ORDINANCE NO. 17-0504

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, ADOPTING AN IMMEDIATE, SIX-MONTH MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR PLANNED RESIDENTIAL DEVELOPMENTS (PRD’S) UNDER EMC 18.50.095, FOR THE PURPOSE OF ALLOWING THE CITY TO EVALUATE THE EXISTING REGULATIONS FOR CONSISTENCY WITH LAW AND THE CITY’S COMPREHENSIVE PLAN, SUCH MORATORIUM TO BE IN EFFECT WHILE THE CITY PERFORMS THE NECESSARY INFRASTRUCTURE ANALYSIS, LEGAL REVIEW AND FOLLOWS THE PROCESSES FOR ANY NEEDED CODE AMENDMENTS, AND SETTING THE DATE FOR THE REQUIRED PUBLIC HEARING, PURSUANT TO RCW 36.70A.390

WHEREAS, RCW 36.70B.080(1) requires the City of Edgewood to adopt development regulations which address the deadline for the City’s issuance of a final decision on “project permit applications,” which include planned residential developments; and

WHEREAS, the City has adopted Planned Residential Development (PRD) regulations in Edgewood Municipal Code Section 18.50.095, without a known deadline for the issuance of a final decision; and

WHEREAS, RCW 58.17.070 provides that “unless an applicant for preliminary plat approval requests otherwise, a preliminary plat shall be processed simultaneously with applications for rezones, variances, planned unit developments, site plan approvals and similar quasi-judicial or administrative actions to the extent that procedural requirement applicable to these actions permit simultaneous processing;” and

WHEREAS, the City’s PRD regulations do not require concurrent processing of a PRD application with an application for a preliminary plat (as required by RCW 58.17.070),¹ and

WHEREAS, the City cannot approve a preliminary plat or short plat if it doesn’t comply with the City’s zoning regulations (RCW 58.17.195); and

WHEREAS, the City’s PRD regulations in EMC Section 18.50.095, allow a developer to obtain approval of a preliminary plat with an increase in the density allowed by the zoning regulations applicable to the subject property, before the PRD application is processed; and

WHEREAS, the City’s PRD regulations provide that the Hearing Examiner’s makes a recommendation on the PRD to the City Council, and the Council makes the final decision (EMC 18.50.095(N)); and

¹ EMC Section 18.50.095(K)(4) provides that “an application for a preliminary plat or other development approval may be submitted with the PRD application, if necessary.”
WHEREAS, the City’s procedures for processing a preliminary plat provide that the Hearing Examiner makes a final decision, which can be appealed to the City Council (EMC 18.40.100); and

WHEREAS, because the City is required by state law to process a PRD and preliminary plat concurrently, the processing procedures must be amended so that they are consistent (both with regard to the decision-maker, criteria for approval and the deadline for issuance of a final decision); and

WHEREAS, EMC 18.50.095(J) allows an increase in density of a PRD of up to 20 percent in excess of the density in the underlying zone, but if the developer satisfies five of the criteria in that subsection, an increase in density of up to 50 percent over the density in the underlying zone may be allowed; and

WHEREAS, while the City is considering amendments to EMC 18.50.095, the City also needs to consider whether the criteria for approval of a PRD are clear and enforceable (EMC 18.50.095(A) requires that a PRD must:

1. Promote the retention of significant features of the natural environment, including without limitation waterways and views;

2. Encourage a variety of housing types in relating to the city’s existing housing stock;

3. Encourage maximum efficiency in the location of streets, utility networks and other public improvements; and

4. Create and/or preserve open space for the enjoyment of the occupants and the general public;

In addition, EMC 18.50.095(E) requires that the design and layout of the PRD “shall positively accentuate and harmonize the relationship of the site to the surrounding area and existing uses”; and

WHEREAS, if the City’s code potentially allows a development to exceed the density in the underlying zone by 20 or 50 percent, the City’s comprehensive plan must include analyses of the availability of water, sewer and transportation infrastructure to demonstrate that such potential development can be served; and

WHEREAS, EMC 18.50.095(N) sets forth criteria for the Hearing Examiner to consider when determining whether to approve a PRD, which are not the same criteria for approval in other sections of the PRD section (EMC 18.50.095(A), (E), (H) or (J)); and

WHEREAS, RCW 36.70A.390 authorizes the City to adopt a moratorium on the acceptance of applications for PRD’s, to be effective for a period of up to six months, provided that a public hearing is held within at least 60 days of the adoption of the moratorium, and findings and conclusions are adopted immediately thereafter to support the moratorium;
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this moratorium is to allow the City adequate time to perform analyses, draft, consider and adopt, any necessary amendments to its existing PRD regulations.

Section 2. Moratorium Adopted. This moratorium is adopted, to be effective immediately, for a period of six (6) months, in order to provide the City with adequate time to:

A. Allow the staff adequate time to prepare any necessary analyses relating to the availability of water, sewer or transportation infrastructure, in order to determine whether the City can meet concurrency requirements if it allows an increase of 20-50% in density for potential development in the SF-5 (single-family high density); MR-1 (mixed residential low density); MR-2 (mixed residential moderate density); or any split zoned parcel greater than 3 acres in size where residential uses are allowed in both zones.² Because Edgewood plans under the Growth Management Act (chapter 36.70A RCW), the City staff also needs to review the PRD regulations together with the City’s comprehensive plan to ensure that they are consistent.

B. Draft a new PRD ordinance or draft amendments to the existing PRD regulations, in order to comply with law and integrate with the City’s code processes. The SEPA Responsible Official will perform SEPA on this moratorium and on the draft ordinance;

C. The City will follow its procedures for adoption of amendments to its development regulations in Chapter 18.60.010 EMC, including but not limited to: providing public notice of the planning commission public hearing on the draft ordinance, holding the public hearing and forwarding the planning commission’s recommendation to the City Council;

D. The City Council will consider the draft ordinance during a regular Council meeting and/or hold a public hearing on it prior to adoption.

Section 3. Effect of Moratorium. Effective upon passage of this moratorium ordinance and during the six-month period of this moratorium, the City will not accept any applications for any planned residential developments. If any PRD application has been submitted to the City without a preliminary plat (or other permit subject to the vested rights doctrine) on the effective date of this moratorium, it shall be returned to the applicant.

Section 4. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390, the City Council shall hold a public hearing on this moratorium ordinance within sixty (60) days of its adoption. This public hearing shall be held on August 8, 2017. During the Council meeting immediately following this public hearing, the City Council shall adopt findings of fact and conclusions on the subject of this moratorium and either justify its continued imposition or repeal this ordinance.

Section 5. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this moratorium ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not

² According to EMC Section 18.50095(B), these are the zones where PRD’s are allowed.
subject to a referendum. If this moratorium is not adopted immediately, applications for PRD’s may be submitted with other applications subject to the vested rights doctrine. If this occurs, the City may be required to consider both applications as vested, and process them under the City’s existing regulations, leading to confusion and possible incompatibility between the existing and future development regulations. Therefore, this moratorium ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare, so that the City has adequate time to consider new PRD regulations which are consistent with law and the City’s comprehensive plan.

**Section 6. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or 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 7. Effective Date.** This Ordinance shall take effect and be in full force immediately upon adoption, having received the vote of a majority plus one of the entire Council.

**ADOPTED BY THE CITY COUNCIL ON JULY 11, 2017**

[Signature]

Daryl Eidinger, Mayor

**ATTEST/AUTHENTICATED:**

[Signature]

Rachel Pitzel, City Clerk

**APPROVED AS TO FORM:**

[Signature]

Carol A. Morris, City Attorney

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