

***PUBLIC HEARING DRAFT***

**ORDINANCE NO. 2021-10  
(Formerly Ordinance No. 2020-16)**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to bonus floor area ratio and amending Table 18.12.020-3, and Sections 18.12.030.E., 18.12.050, 18.24.010, 18.27.040, and 18.27.080 of the Bainbridge Island Municipal Code.

**WHEREAS**, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt zoning controls and other regulations related to land uses; and

**WHEREAS**, the City Council of the City of Bainbridge Island (“City”) updated the City’s Comprehensive Plan in February of 2017; and

**WHEREAS**, balancing affordable housing, historic preservation, growth management, and sustainable development continues to be a local, regional, and national challenge due to many social and economic factors; and

**WHEREAS**, the City has encouraged affordable housing construction by adopting “bonus density” programs that allow for increases in density above the underlying zoning if the additional density creates affordable housing; and

**WHEREAS**, the intent of the Comprehensive Plan is to place residential density, inclusive of affordable housing, in the Winslow core area near infrastructure such as transportation hubs (e.g., ferry service, bus service, highway access), sewer, water, reliable electrical power, and retail stores; and

**WHEREAS**, the intent of such policies is to manage growth consistent with the Growth Management Act, reduce infrastructure costs, and follow general principles of sustainable community development; and

**WHEREAS**, the City Council is interested in evaluating the applicability, use, and effectiveness of the bonus density options provided for and as described in BIMC 18.12.030.E. and Table 18.12.020-3, including related to the purchase of development rights, the provision of public amenities and/or infrastructure, the provision of community open space, floor area ratio transfers related to the Mixed Use Town Center and High School Road districts, and ferry-related parking; and

**WHEREAS**, on February 25, 2020, the Council passed unanimously the following motion: “I move to direct the City Manager to work with the Planning Commission and any other appropriate City committees or commissions to bring back to Council as quickly as possible an ordinance that will reform the City’s bonus FAR programs so as to only allow bonus FAR in relation to Affordable Housing, Historic Preservation, and Transfer of Development

Rights;” and

**WHEREAS**, on March 10, 2020, the City Council approved an interim zoning control ordinance related to Floor Area Ratio (“FAR”) density bonus options (Ordinance No. 2020-10); and

**WHEREAS**, the Planning Commission discussed these policies on February 27 and March 12, 2020 and formed a subcommittee of Commissioners Chester, Paar, and Quitslund to work on this topic; and

**WHEREAS**, the subcommittee brought back their recommendations to the full Planning Commission for discussion on May 14 and 28, 2020, met again, and brought back revised recommendations for the June 11, 2020 Commission meeting and the full Planning Commission came to consensus on a set of amendments to bonus FAR regulations; and

**WHEREAS**, the Planning Commission and City Council held a joint meeting on June 22, 2020 to discuss the bonus FAR regulations and how they are interrelated with other land use issues such as improving affordable housing and transfer of development rights programs; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2020-16 on June 25 and July 9, 2020 and made additional recommendations on revising BIMC 18.12.030.E.; and

**WHEREAS**, the Planning Commission recommends retaining and revising Subsection E.1.a. and Subsection E.7. and eliminating other provisions related to obtaining Bonus FAR; and

**WHEREAS**, the Planning Commission recommends that Subsection E.2., related to obtaining Bonus FAR through the City’s Transfer of Development Rights (“TDR”) program, be deleted at this time and reconsidered at a later date as part of updating the TDR program; and

**WHEREAS**, the Planning Commission recommends moving Subsection E.6. related to Historic Structure provisions to Chapter 18.24 BIMC, Historic Preservation, and to BIMC 18.12.050; and

**WHEREAS**, the Planning Commission recommends that the City pursue eliminating the Bonus FAR provisions related to the Islander Mobile Home Park, Subsection E.1.b., and selling its unused residential FAR, if legally and economically feasible; and

**WHEREAS**, on August 25, 2020, the City Council approved Ordinance No. 2020-20 extending the interim zoning control on the City’s bonus FAR program for six an additional months; and

**WHEREAS**, the Planning Commission continued discussion of proposed Ordinance No. 2020-16 related to revising the Bonus FAR Program on September 10, 24, and October 8, 2020; and

**WHEREAS**, in fall 2020, the Planning Commission recommended adoption of Ordinance No. 2020-16 as an interim measure while the City Council, the Planning Commission, and Planning Staff address broader revisions to the zoning code, including base FAR and whether to replace it with other measures such as form-based zoning; and

**WHEREAS**, in recommending Ordinance No. 2020-16 as an interim ordinance, the Planning Commission recommended that the ordinance should sunset or end after 2 years; and

**WHEREAS**, on November 17, 2020, the City Council discussed Ordinance No. 2020-16, the current amendments to the City's bonus FAR program recommended by Planning Commission together with representatives from the Planning Commission, and the City Council provided policy guidance to the Planning Commission on outstanding policy questions, including directing the City Manager to contact the Islander Mobile Home Park regarding potential purchase of its floor area ratio by the City; and

**WHEREAS**, on November 19, 2020, the Planning Commission discussed the City Council feedback from November 17 and indicated that the City could move forward with Ordinance No. 2020-16 without any changes to BIMC 18.12.030.E.1.b. related to Islander Mobile Home Park FAR; and

**WHEREAS**, on February 23, 2021, the City Council approved Ordinance No. 2021-09 extending the interim zoning control ordinance related to Floor Area Ratio density bonus options (Ordinance Nos. 2020-10 and 2020-20) for six additional months, until September 10, 2021, to allow time to complete work on Ordinance No. 2021-10 (formerly Ordinance No. 2020-16); and

**WHEREAS**, on July 22, 2021, the Planning Commission reviewed an updated version of Ordinance No. 2021-10; and

**WHEREAS**, after holding and closing a public hearing on July 29, 2021, the Commission recommended approval of this Ordinance No. 2021-10 to the City Council; and

**WHEREAS**, notice was given on July 16, 2021, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

**WHEREAS**, on August 10, 2021, the City Council considered this Ordinance No. 2021-10, revised Section 8 of the ordinance so that the ordinance will sunset after one year instead of two years, and set a public hearing for August 24, 2021 to accept public comment and further consider this ordinance; and

**WHEREAS**, on August 24, 2021, the City Council conducted a public hearing on this Ordinance No. 2021-10 and the Council received and considered public comment on the ordinance; and

**WHEREAS**, on August 24, 2021, after considering such public comment, the City Council adopted this Ordinance No. 2021-10; and

**WHEREAS**, because this ordinance relates directly to the above described interim control that is in effect currently pursuant to Ordinance No. 2021-09, the effective date of this ordinance will coincide with the scheduled expiration of that interim control, such that at the point at which the interim control expires, this ordinance will take effect. That interim control is scheduled to expire on September 10, 2021.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Table 18.12.020-3 of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

**Section 2.** Section 18.12.030.E. of the Bainbridge Island Municipal Code is hereby amended as follows:

E. Bonus Density to incentivize affordable housing in Winslow Mixed Use and High School Road Districts. Eligible properties may increase achieve a maximum level of development-above the base FAR, as provided for in Table 18.12.020-3, by using one, or a combination of, the following FAR bonus provisions. The FAR bonus provisions may be combined to achieve the maximum level of development established for each district. In no case shall the total commercial, residential or mixed use FAR exceed the maximum FAR as provided for in Table 18.12.020-3.

1. Optional Affordable Housing.

- a. FAR Bonus. Up to 100 percent of the maximum residential FAR bonus may come from providing affordable housing as defined in Chapter 18.36 BIMC; provided, that the difference between the base residential FAR and the maximum residential FAR shall be dedicated to affordable housing. A portion of the total floor area that is of common use and benefit to the entire residential development (for example, interior halls, stairwells, laundry rooms, exercise rooms) may be included in the calculation of the affordable housing component. This portion shall be the same percentage as the affordable housing provided. For example, if 20 percent of the living unit floor area is for affordable housing, then 20 percent of the common floor area may be included in the total affordable housing calculation. Development of the optional affordable housing shall be in accordance with Chapter 18.21 BIMC and Table 18.12.030.

**Table 18.12.030: Optional Affordable Housing Bonus Summary Table**

Size of Development	Residential development less than 10,000 sq. ft.	Residential development of 10,000 sq. ft. but less than 60,000 sq. ft.	Residential development more than 60,000 sq. ft.
<b>Affordable Housing FAR Bonus</b>	Must provide 100 percent of bonus square footage for extremely low, very low, or moderate income groups.	Must comply with following ratios: (a) 100 percent of bonus for all moderate; OR (b) 0.2 of bonus for extremely low, very low, or low income groups; 0.5 of bonus for moderate income group; and 0.3 of bonus for middle income group.	Must comply with following ratios: 0.1 of bonus for extremely low, very low or low income groups; 0.6 of bonus for moderate income group; and 0.3 of bonus for middle income group.

b. Preservation of the Islander Mobile Home Park. Preservation of the Islander Mobile Home Park as an existing park site for manufactured homes shall be encouraged through the following provisions.

i. Unused FAR from the parcel on which the mobile home park is located may be transferred to another parcel or parcels within the Mixed Use Town Center. For example, the base FAR for the mobile home park would be calculated, less the FAR of the mobile homes. In exchange for permanently preserving the mobile home park, the owner of the property may transfer the unused FAR to another parcel or parcels in the Mixed Use Town Center, where it may be used as bonus FAR above the base FAR for that district.

ii. Permanent preservation of the mobile home park may be used as an affordable housing bonus on another parcel or parcels within the Mixed Use Town Center. For example, in exchange for preserving the mobile home park, the owner of the property would be deemed to have met the affordable housing bonus provisions of subsection A.1 of this section, and could achieve the maximum FAR bonus for residential development on another parcel or parcels in the Mixed Use Town Center. The owner of the mobile home park may either apply the FAR bonus to another parcel(s) he or she owns, or transfer or sell the bonus to another property owner in the Mixed Use Town Center.

~~2. Purchase of Development Rights. Up to 100 percent of the maximum residential, commercial or mixed use FAR bonus may come from the purchase of development rights as provided for in Chapter 18.27 BIMC. The cost of development rights shall be established by resolution of the city council.~~

~~3. Public Amenities and/or Infrastructure. At the applicant's option, a portion of the bonus may be earned through the provision of public amenities, infrastructure, and/or preservation of a heritage tree(s) on site, pursuant to an adopted city council resolution clarifying the amount of credit awarded for different provision of different public amenities and/or infrastructure, as follows:~~

~~a. Up to 40 percent of the maximum residential, commercial or mixed use FAR bonus may come from monetary contributions toward public amenities and/or infrastructure beyond that required for SEPA mitigation. The amount of the contribution shall be established by resolution of the city council. Funds contributed to the public amenities and/or infrastructure shall be used exclusively in the Mixed Use Town Center or High School Road districts, for projects identified in the six year capital facilities program, or approved by the city.~~

~~b. In lieu of the contribution of funds as provided for in subsection E.3.a of this section, and subject to approval by the director or designee, the public amenities FAR bonus may be achieved by the preservation of a heritage tree(s) on site, construction of public amenities and/or infrastructure beyond that required to mitigate the impacts of development. Public amenities and/or infrastructure projects shall be located in the Mixed Use Town Center or High School Road districts, and shall be chosen from~~

projects identified in the six-year capital facilities program, or approved by the city.

~~4. Community Open Space. In the ferry terminal district, up to 60 percent of the maximum residential, commercial or mixed use FAR bonus may be achieved by providing community open space of one acre, or 20 percent of the parcel area, whichever is greater. The community open space shall be located in or in the immediate vicinity of locations identified in Figure 4.1 of the Winslow master plan. The open space must be located on the same parcel that is being developed, and must be on land that would be otherwise buildable. Adequate public access to the community open space must be provided. The city shall consider approving the bonus, taking into consideration the configuration, public use and accessibility of the proposed open space. In cases where a development project utilizes the community open space bonus provision in conjunction with the purchase of development rights bonus provision, all funds collected from the purchase of development rights shall go toward the preservation of agricultural lands fund.~~

~~5. Winslow Town Center Mixed Use/High School Road FAR Transfers. Up to 20 percent of the maximum residential, commercial or mixed use FAR bonus may come from transfers of FAR from parcels within the Mixed Use Town Center and the High School Road districts. The transfer shall create permanent open space through open space preservation covenants on sending parcels that contain critical areas as defined in Chapter 16.20 BIMC. For example, development potential in the ravine of the gateway district may be shifted to the upland area; provided, that the requirements of Chapter 16.20 BIMC are satisfied.~~

~~6. Historic Structure Preservation. When an historic structure is preserved on site, the FAR of that historic structure shall not be included in the calculation of total FAR for the site. The historic structure must be included on a state, local or federal register.~~

~~2 7. Ferry-Related Parking. In the ferry terminal district, an additional 0.2 FAR may be achieved by relocating existing legal surface ferry commuter parking on site (as shown on Figure 6.2 of the Winslow master plan) to under-building or below-grade parking. The percentage of the additional FAR that is achieved shall be dependent upon the percentage of parking that is relocated. For example, if 50 percent of existing surface ferry commuter parking on site is relocated under-building or below grade, then 50 percent of the total additional FAR (or 0.1 FAR) may be achieved.~~

**Section 3.** Section 18.12.050 of the Bainbridge Island Municipal Code is hereby amended as follows:

G. Floor Area Ratio (FAR). “Floor area ratio” is a figure that expresses the total floor area as a multiple of the lot area. This figure is determined by dividing the floor area of all buildings on a lot by the lot area prior to removal of lot area for dedication. Portions of parking located underneath a building footprint are not counted in floor area ratio calculations. When an historic structure is preserved on site, the floor area ratio of that historic structure shall not be included in the calculation of total floor area ratio for the site. The historic structure must be included on a state, local, or federal register.

**Section 4.** Section 18.24.010 of the Bainbridge Island Municipal Code is hereby amended as follows:

C. Zoning Code Relief. Designated local register properties may be authorized for a use not otherwise permitted in a certain zone. The planning director may approve said use through an administrative conditional use (BIMC 2.16.050). The planning director may also waive or modify development standards such as: setbacks, open space, lot coverage, landscape buffers and parking requirements. When an historic structure is preserved on site, the floor area ratio of that historic structure shall not be included in the calculation of total floor area ratio for the site. The historic structure must be included on a state, local, or federal register.

**Section 5.** Section 18.27.040 of the Bainbridge Island Municipal Code is hereby amended as follows:

18.27.040 Receiving areas for development rights.

~~A. Winslow Mixed Use Town Center and High School Road Districts. Developments in the Mixed Use Town Center (MUTC) and the High School Road districts are eligible for increases in floor area ratio as provided for in BIMC 18.12.030.E.1.~~

~~B. NC Districts. The neighborhood centers (NC) are eligible for increased density through the purchase or transfer of development rights in accordance with BIMC 18.12.030.D.1 and D.3, as amended.~~

~~C. R-8 Districts. The urban single-family overlay district (R-8SF) is eligible for increased density through the purchase or transfer of development rights for specified lots in the R-2.9, R-3.5, and R-4.3 zone districts.~~

**Section 6.** Section 18.27.080 of the Bainbridge Island Municipal Code is hereby repealed in its entirety as follows:

~~18.27.080 Use of development rights in Mixed Use and High School Road districts.~~

~~A. In order to use development rights to increase floor area ratio within the Mixed Use Town Center or High School Road districts as provided in BIMC 18.12.030.E, an applicant must out an application in a form approved by the city. The application shall include the amount of the requested increase in floor area ratio, and the fee, if any, of the increased floor area ratio. The fee for development rights to increase floor area ratio shall be established by resolution of the city council.~~

~~B. The approved application to utilize development rights to increase floor area ratio within the receiving area must be part of a site plan and design review application under BIMC Title 2. The site plan must indicate the increase in floor area ratio (FAR).~~

~~C. The use of development rights shall be reviewed for conformance with the design review provisions of BIMC 18.18.030.~~

**Section 7. Effect on Vested Rights.** Nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any property owner's or property leaseholder's vested development rights as defined by state law and City of Bainbridge Island regulations.

**Section 8.** The amendments to the Bainbridge Island Municipal Code approved by this ordinance shall sunset one year from the effective date of this ordinance.

**Section 9. 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 preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 10.** This ordinance shall take effect and be in force immediately upon the expiration of the related interim zoning control that is in effect currently pursuant to Ordinance No. 2021-09. That interim control is scheduled to expire on September 10, 2021.

PASSED BY THE CITY COUNCIL this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Rasham Nassar, Mayor

ATTEST/AUTHENTICATE:

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Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK: August 6, 2021 (Updated August 13, 2021)  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_, 2021  
PUBLISHED: \_\_\_\_\_, 2021  
EFFECTIVE DATE: \_\_\_\_\_, 2021 (This ordinance is effective immediately upon the expiration of the related interim zoning control that is in effect currently pursuant to Ordinance No. 2021-09. That interim control is scheduled to expire on September 10, 2021.)  
ORDINANCE NUMBER: 2021-10

Exhibit A: Table 18.12.020-3 of the Bainbridge Island Municipal Code

**Exhibit A to Ordinance No. 2021-10**

**Revisions to Table 18.12.020-3**

ZONING DISTRICT  DIMENSIONAL STANDARD	Winslow Mixed Use Town Center					HSR I and II
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC 18.12.030.C]	
<b>Basic Maximum</b>						
Commercial and Other Nonresidential Uses	0.6	0.4	0.3	0.15	0.1	0.3
Residential	0.4	0.4	0.3	0.5	0.4	0.3
Mixed Use [2]	1.0	0.5	0.5	0.5	0.5	0.3
<b>Maximum with Bonus</b>	Bonus densities require compliance with BIMC 18.12.030.E					
<b>Commercial and Other Nonresidential Uses</b>	<b>1.0</b>	<b>0.6</b>	<b>0.6</b>	<b>0.3</b>	<b>0.2</b>	<b>0.6</b>
Residential	1.0	0.6	0.6	1.0	1.1	0.6
Mixed Use [2]	1.5	1.0	<b>1.0 0.9</b>	1.0	<b>1.3 1.2 (1.5 1.4</b> pursuant to note [3])	<b>1.0 0.9</b>

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[1] If the existing FAR for a developed property as of May 21, 1998, is higher than the base FAR for that district, then the existing FAR will be considered the base FAR for that developed property. Total FAR may not be exceeded.

[2] In mixed use development, the established FAR in the residential and commercial components shall not be exceeded. For the residential FAR bonus provisions for qualifying housing design demonstration project, refer to the bonus density provisions in BIMC 2.16.020.S.8.

[3] In mixed use development in the ferry terminal district, an additional 0.2 FAR is permitted in accordance with **BIMC 18.12.030.E.27**. The additional FAR may be applied to either the residential or commercial component of the mixed use development.

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