

**ORDINANCE NO. 3651**

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON AMENDING TITLE 16, SUBDIVISIONS, CHAPTER 16.08 PRELIMINARY PLAT, CHAPTER 16.32 SHORT PLATS, AND CHAPTER 16.40 BINDING SITE PLANS TO ADD A MECHANISM THAT PROVIDES A WAY FOR DEVELOPERS TO REQUEST AN EXTENSION OF THEIR PRELIMINARY PLAT, SHORT PLAT, AND BINDING SITE PLAN APPROVALS WITH AUTHORIZATION FROM CITY COUNCIL**

**WHEREAS**, a SEPA Threshold Determination of Non-significance, non-project action, was issued on May 4, 2015, and published on May 7, 2015. The SEPA comment period lapsed on May 20, 2015; and the SEPA appeal period lapsed on June 1, 2015 and no comments were received or appeals filed; and,

**WHEREAS**, a notice of public hearing was published on May 7, 2015; and,

**WHEREAS**, the requisite notice of adoption of the proposed amendments was transmitted to the Department of Commerce on May 4, 2015 with expedited review granted by Commerce on May 19, 2015 in compliance with RCW 36.70A.106 (1); 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); and,

**WHEREAS**, the proposed amendments ensure that the City's municipal code is internally consistent.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DOES 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. The procedural requirements outlined in MVMC Chapter 14.05, Procedures, have been satisfied by City staff. This includes the Notice of Public Hearing, the environmental review pursuant to the SEPA statute, and receiving expedited review from the State Department of Commerce.

B. Planning Commission's Conclusions of Law:

1. The Planning Commission finds that it is in the best interest of citizens of the City of Mount Vernon and the local economy to make available the changes to preliminary subdivision approval periods and effective land uses periods for long plats, as well short plats and binding site plans to allow applicants sufficient time to complete construction and file for final subdivision approval.
2. The requirements for public participation in the development of this amendment 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.

C. Planning Commission Recommendation to the City Council:

At their public hearing on June 2, 2015 after review of the materials presented by City staff and holding a public hearing the Planning Commission made a recommendation to adopt the amendments to the Mount Vernon Municipal Code that are contained in this Ordinance.

**SECTION THREE.** That Section 16.08.060, Effective period of preliminary plat approval, is hereby repealed and reenacted, the new section to read as follows.

16.08.060 Effective period of preliminary plat approval.

The approval of a preliminary plat shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final plat meeting all requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the city council for approval within seven years of the date of preliminary plat approval if the date of the preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of the preliminary plat approval is on or after January 1, 2015. Failure to submit a final plat meeting all the requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary plat approval.

B. A final plat meeting all requirements of the preliminary plat, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the city council for approval within 10 years of the date of preliminary plat approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary plat approval is on or before December 31, 2007. Failure to submit a final plat meeting all the requirements of the preliminary plat, this chapter, and the Mount Vernon

Municipal Code where applicable, within this period shall result in expiration of preliminary plat approval.

C. If the developer fails to receive final approval within the timeframes outlined with the above listed subsections A or B the preliminary plat approval shall expire unless one of the following requests are submitted to the CEDD and approved by City Council through a Type V process.

1. An applicant who files a written request to the office of the Community and Economic Development Department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final plat within the required period. There shall be allowed only one such extension. In granting an extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to; or,
2. An applicant who files a written request to the office of the Community & Economic Development Department may be granted no more than a three-year extension for preliminary plat approvals granted on or before December 31, 2010. There shall be allowed only one three year extension; and this extension shall not be combined with the one year extension allowed within sub-section (1), above. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the City Council. In granting this extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.

**SECTION FOUR.** That Section 16.32.070, Effective period of preliminary approval, is hereby repealed and reenacted, the new section to read as follows.

The approval of a preliminary short plat shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final short plat meeting all requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the community and economic development and public works directors for approval within seven years of the date of preliminary short plat approval if the date of the preliminary short plat approval is on or before December 31, 2014, and within five years of the date of preliminary short plat approval if the date of the preliminary short plat approval is on or after January 1, 2015. Failure to submit a final short plat meeting all the requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary short plat approval.

B. A final plat meeting all requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the community and economic development and public works directors for approval within 10 years of the date of preliminary short plat approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary short plat approval is on or before December 31, 2007. Failure to submit a final short plat meeting all the requirements of the preliminary short plat, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary short plat approval.

C. If the developer fails to receive final short plat approval within the timeframes outlined with the above listed subsections A or B the preliminary short plat approval shall expire unless one of the following requests are submitted to the CEDD and approved by the City Council through a Type V process.

1. An applicant who files a written request to the office of the Community and Economic Development Department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final short plat within the required period. There shall be allowed only one such extension. In granting an extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.
2. An applicant who files a written request to the office of the Community & Economic Development Department may be granted up to a three-year extension for preliminary short plat approvals granted on or before December 31, 2010. There shall be allowed only one three year extension; and this extension shall not be combined with the one year extension allowed within sub-section (1), above. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the City Council. In granting this extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.

**SECTION FIVE.** That Section 16.40.100, Effective period of preliminary binding site plan approval, is hereby repealed and reenacted, the new section to read as follows.

The approval of a preliminary binding site plan shall be effective as follows:

A. Except as provided by subsections B and C of this section, a final binding site plan meeting all requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the community and economic development and public works directors for approval within seven years of the date of preliminary binding site plan approval if the date of the preliminary binding site plan approval is on or before December 31, 2014, and within five years of the date of preliminary binding site plan approval if the date of the preliminary binding site plan approval is on or after January 1, 2015. Failure to submit a final binding site plan meeting all the requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary binding site plan approval.

B. A final binding site plan meeting all requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable, shall be submitted to the community and economic development and public works directors for approval within 10 years of the date of preliminary binding site plan approval if the project is located within the city limits, not subject to requirements adopted under Chapter 90.58 RCW, and the date of preliminary binding site plan approval is on or before December 31, 2007. Failure to submit a final binding site plan meeting all the requirements of the preliminary binding site plan, this chapter, and the Mount Vernon Municipal Code where applicable, within this period shall result in expiration of preliminary binding site plan approval.

C. If the developer fails to receive final approval within the timeframes outlined with the above listed subsections A or B the preliminary binding site plan approval shall expire unless one of the following requests are submitted to the CEDD and approved by the City Council through a Type V process.

1. An applicant who files a written request to the office of the Community and Economic Development Department may be granted a one-year extension upon a showing that they have attempted in good faith to submit the final binding site plan within the required period. There shall be allowed only one such extension. In granting an extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.
2. An applicant who files a written request to the office of the Community & Economic Development Department may be granted up to a three-year extension for preliminary binding site plan approvals granted on or before December 31, 2010. There shall be allowed only one three year extension; and this extension shall not be combined with the one year extension allowed within sub-section (1), above. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the City Council. In granting this extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.

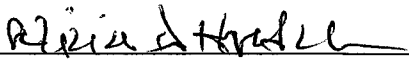
**SECTION SIX.** Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

**SECTION SEVEN.** City staff are hereby directed to complete preparation of the final ordinance, including correction of any typographical or editorial edits.

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

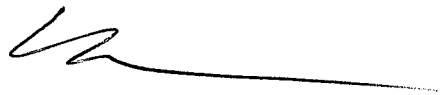
**PASSED AND ADOPTED** this 24<sup>th</sup> day of June, 2015.

**SIGNED AND APPROVED** this 21<sup>st</sup> day of July, 2015.

  
Alicia D. Huschka, Finance Director

  
Jill Boudreau, Mayor

Approved as to form:

  
Kevin Rogerson, City Attorney

Published \_\_\_\_\_