

07/19/21  
08/02/21

ORDINANCE NO. M- \_\_\_\_\_

AN ORDINANCE of the City of Vancouver, Washington, relating to land-use and zoning; establishing a Planned Action for the Heights District Plan; providing for the establishment of mitigation measures and conditions for approval of projects located within the Heights District Plan Area (hereafter the Heights District); providing for a streamlined review and approval of projects which meet planned action criteria; providing for an effective date; and providing for an expiration date.

WHEREAS, the City of Vancouver has adopted a comprehensive plan for the Vancouver Urban Growth Area under the provisions of Chapter 36.70A RCW; and

WHEREAS, the comprehensive plan provides for adoption of a subarea plan for the geographic area located within the urban growth boundary commonly known as the Heights District (identified as the MacArthur/Mill Plain Center in the comprehensive plan), and the Heights District Plan provides for the future build out of the Heights District in a manner consistent with the comprehensive plan and community vision; and

WHEREAS, the Community Development Department has conducted a thorough review of the development anticipated within the Heights District and prepared an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, which environmental analysis has considered the impacts of the anticipated development of the Heights District consistent with the Heights District Plan, and provides for mitigation measures and other conditions to ensure that such future development will not create probable, significant, adverse environmental impacts; and

WHEREAS, the provisions of Chapter 43.21C.440 RCW and the regulations issued thereunder provide for the designation of Planned Actions within geographic areas that are less extensive than a municipality's jurisdictional boundaries and where substantial comprehensive planning and environmental review has been completed prospectively; and

WHEREAS, the City SEPA procedures and project review procedures incorporate the provisions for planned actions and provide for streamlined review of land use actions designated as Planned Actions.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

**Section 1. Purpose.**

A. The City Council declares that the purpose of this ordinance is to:

1. Set forth a procedure designating certain land use actions within the boundaries of the geographic area (see attachment "A") described in the Heights District Plan as "Planned Actions" consistent with RCW 43.21.440, WAC 197-11-164 to 172, and Vancouver Municipal Code (VMC) 20.790.530, Planned Action Review.
2. Streamline the review process for projects, which qualify as planned actions within the Heights District Plan by applying the provisions of VMC 20.790.530, Planned Action Review to the approval of such planned action projects.
3. Combine environmental analysis with land use planning.
4. Ensure that land use actions designated as planned actions are appropriately mitigated and conditioned by the provisions of this ordinance and all of the City's development regulations to ensure that no adverse impacts to the environment will occur as a result of development approval.

## **Section 2. Findings.**

A. The City Council finds that:

1. A subarea plan has been prepared and adopted by the Council under the provisions of the Growth Management Act, Chapter 36.70A RCW and 36.70A.130(2)(a)(i) for the geographic area located within the Vancouver Urban Growth Area commonly known as the Heights District.
2. The Heights District Plan is consistent with the Vancouver Comprehensive Plan and provides for the planned build out of the Heights District over a twenty-year planning period.
3. An environmental impact statement (hereafter "EIS") has been prepared pursuant to Chapter 43.21C RCW in conjunction with the adoption of the Heights District Plan.
4. The Heights District Plan and EIS have addressed all the significant environmental impacts associated with the land uses allowed by the applicable development regulations and standards as described in the Heights District Plan.
5. The thresholds described in the Heights District Plan and EIS are adequate to identify significant adverse environmental impacts.
6. The mitigation measures contained in the mitigation document, attachment "E" to this ordinance, together with the City's development regulations and standards, are adequate to mitigate any significant adverse environmental impacts anticipated by development consistent with the Heights District Plan.
7. A streamlined process will benefit the public, adequately protect the environment, and enhance the economic redevelopment of the Heights District.

8. Public involvement and review of the Heights District Plan and EIS have been extensive and adequate to ensure a substantial relationship to the public interest, health, safety, and welfare.
9. The uses allowed by the City's development regulations in the zoning classifications in the Heights District will implement the Heights District Plan.
10. This ordinance shall be known as the "Heights District Planned Action Ordinance".

**Section 3. Procedure and Criteria for Evaluating and Determining Projects as Planned Actions.**

- A. Land uses and activities described in the Heights District Plan and EIS, subject to the thresholds described therein and the mitigation measures described in the mitigation document attached to this ordinance as attachment "B", may be determined to be Planned Actions consistent with RCW 43.21C.440, WAC 197-11-164 to 172, VMC 20.790.530, and pursuant to this ordinance.
- B. Where the Planning Official determines that an application for project permit or approval does not qualify as a planned action, the application shall be reviewed and processed under the applicable procedures for project approval under VMC Chapter 20.200, Land Use Decisions. The Planning Official shall prescribe a SEPA review procedure consistent with the VMC Chapter 20.790, SEPA Regulations. Such SEPA review may use or incorporate relevant elements of the environmental analysis in the EIS or Heights District Plan.
- C. Where the Planning Official determines that an application for project permit or approval qualifies as a Planned Action, the project permit application shall be processed under the administrative procedures set forth in VMC 20.790.530, Planned Action Review.

**Section 4. Review and Approval of Planned Action Projects**

- A. An application for project permit or approval, which is designated by the Planning Official as a Planned Action under Section 3 of this Ordinance shall be subject to approval under the provisions of VMC 20.210, Decision Making Procedures.
- B. No application for project permit or approval designated a Planned Action under Section 3 of this Ordinance shall require the issuance of a threshold determination under SEPA, as provided by RCW 43.21C.440, WAC 197-11-172(2)(a) and VMC 20.790.530, Planned Action Review. No procedural SEPA appeals under VMC Chapter 20.790 shall be allowed.
- C. An application for project permit or approval designated a Planned Action under Section 3 of this ordinance shall not be subject to further procedural review under SEPA, but the proposed project may be conditioned to mitigate any adverse environmental impacts which are reasonably likely to result from the project proposal.
- D. The determination to approve, conditionally approve, or deny an application for Planned Action project permit or approval shall be appealable pursuant to VMC 20.790.530(I). *Provided that*, the environmental analysis and mitigation measures or other conditions contained in the mitigation document (attachment "B"), the Heights District Plan, or EIS shall be afforded substantial weight.

## **Section 5.      Environmental Documents**

A Planned Action designation for a site-specific project action, permit, or approval shall be based upon the environmental analysis contained in the Heights District Plan and EIS. This Heights District Plan and EIS, including potential mitigation measures, are hereby incorporated in this ordinance and adopted by reference. The mitigation document (attachment "B") is based upon the analysis contained in the EIS. The mitigation document, together with existing City codes, ordinances, and standards, shall provide the framework for the decision by the City to impose

conditions on a Planned Action project. Other environmental documents and studies listed in the Heights District Plan and EIS may also be used to assist in analyzing impacts and determining appropriate mitigation measures in accordance with Section 4 of this ordinance.

**Section 6.      Conflict of Development Regulations and Standards.**

In the event of conflict between this Ordinance or any mitigation measures imposed pursuant thereto and any other ordinance or regulation of the City, the provisions of this Ordinance shall control.

**Section 7.      Severability.**

If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

**Section 8.      Third Party Liability.**

This ordinance does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations. No provision or term used in these regulations is intended to impose any duty whatsoever upon the City or any of its officers, employees, or agents.

Notwithstanding any language used in this ordinance, it is not the intent of this Ordinance to create a duty and/or cause of action running to any individual or identifiable person, but rather any duty is intended to run only to the general public.

**Section 9.      Effective Date.**

This Ordinance shall take effect 30 days following passage and publication.

**Section 10.    Expiration Date.**

This ordinance shall expire twenty (20) years from the date of adoption unless otherwise repealed or readopted following a public hearing.

Read first time:        July 19, 2021

Ayes:                  Councilmembers

Nays:                  Councilmembers

Absent:                Councilmembers

Read second time:    August 2, 2021

PASSED by the following vote:

Ayes:                  Councilmembers

Nays:                  Councilmembers

Absent:                Councilmembers

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Anne McEnery-Ogle, Mayor

Attest:

\_\_\_\_\_  
Natasha Ramras, City Clerk

Approved as to form:

\_\_\_\_\_  
Jonathan. Young, City Attorney

**ATTACHMENTS:**

Attachment A: Planned Action Area Map

Exhibit E: Mitigation Document (separate cover)

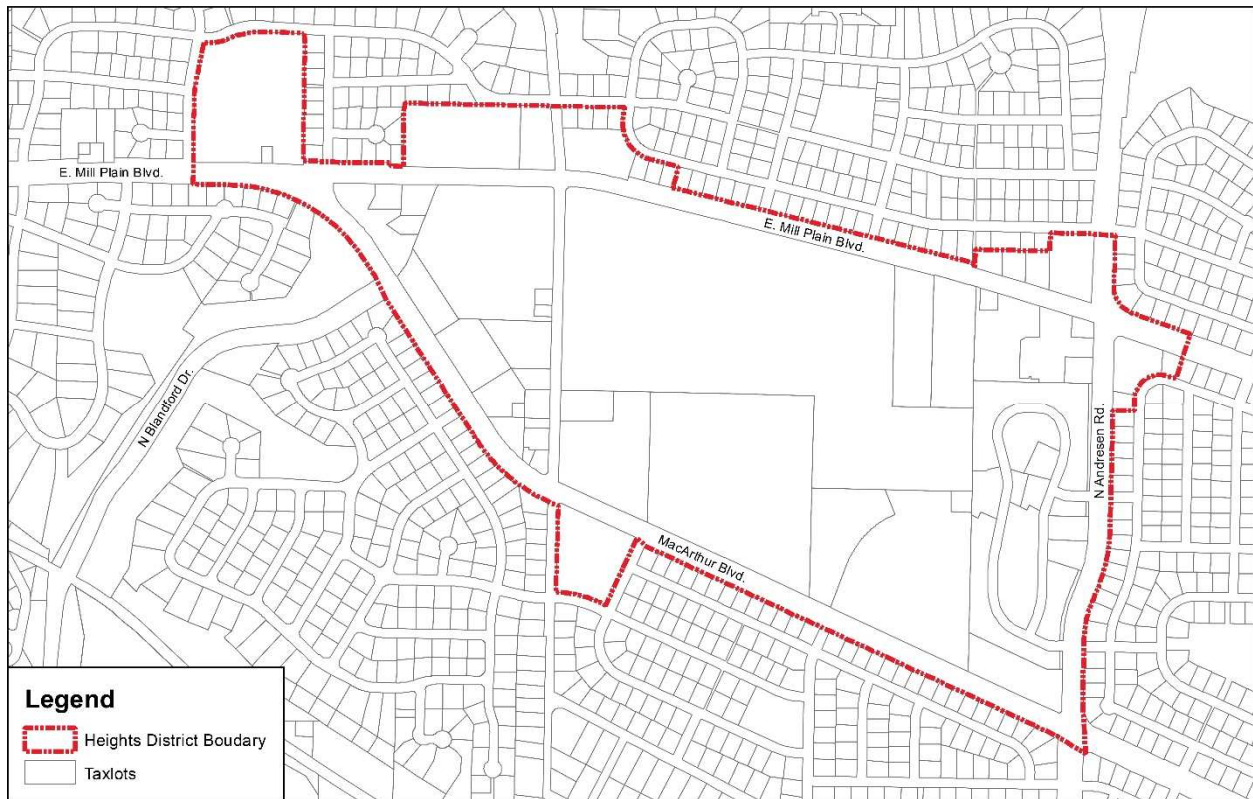


SUMMARY  
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The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via [www.cityofvancouver.us](http://www.cityofvancouver.us) (Go to City Government and Public Records).

## Attachment A: Planned Action Area Map



**Attachment B: Exhibit E - Mitigation Document**