

47 **WHEREAS**, the moratorium will preserve the status quo and prevent property owners from
48 applying for and becoming vested to the bed and breakfast facility regulations prior to the
49 effective date of the short-term rental regulations; and
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51 **WHEREAS**, RCW 36.70A.390 authorizes the City Council to adopt an immediate moratorium
52 for a period of up to six months without holding a public hearing on the proposal provided that
53 a public hearing is held within at least 60 days of its adoption; and
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55 **WHEREAS**, the City Council desires to impose an immediate 6-month moratorium on the
56 acceptance of any development permit application or business registration application for the
57 siting, location or operation of any bed and breakfast facility; and
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59 **WHEREAS**, RCW 36.70A.390 provides that, "A county or city governing body that adopts a
60 moratorium, interim zoning map, interim zoning ordinance, or interim official control without
61 holding a public hearing on the proposed moratorium, interim zoning map, interim zoning
62 ordinance, or interim official control, shall hold a public hearing on the adopted moratorium,
63 interim zoning map, interim zoning ordinance, or interim official control within at least sixty days
64 of its adoption, whether or not the governing body received a recommendation on the matter
65 from the planning commission or department. If the governing body does not adopt findings of
66 fact justifying its action before this hearing, then the governing body shall do so immediately
67 after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim
68 official control adopted under this section may be effective for not longer than six months, but
69 may be effective for up to one year if a work plan is developed for related studies providing for
70 such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim
71 official control may be renewed for one or more six-month periods if a subsequent public
72 hearing is held and findings of fact are made prior to each renewal"; and
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74 **WHEREAS**, RCW 35.63.200 provides a similar process for adopting and extending land use
75 moratoriums; and
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77 **WHEREAS**, moratoriums enacted under RCW 36.70A.390 and/or RCW 35.63.200 are
78 methods by which local governments may preserve the status quo so that new regulations will
79 not be rendered moot by intervening projects; and
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81 **WHEREAS**, RCW 36.70A.390 and RCW 35.63.200 both authorize the enactment of a
82 moratorium without holding a public hearing if a public hearing is held within at least sixty days
83 of its enactment; and
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85 **WHEREAS**, pursuant to WAC 197-11-880, the adoption of this emergency moratorium is
86 exempt from the requirements of a threshold determination under the State Environmental
87 Policy Act (SEPA), and the proposed short-term rental regulations received a SEPA
88 determination of non-significance; and
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90 **WHEREAS**, a moratorium will provide the City with additional time after adoption of the
91 proposed short-term rental regulations to implement the new regulations, including associated
92 fees; and
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94 **WHEREAS**, the City Council concludes that the City has the authority to establish a moratorium
95 and that the City must adopt a moratorium concerning the filing, acceptance, and processing
96 of new applications for the establishment of new bed and breakfast facilities under the current
97 rules to prevent bed and breakfast facilities from being established after the adoption, but
98 before the effective date, of short-term rental regulations; and
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100 **WHEREAS**, the City Council adopts the foregoing as its findings of facts justifying the adoption
101 of this ordinance.
102

103 **NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**
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105 **Section 1. Findings of Fact.** The City Council adopts the above "WHEREAS" recitals as
106 findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.
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108 **Section 2. Definitions.**
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110 A. **Bed and Breakfast Facility.** A single-family residence with not more than two
111 rooms let as transient housing. For the purpose of this section, a transient shall be
112 defined as a person who stays for a period not to exceed two weeks.
113 Accommodations may include limited food service for guests.
114

115 B. **Short-term Rental.** A lodging use, other than a hotel or motel, in which a
116 dwelling unit or portion thereof is provided to guests by a short-term rental operator
117 for a fee for fewer than 30 consecutive nights. A dwelling unit or portion thereof that is
118 used by the same individual or individuals for 30 or more consecutive nights is not a
119 short-term rental.
120

121 **Section 3: General Definitions.**

122 A. "Exempt development permits" shall include any permit application for a
123 structure or use/operation of property for bed and breakfast facilities, as defined in
124 this ordinance, that is subject to the vested rights doctrine, and that was submitted to
125 the City and determined by the City staff to be complete on or before the effective
126 date of this ordinance.
127

128 B. "Non-Exempt development permits shall include any permit application or
129 business license or registration application for a structure or use/operation of property
130 for a bed and breakfast facility, as defined in this ordinance, that is:

131 1. A permit application that is not subject to the vested rights doctrine and/or
132 that was submitted to the City after the effective date of this ordinance; and/or
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134 2. A business license or registration application for use/operation of property
135 as a bed and breakfast, as defined in this ordinance that was submitted to the
136 City either before or after the effective date of this ordinance.
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138 **Section 4. Purpose.** The purpose of this moratorium is to prevent the establishment of
139 bed and breakfast facilities after adoption of new short-term rental regulation and to allow the
140 City adequate time to implement the proposed short-term rental regulations. The short-term
141 rental regulations will take effect six months after third and final reading, which is anticipated
142 to occur on November 5, 2018.
143

144 **Section 5. Moratorium Imposed.** The City Council imposes an immediate six-month
145 moratorium on the acceptance of all non-exempt development permit and business license or
146 registration applications, as defined in this ordinance. All such non-exempt development
147 permit and business license or registration applications shall be rejected and returned to the
148 applicant. With regard to the City's acceptance of any exempt development permit
149 applications, such acceptance shall only allow processing to proceed, but shall not constitute
150 an assurance that the application will be approved.
151

152 **Section 6. Duration of Moratorium.** This moratorium shall be in effect for six (6) months,
153 beginning on November 5, 2018, and ending on May 5, 2019.
154

155 **Section 7. Public Hearing Required.** As required by RCW 36.70A.390, within sixty (60)
156 days of passage of this ordinance, the City Council will hold a public hearing on this
157 moratorium.
158

159 **Section 8. Work Plan.** During the moratorium period, City staff will implement the new
160 short-term rental regulations by developing application materials, setting appropriate fees,
161 adding the new use to the City's permit software system, and hiring a consultant to help with
162 monitoring the new use, training staff on the new regulations, and developing other materials
163 to assist staff and the public in understanding the new regulations.
164

165 **Section 9. Declaration of Emergency.** The City Council hereby declares that an
166 emergency exists necessitating that this ordinance take effect immediately upon passage by
167 a majority vote plus one of the whole membership of the Council as required by RCW
168 35A.12.130. Without an immediate moratorium on the City's acceptance of non-exempt
169 development applications, such applications could become vested, leading to development
170 or a use of property that is incompatible with the new short-term rental regulations. Therefore,
171 the moratorium must be imposed as an emergency measure to protect the public health,
172 safety and welfare, and to prevent the submission of applications to the City in an attempt to
173 vest rights for an indefinite period of time. This ordinance does not affect any existing vested
174 rights. Any use currently in operation as a bed and breakfast use without a valid City
175 business license or bed and breakfast permit on the date of the passage of this ordinance is
176 not a legal non-conforming use.
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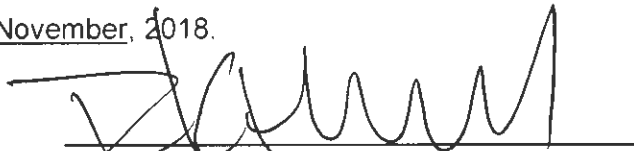
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Section 10. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130.

Section 11. Conflict with other BMC Provisions. If the provisions of this ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this ordinance shall control.

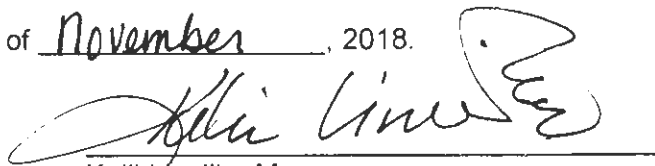
Section 12. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

PASSED by the Council this 5th day of November, 2018.



Dan Hammill, Council President

APPROVED by me this 14th day of November, 2018.



Kelli Linville, Mayor

ATTEST: 

Andy Ashjornsen, Interim Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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