

## ORDINANCE NO. 3748

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON ADOPTING A NEW SUBAREA NAMED THE SOUTH KINCAID SUBAREA PLAN, AMENDING AN EXISTING SUBAREA PLAN, AMENDING THE LAND USE AND PARKS AND RECREATION ELEMENTS OF THE COMPREHENSIVE PLAN AND ADOPTING A NEW COMPREHENSIVE PLAN MAPPING DESIGNATION FOR THE SOUTH KINCIAD SUBAREA CONSISTENT WITH RCW 36.70A (GROWTH MANAGEMENT – PLANNING BY SELECTED COUNTIES AND CITIES) AND RESOLUTION 491**

**WHEREAS**, pursuant to RCW 36.70A.040, the City of Mount Vernon is subject to the State Growth Management Act (RCW 36.70A); and

**WHEREAS**, Mount Vernon adopted its first Growth Management Act (RCW 36.70A) compliant Comprehensive Plan in 1995; and since this time the City has revised and updated this initial plan to maintain compliance with the Growth Management Act; and

**WHEREAS**, the Washington State Growth Management Act authorizes the preparation of subarea plans; and,

**WHEREAS**, Mount Vernon’s Comprehensive Plan includes direction for the creation of a subarea plan south of Kincaid Street; and,

**WHEREAS**, RCW 36.70A.080(2) is satisfied as the South Kincaid Subarea Plan is consistent with the City’s Comprehensive Plan last updated in September of 2016 with Ordinance 3690. This subarea plan shall be adopted as an appendix to the Land Use Element of the Comprehensive Plan; and,

**WHEREAS**, consistent with RCW 36.70A.130(2)(a)(i) the City is adopting the South Kincaid Subarea Plan to supplement and implement existing jurisdiction-wide comprehensive plan policies; and the cumulative impacts of this plan have been addressed consistent with chapter 43.21C RCW; and

**WHEREAS**, the South Kincaid Subarea Plan identifies two non-motorized trails and a future park/open space area needed to implement the Goal, Objectives and Policies of the South Kincaid Subarea Plan; and,

**WHEREAS**, future parks and recreation improvements completed by the City need to be identified within the Parks and Recreation Element of the Comprehensive Plan; and,

**WHEREAS** the City Council finds that the South Kincaid Subarea Plan reflects the best interests of the citizens of the City of Mount Vernon, Washington, and reflects the desires of the public; and

**WHEREAS**, the City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney’s Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the “warning signals” identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION ONE.** The City Council does hereby adopt the above listed recitals as set forth fully herein.

**SECTION TWO. PLANNING COMMISSION RECOMMENDATION ADOPTED.** The City Council adopts the Planning Commission’s findings of fact and conclusions of law, outlined below, in their entirety.

**A. PLANNING COMMISSION’S FINDINGS OF FACT:**

1. A Threshold Determination of Non-significance (DNS) and Notice of Adoption of Existing Environmental Documents was issued on March 14, 2018 and published on March 16, 2018. The comment period for this determination tolled on March 27, 2018; and the appeal period tolled on April 6, 2018 with no comments or appeals on the determination.
2. Notice of adoption of the proposed amendments has been duly transmitted in compliance with RCW 36.70A.106(1). The Department of Commerce has acknowledged the City has met this procedural requirement with Commerce’s Material ID #: 24638.
3. The City of Mount Vernon has followed its adopted public participation program contained in Resolution 491. The Western Washington Growth Management Hearings Board reviewed Resolution 491 setting forth the City’s Public Participation Program finding that the City’s program satisfies the requirements of Washington State’s Growth Management Act in *Citizens v. City of Mount Vernon*, WWGMHB Case No. 98-2-0006c (Compliance Order, May 28, 1999). Following is a list of the public participation items that were completed leading up to the Council’s hearing on April 25, 2018:
  - a. The Mount Vernon City Council passed Resolution 928 on March 8, 2017 that, in part, docketed the South Kincaid Subarea Plan as required per RCW 36.70A.130.
  - b. Community workshop/meetings were held to solicit input from the public and interested parties on the South Kincaid Subarea Plan. Below is a table listing information on each of these workshops/meetings:

<b>DATE</b>	<b>PLACE</b>	<b>PUBLIC NOTICE SUMMARY</b>
May 25, 2017	Mount Vernon Fire Station #1 (901 South Second Street)	<ul style="list-style-type: none"><li>• Published in Skagit Valley Herald on May 22, 2017.</li><li>• Special Meeting Notice consistent with RCW 42.30 distributed May 18, 2017.</li><li>• Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries.</li><li>• Meeting information placed in the Mayor’s newsletter (distribution &gt; 650).</li><li>• Meeting notice and supplemental information placed on the City’s website.</li></ul>

DATE	PLACE	PUBLIC NOTICE SUMMARY
September 20, 2017	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> <li>Published in Skagit Valley Herald on September 13, 2017.</li> <li>Special Meeting Notice consistent with RCW 42.30 distributed September 12, 2017.</li> <li>Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries.</li> <li>Meeting notice and supplemental information placed on the City's website.</li> </ul>
November 30, 2017	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> <li>Published in Skagit Valley Herald on November 9, 2017 and November 23, 2017.</li> <li>Special Meeting Notice consistent with RCW 42.30 distributed November 6, 2017.</li> <li>Meeting notice and supplemental information placed on the City's website.</li> <li>Meeting information placed in the Mayor's newsletter (distribution &gt; 650).</li> </ul>
April 2, 2018	Mount Vernon Police and Court Campus (1805 Continental Place)	<ul style="list-style-type: none"> <li>Published in Skagit Valley Herald on March 22, 2018. Special Meeting Notice consistent with RCW 42.30 distributed March 19, 2018.</li> <li>Meeting notices mailed to all property owners inside and within 300-feet of the subarea boundaries.</li> <li>Meeting notice and supplemental information placed on the City's website.</li> </ul>

- c. On March 15, 2018 City Planner Rebecca Lowell completed an interview with a local radio station, KSVR-FM providing details on the South Kincaid Subarea Plan letting listeners know how to get involved with this process. KRVR-FM is radio channel 91.7 that provides talk and music in English and Spanish to the Skagit Valley Community.
- The City's Planning Commission was invited to all of the public workshops/meetings held on May 25, 2017, September 20, 2017, November 30, 2017 and April 2, 2018. The Commission was also briefed by staff on the subarea plan on February 20, 2018, March 6, 2018, and March 20, 2018.
  - The City Council was invited to all of the public workshops/meetings held on May 25, 2017, September 20, 2017, November 30, 2017 and April 2, 2018. The Council was also briefed by staff on the subarea plan on January 18, 2017, March 15, 2017, June 21, 2017, February 21, 2018, March 21, 2018, and April 18, 2018.
  - Notice of the Planning Commission's public hearing on April 17, 2018 and the City Council's public hearing on April 25, 2018 were mailed to property owners inside and within 300 feet of the subarea boundaries on March 14, 2018, was published in the Skagit Valley Herald on March 16, 2018, and was posted on the City's website on March 14, 2018.
  - The Planning Commission finds the South Kincaid Subarea plan: a) refines the Comprehensive Plan framework and achieves Goals, Objectives, and Policies at a neighborhood scale, b) has built community consensus around context sensitive, sustainable, and flexible solutions to encourage future development and redevelopment, and c) creates strategies for public and private improvements.

**B. PLANNING COMMISSION'S CONCLUSIONS OF LAW:**

1. The requirements for public participation in the development of this subarea plan as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met.
2. The proposed subarea plan is found to be in compliance with the State Growth Management Act.

**C. PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL:**

At their public hearing on April 17, 2018 after review of the materials presented by City staff, holding a public hearing involving listening to public testimony the Planning Commission made a unanimous recommendation to adopt the Findings of Fact and Conclusions of Law outlined within this Ordinance and recommended City Council adopt the South Kincaid Subarea Plan and amend portions of the Land Use and Parks and Recreation Elements of the Comprehensive Plan that are accompanying this Ordinance.

**SECTION THREE.** The South Kincaid subarea plan is hereby adopted by reference as if set forth fully herein, and is accompanying this Ordinance labeled as **APPENDIX A.**

**SECTION FOUR.** Amendments to portions of the Land Use Element of the Comprehensive Plan are hereby adopted by reference as if set forth fully herein. These amendments are found within the accompanying **APPENDIX B.**

**SECTION FIVE.** Amendments to portions of the Downtown Planning Subarea Plan, adopted with Ordinance 2879 on April 15, 1998, are hereby adopted by reference as if set forth fully herein. These amendments are found within the accompanying **APPENDIX C.**

**SECTION SIX.** The South Kincaid Subarea is hereby adopted as a new Comprehensive Plan designation and the City's Comprehensive Plan map amended as shown within the accompanying **APPENDIX D.**

**SECTION SEVEN.** Amendments to portions of the Parks and Recreation Element of the Comprehensive Plan are hereby adopted by reference as if set forth fully herein. These amendments are found within the accompanying **APPENDIX E.**

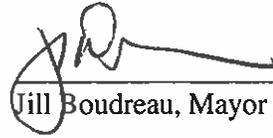
**SECTION EIGHT.** City staff is hereby directed to complete preparation of the final ordinance, and all related Subarea Plan documents including correction of any typographical or editorial edits, insertion of references, graphs, pictures, and other data that is necessary to complete this document.

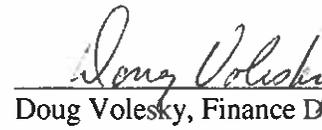
**SECTION NINE. SEVERABILITY.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**SECTION TEN.** This ordinance shall be in full force and effect five days after its passage, approval, and publication as provided by law.

**PASSED AND ADOPTED** this 25<sup>th</sup> day of April, 2018

**SIGNED AND APPROVED** this 26 day of April, 2018.

  
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Jill Boudreau, Mayor

  
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Doug Volesky, Finance Director

Approved as to form:

  
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Kevin Rogerson, City Attorney

Published April 30, 2018