and is in the process of discussing how to best accommodate growth and development in both general and specific ways, and finds that unless the City acts immediately to preserve the status quo, there are likely to be adverse impacts on the City and its citizens; and

WHEREAS, the City's Comprehensive Plan housing goal (H-1) is to provide locations for a variety of residential uses and dwelling, while minimizing impacts on surrounding uses; and

WHEREAS, the City's Comprehensive Plan housing policy (H-1.3) states that the quality and character of all designated residential areas shall be maintained and protected from conversion to incompatible and irreversible land uses; and

WHEREAS, the City's Comprehensive Plan housing goal (H-2) is to promote diversified residential opportunities for all economic levels; and

WHEREAS, City's Comprehensive Plan housing policy (H-2.3) states opportunities for all economic income levels shall be encouraged, particularly workforce housing; and

WHEREAS, City's Comprehensive Plan housing goal (H-2.6) states both site built and manufactured housing shall be recognized as necessary and functional housing although special standards in placement and locations will apply to each; and

WHEREAS, the City Council and Planning Commission are currently working on a “buildable lands inventory, housing needs and economic opportunity analysis” in addition to the City’s Urbanization Study and Comprehensive Plan updates; and

WHEREAS, statewide Klickitat County repeatedly records the highest relative median home price increase, notably in 2008, 2017 and again in 2019 (Washington Center for Real Estate Research for the Washington State Real Estate Commission); and

WHEREAS, the City Council has concerns regarding likely adverse impacts related to growth and development under existing WSMC Title 17 residential zonings. More specifically, the potential for rezoning Mobile Home Residential District (MHR) WSMC Ch.17.36, Single Family Residential District (R1) Ch. WSMC 17.24, Single Family Large Lot Residential District (RL) WSMC Ch. 17.23, Two Family Residential District (R2) WSMC Ch. 17.28 and Multi-family Residential District (R3) WSMC Ch.17.32 regulations require immediate attention by the Council and City staff and include, but are not limited to, the following:

- (1) Compliance with design review standards and the role of Hearing Examiner, Planning Commission, and City Council in the land use development review and decision-making process, as well as meeting the goals of the Comprehensive Plan more generally.
- (2) Challenges providing opportunities for all economic income levels.
- (3) Challenges protecting designated residential areas from conversion to incompatible and irreversible land uses.
- (4) Serious challenges promoting affordable housing in a manner consistent with the City's Comprehensive Plan; and

WHEREAS, based on these and related concerns, the City Council requires additional time to review the regulations and policies at issue to ensure that the vision and goals of the City's Comprehensive Plan are being met to the Council's satisfaction; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

WHEREAS, one of the most frequent responses among citizens, as cited in the 2019 Visioning Survey presented to City Council and the Planning Commission this past September 2019, regarding what would they like to change or improve in White Salmon in the future, is the variety of housing types and the need for affordable housing; and

WHEREAS, the moratorium imposed herein promotes the public good and is necessary for the protection of public health, property, safety, and welfare. A public emergency exists requiring that the City's moratorium become effective immediately upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council's initial findings of fact in support of the moratorium established by this ordinance. The City Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 5 below.

Section 2. Moratorium Imposed. As authorized by the police powers of the City as set forth, for example, in Article XI, Section 11, of the Washington State Constitution, and pursuant to statutory authority set forth, for example, in RCW 36.70A.390 and RCW 35A.63.220, and unless expressly excluded under Section 3 and Section 4 of this ordinance, the City hereby imposes a temporary moratorium on all building permit applications or other land development applications, included or otherwise described in White Salmon Municipal Code, as they relate to activities in:

- Mobile Home Residential District as defined by WSMC Chapter 17.36,
- Single Family Residential District (R1) Ch. WSMC 17.24,
- Single Family Large Lot Residential District (RL) WSMC Ch. 17.23,
- Two Family Residential District (R2) WSMC Ch. 17.28 and
- Multifamily Residential District (R3) WSMC Ch.17.32.

Section 3. Effect on Vested Rights. The moratorium imposed under Section 2 of this ordinance shall apply prospectively only, and shall operate to prevent acceptance of Permit Applications submitted after the effective date of this ordinance. Nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any permit applicant's vested development rights as defined by state law and City of White Salmon regulations, provided that a permit applicant has filed a complete Permit Application before the effective date of this ordinance.

Section 4. Exclusions. The provisions of this moratorium shall not apply to any Permit Applications or projects that are specifically excluded by the Exclusions set forth in this ordinance. These Exclusions, unless expressly modified by the City Council, are specifically limited to:

- A. Permits and approvals that are vested by contract, such as those covered by an approved development agreement.
- B. Permits and approvals for government facilities and structures (e.g., streets, utilities, surface water facility improvements), including for facilities and structures of municipal corporations and special purpose districts (e.g., the City of White Salmon, White Salmon Valley Metropolitan Park District, White Salmon Valley School District, Klickitat County, Klickitat County Public Utility District.
- C. Permits and approvals for additions, alterations, or remodels to existing buildings when such additions, alterations, or remodels do not require a Site Assessment Review. Site Assessment Reviews do not include site plan reviews conducted by the City of White Salmon building official.

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- D. Permits and approvals for emergency repairs or construction to protect people or property necessitated by a hazardous event or natural disaster (e.g., geologically unstable slope, fire, flooding, earthquake).
 - E. Permits and approvals for removal and replacement of hazardous trees or invasive plant species.
 - F. Permits and approvals for signs.
 - G. Permits and approvals for emergency medical and disaster relief facilities.
 - H. Permits and approvals for housing projects meeting affordable housing thresholds as determined by City Council. The City Council shall adopt affordable housing thresholds within no less than 30 days from the date of this ordinance.
 - I. Permits and approvals for maintenance and repair activities for privately owned sewer systems and water systems.
 - J. Placement permits for manufactured homes.
 - K. Building permit applications for complete site plan applications or other complete land use applications that have been submitted prior to the effective date of the moratorium.
 - L. Building permits for single family residences to be constructed on vacant parcels of land to preserve reasonable use of property as guaranteed by the Fourteenth Amendment of the Constitution.

Section 5. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at a City Council meeting within 60 days of adoption of this ordinance in order to take public testimony and to consider adopting further findings of fact.

Section 6. Interpretive Authority. The City of White Salmon Mayor, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 7. 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 8. 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, all of which are adopted by reference as findings of fact as if fully set forth herein. This moratorium shall take effect immediately, and shall remain effective for six (6) months, 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.

Section 9. Severability: If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence or phrase of this Chapter.

Section 10. Effective date. This ordinance shall take effect immediately upon adoption by a majority plus one of the councilmembers as necessary to protect public health and safety, public property or public peace.


PASSED by the City Council of the City of White Salmon at a regular meeting this 15th day of January 2020.


Marla Keethler, Mayor

ATTEST:


Jan Brending, Clerk Treasurer

APPROVED AS TO FORM:


Kenneth B. Woodrich, City Attorney