ORDINANCE NO. 17-0507

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT TO SUPPORT THE MAINTENANCE OF THE SIX-MONTH MORATORIUM IMPOSED BY THE CITY ON JULY 11, 2017, UNDER ORDINANCE NO. 17-0504 ON THE ACCEPTANCE OF APPLICATIONS FOR PLANNED RESIDENTIAL DEVELOPMENTS (PRD’S) UNDER EMC 18.50.095, SAID MORATORIUM ADOPTED FOR THE PURPOSE OF ALLOWING THE CITY TO EVALUATE THE EXISTING REGULATIONS FOR CONSISTENCY WITH LAW AND THE CITY’S COMPREHENSIVE PLAN, AND 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, ALL AS REQUIRED BY 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 no 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

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 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

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; and

WHEREAS, on August 8, 2017, pursuant to the notice required by law, the City Council held a public hearing on Ordinance 17-0504;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEMOUTH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Finding of Fact. In addition to the above “whereas” sections, the City Council hereby adopts the following as findings of fact to support the continued maintenance of the moratorium imposed in Ordinance 17-0504, for a period of six months, beginning on July 11, 2017:

A. Public Hearing. During the public hearing on Ordinance 17-0504, the following persons testified and/or provided information:

1. Aaron Nix, Assistant City Administrator, described the rationale behind the adoption of Ordinance 17-0504, which is included in the “whereas” sections of this Ordinance.

2. Linda Howard stated her belief that the City’s codes needed to be reviewed, and “brought up to standard.” She mentioned the letter she had sent to the Council, in which she informed the Council that the codes needed to be updated.

3. Mark Kibler stated that he understood that the City Council is trying to keep the community “rural,” by developing Meridian instead of the outer limits, but he has been disappointed with the way growth has occurred in the City. He hoped for beautification, but the City is not attractive right now. He did not believe that there has been any “foresight,” and more thought needed to be put into the way the City was being developed.

4. Gabriel Bowman of the Master Builders Association spoke briefly about what Pierce County as a whole was facing. He noted that last year, 80,000 people have moved to Pierce County for their jobs. He stated that residential growth was needed, but admitted that there should be “smart growth.”

5. Carol Morris, City Attorney, described the procedure for the Council to use in the adoption of the findings of fact.
6. Carol Hubbard stated that she loves Edgewood, but she would like to make Edgewood different by keeping a rural feel. She was directly affected by a recent development. The property was a “park-like setting,” but the trees were leveled to make way for the apartments. Ms. Hubbard acknowledged that people need a place to live, but she asked the Council to realize that preserving the natural landscape should be most important.

B. Council Vote. The Council deliberated for a short time, expressing the view that the moratorium should remain in place, and that it was the right decision to review the PRD code. The vote was unanimous in favor of keeping the six month moratorium in place for all PRD applications.

Section 2. 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 3. 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 AUGUST 22, 2017

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

Date of Publication: August 24, 2017
Effective Date: August 29, 2017