



CITY OF ALGONA
200 Washington Blvd.
Algona, Washington 98001

Administration (253) 833-2897
Public Works (253) 833-2741
Police (253) 833-2743
Fax (253) 939-3366

VIA HAND-DELIVERY AND EMAIL (jessicag@AlgonaWA.gov)

December 15th, 2021

To: City of Algona Council
C/o Office of the City Clerk
City of Algona
200 Washington Blvd
Algona, WA 98001

CC: Residents of Algona

Subject: Ordinance 1199-21—Mayoral Veto and Statement of Objections

Dear City Council,

Pursuant to RCW 35A.12.130, I am hereby exercising my Mayoral right to veto in its entirety Ordinance No. 1199-21, which was passed by the City Council at the regularly scheduled Council Meeting on December 13th, 2021. My basis for this veto includes the following eight objections:

1. The lack of clarity of the origin of the ordinance and additional possible options other than what was presented. This was first brought to Council on the November 8th, 2021, council meeting; it was clear insufficient information was given to the Council to make a sound decision and consider all the options. The rushed timing of the ordinance on something this important is not in the best interest of the City. It is imperative to do proper research and provide the most information as possible to make a sound decision.
2. The lack of discussion during the regular Council Meetings leads me to believe that undocumented meetings were held prior. There is a failure to report any such meeting.
3. The minimal record around this ordinance is concerning.

4. In 2015, this matter has already been addressed with Ordinance No. 1104-15 and heard by public hearing January 27th, 2015. A copy of Ordinance No. 1104-15 is included with this letter for the Council's reference and was not provided to the Council prior to their vote. This denied them the possibility of making a different decision. There was no consideration of this ordinance while drafting the current Ordinance 1199-21.
5. The 2015 amendment to the Growth Management Act was proceeded by an Environmental Review conducted within the SEPA requirements and the determination of non-significance was issued and was concluded in Fall 2014. The Planning Commission held a Public Hearing on November 13th, 2014, and on November 18th, 2014, a draft critical ordinance was circulated to the state agencies for a 60 day review and for comment. The City Council held a public hearing January 27th, 2015, where they reviewed recommendations by the Planning commission, comments by the public, and the comments made by the state agencies. Based on this information, they amended the law. None of this has been done for Ordinance 1199-21 at this time.
6. The rushed nature of this ordinance denies the time required to adequately submit an amendment for the Growth Management Act. There are indications that this could be in response to one individual(s) making the City Council quasi-judicial rules by the Revised Code of Washington require them to do one hearing which would already have been done by passage of this ordinance would eliminate any further action by the action City Council and limit our ability to comply with the Growth Management Act.
7. Decisions by the City Council need to be made with complete and accurate representations. This ordinance has neither.
8. Unlike the 2015 ordinance that passed the City Council, the City has failed to follow the public involvement requirements. Which could lead to legal challenges restricting our ability to respond to future changes and can be expensive for the City.
9. Prohibited uses for critical aquifer recharge areas is already defined in Ch. 16.18D.080.

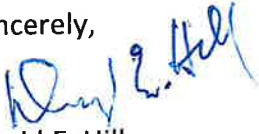
In the interest of keeping this explanation manageable, I reserve the right to further explain my position if necessary. Since the nature of this effects every resident, I am requesting this letter be mailed to every resident.

Pursuant to RCW 35A.12.130, I am hereby requesting the above-mentioned objections be promptly distributed to each City Council Member and entered at large into the City Council's legislative journal of proceedings and/or minutes as required by law. I also request that the Council expeditiously proceed to a reconsideration of this matter at the next regularly scheduled Council meeting. I further request that, upon receipt by the City Clerk's office, this

letter receive a date and time stamp to clearly document the timeliness of my veto and statement of objections.

A copy of Ordinance No. 1199-21 is also enclosed with this letter and is hereby being returned to the City Council unsigned.

Sincerely,



David E. Hill
Mayor

Enc: Ordinance No. 1104-15

CITY OF ALGONA, WASHINGTON

ORDINANCE NO. 1199-21

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, AMENDING TITLE 22 AMC BY THE ADDITION OF A NEW CHAPTER 22.31 OPEN SPACE/CRITICAL AREAS DISTRICT THERETO; ADOPTING PRELIMINARY SUPPORTIVE FINDINGS; SETTING A POST-ADOPTION PUBLIC HEARING DATE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE AND AN INITIAL SIX-MONTH TERM.

WHEREAS, the City regulates the use and development of land through the provisions codified within the Algona Municipal Code (AMC); and

WHEREAS, Figure 2-2 of the Algona Comprehensive Plan identifies certain areas within the City as Open Space/Critical Areas (OS/CA) on the same map as the City's formal land use designations; and

WHEREAS, consistent with the above Comprehensive Plan references, the OS/CA land use designation is represented on the Algona Zoning Map as a separate zoning district; and

WHEREAS, the original legislative intent of the OS/CA designation is unclear, because, unlike the other zoning districts established in the AMC, no use and development standards for the OS/CA designation have apparently ever been codified by the City; and

WHEREAS, the original legislative intent of the OS/CA designation is further unclear because the designation is not defined within the AMC or the Comprehensive Plan; because the pertinent legislative history contains no meaningful explanation of the OS/CA designation; because the relevant materials, if any, in the legislative record predate the applicable public records retention schedule(s) for such documents; and because the City's current critical areas regulations codified at AMC Title 16, Division II do not refer in any manner to the OS/CA designation or otherwise rely upon such designation as part of the City's regulatory framework for protecting critical areas; and

WHEREAS, the original intent of the OS/CA zone may have been to protect lands which likely contain critical areas (as shown on the City's available critical area mapping) from potentially injurious development as a temporary measure, prior to the City's promulgation and adoption of a comprehensive critical areas ordinance based upon principles of best available science pursuant to RCW 36.70A.060; and

WHEREAS, through the passage of Ordinance No. 1104-15 in 2015, the City adopted its comprehensive critical areas ordinance, and said regulations are now codified at AMC Title 16, Division II; and

WHEREAS, the addition of an OS/CA zoning district chapter in the AMC as provided by this ordinance would serve the public interest by clarifying the use and development standards applicable to development proposals within the OS/CA zoning district while the City studies, prepares and adopts permanent zoning designations for the affected properties; and

WHEREAS, upon adoption of the interim amendments set forth herein, any critical areas that may exist in the OS/CA zoning district would continue to be fully protected by the City's critical areas ordinance which is contained in AMC Title 16, Division II; and

WHEREAS, the City is authorized by state law, including without limitation RCW 35A.63.220 and RCW 36.70A.390, to adopt interim zoning ordinances; and

WHEREAS, the City's SEPA Responsible Official issued a determination of nonsignificance (DNS) regarding the substance of this ordinance on November 1, 2021, and no timely administrative appeals of the DNS were filed; and

WHEREAS, the provisions of this ordinance are consistent with and will implement the relevant provisions of the City's Comprehensive Plan, specifically including without limitation Goals NE-1 and ED-6, and Policies LUP-1.2, LUP-1.4, LUP-2.1, LUP-2.2, NE-1.1, NE-1.2 and ED-6.1; and

WHEREAS, the provisions of this ordinance will serve the public interest, and will enhance the efficiency and efficacy of the City's land use permit processing procedures by ensuring that applications for proposals in the OS/CA zoning district are clearly and deliberately regulated by the AMC, and that appropriate use and development standards for the OC/CA zoning district will be in effect when new project applications are submitted for properties located within said district.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALGONA DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council adopts the above recitals, as preliminary legislative findings in support of this ordinance. The Council reserves the right, in its discretion, to adopt additional findings following the public hearing scheduled under Section 3 below.

Section 2. Amendment of Title 22 AMC—Addition of New Chapter 22.31. Title 22 of the Algona Municipal Code is hereby amended by the addition of a new Chapter 22.31 AMC Open Space/Critical Areas District to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Public Hearing. Pursuant to RCW 36.70A.390, the City Council shall conduct a public hearing on this ordinance within 60 days of its adoption. The City Clerk is directed to provide appropriate public notice of said hearing. At the conclusion of the public hearing, the City Council may in its discretion adopt additional findings in support of this ordinance.

Section 4. 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 5. Effective Date; Sunset. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication. This ordinance shall sunset automatically six (6) months following its effective date unless terminated earlier or extended the City Council.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF THIS 13TH DAY
OF DECEMBER, 2021.**

David E. Hill, Mayor

ATTEST:

Jessica Griess, City Clerk

APPROVED AS TO FORM:

J. Zachary Lell
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 1199-21
Date of Publication:

SUMMARY OF ORDINANCE NO. 1199-21

of the City of Algona, Washington

On the 13th day of December, 2021, the City Council of the City of Algona, passed Ordinance No. 1199-21. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, AMENDING TITLE 22 AMC BY THE ADDITION OF A NEW CHAPTER 22.31 OPEN SPACE/CRITICAL AREAS DISTRICT THERETO; ADOPTING PRELIMINARY SUPPORTIVE FINDINGS; SETTING A POST-ADOPTION PUBLIC HEARING DATE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE AND AN INITIAL SIX-MONTH TERM.

The full text of this Ordinance will be mailed upon request.

DATED this 13th day of December, 2021.

Jessica Griess, City Clerk

Exhibit A
Chapter 22.31
OPEN SPACE/CRITICAL AREAS DISTRICT

Sections:

- 22.31.010 Intent.
- 22.31.020 Uses and development standards.
- 22.31.030 Critical areas protection.

22.31.010 Intent.

The open space/critical areas (OS/CA) use district is intended to ensure the responsible development of properties that may contain designated open space and/or critical areas.

22.31.020 Uses and development standards.

A lot located within the OS/CA use district shall be governed by the uses, limitations, restrictions and development standards applicable to the city of Algona zoning district of the adjacent lot having the largest shared boundary therewith. Provided, that for any split-zoned lot located partially within the OS/CA use district and partially within a separate use district, the uses, limitations, restrictions and development standards applicable to the separate district shall govern the entire lot.

22.31.030 Critical areas protection.

Nothing in this chapter shall be construed as excusing compliance with all applicable requirements of AMC Title 16, Division II.

CITY OF ALGONA, WASHINGTON

ORDINANCE NO. 1104-15

**AN ORDINANCE OF THE CITY OF ALGONA, WASHINGTON,
ADOPTING A REVISED REGULATIONS OF CRITICAL AREAS IN
ALGONA MUNICIPAL CODE CHAPTER 16.18 AND REPEALING
ORDINANCE 690; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the adopted City of Algona Comprehensive Land Use Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

WHEREAS, the Washington Growth Management Act (GMA) includes adopted goals and requirements to guide the development and adoption of comprehensive plans and development regulations for cities required to plan under the Act (RCW 36.70A.020); and

WHEREAS, the GMA requires cities to adopt regulations that protect the functions and values of critical areas including wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, frequently flooded areas, and geologically hazardous areas in accordance with RCW 36.70A.170; and

WHEREAS, the City has considered those adopted goals and requirements in development of the proposed Algona Municipal Code Chapter 16.18 related to critical areas, and, has considered other state requirements, law, rules, guidelines, and agency comments; and

WHEREAS, in developing this ordinance, the City has followed the GMA's requirements, including to provide "early and continuous public involvement" through a variety of mechanisms described in the public record; and

WHEREAS, the City has followed the State guidelines for the Best Available Science process required by RCW 36.70A.172 and WAC 365-195-900 through 925, employing a variety of mechanisms described in the public record including consultation with experts in the disciplines covered by these regulations, and consultation and request for technical information regarding best available science from state and federal resource agencies; and

WHEREAS, the City will also use its authority under the State Environmental Policy Act (SEPA) to identify, consider, and mitigate, where appropriate, significant adverse effects on critical resources not otherwise addressed by the City's critical areas regulations; and

WHEREAS, the City has not updated Chapter 16.18 since 1992, when Ordinance No. 690 was adopted; and

WHEREAS, significant changes have occurred to the methods, standards and practices for protection of environmentally critical areas since 1992; and

WHEREAS, Algona's GMA Comprehensive Plan, adopted in 2005, was found to be out of compliance by the Washington Department of Commerce because of the absence of an updated Critical Areas Ordinance (CAO); and

WHEREAS, the City did not receive written notification of the deficiency, instead discovering the issue in the winter of 2013/2014 when it prepared for the 2015 Comprehensive Plan update; and

WHEREAS, the City, as part of its 2015 Comprehensive Plan update determined that revisions to Chapter 16.18 were necessary and appropriate; and

WHEREAS, when adopted, the revised Environmentally Critical Areas Ordinance will provide the most current standards provided by law, consistent with requirements for the updating of the City's GMA comprehensive plan; and

WHEREAS, An environmental review was conducted in accordance with the requirements of State Environmental Policy Act (SEPA), and on November 26, 2014 consistent with WAC 197-11-340(2)(c) a Determination of Non-Significance was issued. No appeals were filed on the threshold determination and SEPA review was concluded on December 24, 2014.; and

WHEREAS, in the fall of 2014 a draft CAO was released for the public to review and comment on the draft; and

WHEREAS, the Planning Commission held a public hearing on November 13, 2014; and

WHEREAS, on November 18, 2014 a draft critical areas ordinance was circulated to the State Agencies for the requisite 60-day review and comment period; and

WHEREAS, the City incorporated the comments and suggestions from the Department of Ecology and released the revised CAO for public review and comment; and

WHEREAS, the City Council held a public hearing on January 27, 2015; and

WHEREAS, the City Council has reviewed and considered a variety of information including Best Available Science materials, recommendation of the Planning Commission, public comments received, comments from the Department of Ecology and informational documents in the public record; and

WHEREAS, based upon the foregoing process, the City Council has made the following

Findings of Facts and Conclusions:

The City finds that:

1. The Growth Management Act requires critical areas to be designated and protected for cities to include the best available science when developing critical areas regulations. RCW 36.70A.
2. Algona contains certain areas that can be identified and characterized as environmentally sensitive or critical. Such areas within the City include wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, geologically hazardous areas, and the associated buffers of each of those types of critical areas.
3. Past growth patterns have in some cases contributed to natural disasters which threaten public health and safety, and that by preventing development on certain critical areas, the City can better maintain public health, safety and welfare. In addition, by preserving features that provide for clean water, fisheries, and wildlife, the City can help maintain a positive ecological balance that provides for the immediate and long-term public welfare.
4. Critical areas perform a variety of valuable and beneficial biological and physical functions that benefit the City and its residents. Some types of critical areas may also pose a threat to human safety or to public and private property. The functions of critical areas include the following:
 - a. Wetlands. Wetlands are fragile ecosystems which serve a number of important beneficial functions. Wetlands assist in the reduction of erosion, siltation, flooding, ground and surface water pollution, and provide wildlife, plant, and fisheries habitats. Destruction and impairment of wetlands may result in increased public and private costs or property losses. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; protect wetland resources from harmful intrusion; and generally preserve the ecological integrity of the wetland area. The City's overall goal shall be no net loss of wetland functions and values.
 - b. Fish and Wildlife Habitat Conservation Areas. Wildlife areas are ecosystems composed of unique interacting systems of soils, geology, topography, and plant and animal communities. They consist of land-based areas and aquatic areas. Wildlife

habitat provides opportunities for food, cover, nesting, breeding, and movement for fish and wildlife within the City; maintains and promotes diversity of species and habitat within the City; helps to maintain air and water quality; controls erosion; serves as areas for recreation, education and scientific study, and aesthetic appreciation; and provides neighborhood separation and visual diversity within urban areas. Riparian corridors are essential for wild fish populations. Healthy riparian zones are dynamic ecosystems that perform various functions that help create healthy aquatic habitats. Some of the major functions include: producing and delivering large and small woody debris to shorelines and stream channels; shoreline protection and habitat formation; removing sediments and dissolved chemicals from water; moderating water temperature; providing favorable microclimate; providing habitat for terrestrial animals; and providing proper nutrient sources for aquatic life. Additionally, aquatic areas and their associated buffers store and convey stormwater and floodwater; recharge groundwater; and serve as areas for recreation, education and scientific study and aesthetic appreciation. The City's overall goal shall be no net loss of riparian corridor functions and values.

- c. Critical Aquifer Recharge Areas. Potable water is an essential life-sustaining element. Aquifer recharge areas provide a source of potable water and contribute to stream discharge during periods of low flow. Certain portions of the City's planning area are susceptible to contamination of drinking water and watercourse supplies through rapid infiltration of pollutants through the soil to ground water aquifers. Wellhead Protection Zones 1, 2, and 3 are designated as critical aquifer recharge areas under the provisions of the Growth Management Act, RCW Chapter 36.70A, and are established based on proximity to and travel time of groundwater to the City's public water source wells.
 - d. Geologically Hazardous Areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in or near areas of significant hazard. Some geological hazards can be reduced or mitigated by engineering, design, or modified construction so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas should be avoided.
5. Identification, regulation, and protection of critical areas are necessary to protect the public health, safety, and general welfare.
 6. The proposed requirements for critical areas are sufficient and appropriate to protect the functions and values of those areas consistent with the GMA.

7. The critical areas regulations continue to allow for reasonable use of property to ensure that such regulations do not infringe on constitutional private property rights.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal and Reenactment of Chapter 16.18 AMC. Ordinance 690 and Chapter 16.18 of the Algona Municipal Code, titled Environmentally Sensitive Areas are repealed in its entirety and Chapter 16.18, now titled Critical Areas is reenacted to read as shown in Attachment A to this ordinance.

Section 2. Savings Clause. Ordinance No. 690, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

Section 3. 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 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 27TH DAY OF JANUARY, 2015.

CITY OF ALGONA


Mayor David Hill

ATTEST/AUTHENTICATED:


Diana Quinn, MMC
City Administrator/Clerk-Treasurer

Approved as to form:

Danielle Evans

Danielle M. Evans

Kenyon Disend, PLLC

City Attorney

4/28/15

Filed with the City Clerk:

Passed by the City Council:

Ordinance No.

Date of Publication: