

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 07-20

AN INTERIM ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, IN RESPONSE TO THE COVID-19 PANDEMIC TEMPORARILY POSTPONING EXPIRATION OF DEVELOPMENT APPLICATIONS AND APPROVED LAND USE ACTIONS AND CONSTRUCTION PERMITS AND TEMPORARILY TOLLING PROCEDURAL DEADLINES; AUTHORIZING ADMINISTRATIVE INTERPRETATIONS; DECLARING THIS A PUBLIC EMERGENCY ORDINANCE PURSUANT TO RCW 35A.13.190; ESTABLISHING AN EXPIRATION DATE CONSISTENT WITH RCW 36.70A.390; AND FIXING AN EFFECTIVE DATE.

WHEREAS, the World Health Organization has determined that a pandemic exists due to the global spread of a highly contagious virus commonly known as COVID-19; and

WHEREAS, a state of emergency has been declared by the federal, state, county, and municipal governments in response to the pandemic; and

WHEREAS, on March 23, 2020, Governor Jay Inslee issued Emergency Proclamation 20-25 ("Stay Home, Stay Healthy order") requiring all people in Washington State to immediately cease leaving their home or place of residence except to conduct or participate in essential activities and/or for employment in essential business services; and

WHEREAS, on March 25, 2020, Governor Inslee provided official guidance stating that construction activities are not considered essential under Proclamation 20-25, except in limited circumstances; and

WHEREAS, the pandemic and the emergency declarations and proclamations are causing delays for an indeterminate period of time in the construction, inspection, and review of development projects with an active application or permit with the City of Buckley and will cause delays with any project or permit applications filed during the state of emergency; and

WHEREAS, a number of land use and permit review statutes and municipal code provisions, including chapter 36.70B RCW and Titles 13, 16, 12, 18, 19 and 20 of the Buckley Municipal Code, impose certain time limitations and process requirements, such as public hearings, on development permit applications that are not achievable in the current emergency while complying with the Governor's proclamations; and

WHEREAS, the City Council wishes to encourage a continuation of construction activity delayed by the emergency restrictions and by the economic impacts of the

pandemic through postponement of the deadlines and expiration dates for applications and permits; and

WHEREAS, the City Council further recognizes the necessity for staff telecommuting, for City compliance with the Governor's restrictions on non-essential activities, and for prioritizing work to address the emergency conditions; and

WHEREAS, this public health and economic crisis creates a time-sensitive emergency requiring the use of an interim zoning ordinance extending development application processing and permit expiration time periods to provide additional time; and

WHEREAS, this interim ordinance is intended to be temporary until public health and economic conditions improve and the provisions of this Ordinance are procedural in nature, in that they only modify the amount of time an application or an issued permit remains viable. Accordingly, this Ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act pursuant to WAC 197- 11-800(19) and does not require transmittal to the Washington State Department of Commerce for comment; and

WHEREAS, the City Council finds that it is in the public interest to adopt this interim Ordinance and that such Ordinance is necessary for the immediate protection of the public health, safety, property, or peace.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS OF FACT. The Recitals set forth above are adopted as the Findings of Fact required pursuant to RCW 36.70A.390 and are also adopted as findings of fact in support of declaring an emergency for an immediate effective date as required by RCW 35A.13.190.

Section 2. EXTENSIONS OF DEVELOPMENT APPLICATIONS AND PERMITS.

A. This section relates to all development project applications and permits, including those under Titles 12, 13, 14, 16, 17, 18, 19 and 20 of the Buckley Municipal Code.

B. A permit or development approval (for example, a preliminary subdivision plat or conditional use permit application) that was active and valid as of January 1, 2020, shall not lapse, terminate, or otherwise expire prior to the expiration of this interim Ordinance, and the expiration date of the permit or development approval or time period for meeting a deadline or for performance of a condition of the permit or development approval shall be either the time currently provided by code or the expiration of this interim Ordinance, whichever date is later, unless the specific time period is required by state law and cannot be waived.

C. Any application that is currently actively processing or that is determined to be complete while this interim Ordinance is effective, will not be

lapsed, cancelled, or expired prior to the expiration of this interim Ordinance, and the time period for meeting a deadline or for performance of a condition of the application (including deadlines for obtaining permits that are ready for issuance) shall be either the time currently provided by code or the expiration of this interim Ordinance, whichever date is later, unless the specific time period is required by state law and cannot be waived.

D. Application processing deadlines and timelines relating to project permit applications processed under Title 20 BMC, including but not limited to requirements for issuing a notice of decision, are suspended and will be tolled while the Governor's emergency proclamations are in effect

Section 3. STATE LAW. The Council recognizes that in addition to the City's local ordinances and regulations there are associated state statutory deadlines and timelines in Chapters 36.70A, 36.708, 43.21C, 58.17, and 90.58 RCW, among others, which the Council does not have the authority to waive or extend. If the Governor issues an emergency proclamation or other order providing relief from state statutory deadlines and other requirements for development projects, the Council authorizes the Planning Director, Public Works Director, Building Official, and/or Fire Chief, as applicable, to implement or adopt any available measures or relief from those statutory deadlines and requirements provided such interpretations are temporary and consistent with the intent and purpose of this Ordinance.

Section 4. DIRECTOR INTERPRETATIONS. Council further authorizes the Planning Director, Public Works Director, Building Official, and/or Fire Chief, as applicable, to issue temporary procedural interpretations to address deadlines or other requirements related to development activities that were not specifically addressed in this Ordinance, provided such interpretations are temporary and consistent with the intent and purpose of this Ordinance.

Section 5. PUBLIC HEARING. Pursuant to RCW 36.70A.390, a public hearing on the interim official controls established by this Ordinance shall be held within sixty (60) days of the adoption of this Ordinance to hear and consider public comment.

Section 6. EFFECTIVE DATE. Due to the reasons identified in the whereas clauses, this ordinance is hereby designated as a Public Emergency Ordinance necessary for the protection of public health, safety, public property or the public peace and upon approval by at least a majority plus one of the whole membership of the City Council shall be immediately effective upon adoption

Section 7. EXPIRATION. The City Council adopts this interim regulation under the authority of RCW 36.70A.390. Therefore, the interim controls adopted herein shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire after a period of six months, unless extended as provided by statute

or otherwise superseded by action of Council, whichever occurs first. Because this is an interim ordinance only, it shall not be codified.

Section 8. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid 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 9. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

This ordinance was adopted by the City Council of the City of Buckley, Washington, at a regular meeting on the 28th day of April, 2020.


Pat Johnson, Mayor

Attest:


Treva Percival, City Clerk

APPROVED AS TO FORM:


Phil Olbrechts, City Attorney

PUBLISHED: May 6, 2020
EFFECTIVE: April 28, 2020