

**CITY OF GRANITE FALLS**

**ORDINANCE NO. 752-07**

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON  
ESTABLISHING A MORATORIUM ON THE FILING OR ACCEPTANCE OF  
APPLICATIONS FOR BUILDING PERMITS, AND APPROVALS FOR OR  
RELATED TO THE PLAT OF GRANITE PARK (DIVISION 1 AND DIVISION 2),  
AND DECLARING THIS TO BE AN EMERGENCY ORDINANCE.**

**WHEREAS**, the Plats of Granite Park (Division 1 and Division 2) are within the city limits of Granite Falls; and

**WHEREAS**, the Plats of Granite Park (Division 1 and Division 2) are located adjoining the Pilchuck River; and

**WHEREAS**, the Plat of Granite Park (Division 1 and Division 2) have recently experienced substantial flooding; and

**WHEREAS**, the land use regulations currently in effect in the City may not provide sufficient regulations to address potential flooding in the Plat of Granite Park (Division 1 and Division 2); and

**WHEREAS**, the City Council of Granite Falls finds it necessary to prepare and develop revised regulations that respond to the concern and address the flooding of the Plat of Granite Park (Division 1 and Division 2); and

**WHEREAS**, Washington State's permissive Vested Rights Doctrine which allows many land use applications to vest early in the application process to the existing land use regulations; and

**WHEREAS**, applications for building permits if allowed will vest in inadequate regulations while the City studies the changes needed in those regulations, undermining effective City planning; and

**WHEREAS**, Snohomish County and the City participates in the National Flood Insurance Program (NFIP) administered by the federal government through the Federal Emergency Management Agency (FEMA); and

**WHEREAS**, FEMA has not established flood plain elevations in the area of Granite Park (Division 1 and Division 2); and

**WHEREAS**, FEMA on June 13, 2007 advised the City that the preliminary flood insurance rate maps issued to Granite Falls on September 29, 2006 may contain significant inaccuracies associated with the flood plain boundaries; and

**WHEREAS**, rather than proceeding to the Letter of Final Determination (LFD), FEMA intends to pause the process for approximately one year in order to provide time for these inaccuracies to be addressed; and

**WHEREAS**, the City desires not to accept new building permit applications or other related permits until a flood plain elevation is established by FEMA; and

**WHEREAS**, the City needs additional time to consider properly and carefully the regulations necessary to address the flood issues in the Plat of Granite Park (Division 1 and Division 2) and the information to be developed by FEMA; and

**WHEREAS**, the City of Granite Falls has authority pursuant to RCW 35A.63.220 and RCW 36.70A.390 to enact moratoria on land use matters, and thereafter to hold a public hearing on the moratorium within sixty (60) days of the commencement of the moratorium, to preserve the status quo while considering and preparing new plans or development standards and regulations; 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**, the City Council finds that protection of health, safety, and welfare supports the establishment of a moratorium on applications for building permits and approvals for or related to the Plat of Granite Park (Division 1 and Division 2), and

**WHEREAS**, the City Council concludes that it must adopt a moratorium concerning the acceptance and processing of building permits and approvals for or related to the Plat of Granite Park (Division 1 and Division 2) as a temporary measure in order to study the issues concerning the flooding of the Plat of Granite Park (Division 1 and Division 2), to prepare appropriate revisions to the City's regulations, and to avoid possible applications establishing vested rights contrary to and inconsistent with any revisions the City may make to its regulations as a result of the City's study on this matter; and

**WHEREAS**, the Granite Falls City Council had previously enacted a moratorium on building permits related to the Plat of Granite Park (Division 1 and Division 2) which unintentionally and inadvertently expired on July 5, 2007; and

**WHEREAS**, the City Council had subsequently re-enacted the moratorium on building permits related to the Plat of Granite Park (Division 1 and Division 2) on July 10, 2007; and

**WHEREAS**, a public hearing was to be held within sixty (60) days of adoption of the re-enacted moratorium; and

**WHEREAS**, the public hearing notice setting the public hearing for September 5, 2007 for continuation of the moratorium was defective in that its description of the moratorium being continued was erroneously noted as a moratorium on building permit applications of five (5) units or more as a result of inadequate sewer capacity rather than the correct description of approvals for or related to the Plat of Granite Park (Division 1 and Division 2); and

**WHEREAS**, the Granite Falls City Council on September 5, 2007 tabled indefinitely the defective public hearing scheduled for September 5, 2007; and

**WHEREAS**, the re-enacted moratorium of July 10, 2007 on acceptance of or approvals for public building permits related to the Plat of Granite Park (Division 1 and Division 2) unintentionally and inadvertently expired on September 10, 2007 as a matter of law by virtue of no public hearing being held within sixty (60) days of the moratorium's adoption as required by RCW 35A.63.220 and RCW 36.70A.390; and

**WHEREAS**, the City Council finds that an emergency does exist to protect the public health, safety, and welfare; and

**WHEREAS**, the City Council hereby adopts the foregoing as its Finding of Fact relating to its adoption of this Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Moratorium Established. A moratorium is hereby imposed upon the filing, acceptance, or processing of applications for building permits, and approvals for or related to the Plat of Granite Park (Division 1 and Division 2) during the effective period of this moratorium..

**Section 2.** Term of Moratorium. The moratorium imposed in this Ordinance shall become effective immediately upon passage of this Ordinance and shall continue in effect until and including September 17, 2008, unless repealed, extended, or modified by the Granite Falls City Council after subsequent public hearing and entry of appropriate Findings of Fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

**Section 3.** Public Hearing. A public hearing shall be held on the adoption and continuation of this moratorium Ordinance, as required by statute on **OCTOBER 17, 2007**, at approximately 7:00 p.m. and appropriate written Findings of Fact shall be entered immediately thereafter.

**Section 4.** Penalty for Violation. Any person or entity violating any provision of this Ordinance shall be guilty of having committed a gross misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount not to exceed Five Thousand

Dollars (\$5,000) or incarceration for a term not to exceed one year or by both such fine and incarceration, and the same is also subject to injunctive and other forms of civil relief which the City may lawfully seek.

**Section 5.** Severability. If any section, sentence, clause or phrase of this Ordinance shall 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.

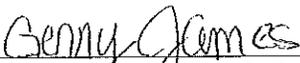
**Section 6.** Effective Date. This Ordinance, passed by a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall be effective immediately upon its passage.

**Section 7.** Publication and Summary. This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the City.

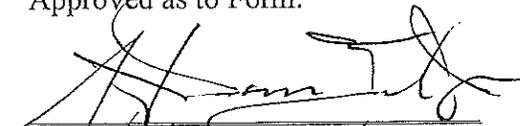
Said Ordinance was passed in open session by the City Council of the City of Granite Falls by a majority plus one of the whole membership of the City Council on the 19<sup>th</sup> day of Sept, 2007, and signed in authentication of its passage this 19<sup>th</sup> day of Sept, 2007.

  
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LYLE ROMACK, MAYOR

Attest:

  
\_\_\_\_\_  
Gerry James, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
H.J. Zachor City Attorney

DATE OF FIRST AND FINAL READING:  
DATE OF PUBLICATION:  
EFFECTIVE DATE:

September 19, 2007

September 19, 2007