

**TOWN OF YARROW POINT**

**ORDINANCE NO. 675**

**AN ORDINANCE OF THE TOWN OF YARROW POINT, WASHINGTON,  
ESTABLISHING A SIX-MONTH MORATORIUM ON THE ACCEPTANCE OF  
APPLICATIONS FOR CERTAIN BUILDING PERMITS AND SUBDIVISIONS  
AND SHORT PLATS, AND DECLARING AN EMERGENCY IN ORDER TO  
PROVIDE FOR AN IMMEDIATE EFFECTIVE DATE**

WHEREAS, the Town of Yarrow Point is a Washington Town incorporated in June 1959 and organized as a Mayor-Council form of government pursuant to Title 35 of the Revised Code of Washington, and 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

WHEREAS, the Town of Yarrow Point has 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. The Town has also learned of historical inconsistent interpretation and treatment of "legal building sites" for purposes of building permits, subdivisions and short plats; and

WHEREAS, the Town has particularly 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

WHEREAS, because of the lack of clarity of and historical inconsistent interpretation and

application of the definition of “legal building site,” the Town has 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; 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); and

WHEREAS, the Town Council finds 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 Town to impose a moratorium on the acceptance of applications for building permits, subdivisions, short plats, and similar land use applications that involve or require interpretation or application of the definition of “legal lot size” as set forth in YPMC 17.16.050(B)(3), and to provide for certain exemptions from the moratorium; and

WHEREAS, the Town Council also finds 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 Town to find and declare an emergency justifying immediate adoption of this moratorium without prior notice.

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

**Section 1. Findings of Fact.** The underlying facts necessary to support this Moratorium are set forth in the “Recitals” above, all of which are hereby adopted by reference. The Town Council may, in its discretion, modify and/or adopt additional findings of fact at the conclusion of the public hearing set by this Ordinance.

**Section 2. Definitions.** As used in this Ordinance, the term “*land use application*” includes the following applications, submittals or requests for approval for: (1) building permits for new single family residences; (2) subdivisions; (3) short plats or short subdivisions; (4) lot segregations; (5) boundary line adjustments or lot line adjustments; (6) variances; (7) conditional use permits or special use permits.

**Section 3. Moratorium Established.** Effective immediately, a moratorium is hereby established prohibiting the acceptance of land use applications or any of 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 (B)(1) and requires the application of or reliance on the definition of legal building site in YPMC 17.16.050(B)(2) and/or (B)(3), 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.

None of the foregoing land use applications shall be accepted during the effective period of this Moratorium, the term of which shall be six (6) months, except as provided in Section 4 of this Ordinance ("Exemptions"). Any land use applications which are subject to this Moratorium that are issued as a result of error, or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force and effect. This Moratorium shall be liberally construed to prohibit the acceptance of land use applications listed in this section.

**Section 4. Exemptions.** The following applications, properties or uses are not subject to the Moratorium in this Ordinance:

- 4.1 Vested Applications: Any applicants who have filed fully complete land use applications (as defined in Section 2 of this 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. These vested applications are not subject to the Moratorium.

4.2 Applications not Within Section 3: Land use applications meeting the definition in Section 2 but which do not fall within those listed in Section 3 are not subject to the Moratorium.

4.3 Applications not Within the Definition in Section 2: Other types of applications for land development, construction and/or review not within the definition of “land use application” in Section 2, 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 are not subject to the Moratorium.

4.4 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 – 95<sup>th</sup>. Ave. N.E., Yarrow Point are not subject to this Moratorium.

**Section 5. Public Hearing scheduled.** Pursuant to RCW 35A.63.220, 35.63.200, and 36.70A.390, a public hearing moratorium is set for \_\_\_\_\_, 2017, at a regularly scheduled meeting of the Yarrow Point Town Council. The Town Council may in its discretion revise the moratorium or the findings of fact if necessary and appropriate following the receipt of public testimony.

**Section 6. Declaration of Emergency and Immediate Effective Date.** The Town Council hereby declares that an emergency exists necessitating that this Ordinance take effect

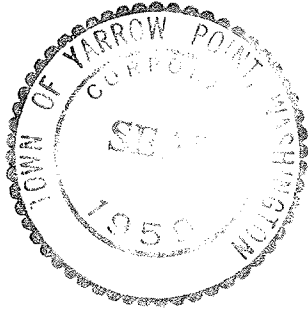
immediately upon passage by a majority vote plus one of the whole membership of the Council. RCW 35A.63.220, 35.63.200, and 36.70A.390; *Matson v. Clark County Bd. of Com'rs*, 79 Wash. App. 641, 904 P.2d 317 (1995). Without an immediate moratorium on the Town's acceptance of non-exempt land use applications (those in Sect. 3 of this Ordinance), such applications could become vested, leading to development that could be incompatible with the codes eventually revised or adopted by the Town. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the Town in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights, nor will it prohibit all development in the Town, because those property owners with exempt applications/permits, those with previously obtained approvals for development or redevelopment of the type identified as "exempt" may proceed with processing and development, as the case may be.

**Section 7. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court 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 8. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**Section 9. Effective Date.** This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth in Section 6.

PASSED by the Town Council and approved by the Mayor Pro Tem of the Town of Yarrow Point, this 29<sup>th</sup> day of March, 2017.



TOWN OF YARROW POINT

Carl Scandella  
Carl Scandella, Mayor Pro Tem

ATTEST/AUTHENTICATED:

Anastasiya Warhol  
Anastasiya Warhol, Town Clerk-Treasurer

APPROVED AS TO FORM:  
Office of the Town Attorney

Wayne Stewart  
Wayne Stewart, Town Attorney

FILED WITH THE TOWN CLERK: March 29, 2017  
PASSED BY THE TOWN COUNCIL: March 29, 2017  
PUBLISHED: April     , 2017  
EFFECTIVE DATE: March 29, 2017  
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