

CITY OF GRANITE FALLS

ORDINANCE NO. 755-07

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON,
ADOPTING FINDINGS OF FACT AND CONTINUING A MORATORIUM ON
THE INITIATION OF DEVELOPMENT PROJECTS AND FILING OR
ACCEPTANCE OF APPLICATIONS FOR BUILDING PERMITS, AND
APPROVALS FOR OR RELATED TO THE PLAT OF GRANITE PARK
(DIVISION 1 AND DIVISION 2)**

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

WHEREAS, the Plat 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 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 an adequate flood plain elevation is established; 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 received documentation and final flood map for Paradise Lane from Snohomish County; and

WHEREAS, on or about August 17, 2007, the City of Granite Falls was advised that Snohomish County has confirmed that all contours shown are correct based upon the model; and

WHEREAS, the documentation and flood map for Paradise Lane provided by Snohomish County is insufficient in detail to receive FEMA certification for base flood (100-year flood) elevation; and

WHEREAS, the City will need to review and determine whether or not to engage the services of a hydraulics firm to complete a more extensive analysis; and

WHEREAS, the City needs to review and study the insurance coverage available with a Homeowner's Policy if there is no FEMA certification of the base flood elevation; 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, on July 10, 2007, the City Council enacted a moratorium on the initiation of development projects and 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 such moratorium expired 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, on September 19, 2007, the City Council re-enacted a moratorium on the initiation of development projects and 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 such moratorium is in effect through September 17, 2008; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 provide that a city adopting a Moratorium shall adopt Findings of Fact immediately after the public hearing held within sixty (60) days of adoption of the Moratorium; and

WHEREAS, a public hearing was held on November 7, 2007, before the Granite Falls City Council; and

WHEREAS, the Granite Falls City Council has considered any written comments and public testimony received at the hearing, as well as materials and information presented at the hearing;

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

Section 1. Findings of Fact: The Granite Falls City Council hereby adopts the following Findings of Fact:

A. The Granite Falls City Council finds that additional time is necessary in order to review and further study the issue concerning the 100-year flood elevation for the Plat of Granite Park (Division 1 and Division 2).

B. The Granite Falls City Council finds that a properly filed application for development within the Plat of Granite Park (Division 1 and Division 2) would grant and establish vested rights to develop and build.

C. The Granite Falls City Council finds that permitting development and structures to be sited in the Plat of Granite Park (Division 1 and Division 2) without a determination of a base flood elevation is not desirable and the City needs additional time to review, study and address the flood issues occurring in the Plat of Granite Park (Division 1 and Division 2) and develop appropriate regulations.

D. The Granite Falls City Council finds that protection of the health, safety and welfare supports the establishment of a Moratorium on initiation of development projects and filing or acceptance of applications for building permits, and approvals for or related to the Plat of Granite Park (Division 1 and Division 2).

E. The Granite Falls City Council finds and concludes it must continue the Moratorium concerning the initiation of development projects and filing or acceptance of applications for building permits, and approvals for or related to the Plat of Granite Park (Division 1 and Division 2) 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 review and study of this matter.

F. The Granite Falls City Council finds that an emergency does exist to protect the public health, safety and welfare.

Section 2. Recitals and Findings of Fact Incorporated. The recitals are set forth in this Ordinance, and the recitals and findings of fact contained in Ordinance No. 752-07, are incorporated as if fully set forth herein and are hereby adopted as additional Findings of Fact to the extent they are not inconsistent with the Findings of Fact adopted in Section 1 of this Ordinance.

Section 3. Continuation of Moratorium. Based on the Findings of Fact adopted in Section 1 and 2 above, the Granite Falls City Council hereby determines that it is necessary for the Moratorium enacted in Ordinance No. 752-07 (adopted September 19, 2007) to remain in effect for the entire 365-day period as set forth in Ordinance No. 752-07. Accordingly, the Moratorium shall not expire until midnight on September 17, 2008, unless the Moratorium is shortened or extended by action of the Granite Falls City Council.

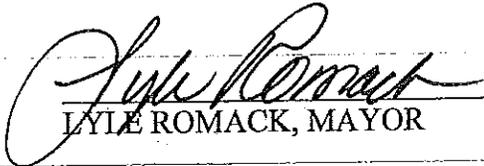
Section 4. Penalty for Violation. Any person or entity violating any provision of this Ordinance shall be guilty of having committed a gross misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount not to exceed \$5,000.00 or incarceration for a term not to exceed one year or by both such fine and incarceration, and the same is also subject to injunctive and other forms of civil relief which the City may 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 section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This Ordinance, passed by a majority plus one of the whole members 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 a 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 7th day of November, 2007, and signed in authentication of its passage this 7th day of November, 2007.


LYLE ROMACK, MAYOR

Attest:



LORA HINES, City Clerk

Approved as to Form:



H. James Zachor, City Attorney

DATE OF FIRST AND FINAL READING:

November 7, 2007

DATE OF PUBLICATION:

SEPT. 28 2007

EFFECTIVE DATE:

November 7, 2007