

ORDINANCE NO. 2017-04-14

An emergency interim zoning ordinance relating to land use and zoning controls, suspending revisions to Clark County Code 40.210.010 made by Amended Ordinance 2016-06-12, and adopting a limited moratorium on land divisions within lands designated Agriculture, Forest Tier II, and Rural.

WHEREAS, pursuant to the Growth Management Act (GMA), the Council adopted Amended Ordinance 2016-06-12 (2016 Plan Update), which revised the Clark County 20- Year Comprehensive Growth Management Plan (Plan) text, the Plan Map, the Clark County Code (CCC, or Zoning Ordinance), and the zoning map as follows:

1. Established an AG-10 and FR-20 districts in place of the AG-20 and FR-40 districts, respectively; and,
2. Eliminated the Rural-20, Rural-10 and Rural-5 Plan designations in favor of a single Rural designation that was implemented by the R-20, R-10, and R-5 zones; and,
3. Changed the zoning of certain Rural parcels from R-20 to R-10; and,

WHEREAS, these aspects of the 2016 Plan Update were timely appealed to the Washington Growth Management Hearings Board, Western Region (Hearings Board); and

WHEREAS, the County has received and processed numerous applications and pre-applications for land divisions in the AG-10 and FR-20 districts since the effective date of the 2016 Plan Update; and

24 WHEREAS, these applications and pre-applications, to the extent that they have  
25 vested pursuant to state law and the Clark County Code, are governed by the standards  
26 and criteria in effect at the date of vesting; and,

27 WHEREAS, the Hearings Board on March 23, 2017, issued an Order finding and  
28 concluding that the portions of the 2016 Plan Update described above had violated  
29 GMA, and directed Clark County to come into compliance with GMA; and,

30 WHEREAS, the Hearings Board has not determined that the County's 2016 Plan  
31 Update is invalid, as it relates to Agriculture, Forest and Rural lands, but may do so in  
32 the future unless the Council adopts compliant legislation governing these lands; and,

33 WHEREAS, determinations of noncompliance and invalidity under GMA threaten  
34 the County's ability to apply and receive favorable consideration for grants and loans  
35 from the Washington State Public Works fund, to the detriment of the County's ability to  
36 construct and improve needed transportation infrastructure throughout the County; and,

37 WHEREAS, a determination of invalidity under GMA would prevent the vesting of  
38 future applications for land divisions in the County's Agriculture, Forest and Rural areas;  
39 and,

40 WHEREAS, immediate suspension of the Plan, Plan Map, Zoning Ordinance and  
41 zoning text provisions that created and implemented the AG-10, FR-20, and Rural  
42 designations and allowed the upzoning of certain Rural parcels is necessary, due to  
43 vesting laws in Washington State and Clark County Code, to provide time for the  
44 Council to reevaluate the potential consequences of the 2016 Plan Update in light of the

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45 Hearings Board's Order, and any further appeals or proceedings arising from the Order;  
46 and,

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

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

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

58 ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY  
59 COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

60 Section 1. Findings. RCW 35.63.200 authorizes adoption of interim zoning  
61 measures with certain limitations. In compliance with the requirements of this statute,  
62 the Board of County Councilors adopts as findings the pronouncements contained in the  
63 above recital provisions.

64 Section 2. Moratorium. The filing of or the receipt by County staff of  
65 development applications, including pre-applications, for land divisions pursuant to CCC

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66 40.210.010 and Chapter 40.540 CCC, or zone changes pursuant to CCC 40.560.020, in  
67 the AG-10, FR-20, R-5, R-10, and R-20 zones are prohibited during the effective period  
68 of this ordinance; provided, that an application or pre-application that is both already  
69 received by County staff, and either contingently vested or vested, shall retain its status  
70 as such and be processed accordingly; and, further provided, that this moratorium does  
71 not prohibit the filing or receipt of any application or pre-application for a land division  
72 that complied with the Clark County 20-Year Comprehensive Growth Management Plan  
73 2004-2024 and the County Code as both were in effect prior to adoption of Amended  
74 Ordinance 2016-06-12.

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

81       Section 4.   Instructions to Clerk. The Clerk to the Board shall:

- 82       1.   Record a copy of this ordinance with the Clark County Auditor.
- 83       2.   Transmit a copy of this ordinance to the state within ten days of its adoption  
84 pursuant to RCW 36.70A.106.
- 85       3.   Cause notice of adoption of this ordinance to be published forthwith  
86 pursuant to RCW 36.70A.290.

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87 4. This ordinance is temporary in nature and is not to be codified.

88 ADOPTED BY ROLL CALL VOTE this 25<sup>th</sup> day of April, 2017.

89 For: Jeanne Stewart; Julie Olson; Marc Boldt; John Blom.

90 Against: Eileen Quiring

BOARD OF COUNTY COUNCILORS

Attest:

Rebecca Fitor  
Clerk to the Board

By: Marc Boldt  
Marc Boldt, Chair

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

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

Approved as to form only:

Christine M. Cook  
Christine M. Cook  
Deputy Prosecuting Attorney

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

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



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