

ORDINANCE No. 2017-06-04

An ordinance relating to land use and zoning controls, and addressing suspended revisions to Clark County Code (CCC) 40.210.010 made by Ordinance 2017-04-14, on land divisions within lands designated Agriculture, Forest Tier II, and Rural, and zone changes within those lands pursuant to CCC 40.560.020.

WHEREAS, pursuant to the Growth Management Act (GMA), the Board of County Councilors (Board) 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, in part, as follows:

1. Established 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,

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

WHEREAS, between July 8, 2016, which was the effective date of the 2016 Plan Update, and April 25, 2017, the County received and processed numerous applications and pre-applications for land divisions in the AG-10, FR-20, and Rural areas, and zone changes in the R-20 and R-10 districts; and,

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

WHEREAS, the GMHB on March 23, 2017, issued an Order that found and concluded that the portions of the 2016 Plan Update described above had violated GMA, and directed Clark County to come into compliance with GMA; and,

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

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

1 WHEREAS, a GMHB determination of invalidity regarding the County's
2 Agriculture, Forest and Rural areas would prevent vesting of future applications for land
3 divisions in those areas; and,
4

5 WHEREAS, the Board considered and enacted interim Ordinance 2017-04-14 in
6 a public meeting held April 25, 2017, which Ordinance adopted a limited moratorium on
7 certain land divisions and certain zone changes within lands designated Agriculture,
8 Forest Tier II, and Rural; and,
9

10 WHEREAS, the Board concludes that the suspension, pursuant to Ordinance
11 2017-04-14, of the Plan, Plan Map, Zoning Ordinance and zoning text provisions that
12 created and implemented the AG-10, FR-20, and Rural designations and allowed the
13 upzoning of certain Rural parcels has been necessary, because of the GMHB findings
14 of noncompliance and also due to vesting laws in Washington State and the Clark
15 County Code, so as to preserve the status quo and provide time for the Board to
16 reevaluate the potential consequences of the 2016 Plan Update in light of the GMHB's
17 Order and any further appeals or proceedings arising from the Order; and,
18

19 WHEREAS, the Board finds that it would be in the best public interest of Clark
20 County to come into compliance with GMA on these matters, and therefore, also to
21 continue the effectiveness of Ordinance 2017-04-14 until an ordinance to achieve
22 compliance can go into effect; and,
23

24 WHEREAS, no public hearing was held on Ordinance 2017-04-14 prior to its
25 adoption; and,
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27 WHEREAS, RCW 36.70A.390 and RCW 35.63.200 authorize the Board to adopt
28 an interim zoning ordinance without holding a public hearing, as long as a duly noticed
29 public hearing is held within 60 days of adoption and the Board enacts findings in
30 support of the interim ordinance; and,
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32 WHEREAS, on June 20, 2017, the Board held a duly noticed public hearing on
33 the continuation of Ordinance 2017-04-14, at which public testimony was taken; now,
34 therefore,
35

36 BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY
37 COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

38 **Section 1. Findings.** The Board hereby adopts the recitals set forth above as
39 findings of fact and conclusions in support of both this Ordinance and Ordinance 2017-
40 04-14.
41

42 **Section 2. Repealer.** Section 2 of Ordinance 2017-04-14 is hereby repealed,
43 effective the day after an ordinance that amends the Clark County Code and 20-Year

1 Comprehensive Growth Management Plan 2015-2035 in order to address the matters
2 ruled noncompliant by the GMHB goes into effect, except that lands the zoning for
which was changed from R-20 to R-10 in the 2016 plan update shall keep R-10
designation and zoning.

3
4 **Section 3. Instructions to the Clerk.** The Clerk of the Board shall:

- 5
6 1. Transmit a copy of this ordinance to the Washington Department of Commerce
7 within ten days of its adoption, pursuant to RCW 36.70A.106;
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9 2. Record a copy of this ordinance with the Clark County Auditor;
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11 3. Transmit a copy of this ordinance to Clark County Geographic Information Systems
12 (Ken Pearrow, GIS Coordinator), to Community Planning (Oliver Orjiako, Director),
13 and to Community Development (Debra Weber, Tidemark Data Manager, and
14 Marty Snell, Director); and
15
16 4. Cause notice of adoption of this ordinance to be published forthwith pursuant to
17 RCW 36.70A.290.

18
19 ADOPTED this 20th day of June, 2017.

20
21 BOARD OF COUNTY COUNCILORS
22 FOR CLARK COUNTY, WASHINGTON
23

24 Attest:

25
26 Rebecca J. Hota
27
28 Clerk to the Board

By: Marc Boldt
Marc Boldt, Chair

29
30 Approved as to Form Only:
31 Anthony F. Golik
32 Prosecuting Attorney

By: _____
Jeanne Stewart, Councilor

By: _____
Julie Olson, Councilor

33
34 Christine Cook
35
36 By: _____
37 Christine Cook
38 Sr. Deputy Prosecuting Attorney

By: _____
John Blom, Councilor

By: _____
Eileen Quiring, Councilor

