

City of Blaine
Request for Council Action
Meeting Date: October 23, 2023

Subject: Extension of the moratorium prohibiting applications for manufactured home parks

Department: City Manager

Prepared By: _____
(Digital Signature)

Agenda Location: Consent Agenda Council Action Unfinished Business

Action Needed:

On the 22nd day of May, the Council adopted Ordinance No. 23-2997 imposing an emergency moratorium on the filing, acceptance, processing and/or approval of applications for manufactured home parks.

This request for action is for Council to consider extending the subject moratorium for an additional six months by Ordinance, or table the request in which case the moratorium will automatically expire on November 22, 2023.

Attachments:

1. Ordinance 23-2997 emergency moratorium on manufactured home parks
 2. Draft Ordinance to extend emergency moratorium on manufactured home parks
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Background/Summary:

Ordinance No. 23-2997 contained various findings of fact, including these selected findings:

1. A manufactured home park ("MHP") allows multiple manufactured homes on a single parcel or lot under single ownership, which is a fundamentally different use than individual lot ownership.
2. The City's PR Zone is the only district that permits MHPs as an allowed use. Projects larger than 5 acres in the PR Zone require a PUD application. The PUD standards exclude manufactured homes. Based on analysis prepared by Cascade Engineering, it is impossible to develop an MHP that is compliant with Code requirements unless the project exceeds 5 acres. If this information is accurate, an MHP cannot be developed anywhere in the City. This would render City Code provisions regulating MHPS generally, and the PR Zone's allowance of MHPs, a nullity. However, the City Code anticipated that MHPs would be allowed, as shown by an entire Chapter dedicated to their regulation and uses allowed in the PR Zone.
3. RCW 35.21.684 prohibits the City from discriminating against consumers' choices in the placement or use of a manufactured home built to certain standards. The City's Code must regulate such manufactured homes in the same way it regulates other types of homes such as site -built homes, but the state statute has no such restriction on the regulation of MHPs.
4. The City Code, BMC 17.68.120, purports to exclude the placement of "manufactured and mobile homes" within a PUD. This provision has the effect of treating manufactured homes, including those built to

federal standards, differently than other types of single-family homes. Accordingly, the City should amend its PUD Code by removing the language excluding manufactured homes from single-family lots in a PUD.

5. Moratoriums are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening projects.

A draft ordinance is included in the packet that would extend the moratorium for an additional six months, if after a public hearing the Council adopts findings of fact in support of the extension.

Budget Implications: Current Budget New Budget Request Non-Budgetary

Recommendation:

Staff recommends making a determination on the continued imposition of the moratorium following receipt and consideration of public comment and testimony received at the public hearing and consideration of the record as a whole.

Further, if the moratorium is renewed/extended, staff requests Council direction regarding zoning and development regulations for manufactured home parks which will guide staff in further planning efforts during the pendency of the moratorium. Council may make a motion to "approve Ordinance 23-3006" and provide staff with direction for preparing a text amendment to address manufactured home parks.

Alternatively, adoption of Ordinance 23-3005 would resolve the inconsistencies in the BMC and provide a basis for allowing the moratorium to expire on November 22, 2023 without further action by the Council on the moratorium. Council may make a motion to "table Ordinance 23-3006" thereby deciding to not take formal action at this time.

Reviewed By:

City Manager _____ Finance Director _____ City Clerk _____
(Digital Signature) (Digital Signature) (Digital Signature)

ORDINANCE NO. 23-2997

AN ORDINANCE OF THE CITY OF BLAINE, WASHINGTON, IMPOSING AND DECLARING AN EMERGENCY; ADOPTING AN IMMEDIATE EMERGENCY MORATORIUM ON THE FILING, ACCEPTANCE, PROCESSING AND/OR APPROVAL OF APPLICATIONS FOR MANUFACTURED HOME PARKS WITH EXCEPTIONS FOR BUILDING PERMIT APPLICATIONS FOR A MANUFACTURED HOME, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING, AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, the City’s Planned Residential (PR) Zone allows for manufactured home subdivisions and manufactured home parks; and

WHEREAS, a manufactured home park (“MHP”) allows multiple manufactured homes on a single parcel or lot under single ownership. Such use is fundamentally different than individual lot ownership; and

WHEREAS, the City’s PR Zone is the only district that permits MHPs as an allowed use. Projects larger than five (5) acres in the PR Zone require a PUD application. The PUD standards exclude manufactured homes- See BMC 17.68.120.A.1. Based on analysis prepared by Cascade Engineering [See Memorandum by Craig Parkinson attached to Letter from Ingar Brockman (counsel to East Harbor Hills) dated April 11, 2023] it is impossible to develop an MHP that is compliant with the Code requirements unless the project exceeds five (5) acres. If this information is accurate, an MHP cannot be developed anywhere in the City. This would render City Code provisions regulating MHPs generally, and the PR Zone’s allowance of MHPs, a nullity. However, the City Code anticipated that MHPs would be allowed, as shown by an entire Chapter dedicated to their regulation and uses allowed in the PR Zone; and

WHEREAS, State statute (RCW 35.2.1.684) prohibits the City from discriminating against consumers’ choices in the placement or use of a manufactured home built to certain standards (“Anti-Discrimination Statute”). The City’s Code must regulate such manufactured homes in the same way it regulates other types of homes such as site-built home, but the state statute has no such restriction on the regulation of MHPs; and

WHEREAS, The City Code, BMC 17.68.120, purports to exclude the placement of “manufactured and mobile homes” within a PUD. This provision has the effect of treating manufactured homes, including those built to federal standards, differently than other types of single-family homes. Accordingly, the City should amend its PUD Code by removing the language excluding manufactured homes from single-family lots in a PUD; and

WHEREAS, The Anti-Discrimination Statute does not require the City to permit manufactured home park use in any particular zone or within a PUD because a manufactured home park is best characterized as a land use, and not merely a consumer choice regarding the form of single-family home construction; and

WHEREAS, the City Council has expressed a desire to discuss regulations that would
Ordinance No. 23-2997

prohibit manufactured home parks without allowing an opportunity for an application that would vest an application to develop a Manufactured Home Park (MHP); and

WHEREAS, the City believes a moratorium on applications of manufactured home parks is in the City's best interest; and

WHEREAS, RCW 36.70A.390 authorized the City Council to adopt an immediate moratorium for a period of up to 6 (six) months without holding a public hearing on the proposal if a public hearing is held within at least (sixty) 60 days of its adoption; and

WHEREAS, RCW 36.70A.390 also provides an extension of up to an additional 6 (six) months is possible if there is a work plan developed for related studies; and

WHEREAS, RCW 35.63.200 provides a similar process for adopting and extending land use moratoriums; and

WHEREAS, moratoriums enacted under RCW 36.70A.390 and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening projects; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this Ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act; and

WHEREAS, there are no known pending or contemplated applications for manufactured or mobile home parks at the time of enactment; and

WHEREAS, the City Council concludes that the City has the authority to establish a moratorium and that the City must adopt a moratorium concerning the filing, acceptance, and processing of new applications for manufactured home parks; and

WHEREAS, a moratorium will provide the City with additional time to review and potentially amend its land use regulations, and if necessary, its comprehensive plan related to manufactured home parks; and

WHEREAS, the City Council concludes that it has the authority to establish an emergency moratorium and that the City must adopt an emergency moratorium on the processing of applications and the construction of new manufactured home parks while it considers the options for allowing where, if anywhere, the City would allow manufactured home parks, while allowing for a manufactured home on a single family lot as required by the Anti-Discrimination Statute; and

WHEREAS, the City Council considered this Ordinance during the Council's regular meeting on May 23, 2023; and

WHEREAS, the City Council adopts the foregoing recitals as its findings of facts justifying the adoption of this Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE,
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to draft new regulations that may include allowances, limitations, regulations and/or prohibitions on manufactured home parks within the City. This moratorium will prohibit the acceptance and/or processing of any application for and the approval and/or construction of new manufactured home parks within the City of Blaine, WA.

Section 3. Moratorium Imposed. A moratorium is imposed on the filing, acceptance, and processing of new applications for any manufactured home parks, as said terms are used in the Blaine Municipal Code (BMC), within the City. During the term of this moratorium, the City will not accept and/or process any new applications for manufactured home parks; however, this moratorium will not apply to any pending applications that were counter complete, as provided in the Blaine Municipal Code before the effective date of this Ordinance. Nothing herein limits the filing and acceptance of a single manufactured home on a single-family residential lot consistent with the Anti-Discrimination Statute. For the purposes of this Ordinance a new application is one received on or after the effective date of this Ordinance.

Section 4. Duration of Moratorium. The moratorium imposed by this Ordinance will be in effect for a period not to exceed six (6) months, beginning on the date of the adoption of this Ordinance.

Section 5. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390, the City Council must hold a public hearing on this moratorium within 60 (sixty) days of passing this Ordinance. Immediately after the public hearing, the City Council must adopt findings of fact on this moratorium to justify its continued imposition or cancel the moratorium.

Section 6. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary clerical 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.

Section 7. No Effect on Transitional Housing or Permanent Supportive Housing. Pursuant to RCW 36.70A.390, this Ordinance does not apply to building permit applications for or the construction of transitional housing or permanent supportive housing in any zones in which residential dwellings or hotels are allowed, nor does this Ordinance prohibit building permit applications for or the construction of indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed. For this Ordinance, transitional housing is defined in RCW 84.36.043 (2)(c), and permanent supportive housing is defined in RCW 36.70A.030.

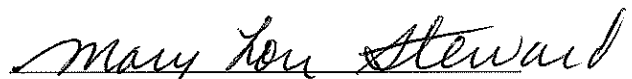
Section 8. Savings Clause. Notwithstanding the foregoing actions, obligations in effect on the effective date of this Ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the

intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.


Section 9. 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 10. Emergency Declaration and Effective Date. Therefore, the City's moratorium must be imposed immediately to prevent any development rights from vesting and preserve the City's ability to process applications under valid codes. Without a moratorium, new manufactured home parks would become vested under the current code, which may frustrate City policy. This Ordinance, passed by a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall be effective immediately upon its passage.


**ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLAINE,
WASHINGTON,** at a regular meeting thereof held the 22 day of May, 2023.


Mary Lou Steward, Mayor

Approved as to form:


Jon Sitkin, City Attorney

Attest:


Sam Crawford, City Clerk

5/22/23
Effective Date

ORDINANCE NO. 23-3006

AN ORDINANCE OF THE CITY OF BLAINE, WASHINGTON, RELATING TO LAND USE AND ZONING, EXTENDING A MORATORIUM ON THE FILING, ACCEPTANCE, PROCESSING AND/OR APPROVAL OF APPLICATIONS FOR MANUFACTURED HOME PARKS WITH EXCEPTIONS FOR BUILDING PERMIT APPLICATIONS FOR A MANUFACTURED HOME, TRANSITIONAL HOUSING, AND PERMANENT SUPPORTIVE HOUSING, PROVIDING FOR SEVERABILITY, AND SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM TO ALLOW THE CITY TO REVIEW OPTIONS AND/OR DRAFT REGULATIONS FOR MANUFACTURED HOME PARKS

WHEREAS, the City's Planned Residential (PR) Zone allows for manufactured home subdivisions and manufactured home parks;

WHEREAS, a manufactured home park ("MHP") allows multiple manufactured homes on a single parcel or lot under single ownership. Such use is fundamentally different than individual lot ownership;

WHEREAS, the City's PR Zone is the only district that permits MHPs as an allowed use. Projects larger than five (5) acres in the PR Zone require a PUD application. The PUD standards exclude manufactured homes as seen in BMC 17.68.120.A.1. Based on analysis prepared by a third party dated April 11, 2023, it is impossible to develop an MHP that is compliant with the Code requirements unless the project exceeds five (5) acres. If this information is accurate, an MHP cannot be developed anywhere in the City. This would render City Code provisions regulating MHPs generally, and the PR Zone's allowance of MHPs, a nullity. However, the City Code anticipated that MHPs would be allowed, as shown by an entire Chapter dedicated to their regulation and uses allowed in the PR Zone;

WHEREAS, State statute (RCW 35.21.684) prohibits the City from discriminating against consumers' choices in the placement or use of a manufactured home built to certain standards ("Anti-Discrimination Statute"). The City's Code must regulate such manufactured homes in the same way it regulates other types of homes such as site-built home, but the state statute has no such restriction on the regulation of MHPs;

WHEREAS, the City Code, BMC 17.68.120, purports to exclude the placement of "manufactured and mobile homes" within a PUD. This provision has the effect of treating manufactured homes, including those built to federal standards, differently than other types of single-family homes. Accordingly, the City should amend its PUD Code by removing the language excluding manufactured homes from single-family lots in a PUD;

WHEREAS, the Anti-Discrimination Statute does not require the City to permit manufactured home park use in any particular zone or within a PUD because a manufactured home park is best characterized as a land use, and not merely a consumer choice regarding the form of single-family home construction;

WHEREAS, the City Council determined that it was in the City's best interest to fully discuss regulations that would further regulate manufactured home parks or prohibit manufactured home parks without allowing an opportunity for an application that would vest an application to develop a Manufactured Home Park (MHP);

WHEREAS, on the 22nd day of May, the Council adopted Ordinance No. 23-2997 imposing an emergency moratorium on the filing, acceptance, processing and/or approval of applications for manufactured home parks with certain limited exceptions (the “Moratorium”), and adopted findings of fact in support of the Moratorium;

WHEREAS, on the 10th of July, the City Council, in Ordinance No. 23-3002, adopted additional findings of fact and readopted the findings of fact set forth in Ordinance No. 23-2997, following notice and a public hearing, which affirmed the continuation of the Moratorium;

WHEREAS, as provided in Ordinance No. 23-3002, there is a lack of clarity in the municipal code for regulation of manufactured home parks;

WHEREAS, on the 11th of September, City Council passed Resolution No. 1929-23 which recognized the substantial public process that has occurred regarding a proposal to amend the City’s code for regulation of manufactured home parks and directed additional public process before the City’s Planning Commission;

WHEREAS, on October 9, 2023, the City Council received a staff report, findings and recommendations of the Planning Commission, and a draft ordinance which would amend the City’s code for regulation of manufactured home parks;

WHEREAS, RCW 36.70A.390 provides that, “A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal;”

WHEREAS, RCW 35.63.200 and RCW 35A.63.220 provide for a similar process for adopting and extending land use moratoriums;

WHEREAS, the City believes extending the Moratorium on applications for manufactured home parks is in the City’s best interest, consistent with the City’s ongoing plan of work, to allow for additional study, review of options, and, if appropriate, drafting, and adopting additional regulations;

WHEREAS, the Moratorium will provide the City with additional time to review and potentially amend its land use regulations, and if necessary, its comprehensive plan related to manufactured home parks;

WHEREAS, moratoriums enacted under RCW 36.70A.390, RCW 35A.63.220, and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening projects;

WHEREAS, pursuant to WAC 197-11-880, the adoption of this Ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act;

WHEREAS, there are no known pending or contemplated applications for manufactured or mobile home parks at the time of enactment;

WHEREAS, the City Council concludes that the City has the authority to extend and renew the Moratorium and that the City must extend and renew the Moratorium concerning the filing, acceptance, and processing of new applications for manufactured home parks for the reasons stated herein, while allowing for a manufactured home on a single family lot as required by the Anti-Discrimination Statute;

WHEREAS, on October 23, 2023, City Council held a duly noticed public hearing on extending and renewing the Moratorium and considered this Ordinance during the Council's regular meeting;

WHEREAS, upon consideration of the record before Council as a whole, including, without limitation, the record before Council when Ordinance No. 23-2997 and Ordinance No. 23-3002 were adopted, the findings of fact adopted by the Council within Ordinance No. 23-2997 and Ordinance No. 23-3002, and the public comments and testimony received during the public hearing, the City find that extending the Moratorium is in the City's best interest; and

WHEREAS, the City Council adopts the foregoing recitals as its findings of facts justifying the adoption of this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36 .70A.390, RCW 35A.63.220, and RCW 35.63.200.

SECTION 2. Purpose. The purpose of extending and renewing this Moratorium is to allow the City adequate time to consider, draft, and adopt new regulations that may include allowances, limitations, regulations, and/or prohibitions on manufactured home parks within the City. This Moratorium prohibits the acceptance and/or processing of any application for and the approval and/or construction of new manufactured home parks within the City of Blaine, WA.

SECTION 3. Moratorium Extended and Renewed. The Moratorium imposed on the filing, acceptance, and processing of new applications for any manufactured home parks, as said terms are used in the Blaine Municipal Code (BMC), within the City is hereby extended and renewed. During the term of this Moratorium, the City will not accept and/or process any new applications for manufactured home parks; however, this Moratorium will not apply to any pending applications that were counter complete, as provided in the Blaine Municipal Code before the effective date of the Moratorium. Nothing herein limits the filing and acceptance of a single manufactured home on a single-family residential lot consistent with the Anti-Discrimination Statute. For the purposes of this Ordinance a new application is one received on or after the effective date of the Moratorium.

SECTION 4. Duration of Moratorium. This Moratorium shall be extended, renewed, and in effect for an additional period not to exceed six (6) months, beginning on November 22, 2023, and ending on May 22, 2024, unless final regulations and code provision governing manufactured home parks have been adopted by the City Council before May 22, 2024, or the Moratorium is terminated by Council. This Moratorium may be extended and renewed as provided by State law.

SECTION 5. Public Hearing on Moratorium. Pursuant to State law, the City Council held a public hearing on this Ordinance extending the Moratorium on the date this Ordinance was considered by Council and adopted findings of fact to justify extending and renewing the Moratorium.

SECTION 6. Work Plan. During the moratorium period, City staff will continue to study the issues related to regulation of manufactured home parks, prepare appropriate revisions to the City's codes and regulations, and conduct other processes as required for amendments to the City's codes and regulations and as directed by Council.

SECTION 7. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary clerical 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.

SECTION 8. No Effect on Transitional Housing or Permanent Supportive Housing. Pursuant to RCW 36.70A.390, this Ordinance does not apply to building permit applications for or the construction of transitional housing or permanent supportive housing in any zones in which residential dwellings or hotels are allowed, nor does this Ordinance prohibit building permit applications for or the construction of indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed. For this Ordinance, transitional housing is defined in RCW 84.36.043 (2)(c), and permanent supportive housing is defined in RCW 36.70A.030.

SECTION 9. Savings Clause. Notwithstanding the foregoing actions, obligations in effect on the effective date of this Ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

SECTION 10. 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 11. Effective Date. This Ordinance shall take effect and be in full force and effect beginning on November 22, 2023, as set forth herein.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLAINE,
WASHINGTON**, at a regular meeting thereof held the _____ day of _____, 2023.

Mary Lou Steward, Mayor

APPROVED AS TO FORM:

Peter Ruffatto, City Attorney

ATTEST/AUTHENTICATE:

Sam Crawford, City Clerk