

INTERIM ORDINANCE NO. 2018-12-64

An emergency interim ordinance relating to land use and zoning controls, suspending provisions in the Clark County Plan, Plan Map and Code made by section 4 of Ordinance 2016-04-03 and section 1 of Ordinance 2016-05-03, and adopting a limited moratorium on applications to develop lands within the Rural Industrial Land Bank Overlay, and

WHEREAS, pursuant to the Growth Management Act (GMA), the Council adopted Ordinance 2016-04-03 and Ordinance 2016-05-03 (together, the Amendments), which revised the Clark County 20-Year Comprehensive Growth Management Plan (Plan) Map, the Clark County Code (CCC or Zoning Ordinance) and the zoning map as follows:

Parcel numbers as listed below are changed from a Comprehensive Plan designation of Agriculture and zoning designation of agriculture (AG-20) to a designation of Employment Center and a zoning designation of light industrial with a rural industrial land bank overlay (IL-RILB):

198335000, 198375000, 196656000, 198111000, 198324000, 198112000, 198101000, 198075000, 198072000, 198080000, 198082000, 198113000, and 198076000.

WHEREAS, the Amendments were timely appealed to the Washington Growth Management Hearings Board, Western Region (Hearings Board); and

WHEREAS, the County has not received and processed any application and/or pre-application for development in the Rural Industrial Land Bank (RILB) overlay district since the effective date of Ordinance 2016-04-03; and

WHEREAS, the Hearings Board on March 23, 2017, issued its Final Decision and Order (Order) finding and concluding that the portions of the 2016 Plan amendment described above had violated GMA, and directed Clark County to come into compliance with GMA; and

WHEREAS, the Hearings Board has determined that the County's 2016 Plan Update is invalid, as it relates to the properties in the Rural Industrial Land Bank designation; and

WHEREAS, determinations of noncompliance and invalidity under GMA threaten the County's ability to apply for and receive grants and loans from the Washington State Public Works Fund and Transportation Improvement Board, to the detriment of the County's ability to construct and improve needed transportation infrastructure throughout the County; and

WHEREAS, a determination of invalidity under GMA prevents the vesting of certain future applications for development in the County's Rural Industrial Land Bank areas; and

WHEREAS, due to applicable vesting law and the need to enhance the County's eligibility for state assistance in financing County transportation improvements, immediate suspension of the Amendments that created and implemented the RILB designations is necessary to allow the

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Council to reevaluate the potential consequences of the RILB adoption in light of the Hearings Board's Order, and its Orders dated January 10, 2018 and October 17, 2018, which found noncompliance as to the RILB; and

WHEREAS, RCW 35.63.200 and RCW 36.70A.390 authorize the Council to adopt an interim zoning ordinance without holding a public hearing, provided that a duly noticed public hearing is held with 60 days of adoption and the Council adopts findings supporting the ordinance; and

WHEREAS, the Clark County Home Rule Charter authorizes the Council to adopt an ordinance as an emergency that would take immediate effect upon a finding that the ordinance is necessary for the immediate support of the County government and its existing public institutions, and the affirmative votes of 4 (four) Council members; and

WHEREAS, the Council finds and concludes that this interim ordinance would further public health, safety, and welfare, and is necessary for the immediate support of the County government and its existing public institutions; it is now, therefore,

**ORDERED, RESOLVED AND DECREED BY THE CLARK COUNTY COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:**

Section 1. Findings. RCW 35.63.200 and RCW 36.70A.390 authorize adoption of interim zoning measures with certain limitations. In compliance with the requirements of these statutes, the Clark County Council adopts as findings the pronouncements contained in the above recital provisions.

Section 2. Moratorium. The filing of or the receipt by County staff of development applications, including pre-applications, pursuant to CCC 40.520.075 and 40.230.085 (IL-RILB) are prohibited during the effective period of this ordinance; provided, that this ordinance does not prohibit the filing or receipt of any application for development that complied with the Clark County 20-Year Comprehensive Growth Management Plan 2004-2024 and the County Code as both were in effect prior to the adoptions of Ordinance 2016-04-03 and Ordinance 2016-05-03.

Section 3. Effective Date. This interim ordinance will take effect immediately upon adoption by the affirmative votes of at least 4 (four) members of the County Council, or in 10 (days) if adopted by the affirmative votes of only 3 (three) Councilors, and will expire upon adoption of a new ordinance following consideration of this matter in a public hearing by the County Council, or 60 days from adoption, whichever is earlier.

Section 4. Instructions to Clerk. The Clerk of the County Council shall:

1. Record a copy of this ordinance with the Clark County Auditor.
2. Transmit a copy of this ordinance to the state within ten days of its adoption pursuant to RCW 36.70A.106.
3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290.
4. This ordinance is temporary in nature and is not to be codified.

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ADOPTED BY ROLL CALL VOTE this 18<sup>th</sup> day of December, 2018.

For: Julie Olson, Marc Boldt, Eileen Quiring

Against: Jeanne Stewart

CLARK COUNTY COUNCIL

Attest:

[Signature]  
Clerk of the Council

By: [Signature]  
Marc Boldt, Chair

By: \_\_\_\_\_  
Julie Olson, Councilor

By: \_\_\_\_\_  
Jeanne E. Stewart, Councilor

By: \_\_\_\_\_  
John Blom, Councilor

By: \_\_\_\_\_  
Eileen Quiring, Councilor

Approved as to form only:

Anthony F. Golik  
Clark County Prosecuting Attorney

[Signature]  
Christine M. Cook  
Senior Deputy Prosecuting Attorney

