

*PUBLIC HEARING DRAFT*

**ORDINANCE NO. 2022-02**  
(formerly Ordinance No. 2021-38)

**AN ORDINANCE** of the City of Bainbridge Island, Washington, amending Tables 18.09.020, and 18.12.020-3, Section 18.09.030, and Chapter 18.21 of the Bainbridge Island Municipal Code related to affordable housing on property owned or controlled by religious organizations.

**WHEREAS**, the City of Bainbridge Island Comprehensive Plan Housing Element Policy HO 3.4 encourages partnering with nonprofit housing organizations, churches, the development community, local lending institutions, elected officials, and the community at large to assist in meeting affordable housing goals and implementing strategies; and

**WHEREAS**, the City of Bainbridge Island created a short-term Affordable Housing Task Force in 2017 to help achieve the affordable housing goals and policies in the Comprehensive Plan and help the City prioritize a variety of affordable housing actions, recognizing the current housing crisis in the Puget Sound region, Kitsap County, and Island-wide; and

**WHEREAS**, Comprehensive Plan Guiding Principle #3 directs the City to foster diversity with a holistic approach to meeting the needs of Bainbridge Island and the human needs of its residents consistent with the stewardship of the Island's finite environmental resources; and

**WHEREAS**, Guiding Policy 3.1 directs the City to ensure a variety of housing choices to meet the needs of present and future residents in all economic segments and promote plans, projects, and proposals to create affordable housing; and

**WHEREAS**, in 2019, the Washington State Legislature enacted Substitute House Bill ("SHB") 1377 to facilitate the development of affordable housing projects on property owned or controlled by religious organizations; and

**WHEREAS**, the applicable state law provision implementing SHB 1377 is RCW 36.70A.545 and the law facilitates affordable housing development on property owned or controlled by religious organizations by requiring a density bonus consistent with local needs; and

**WHEREAS**, the City Council became aware of an ongoing discussion about constructing affordable housing on the Bethany Lutheran Church properties, and on April 20, 2021, the Council endorsed moving forward with implementing RCW 36.70A.545 in advance of completing a Housing Action Plan; and

**WHEREAS**, on October 26, 2021, the City Council, as part of its legislative and deliberative policy-making process regarding implementation of the requirements of RCW 36.70A.545, considered how to proceed most effectively in accordance with RCW 36.70A.545, consistent with local needs and in the context of the only request that the City has received thus far based on the requirements of RCW 36.70A.545, which request is from Bethany Lutheran, and the Council expressed interest in pursuing regulations that would include a pilot project phase to allow the City to learn from the experience of that phase in implementing the regulations at issue; and

**WHEREAS**, on October 26, 2021, the City Council approved a motion to direct the Planning Commission to work with staff to prepare an ordinance to develop such implementing regulations consistent with local needs, to focus on the request submitted by Bethany Lutheran, and to consider that request as a part of a pilot project phase in implementing RCW 36.70A.545; and

**WHEREAS**, the Planning Commission considered as a legislative and policy-making matter draft Ordinance No. 2022-02 (formerly Ordinance No. 2021-38) on November 18, 2021, January 13 and 27, 2022, and February 10 and 24, 2022; and

**WHEREAS**, the Planning Commission held a public hearing on Ordinance No. 2022-02 on March 10, 2022, and after closing the public hearing, continued discussion of the ordinance; and

**WHEREAS**, the Planning Commission continued discussion of Ordinance No. 2022-02 on March 24, 2022, and approved a series of motions to amend the ordinance; and

**WHEREAS**, the Planning Commission continued discussion of amended Ordinance No. 2022-02 on April 14, 2022, and a vote to recommend approval of the ordinance to the City Council resulted in a 3-3 tie vote (with one Planning Commissioner recusal); and

**WHEREAS**, notice was given on July 13, 2022, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

**WHEREAS**, on June 7, 2022, the City Council received input from the Planning Commission about the policy disagreements that contributed to the April 14, 2022 tie vote on Ordinance No. 2022-02; and

**WHEREAS**, at the close of its discussion on June 7, 2022, the City Council approved a motion to continue its legislative review and policy-making discussion of Ordinance No. 2022-02 at a future meeting; and

**WHEREAS**, on July 26, 2022, the City Council continued its legislative review and policy-making discussion of Ordinance No. 2022-02, provided feedback to City staff, and approved a motion to continue the discussion at a future meeting; and

**WHEREAS**, on August 16, 2022, the City Council further continued its legislative and policy-making consideration and discussion related to Ordinance No. 2022-02, including regarding options provided by City staff related to certain provisions of the draft ordinance, and the Council provided direction to staff regarding the options presented for consideration at a future Council meeting; and

**WHEREAS**, on September 13, 2022, the City Council continued its legislative consideration of Ordinance No. 2022-02, including related to revisions to the draft regulations as directed by the Council at its August 16, 2022, meeting, and set a public hearing for October 11, 2022; and

**WHEREAS**, on October 11, 2022, the City Council held a public hearing on this Ordinance No. 2022-02 in order to receive further public comment regarding the new regulations set forth in the ordinance; and

**WHEREAS**, after considering public testimony and other public comment received regarding this Ordinance No. 2022-02, the City Council adopted the ordinance.

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

**Section 1.** Table 18.09.020 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

**Section 2.** Table 18.12.020-3 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit B.

**Section 3.** Section 18.09.030.C. of the Bainbridge Island Municipal Code is hereby amended to read as follows:

3. Religious Facilities.

- a. In the WD-I district, religious facilities are a conditional (“C”) use. Conference centers with overnight accommodations are not permitted.
- b. In the ferry terminal overlay district, religious facilities are only allowed south of Winslow Way.
- c. Lot coverage for religious facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the religious facility is located. See Table 18.12.020-2 for lot coverage standards in residential zones. This lot coverage reduction does not apply to affordable housing development

on properties owned or controlled by religious organizations, as described in BIMC 18.21.050.

**Section 4. *New Section.*** Chapter 18.21 of the Bainbridge Island Municipal Code is hereby amended to include the following new section:

**18.21.050 Affordable Housing Development on Property Owned or Controlled by a Religious Organization.**

A. In accordance with RCW 36.70A.545, the City shall allow a density bonus consistent with this section BIMC 18.21.050 for properties owned or controlled by a religious organization. For the purposes of this section, “religious organization” is defined as provided in RCW 36.70A.545. All projects governed by this section shall comply with RCW 36.70A.545 and the requirements set forth in this section.

B. Pilot Project Phase. In order to implement the requirements of RCW 36.70A.545 consistent with local needs, the City will utilize a pilot project phase as part of a broader application and implementation of the regulations. Initially, implementation of BIMC 18.21.050 shall be limited to the only request from a religious organization for an increased density bonus for an affordable housing development that the City has received related to RCW 36.70A.545, as of adoption of Ordinance No. 2022-02, which relates to the approximately 8 acre property collectively known as “Bethany Lutheran Church,” located at the southwest intersection of NE High School Road and Sportsman Club Road NE and zoned R-0.2. The pilot project phase shall be in effect until December 31, 2027. Beginning January 1, 2028, the pilot project phase of these regulations will no longer be in effect and BIMC 18.21.050 will apply to all requests submitted in accordance with RCW 36.70A.545 and the Bainbridge Island Municipal Code, regardless of the location of the property within the City’s jurisdictional limits.

C. All projects shall comply with existing land use permit review procedures depending on the type of housing development that is proposed. Multifamily housing shall be reviewed in accordance with the Site Plan and Design Review process set forth in BIMC 2.16.040, and subdivisions shall be reviewed in accordance with the short or long subdivision process set forth in BIMC 2.16.070 or BIMC 2.16.125 (respectively), unless specifically modified by this section.

D. All projects shall be subject to applicable residential development standards for Titles 15, 16, 17, and 18 BIMC, unless specifically modified by this section. All projects shall comply with the requirements of the City and the Kitsap Public Health District for providing drinking water and onsite septic, if applicable.

E. Project density bonus. The density for projects may be increased above the base density as follows, provided that all other applicable provisions of the BIMC are met:

1. For projects within the Mixed Use Town Center/HSR I and II zones (where bonus density for affordable housing is otherwise governed by

BIMC 18.12.030.E), bonus density shall be governed by Table 18.12.020-3 and the maximum floor area ratios depicted therein.

2. For projects within the Neighborhood Center zones (where bonus density for affordable housing is otherwise governed by BIMC 18.12.030.D), density may be increased as follows: one additional unit per acre beyond what is already provided as bonus for projects not served by public sewer, and two additional units per acre beyond what is already provided as bonus for projects served by public sewer.
3. For all other projects in Residential zoning districts (otherwise governed by Chapter 18.21 BIMC), density may be increased as follows:
  - a. For projects within the Winslow Subarea Plan Study Area or within one quarter mile of the Winslow Subarea Plan Study Area:

<b>Residential Zone</b>	<b>Total Allowed Density Under this Chapter</b>
R-0.4	2.9 units/acre
R-1	3.5 units/acre
R-2	4.3 units/acre
R-2.9	5 units/acre
R-3.5	6 units/acre
R-4.3	8 units/acre
R-5	14 units/acre
R-6	18 units/acre
R-8	22 units/acre
R-14	26 units/acre

- b. For all other projects in Residential zoning districts:

<b>Residential Zone</b>	<b>Total Allowed Density Under this Chapter</b>
R-0.4	2 units/acre
R-1	2.9 units/acre
R-2	3.5 units/acre
R-2.9	4.3 units/acre
R-3.5	5 units/acre
R-4.3	6 units/acre

R-5	8 units/acre
R-6	14 units/acre
R-8	18 units/acre
R-14	22 units/acre

|

F. Accessory Dwelling Units (“ADU”). ADUs are prohibited for projects governed by this section.

G. Affordable Housing. All dwelling units planned and constructed through this section shall meet the following requirements:

1. All units shall be used exclusively for affordable housing purposes for at least ninety-nine years.
2. Housing units shall be used as the primary residence of a low income household. “Low income households” are defined as set forth in RCW 36.70A.545.
3. Unless otherwise specified, the price of affordable housing units shall be based on the requirements set forth in RCW 36.70A.545.
4. An agreement in a form approved by the City shall be executed by the applicant, or its successor organization, and recorded with the Kitsap County Auditor’s Office, requiring the affordable housing to remain for ninety-nine years. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.
5. The City shall require documentation to be signed through the land use and building permitting processes to ensure ongoing compliance with the income requirements.
6. The City may approve a formula, based on a form prepared by the City and submitted by the applicant when a project application is submitted for review, for calculating maximum affordable prices for sales subsequent to the initial sale to allow modest growth in homeowner equity while maintaining long term affordability for future buyers.

H. Parking. The amount of parking shall be determined as part of a transportation study or mobility assessment.

I. The maximum dwelling unit size shall be limited to 1400 square feet.

J. Projects proposed and constructed on the same property(ies) as existing buildings may result in a permitted mixed-use property.

K. Projects proposed and constructed under this section, BIMC 18.12.050, shall comply with the Fair Housing Act which prohibits discrimination in housing because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familiar status, or disability.

**Section 5. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 6.** This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2022.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Joe Deets, Mayor

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Christine Brown, MMC, City Clerk

FILED WITH THE CITY CLERK:	September 9, 2022
PASSED BY THE CITY COUNCIL:	_____, 2022
PUBLISHED:	_____, 2022
EFFECTIVE DATE:	_____, 2022
ORDINANCE NUMBER:	2022-02
EXHIBITS:	Exhibit A, Exhibit B