

ORDINANCE NO. 419

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ADOPTED PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390; IMPOSING A TEMPORARY MORATORIUM UPON THE RECEIPT AND PROCESSING OF BUILDING PERMIT AND OTHER LAND USE DEVELOPMENT APPLICATIONS WITHIN THE CITY'S R-1 ZONING DISTRICT; SETTING FORTH FINDINGS OF FACT IN SUPPORT OF SAID MORATORIUM; ENUMERATING LIMITED EXCEPTIONS; SCHEDULING A PUBLIC HEARING DATE; AUTHORIZING OFFICIAL INTERPRETATIONS BY THE CITY OF WOODINVILLE PLANNING DIRECTOR; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Woodinville is currently undertaking a comprehensive “Sustainable Development” program that will yield significant policy recommendations regarding the protection of critical areas while simultaneously accommodating appropriate future growth within the City’s R-1 Zoning District; and

WHEREAS, the Woodinville City Council desires to preserve the current *status quo* by imposing a temporary moratorium upon the acceptance and processing of building and other land use permit applications until the Sustainable Development program has concluded and the resulting policy recommendations are implemented; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON,
DO ORDAIN AS FOLLOWS:

Section 1. Findings. The Woodinville City Council hereby makes the following findings in support of the moratorium imposed by this ordinance:

A. The City of Woodinville is primarily zoned for residential land use.

B. The City has recently received numerous permit applications for development activity within the City's residential neighborhoods. Continued development of the City's residentially zoned neighborhoods — particularly the R-1 (one residential dwelling unit per acre) Zoning District — at current rates will irreversibly alter the character and physical environment of these areas in a manner potentially inconsistent with various goals and polices adopted by the City and mandated by the GMA.

C. The R-1 Zoning District comprises approximately 1,291 acres, and is the largest single zone within the City of Woodinville's territorial jurisdiction.

D. The R-1 Zoning District contains coarse, permeable geologic materials that allow infiltration to mapped critical aquifer recharge areas (CARAs), many of which have been characterized as possessing a "high" or "medium" potential for ground water contamination.

E. The R-1 Zoning District contains Lake Leota, a natural water body with known water quality impacts. The shallow ground water surrounding Lake Leota is believed to be hydrologically connected to local CARAs.

F. Regions within the R-1 Zoning District hydrologically drain toward areas characterized by "high" or "medium" potential for ground water contamination. Said areas are known or suspected of being hydrologically connected to Bear Creek, a significant and biologically productive salmonid-bearing stream. Other areas within the R-1 zone drain variously toward Lake Leota, Little Bear Creek, and Woodin Creek, the latter two of which are known to contain salmonids.

G. The Bear Creek Basin drainage area encompasses a significant portion of the eastern Woodinville City limits within the R-1 Zoning District. The basin drains southeasterly into the Cold Creek Natural Area wetland system, a complex network of wetlands and groundwater springs feeding the headwaters of Cold Creek and an important cold water source for the Bear Creek system. The Bear/Cottage Lake/Cold Creek system is formally rated as a Tier I sub area under the draft WRIA 8 Chinook Salmon Conservation Plan, and the action start list for the North Lake Washington Chinook population is to identify and protect headwater areas, wetlands, groundwater sources, natural hydrologic processes and temperatures that support Chinook salmon within this area.

H. The R-1 Zoning District contains numerous steep slopes and areas characterized by high "geologic hazard" potential under the City's critical area mapping resources.

I. The eastern portion of the R-1 Zoning District contains the lowest existing development intensity, the highest total level of existing pervious surface area, and the most extensive tree canopy cover within the City — the removal or reduction of which would likely create adverse impacts to local hydrological cycles, increased sedimentation, and greater pollutant migration to local streams and wetlands. As such, the R-1 Zoning District contains

both the highest potential for environmental protection and enhancement, and the highest potential for environmental impact, loss or degradation of critical habitat for endangered species.

J. The R-1 Zoning District currently lacks the level of public infrastructure necessary to adequately support urban levels of service, including but not limited to sewer utility mains and transportation facilities. The City does not serve as the purveyor of sewer utility service within the R-1 Zoning District or elsewhere within the Woodinville community.

K. The City is required by the Growth Management Act (GMA) codified at Chapter 36.70A RCW to balance numerous competing policy interests with respect to local land use planning. Such policy interests include, *inter alia*, accommodation of appropriate urban growth, protection of critical areas, recognition of private property rights, retention of open space areas, conservation of fish and wildlife habitat, and ensuring the concurrent adequacy of public facilities and services necessary to support new development.

L. Protection of the local environment generally — and critical areas specifically — expressly underlies several goals, policies, programs and efforts adopted, funded and/or otherwise undertaken by the City. A partial, nonexclusive list of such goals, policies, programs and efforts is attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full.

M. The City has recently initiated a comprehensive “Sustainable Development” program in an attempt to ensure the compliance of future development within the City — specifically and particularly including the current R-1 Zoning District — with applicable GMA policies, goals and directives. The Sustainable Development program involves a thorough, detailed inventory of local environmental resources, projection of future development demand, and analysis of public infrastructure availability. The Sustainable Development program will ultimately yield recommendations for a multi-faceted regulatory approach to balance the competing policies of the GMA within the R-1 Zoning District — including but not limited to the protection of critical areas, the preservation and enhancement of anadromous fisheries, and the accommodation of appropriate residential growth.

N. The City is presently participating in a joint ground water study with King County and the City of Redmond. Results of the study are expected to provide more detailed information regarding local environmental resources, especially as they relate to local CARAs and hydrological connections to productive salmonid-bearing streams.

O. A significant probability exists that the City will amend several components of its Comprehensive Plan and development regulations upon completion of the Sustainable Development program — specifically and particularly including development regulations governing the current R-1 Zoning District.

P. The City Council desires to preserve the *status quo* within the R-1 Zoning District during the pendency of the City’s consideration, preparation and adoption of such amended development regulations.

Q. The acceptance and processing of building and other land use permit applications within the R-1 Zoning District prior to the City's implementation of such amendments would jeopardize the public interest by vesting development rights inconsistent with the City's amended regulations.

R. The City is authorized pursuant to RCW 35A.63.220 and RCW 36.70A.390 to adopt development moratoria for the purpose of preserving the *status quo* while new development standards are considered, prepared and enacted.

S. Imposing a temporary moratorium upon the receipt and processing of building and other land use permit applications specific to the R-1 Zoning District is consistent with the goals and policies enumerated in Exhibit A, and will serve the public interest.

T. The moratorium imposed herein 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.

U. The probable impact of the exceptions contained in Section 3 of this ordinance is *de minimus*, and will not materially detract from or otherwise subvert the purposes and desired effect of the moratorium imposed hereunder.

Section 2. Moratorium Imposed. The City hereby imposes a moratorium upon the receipt and processing of building permit applications, land use applications, and any other permit application for the development, rezoning or improvement of real property within the R-1 Zoning District as defined by Chapter 21.04 WMC and further delineated by the City's Official Zoning Map.

Section 3. Exceptions. The moratorium imposed under Section 2 of this ordinance shall not apply to (1) permit applications for the remodeling, expansion, restoration or refurbishment of existing single-family and multi-family residential structures, or (2) permit applications for publicly-owned structures and facilities.

Section 4. Effect upon Vested Rights. The moratorium imposed under Section 2 of this ordinance shall apply prospectively only, and shall operate to prevent the acceptance and processing of any permit application submitted after the effective date hereof.

Nothing in this ordinance shall be construed to extinguish, limit or otherwise infringe upon any permit applicant's vested development rights — as defined by state law and City of Woodinville regulations — with respect to any complete permit application submitted before the effective date hereof.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court, board or tribunal of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, a public hearing on the moratorium imposed under Section 2 of this ordinance is hereby scheduled for May 1, 2006 at 7:30 p.m. in the City Council Chambers of Woodinville City Hall, 17301 133rd Avenue NE. The City Clerk is authorized and directed to provide public notice of said hearing in accordance with applicable City standards. The City Council may in its discretion adopt additional findings of fact at the conclusion of said hearing.

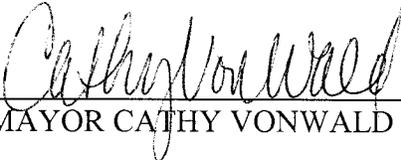
Section 7. Interpretative Authority. The City of Woodinville Planning Director is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 8. Declaration of Emergency; Effective Date; Duration. Based upon the findings enumerated in Section 1 of this ordinance, the City Council declares a public emergency necessitating an immediate effective date of the moratorium imposed hereunder. Said moratorium shall take effect immediately, and shall remain effective for six months unless terminated earlier by the City Council. PROVIDED, that the City Council may, in its sole discretion, renew said 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.

PASSED by the City Council of the City of Woodinville this 20th day of March ,2006.

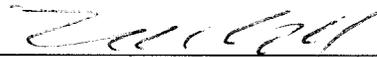
APPROVED:


MAYOR CATHY VONWALD

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA PARKER, MMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

FILED WITH THE CITY CLERK: 3-10-2006
PASSED BY THE CITY COUNCIL: 3-20-2006
PUBLISHED: 3-27-2006
EFFECTIVE DATE: 3-20-2006
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Exhibit A

A(1). The Woodinville City Council's adopted Environment Goal provides as follows:

Create a community that reduces the waste stream, promotes energy conservation, preserves and enhances aquatic and wildlife habitat, protects and improves water quality, and protects the public from natural hazards.

A. Remain an active partner in the WRIA Region 8 effort to develop, fund and implement early action strategies.

B. Work collaboratively through WRIA 8 with NMFS, State, tri-county and other public and private partners to develop a recovery plan for Puget Sound Chinook salmon.

A(2). The City has been actively involved in the WRIA recovery activities since the late 1990's.

A(3). In 1999, the Woodinville City Council approved Resolution No. 167, adopting key preliminary actions for the development of a species recovery plan in response to the listing of Puget Sound Chinook Salmon as threatened under the federal Endangered Species Act.

A(4). In 2001, the Woodinville City Council approved Resolution No. 194, adopting an "Early Action Program and Other On-going Investments for Species Protection" to establish the City's policy goals and strategies for conservation of salmonid stocks.

A(5). In 2002, the Woodinville City Council approved Resolution No. 222, adopting the "Regional Road Maintenance ESA Program Guidelines".

A(6). In 2002, the Woodinville City Council updated its Comprehensive Plan to expressly include an Environmental Element.

A(7). In 2004, the City updated its Critical Areas Ordinance to include "Best Available Science" in an effort to further protect critical areas during land use development.

A(8). In 2005, the Woodinville City Council approved Resolution No. 301, ratifying the Water Resource Inventory Area 8 Chinook Salmon Conservation Plan" dated February 25, 2005.

A(9). In 2006, the City initiated the update of its Shoreline Master Program pursuant to new guidelines promulgated by the Department of Ecology.

A(10). The City has acquired various parcels of real property in an effort to protect critical areas, and has expended significant resources to preserve, restore and enhance habitat located thereupon.

A(11). The City has commissioned habitat assessment studies of Little Bear and Woodin Creeks.

A(12). The City has initiated various fish habitat enhancement projects on Little Bear and Woodin Creeks.

A(13). The City currently sponsors or participates in numerous public programs that support environmental objectives, including but not limited to Salmon Watchers, Sammamish Re-Leaf, Arbor Day, chipping and recycling events, and sales of rain-barrels.

A(14). The City has initiated a storm water utility and implemented the Department of Ecology NPDES program to more effectively manage the impacts of storm water.

A(15). City staff routinely monitor environmental restoration projects in order to assure their success.

A(16). The City has implemented an Urban Forestry program to encourage retention and replacement of landscaping, especially trees.

A(17). The City's "Parks, Recreation and Open Space Plan" expressly identifies the need to protect open spaces and habitat pursuant to a comprehensive approach to natural resource management.

A(18). The Environmental Element of the City's Comprehensive Plan expressly includes the following policies:

GOAL ENV-3: To preserve and enhance aquatic and wildlife habitat.

Policies

- ENV-3.1** Encourage preservation of the urban forest.
- ENV-3.2** Identify and ensure the protection of sensitive habitat areas, including wetlands, streams and shorelines.
- ENV-3.3** Maintain a standard of no net loss in the functions and values of sensitive habitat features, including wetlands, streams, lakes and shoreline areas.
- ENV-3.4** Maintain connectivity between sensitive areas, including the Sammamish River and related streams, to provide safe travel routes for wildlife and fish and improve the biological integrity of sensitive habitat areas.
- ENV -3.5** Support watershed-based salmon recovery efforts and compliance with the requirements of the Endangered Species Act (ESA).

- ENV-3.6 Periodically review and update the Shoreline Master Program and sensitive areas regulations to ensure consistency with the policies of this Comprehensive Plan, the Shoreline Management Act and the Department of Ecology shoreline regulations.
- ENV-3.7 Encourage the use of native plants in residential and commercial landscapes.
- ENV-3.8 Consider and incorporate the best available science, consistent with the GMA and applicable rules, in developing regulations for fish and wildlife habitat areas, wetlands, and other critical areas.
- ENV-3.9 Employ adaptive management for natural habitat. Adaptive management allows the City to monitor and make adjustments to its regulations as appropriate in response to changing conditions or new information.
- ENV-3.10 Encourage acquisition of sites that protect habitat, stream corridors and provide aquatic habitat.
- ENV-3.11 Encourage the restoration of ecological functions and the natural environment in environmentally damaged areas.
- ENV-3.12 Participate in efforts to minimize drawdowns and warming of the Sammamish River.

GOAL ENV-4: To protect the public from floods, landslides, erosion and other natural hazards resulting from disturbance of the environment.

Policies

- ENV-4.1 Protect public safety in potential seismic, flood hazard and slide hazard areas.
- ENV-4.2 Minimize the adverse effects of development on topographic, geologic and hydrologic features, and native vegetation.
- ENV-4.3 Control the quantity and velocity of surface water runoff.

GOAL ENV-5: To protect and improve water quality.

Policies

- ENV-5.1 Preserve aquifer-recharge areas.
- ENV-5.2 Include enhancement of shorelines and waterways with adjacent development activities.
- ENV-5.3 Minimize impervious surfaces.
- ENV-5.4 *Minimize impacts of recreational uses on water quality.*
- ENV-5.5 Protect the quality and quantity of water in waterways, wetlands, floodplains and watersheds from degradation.