

TOWN OF YARROW POINT

ORDINANCE NO. 677

AN ORDINANCE OF THE TOWN OF YARROW POINT, WASHINGTON, RELATING TO THE ADOPTION OF FINDINGS AND CONCLUSIONS TO SUPPORT ORDINANCE NO. 676, AND CONFIRMING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR CERTAIN BUILDING PERMITS AND SUBDIVISIONS AND SHORT PLATS UNTIL THE TOWN COMPLETES THE PROCESS OF CODE REVIEW AND AMENDMENT RELATING TO THE DEFINITION AND APPLICATION OF BUILDABLE LOTS AND/OR LEGAL BUILDING LOTS, AND TO ADDRESS CONSOLIDATION/AGGREGATION OF SSUBSTANDARD, NON-CONFORMING BUILDING LOTS, AND CONFIRMING THE MAINTENANCE OF THE MORATORIUM FOR SIX MONTHS AFTER INITIAL IMPOSITION AS THE EFFECTIVE PERIOD.

WHEREAS, on May 9, 2017, the Yarrow Point Town Council passed Ordinance No. 676, which established *inter alia* a six-month moratorium on the acceptance of applications for certain building permits, subdivisions and short plats in order to provide the Town time to review and make revisions to certain parts of the Town Code relating to buildable lots and/or legal building lots and to address lot consolidation/aggregation for sub-standard, non-conforming lots; and

WHEREAS, pursuant to RCW 35.27.370 specifically and Ch. 35.27 generally, the Town is granted broad powers to make all such laws, ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the Town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of RCW Ch. 35.27; and

WHEREAS, the State Legislature has authorized the Town of Yarrow Point to adopt a moratorium for a six month period, subject to renewals if necessary, pursuant to RCW 35.63.200 (adopted under the State Planning Enabling Act) and RCW 36.70A.390 (adopted as part of GMA),

and courts have expressly authorized and empowered local governments like the Town to enact moratoria as part of the Town's responsible planning efforts, have found them to be "valid zoning tools," and encouraged them as useful and necessary techniques to preserve the status quo so that new plans and regulations will not be rendered moot by intervening development. *See: Matson v. Clark County Board of Comm'rs*, 79 Wn. App. 641, 644, 904 P.2d 317 (1995); *Sprint Spectrum, L.P. v. City of Medina*, 924 F. Supp. 1036, 1039 (W.D. Wash. 1996); and *Tahoe-sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2001);

WHEREAS, pursuant to RCW 35.63.200 and RCW 36.70A.390, the Town shall hold a public hearing within 60 days of adoption of the moratorium and adopt findings of fact to support the moratorium, and this Ordinance is intended to constitute those required findings of fact and to otherwise comply with State law requirements for adoption of moratoria;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YARROW POINT, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of the moratorium in Ordinance No. 676 is to allow the Town adequate time to hold additional workshops, public hearings and meetings on the adoption of regulations or changes to the Town Code regarding the definition of buildable lots and/or legal building lots, and other related Code changes, as more fully set forth in Ordinance No. 676. The purpose of this Ordinance is to (A) reaffirm and continue the moratorium on Ordinance No. 676, and (B) to comply with State law requirements to hold a public hearing within 60 days of adoption of the moratorium and adopt findings of fact to support the moratorium.

Section 2. Findings and Conclusions Supporting the Moratorium. The facts supporting the moratorium are set forth in the "Recitals" to Ordinance No. 676, which are hereby adopted by

reference, along with the following findings and conclusions which, together, constitute the findings and conclusions supporting the moratorium in Ordinance No. 676:

- On May 9, 2017, at a properly noticed public hearing, the Yarrow Point Town Council considered and adopted Ordinance No. 676; and
- Some of the reasons for, and the background underlying, the need for the moratorium in Ordinance No. 676 are the following:
 - The Town of Yarrow Point was incorporated in June 1959 and organized as a Mayor-Council form of government pursuant to Title 35 of the Revised Code of Washington. It is responsible for receiving and processing building permit applications, as well as subdivision, short plat and other land use and development applications for development and redevelopment of the properties located within the Town’s corporate limits; and
 - The Town recently identified lack of clarity in and potential confusion and problems with certain provisions of its development code relating to legal building sites as defined in Yarrow Point Municipal Code (“YPMC”), Chapter 17.16, as well as consolidation and/or aggregation issues relating to substandard, non-conforming lots. The Town has also become aware of prior inconsistent interpretation and treatment of “legal building sites” for purposes of building permits, subdivisions and short plats; and
 - The Town has specifically identified a lack of clarity and potential confusion in the interpretation and application of the definition of “legal building site” when applied to two or more contiguous lots held under the same ownership, or in instances where land use applicants need to determine whether land is or was “held as a unit as

identified by a tax parcel number in the King County Assessor's records as of May 22, 1992", and this lack of clarity has caused inconsistent treatment of such lots in the past; and

- Because of the lack of clarity of and historical inconsistent interpretation and application of the definition of "legal building site," the Town determined that changes are necessary to clarify or correct certain aspects of Title 17 of the Yarrow Point Municipal Code relating to the definition of "legal building site," and application of that definition when two or more adjoining or continuous residential lots are owned by the same owner or titled under the same name, to clarify when such commonly owned lots can be developed and meet minimum lot size requirements, and to otherwise protect the integrity of and provide for consistent application of the Town's development regulations, and to protect the public health, welfare and safety of the citizens of the Town.
- Following discovery of and investigation into the questions and problems concerning legal building sites as defined in Yarrow Point Municipal Code Chapter 17.16, and the lot consolidation and aggregation and other issues as set forth in the preceding findings, the Town Council on March 29, 2017 considered and then passed an emergency moratorium, contained in Ordinance No. 675. This Ordinance established a six-month moratorium on the acceptance of applications for certain building permits, subdivisions and short plats in order to provide the Town time to review and make revisions to certain parts of the Town Code relating to buildable lots and/or legal building lots and to address lot consolidation/aggregation for sub-standard, non-conforming lots. Prior to adoption of the moratorium in Ordinance No.675, the town council heard from Mona Green, Town

Planner, Outside Legal counsel Michael Walter, a lawyer with Keating, Bucklin & McCormack, Inc. P.S. in Seattle, and Town Attorney Wayne Stewart supporting the need for a moratorium. Ordinance No. 675 became effective on March 29, 2017; and

- On April 11th, 2017, the Town Council, at their regularly scheduled meeting, heard resident testimony pertaining to Ordinance No. 675 and its potential impact to residents. Following the public testimony at the April 11th meeting, the Town Council scheduled a special meeting to revisit Ordinance No. 675 and concurrently advised Town Staff and Legal Counsel to present amendments to the ordinance; and
- On April 27th, the Town Council held a special meeting at 12:00 pm to revisit moratorium Ordinance No. 675. Town Staff and Legal Counsel presented suggested amended language to Ordinance No. 675 for the purpose of both clarifying the ordinance and narrowing the scope of development applications affected by the moratorium. Following rigorous discussion, the Town Council moved to table the discussion on the moratorium until a later date; and
- On May 9th, 2017, The Town Council, at their regularly scheduled meeting, moved to adopt Ordinance No. 676, thereby repealing and replacing Ordinance No. 675, and reconfirming a six-month moratorium on the acceptance of applications for certain building permits and subdivision and short plats, and declaring an emergency in order to provide for an immediate effective date.
- On May 9, 2017, pursuant to RCW 35.63.200, and 36.70A.390, the Town Council scheduled a public hearing to enter findings of fact supporting this moratorium, for the June 13, 2017 regularly scheduled meeting of the Yarrow Point Town Council; and

- The Town Council finds and concludes that to allow for careful, thoughtful planning and revisions to certain parts of the Town's land use code and specifically those regarding the definition of buildable lots and/or legal building lots, and other related Code changes, and for the public health, welfare and safety of the citizens of Yarrow Point, the moratorium in Ordinance No. 676 is necessary to prohibit the acceptance of land use applications for the following:
 1. Any land use application which would have the effect of creating, approving, or altering the existence of a lot which does not meet the area requirements of YPMC 17.16.010; or
 2. Any land use application which relies on the definition of legal building site which relies on or is supported by proof of or reference to the May 22 1992 King County Assessor's Records as required in YPMC 17.16.050(B)(3); or
 3. Any land use application where the applicant is relying on a tax assessor's segregation of property into two or more tax lots, or relying on tax assessor bills or tax assessor documents showing or purporting to establish or create lots less than the minimum lot sizes in YPMC 17.16.010.

- The Town Council also finds and concludes that the moratorium in Ordinance No. 676 properly provides for necessary exemptions from the moratorium for the following applications, properties or uses:
 - 1 Vested Applications: Any applicants who have filed fully complete land use applications (as defined in the Ordinance) which would otherwise be subject to the Moratorium, but which are legally vested because they were submitted and fully complete before the effective date of this Ordinance;
 - 2 Applications not Within Section 3 of Ordinance No. 676: Land use applications

meeting the definition in the Ordinance, but which do not fall within those listed in Ordinance;

3 Applications not Within the Definition in Ordinance No. 676: Other types of applications for land development, construction and/or review not within the definition of “land use application” in the Ordinance, such as rezones, shoreline substantial development permits, site development permits, certain building permits on previously established lots, and permits ancillary to those building permits, and demolition permits; and

4 Certain Properties With Prior Applications Pending or Subject to Ongoing Review and/or Resolution: Any land use applications for or relating to the property owned by John R. Adams and/or BDR Yarrow VII or their agents, with the street address of 4039 – 95th. Ave. N.E., Yarrow Point; and

- The Town Council finds and concludes that it is in the best interest of the Town of Yarrow Point, and in the interest of the public health, safety, welfare and economic viability of the citizens of the Town to continue the moratorium in Ordinance No. 676 for the duration of the six month moratorium, and without change or limitation.

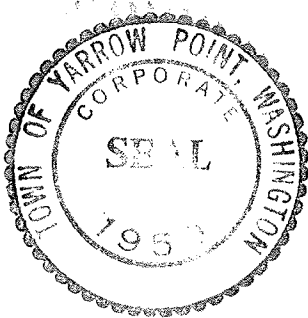
Section 3. All Provisions of Ordinance No. 676 Remain Effective. All terms, conditions and provisions of Ordinance No. 676 are incorporated herein by this reference and remain in full force and effect throughout the duration of the moratorium.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional, illegal or unenforceable by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the constitutionality, validity or enforceability of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall take effect and be in full force and effect on June 13, 2017.

PASSED by the Town Council and approved by the Mayor of the Town of Yarrow Point, this 13th day of June, 2017.



TOWN OF YARROW POINT

A handwritten signature in cursive script, appearing to read "Dicker Cahill".

Dicker Cahill, Mayor

ATTEST/AUTHENTICATED:

A handwritten signature in cursive script, appearing to read "Anastasiya Warhol".
Anastasiya Warhol, Town Clerk-Treasurer

APPROVED AS TO FORM:
Office of the Town Attorney

A handwritten signature in cursive script, appearing to read "Wayne Stewart".
Wayne Stewart, Town Attorney

FILED WITH THE TOWN CLERK: 6/13, 2017
PASSED BY THE TOWN COUNCIL: 6, 13, 2017
PUBLISHED: _____, 2017
EFFECTIVE DATE: 6, 13, 2017
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