

ORDINANCE NO. 2019-03

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to subdivision standards, revising Title 17, repealing Chapter 17.12, and adopting an updated Chapter 17.12, repealing Table 18.12.020-1, and revising Chapter 18.09.030, 18.12.040, 18.15.005, 18.15.010, 18.15.020, **18.36.030**, and 18.18.030, of the Bainbridge Island Municipal Code.

WHEREAS, the City Council of the City of Bainbridge Island (“City”) updated the City’s Comprehensive Plan in February of 2017; and

WHEREAS, the City Council has expressed significant concerns about development and growth in the City under current regulations in the context of the vision and goals of the City’s Comprehensive Plan, and desires to revise development regulations to best accommodate growth and development in both general and specific ways; and

WHEREAS, Ordinance No. 2018-02 imposed a temporary six-month moratorium on the acceptance of certain development, stating the City Council’s concerns regarding likely adverse impacts related to growth and development under existing regulations; and

WHEREAS, based on these and related concerns, the City Council required additional time to review the regulations and policies at issue to ensure that the vision and goals of the City’s Comprehensive Plan are being met to the Council’s satisfaction; and

WHEREAS, a number of priorities to address the items at issue in the moratorium were identified at a joint meeting of the City’s Design Review Board and Planning Commission on February 22, 2018, including the following:

- (1) Initiate rewrite of subdivision design standards (Chapter 17.12 BIMC);
- (2) Identify specific development standards to review/revise (Chapters 18.12 and 18.15 BIMC); and
- (3) Consider alternatives and identify preference for design guidelines framework.

WHEREAS, at an April 3, 2018 City Council study session, the City’s Department of Planning and Community Development provided a briefing on the Design Review Board and Planning Commission joint meeting wherein the Council authorized staff to proceed with a work plan addressing the priorities identified at the joint meeting; and

WHEREAS, on April 2 and 23, May 5 and 21, June 4, August 6 and 13, September 4 and 17, and October 15, 2018, the City’s Design Review Board discussed alternatives for subdivision review procedures and subdivision design guidelines; and

WHEREAS, on March 22, May 5 and 10, June 7, 14, and 21, July 12 and 26, August 9, 23, and 30, September 13 and 27, October 25, November 8 and 29, and December 13, 2018, as well as on January 10, and February 13 and 28, 2019, the City’s Planning Commission discussed alternatives for revisions to the City’s subdivision review procedures, design guidelines, and standards; and

WHEREAS, each of the thirty-one Design Review Board and Planning Commission meetings included an opportunity for public comment; and

WHEREAS, the Planning Commission held a public hearing on Ordinance 2019-03 on February 13, 2019, which was continued to February 28, 2019; and

WHEREAS, City staff forwarded the Planning Commission’s recommendations related to the subdivision update to the City Council for consideration at the Council’s March 19, 2019 regular study session; and

WHEREAS, the City Council previously reviewed and considered the subdivision update at regularly scheduled meetings on September 4 and 11, October 9, and December 4, 2018; and

WHEREAS, the City Council considered this ordinance at its meetings on March 19, 2019, as well as meetings on April 2 and 16, May 28, 2019, **and July 23** [note: this will be revised based on Council activity]; and

WHEREAS, the City issued a State Environmental Policy Act (“SEPA”) Determination of Non-Significance for this Ordinance No. 2019-03 on March 1, 2019; and

WHEREAS, the City notified the Department of Commerce on February 25, 2019 of its intent to revise its development regulations relating to subdivisions; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City’s incorporated lands.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.04.010 of the Bainbridge Island Municipal Code is hereby amended as follows.

A. The purpose of this title is to regulate the division of land into short subdivisions, long subdivisions, and large lot subdivisions ~~to promote the public health, safety and general welfare of the citizens of the city in accordance with state law and the city’s comprehensive plan. To carry out this purpose and further the comprehensive plan policies addressing residential subdivision of land, this title establishes a flexible lot process for short and long subdivisions that promotes the preservation and consolidation of open space and clustering of development within residential subdivisions. This process facilitates the fair and predictable division of land,~~

~~maintains the current character of the city, encourages efficient and cost-effective provisions for infrastructure, limits the development impact area, minimizes impervious surface area and provides for greater flexibility in the division and establishment of residential lots. in a manner consistent with the established zoning classifications for residential and other uses, in order to promote the public health, safety, and general welfare of citizens. In accordance with state law and the city's comprehensive plan, this title establishes a planning process for short and long residential subdivisions that promotes the preservation and consolidation of natural areas and the clustering of homes, in order to facilitate the fair and predictable division of land, limit the environmental impacts of development, achieve efficient and cost-effective provisions for utilities and infrastructure, and maintain the current character of the city.~~

~~B. A further purpose of this title is to:~~

- ~~1. Prevent the overcrowding of land;~~
- ~~2. Lessen congestion in the streets and highways;~~
- ~~3. Provide for adequate light and air;~~
- ~~4. Facilitate adequate provision for water, sewage, storm water drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;~~
- ~~5. Provide for proper ingress and egress;~~
- ~~6. Provide a variety of housing opportunities; and~~
- ~~7. Maintain the quality of life of the city.~~

~~C. Through this title, the city will also allow for the subdivision of land for nonresidential, multifamily, and mixed use, and accomplish uniform monumenting of land divisions and conveyance by accurate legal description.~~

~~D. An additional purpose of this title is to provide criteria for summary administrative approval of boundary line adjustments that satisfy public concerns of health, safety and welfare, or where arranging or rectifying boundary lines is otherwise requested.~~

~~E.B. A final further purpose of this title is to comply with the provisions of RCW Title 58 (Boundaries and Plats) or its successors, and other applicable law of Washington State, and no provision of this title shall be interpreted to authorize or require actions inconsistent with those laws. (Ord. 2011-02 § 2 (Exh. A), 2011)~~

Section 2. Section 17.04.020 of the Bainbridge Island Municipal Code is hereby amended as follows.

B. Location of Review and Approval Procedures and Application Materials. The procedures for approval of short, long, large lot, nonresidential, and multifamily subdivisions, as well as the vesting of rights related to those types of approvals, are set forth in BIMC Title 2 (Administration and Personnel). All such provisions require consistency with the requirements of RCW Title 58 (Boundaries and Plats) or its successors as applicable to the type of land division

being proposed. Required application materials are provided in the Bainbridge Island administrative manual.

~~E. Application Materials. Materials required to be submitted with an application for a short or long subdivision, subdivision, large lot subdivision, nonresidential or multifamily subdivision or boundary line adjustment are available in the Bainbridge Island administrative manual.~~

Section 3. Section 17.08.020 of the Bainbridge Island Municipal Code is hereby amended as follows.

~~H. Short subdivisions shall not be used, either by a person alone or by persons acting together, at one time or over a period of time, as a means to circumvent compliance with the more stringent subdivision requirements that control the subdivision of land into five or more lots. When an application for a short subdivision is filed within five years after the approval of a short subdivision on a contiguous land parcel, a presumption of an attempt to circumvent short subdivision requirements may be invoked by the director as a basis for further investigation to assure compliance with the intent of this provision. (Ord. 2011-02 § 2 (Exh. A), 2011)~~

Section 4. Chapter 17.12 of the Bainbridge Island Municipal Code is hereby repealed.

Section 5. An updated Chapter 17.12 of the Bainbridge Island Municipal Code is hereby adopted, as set forth in Exhibit A and as incorporated herein.

Section 6. Chapter 17.28 of the Bainbridge Island Municipal Code is hereby amended as set forth in Exhibit B and as incorporated herein.

Section 7. Chapter 18.09.030.B.1 of the Bainbridge Island Municipal Code is hereby amended as follows.

~~b. In the Mixed Use Town Center District, existing Ssingle-family dwellings in the Mixed Use Town Center: are subject to R-4.3 zoning development standards.~~

~~i. Except for new single-family residences constructed pursuant to subsection B.1.b.ii of this section, only single family dwellings that were in existence and being used as such prior to the enactment of Ordinance 96-08 are allowed; existing single family dwellings are subject to R-4.3 zoning development standards.~~

~~ii. In the Mixed Use Town Center, any new single-family residences proposed after the enactment of Ordinance 2010-09 shall only be allowed through an approved subdivision that qualifies as a housing design demonstration project pursuant to BIMC 2.16.020.S. Properties with frontage along Winslow Way between Madison Avenue and State Route 305, excepting flag lots, must include a retail and/or commercial component. Solely residential development is not allowed in this area.~~

Section 8. Table 18.12.020-1, *Flexlot Subdivision Dimensional Standards for Residential Zone Districts*, is hereby repealed.

Section 9. Chapter 18.12.040 of the Bainbridge Island Municipal Code is hereby amended as follows.

A. Permitted Setback/Height Modifications. Minimum and maximum setbacks and maximum heights established in Tables 18.12.020-1, 18.12.020-2, and 18.12.020-3 and in BIMC 18.12.030 may be encroached as set forth in Table 18.12.040 and may also be modified by applicable provisions of adopted fire codes, the shoreline master program, and/or the building code. These modifications are not permitted in required perimeter or roadside buffers.

Section 10. Section 18.15.005 of the Bainbridge Island Municipal Code is hereby amended as follows.

G. ~~Chapter BIMC 17.12 BIMC-.030, flexible lot design open space/cluster general subdivision~~ standards; BIMC 17.20.020, dedication of land for parks and open space facilities;

Section 11. Table 18.15.010-1, *Landscape Requirements by Zone District*, of the Bainbridge Island Municipal Code is hereby amended as follows.

Landscape Requirements for Land Uses and Districts	Significant Tree and Tree Stand Retention	Perimeter Landscape	Roadside Buffer	Parking Lot Landscaping	Total Site Tree Unit Requirements	Planting Requirements	Irrigation	Maintenance
Single-Family Residential Short Plats and Subdivisions	X	X (Cluster Subdivisions Only)	X	-	-	X	X	X

Section 12. Table 18.15.010-3, *Perimeter Landscaping Requirements by Land Use and Zoning District*, of the Bainbridge Island Municipal Code is hereby amended as follows.

Abutting Zoning or Land Use District	Perimeter Landscape Type	Perimeter Width (ft.)	Minimum Perimeter Width (ft.)
Short Plats and Subdivisions in Residential Zoning Districts [1]			
Residential subdivision in the R-0.4, R-1, and R-2 districts (cluster option only)	Edge Planting Standard	25	25
Multifamily subdivision in the R-2, R-1, and R-0.4 zoning districts (cluster option only)	Full Screen	25	25
Park and conservation land buffer: applies to all single-family subdivisions (OS) [2]	Edge Planting Standard	25	25
Winslow Town Center Mixed Use District [3] [1]			
Non-B/I	Full Screen [4] [2]	50	35
<p>[1] Properties with less than one acre being subdivided are not subject to perimeter buffer requirements.</p> <p>[2] (OS) indicates that the buffer may be calculated in the required open space area for the subdivision.</p> <p>[3] [1] For perimeter landscaping requirements in the ferry terminal district transition area, north of Winslow Way, reference BIMC 18.12.030.C.</p> <p>[4] [2] This perimeter buffer applies even when a private access road separates a B/I property from non-B/I property.</p>			

Section 13. Section 18.15.010.D. of the Bainbridge Island Municipal Code is hereby amended as follows.

3. ~~Perimeter Buffers in Residential Cluster Short Subdivisions, Cluster Long Subdivisions, and Multifamily Subdivisions in the R-2, R-1, and R-0.4 Zoning Districts.~~ for residential and commercial subdivisions are required pursuant to BIMC 17.12.060.N. The buffers shall be pursuant to the standards set forth in subsection D.4 of this section. The tree retention.

replacement, and protection standards of subsection C of this section apply to perimeter buffers for residential and commercial subdivisions.

- ~~a. When the cluster development option is selected pursuant to BIMC [17.12.030.B](#) for property with a gross area of one acre or more and that is located in the R-0.4, R-1, R-2 and R-2.9 districts, a 25-foot wide, edge planting standard landscape perimeter shall be required along the subdivision boundary.~~
- ~~b. When the cluster development option is selected pursuant to BIMC [17.12.030.B](#) for property with a gross area of one acre or more and that is located in the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 zone districts, a 10-foot wide, edge planting standard landscape perimeter shall be required along the subdivision boundary.~~
- ~~c. In order to buffer the visual impact of the proposed subdivision and protect off-site views, additional landscaping shall be planted within landscape perimeter buffers where mature trees and shrubs cannot provide such screening, pursuant to subsection D.4 of this section.~~
- ~~d. Required landscape buffer width may be reduced through buffer averaging in accordance with the criteria in subsection D.5 of this section, perimeter landscape requirements. For example, buffers may be adjusted when such adjustments contribute to the neighborhood character by incorporating significant trees and native vegetation, incorporate a unique landscape feature, or accommodate a unique situation that allows continuation of an existing use, such as a utility or other easement providing continued use.~~
- ~~e. Landscape buffers may be included in the required open space calculations for a subdivision as noted in Table 18.15.010-3. Table 18.15.010-3 depicts the landscape buffer requirements for subdivisions by zoning district and denotes when the buffer may be included in the open space calculations. These standards apply unless alternative buffers are required pursuant to critical area review, the requirements of the Shoreline Management Act, conditioned by SEPA review, or required for public health or safety reasons.~~
- ~~f. When a multifamily subdivision is created within the R-2, R-1, and R-0.4 zoning districts, a 25-foot wide, full screen landscape perimeter shall be required along the subdivision boundary~~

Section 14. Section 18.15.010.E. of the Bainbridge Island Municipal Code is hereby amended as follows.

2. Roadside Buffers for Residential and Commercial Subdivisions are required pursuant to BIMC [17.12.070.O](#). ~~Roadside buffers are required for both residential and commercial subdivisions—see Table 18.15.010-4. The type and width of the required buffer varies by the type of roadway the subdivision is adjacent to, as well as the condition of the existing roadside vegetation. The buffers shall be pursuant to the standards set forth in subsection D.4 of this section and Table 18.15.010-4. The tree retention, replacement, and protection standards of subsection C of this section apply to roadside buffers~~ for residential and commercial

subdivisions. These requirements do not apply to projects involving only interior renovations of existing buildings.

a. ~~Roadside Buffer General Requirements. All residential subdivisions and short subdivisions subject to landscape buffering requirements shall comply with the standards in this subsection, including those in Table 18.15.010-4.~~

b. ~~Roadside Buffers in Residential Short Subdivisions.~~

i. ~~Except for properties containing a gross area of less than one acre, on a property located adjacent to public roads that are designated as collector or arterial roads on the adopted road classification map, a 25-foot wide vegetative buffer shall be maintained. However, in the R-3.5, R-4.3, R-5, R-6, R-8 and R-14 districts a roadside buffer is not required unless it is determined that a landscape buffer is necessary to maintain the character of the neighborhood or to reflect neighboring development patterns.~~

ii. ~~Where there are no mature trees and shrubs that contribute to the existing forested character of these roads, the character of the neighborhood shall be maintained by establishing building setbacks equal to or greater than the existing building setbacks on the adjacent properties. At no point shall the building setback be less than requirements in this title.~~

iii. ~~To accommodate an existing house that is located within 25 feet of the property line adjacent to a collector or arterial road, the roadside buffer area width shall be reduced to the width adjoining the existing home between the existing house and the property line adjacent to the collector or arterial road.~~

c. ~~Roadside Buffers in Residential Long Subdivisions.~~

i. ~~For subdivisions located in the R-0.4, R-1, R-2 and R-2.9 districts located adjacent to public roads that are designated as collector or arterial roads on the adopted road classification map, a 25-foot wide vegetative buffer shall be maintained. In the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 districts a roadside buffer is not required unless it is determined that a landscape buffer is necessary to maintain the character of the neighborhood or to reflect neighboring development patterns.~~

ii. ~~For property with a gross area of one acre or more and that is located in districts R-0.4, R-1, R-2 and R-2.9, where there is no existing vegetation that contributes to the existing vegetation character of the roads, a 25-foot full screen landscape buffer shall be planted consistent with the requirements of subsection D.4.a of this section, except as noted below in this subsection.~~

iii. To accommodate an existing house that is located within 25 feet of the property line adjacent to a collector or arterial road (or within 25 feet of such a property line if subsection E.2.c.ii of this section applies), and to maintain the character of the neighborhood and reflect neighboring development patterns, the roadside buffer area width shall be reduced to the width adjoining the existing home between the existing house and the property line adjacent to the collector or arterial road. At no point shall the building setback be less than requirements in this title.

iv. For subdivisions designating open space that is intended for agricultural use and would be adversely impacted by the addition of screening landscaping, a 25-foot roadside buffer as prescribed in subsection E.2.c.ii of this section shall not be required.

d. Roadside Buffers in Multifamily and Commercial Subdivisions. A minimum 50-foot vegetative buffer shall be established adjacent to all designated scenic roads. The buffer shall be consistent with the requirements for a full screen buffer, pursuant to subsection D.4.a of this section.

e. Multiple Street Frontages. For properties subject to the roadside buffers requirement along two property boundaries, the roadside buffer abutting the street with the lower classification may be reduced to 25 feet in width. For properties that abut more than two streets requiring roadside buffers or in situations where both abutting streets are of the same road classification, one roadside buffer of the full required width shall be required and all other roadside buffers may be reduced to 25 feet; provided, that the full required width buffer is located where a greater number of significant trees can be incorporated into the buffer.

Section 15. Table 18.15.010-4, *Roadside Buffer Requirements by District and Land Use*, of the Bainbridge Island Municipal Code is hereby amended as follows.

Existing Zoning/Use	Adjacent Right-of-Way Type	
	Right-of-Way (not including Highway 305)	Highway 305
Residential Subdivision in the R-0.4, R-1, R-2, and R-2.9 Districts [4]	25' Full Screen or maintain existing vegetation within 25' buffer (OS) [5][6]; Applies only to collectors and arterial roads	
Residential Subdivision in the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 Districts [4]	No requirement unless necessary to reflect neighboring development patterns (OS) [5]; Applies only to collectors and arterial roads	

[1] All roadside buffers shall be planted if not already existing.

Existing Zoning/Use	Adjacent Right-of-Way Type	
	Right-of-Way (not including Highway 305)	Highway 305
<p>[2] For perimeter landscaping requirements in the ferry terminal district transition area, north of Winslow Way, reference BIMC 18.12.030.C.</p> <p>[3] Beginning 100' north of Winslow Way.</p> <p>[4] Properties being subdivided with less than one acre are not subject to roadside buffer requirements.</p> <p>[5] (OS) indicates that the buffer may be calculated in the required open space area for open space subdivision.</p> <p>[6] Existing vegetation must remain in the 25-foot buffer area. When existing vegetation does not constitute a full screen, the applicant will not be required to plant a full screen. If existing vegetation within the 25-foot buffer area does constitute a full screen, but dense vegetation is not part of the neighborhood character, then the applicant may choose between maintaining a 25-foot full screen roadside buffer, or averaging that buffer to retain trees and vegetation elsewhere on the property and eliminating the roadside buffer.</p>		

Section 16. Section 18.15.020.D. of the Bainbridge Island Municipal Code is hereby amended as follows.

3. Parking spaces serving dwelling units shall be located on the same lot with the building they serve, except in subdivisions where parking spaces may be located on a separate lot or tract. In the central core, gateway, and ferry terminal districts, one parking space per unit ~~shall~~ must be located on site and any additional spaces may be located off site. All off-site spaces shall be within a 1,000-foot radius of the edge of the development parcel and shall ~~must~~ be acquired through fee-in-lieu, fee simple ownership, or a leasehold permanently linked to the unit.

Section 17. Section 18.36.030. of the Bainbridge Island Municipal Code is hereby amended as follows.

161. “Mature trees and shrubs” means vegetation, with well-established root systems, that provides a predominantly continuous cover. Mature trees and shrubs do not include invasive species as listed in BIMC 16.20.090.B.3.

Section 187. Section 18.18.030 of the Bainbridge Island Municipal Code is hereby amended as follows.

~~A. Detached Single Family Residential Developed Using the R-8SF Urban Single Family Overlay District. Detached single family residential developed in accordance with the R-8SF urban single family overlay district transfer of development rights program shall comply with those regulations contained in “Design Guidelines for R-8SF Urban Single Family Overlay District” if they want to develop at overlay zone densities. Residential subdivision development in all zoning districts except the Neighborhood Center and Mixed Use Town Center districts shall comply with those regulations contained in “Design Guidelines for Residential Subdivisions” as set forth in Exhibit C and incorporated herein.~~

Section 198. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 2019. This ordinance shall take effect and be in force five (5) days after its passage, approval, and publication as required by law.

PASSED by the City Council this ___ day of _____, 2019.

APPROVED by the Mayor this ___ day of _____, 2019.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK:	March 14, 2019
PASSED BY THE CITY COUNCIL:	_____, 2019
PUBLISHED:	_____, 2019
EFFECTIVE DATE:	_____, 2019
ORDINANCE NUMBER:	2019-03