

ORDINANCE NO. 2010-10

AN ORDINANCE of the City of Bainbridge Island, Washington amending Comprehensive Plan amendment procedures of BIMC Chapter 18.117, altering the schedule for application submittals and eliminating the extended amendment requests by amending Sections 18.117.020, 18.117.030 and 18.117.040 of the Bainbridge Island Municipal Code.

WHEREAS, the City of Bainbridge Island has the authority to administer the comprehensive plan amendment process pursuant to RCW 36.70A.130; and

WHEREAS, in 1995, the City adopted Ordinance No. 95-17, subsequently amended by Ordinance Nos. 99-04 and 2006-13, that formalized the current process for reviewing comprehensive plan amendment applications as set forth in Bainbridge Island Municipal Code (BIMC) Chapter 18.117; and

WHEREAS, the City currently accepts and processes regular comprehensive plan amendments annually and extended amendments every other year; and

WHEREAS, it has been determined that the Department of Planning and Community Development lacks the resources to process comprehensive plan amendments annually; and

WHEREAS, since the City began differentiating between regular and extended amendments in 2006, there has not been any extended amendments submitted; and

WHEREAS, the Department of Planning and Community Development is recommending elimination of the "extended" amendment, and accepting and processing comprehensive plan amendments every third year beginning in 2010; and

WHEREAS, on July 29, 2010 the Planning Commission held a public hearing on this chapter to implement the recommendation; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 18.117.020 of the Bainbridge Island Municipal Code is amended to read as follows:

18.117.020 Applicability.

Any person or entity may apply for an amendment to the comprehensive plan. A ~~determination shall be made at the preapplication conference as to whether a request shall be processed as regular or extended (subsection B of this section).~~

A. Except in the event of an emergency as determined by the city council, plan amendments ~~that are regular, with the criteria established in this chapter,~~ will be considered together once in a calendar year so that the cumulative effects of all proposed amendments can be analyzed for consistency and the overall effect on the comprehensive plan. Starting in ~~2006~~ 2010, and thereafter no more often than ~~once each~~ every three years, the planning commission may recommend and the city council may adopt amendments to the land use map, or the text of the comprehensive plan, upon finding that each proposal meets all of the applicable conditions and requirements of this chapter.

B. Amendment applications ~~that are established as extended, as specified in subsection B.2.a of this section;~~ submitted by the City will be processed every other year or within the context of a comprehensive plan update, or more frequently than once per year under the circumstances authorized under RCW 36.70A.130(2)(a).

C.1. Regular Amendments. An regular amendment may be considered if the applicant can demonstrate that the request is consistent with the adopted comprehensive plan, and that policy adjustments or map amendments are needed to further the vision, goals or policies of the plan. An amendment may also be considered if the applicant can demonstrate that community values, priorities, needs and trends have sufficiently changed to justify a fundamental shift in the comprehensive plan. The burden of proof rests entirely with the applicant to demonstrate or document the need to depart from the current version of the comprehensive plan. There are two types of amendments, policy adjustments or map changes. An amendment may include both of these types of amendment requests.

Ia. Policy Adjustments. Proposed policy adjustments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of adjustment might be supported by findings related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

ai. Growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;

bii. The capacity to provide adequate services is diminished or increased;

ciii. Land availability to meet demand is reduced;

div. Population or employment growth is significantly different than the plan's assumptions;

ev. Plan objectives are not being met as specified;

fv. The effect of the plan on land values and affordable housing is contrary to plan goals;

gvi. Transportation and/or other capital improvements are not being made as expected;

hvi. A question of consistency exists between the comprehensive plan and its elements and Chapter 36.70A RCW, the Kitsap Countywide Planning Policies, or development regulations;

i. Assumptions upon which the plan is based are found to be invalid; or

j. Substantial change or lack of change in circumstances dictates the need for such consideration or conditions have changed substantially in the area within which the subject property lies and/or citywide.

2b. Map Changes. Changes to the land use map may only be approved if the proponent has demonstrated that all of the following are true:

ai. The designation is in conformance with the appropriate land use designation purpose statement identified in the comprehensive plan;

bii. The map amendment or site is suitable for the proposed designation; and

ciii. The map amendment implements applicable comprehensive plan policies better than the current map designation.

2. Extended Amendments.

a. An extended amendment application may be considered if the applicant can demonstrate that community values, priorities, needs and trends have sufficiently changed to justify a fundamental shift in the comprehensive plan. The burden of proof rests entirely with the applicant to demonstrate or document the need to depart from the current version of the comprehensive plan. Relevant information may include:

i. Growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;

ii. The capacity to provide adequate services is diminished or increased;

- ~~iii. Land availability to meet demand is reduced;~~
 - ~~iv. Population or employment growth is significantly different than the plan's assumptions;~~
 - ~~v. Transportation and/or other capital improvements are not being made as expected;~~
 - ~~vi. Conditions have changed substantially in the area within which the subject property lies and/or citywide;~~
 - ~~vii. Assumptions upon which the plan is based are found to be invalid; or~~
 - ~~viii. Sufficient change or lack of change in circumstances dictates the need for such consideration.~~
- ~~b. If significantly inconsistent with the current version of the comprehensive plan, an amendment proposal must also include wording that would realign the relevant parts of the comprehensive plan and its other supporting documents with the full range of changes implied by the proposal.~~

DE. The city council may determine, by resolution, that a proposed amendment be processed as an emergency amendment to the comprehensive plan.

Section 2. Section 18.117.030 of the Bainbridge Island Municipal Code is amended to read as follows:

18.117.030 Review process.

The city shall process comprehensive plan amendment applications in accordance with Chapter 2.18 BIMC and the following procedures:

A. Preapplication Conference. Prior to submittal of a comprehensive plan amendment application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the procedures of BIMC 2.16.035. Interested citizens may attend the preapplication meeting. ~~The director shall determine whether a proposal is regular or extended 14 days from the preapplication conference.~~

B. Application. An applicant may submit an application for a comprehensive plan amendment after completion of a required preapplication conference. Proposed amendments shall be submitted ~~in 2006-2007 between May 1, 2006, and February 28, 2007, and between January 1st and the end of February 28th, 2013 and subsequently every third for all subsequent years.~~

C. SEPA Review. Environmental review shall be completed prior to planning commission review. The applicant is responsible for conducting any further environmental analysis, including the preparation of an environmental impact statement, if necessary.

D. Written Analysis. For each proposed amendment, staff (or the lead department, as determined by the city manager) will prepare a written analysis for the planning commission. The analysis will be accompanied by a recommendation that the proposed amendment be approved, denied, or approved with modification. Proposals may be grouped and evaluated by geographic sector and/or subject matter to be assessed for cumulative impact.

E. Planning Commission Review. Subsequent to completion of the analysis prepared by the lead department and the SEPA review, the planning commission shall conduct one or more public hearings as defined in BIMC 2.18.020. The planning commission shall also solicit comments regarding the proposed amendment from the public or from government agencies in any other manner it determines necessary and appropriate to the nature of the proposed amendment and consistent with RCW 36.70A.140. The notice and public hearing for proposed comprehensive plan amendments may be combined with any notice or public hearing for proposed amendments to the land use code or for other actions of the planning commission; provided, that all appropriate noticing is conducted as required by law.

F. Planning Commission Recommendation.

1. The planning commission shall base its recommendation on whether the application meets the required decision criteria contained in BIMC 18.117.050 and consider public input, conclusions from any required studies, the staff recommendation, and findings from the SEPA analysis.

2. The planning commission may recommend to approve, deny, or approve with modification the proposed amendment. The planning commission must make findings supporting their recommendation. If the planning commission recommends denial of a proposed amendment, the findings shall include that:

a. The proposal does not comply with the decision criteria contained in BIMC 18.117.050; or

b. A majority of the planning commission finds that the proposal would be more appropriately and effectively addressed through another aspect of the city's work program.

3. The planning commission's findings and conclusions regarding its recommendation shall be forwarded to the city council within 30 days of their hearing.

G. City Council Review and Decision.

1. The city council considers whether the application meets the required decision criteria contained in BIMC 18.117.050 and also considers staff's recommendation and the planning commission's recommendations within the context of its budget discussions, and may act on the amendment proposals prior to or at the same time as it adopts the city budget.
2. The council may decide to approve, deny, or approve with modification the proposed amendment.
3. The council shall base its decision on consideration of the record and the required decision criteria contained in BIMC 18.117.050, and shall cite these in their findings and conclusions.

H. Denied Amendments. Denied amendments ~~will~~ shall not be accepted for the next comprehensive plan amendment cycle, unless the proposed amendment is substantially modified or circumstances related to the amendment request have significantly changed. The planning director shall make this determination. ~~However, applications that are denied for lack of documentation sufficient to support an extended proposal may reapply during the next cycle for extended amendments.~~

Section 3. Section 18.117.040 of the Bainbridge Island Municipal Code is amended to read as follows:

18.117.040 Submittal requirements.

To apply for a comprehensive plan amendment an applicant must submit the following:

A. Preapplication Submittal. Prior to submitting an amendment proposal, an applicant is required to schedule a preapplication conference pursuant to Chapter 2.18 BIMC, by submitting a preapplication form, including a general summary of the nature of the desired change and any required fee.

B. Application Submittal. An applicant for a comprehensive plan amendment must submit the following:

1. An application for a comprehensive plan text or map amendment proposal, containing the following information:

a. Nature of and reason for the amendment request, ~~including a description of how the proposal is regular or extended with the current comprehensive plan, and any specific suggested changes to the plan or appendices.~~

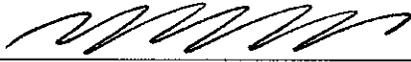
- b. Statement of how the amendment request is consistent with all of the decision criteria specified in BIMC 18.117.050.
- c. A completed SEPA checklist including supplemental sheet for nonproject actions.
- d. The appropriate application fee as established by city resolution shall be paid by the applicant.
- e. Any other reports or studies identified during the preapplication conference.

Section 4. If any section, sentence, clause or phrase of this chapter 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 chapter.

Section 5. This chapter shall take effect on and be in force five days from and after its passage, approval, and publication as required by law.

PASSED by the City Council this 22nd day of September, 2010.

APPROVED by the Mayor this 22nd day of September, 2010.



Bob Scales, Mayor

ATTEST/AUTHENTICATE:



Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK:	August 12, 2010
PASSED BY THE CITY COUNCIL:	September 22, 2010
PUBLISHED:	September 24, 2010
EFFECTIVE DATE:	September 29, 2010
ORDINANCE NUMBER:	2010-10