

**ORDINANCE NO. 04-2020**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, IMPOSING A TEMPORARY 12-MONTH MORATORIUM ON THE CREATION, DEVELOPMENT, OR EXPANSION OF SELF-SERVICE STORAGE FACILITIES, WHICH INCLUDES, WITHOUT LIMITATION, ACCEPTANCE, PROCESSING, AND APPROVAL OF BUILDING PERMIT APPLICATIONS OR LAND USE APPLICATIONS FOR SELF-SERVICE STORAGE FACILITIES LOCATED, OR PROPOSED TO BE LOCATED, WITHIN THE MIXED COMMERCIAL AND GENERAL COMMERCIAL ZONES; SETTING FORTH FINDINGS OF FACT IN SUPPORT OF THIS MORATORIUM; IMPOSING THE MORATORIUM; STATING THE EFFECT ON VESTED RIGHTS; PROVIDING FOR EXCLUSIONS; SETTING A PUBLIC HEARING; RECOGNIZING THAT A WORK PLAN WILL BE ESTABLISHED; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; SETTING THE DURATION; ESTABLISHING AN IMMEDIATE EFFECTIVE DATE; AND REPEALING ORDINANCE NO. 03-2020.**

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 moratoria related to land uses; and

WHEREAS, a moratorium is a pause on all new development, land use, and construction applications, which allows cities to consider new development and zoning regulations; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize city councils to adopt moratoria for 12 months without notice and public hearing; provided, however, cities must hold a public hearing within 60 days of moratorium adoption and establish a work plan; and

WHEREAS, the City Council ("Council") of the City of Covington ("City") updated the City's Comprehensive Plan ("Comprehensive Plan") in January 2016; and

WHEREAS, the Mixed Commercial ("MC"), and General Commercial ("GC") zones currently allow for the development of self-service storage facilities; and

WHEREAS, Council previously adopted Ordinance No. 03-2020 on February 11, 2020 to impose a 12-month moratorium on the development of self-service storage facilities in the MC and GC zones; and

WHEREAS, the date identified and ultimately scheduled for the public hearing required by RCW 35A.63.220 and RCW 36.70A.390 exceeded the 60-day timeframe for holding said hearing by three days; and

WHEREAS, to address the inadvertent scheduling issue, Ordinance No. 03-2020 will be repealed and replaced with a new 12-month moratorium on the development of self-service storage facilities in the MC and GC zones; and

WHEREAS, a public hearing date will be set for April 14, 2020; and

WHEREAS, Policy ED-1 of the Economic Development chapter of the Comprehensive Plan states as follows: "Strengthen Covington's position as the center of a regional retail and service area serving Covington and nearby communities readily accessed from the SR 18 and SR 516 highway corridors"; and

WHEREAS, Policy ED-5 of the Economic Development chapter of the Comprehensive Plan states as follows: "Provide for business attraction and diversification including entrepreneurship and small business development"; and

WHEREAS, Policy ED-11 of the Economic Development chapter of the Comprehensive Plan states as follows: "Foster a business climate and site options supporting large employers offering high-wage jobs together with small business and entrepreneurial start-ups"; and

WHEREAS, Policy ED-12 of the Economic Development chapter of the Comprehensive Plan states as follows: "Promote the emerging professional services sector, especially healthcare facilities and medical services"; and

WHEREAS, Policy ED-13 of the Economic Development chapter of the Comprehensive Plan states as follows: "Encourage location of new higher-wage jobs in the downtown area and the Lakepointe Urban Village"; and

WHEREAS, Policy ED-14 of the Economic Development of the Comprehensive Plan states as follows: "Facilitate commute trip reduction by providing more jobs locally for Covington residents"; and

WHEREAS, Policy ED-15 of the Economic Development of the Comprehensive Plan states as follows: "Maintain development regulations that are predictable and that balance public costs with public benefits as well as assure competitiveness with other Puget Sound jurisdictions"; and

WHEREAS, self-service storage facilities have been found in other Washington jurisdictions to employ approximately one person per acre; and

WHEREAS, the Council has significant concerns regarding whether self-service storage facilities create family wage jobs as compared to other possible permitted uses within the GC and MC zoning districts; and

WHEREAS, the Council has significant concerns regarding whether self-service storage facilities comply with the Comprehensive Plan's economic development policies; and

WHEREAS, the Covington Municipal Code section 18.20.1050 defines a "self-service storage facility" as "an establishment containing separate storage spaces that are leased or rented as individual units"; and

WHEREAS, the Washington State Department of Commerce ("Commerce") awarded a \$100,000 House Bill 1923 grant ("Grant") to the City; and

WHEREAS, the City will use the Grant to fund a consultant team to assist City staff in an audit of existing zoning and environmental regulations that cover development within the City's downtown area, which includes the GC and MC zones; and

WHEREAS, the audit will allow the City and the consultant to draft, adopt, and implement a form-based zoning code and State Environmental Policy Act infill exemption that will apply to development within the City's downtown area, which includes the GC and MC zones; and

WHEREAS, the City requires time to review the regulations and policies at issue to ensure that the vision and goals of the Comprehensive Plan are being met to Council's satisfaction; and

WHEREAS, the Council desires to review whether the development of additional self-service storage facilities within the City will be consistent the MC and GC zones following the adoption of the form-based code and infill exemption; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

WHEREAS, the adoption of this moratorium is exempt from the threshold determination requirements under the State Environmental Policy Act; and

WHEREAS, Council's desire to maintain the status quo justifies the declaration of an emergency and the designation of this ordinance as a public emergency ordinance necessary for the protection of public health, public safety, public property, or the public peace by the Council; and

WHEREAS, the potential adverse impacts on public health, property, safety, and welfare of the City and its citizens if this moratorium does not take effect immediately, further justifies the declaration of an emergency and the designation of this ordinance as a public emergency ordinance necessary for the protection of public health, public safety, public property, or the public peace by the Council; and

WHEREAS, Council finds that the enactment of this ordinance constitutes an emergency due to the need to immediately prevent the community detriment that would occur by allowing further self-service storage facility development proposals to vest under the current land use regulations; and

WHEREAS, RCW 35A.13.190 permits an ordinance to become effective immediately, but requires that it must be passed by a majority plus one of the whole membership of Council to have such an effect; and

WHEREAS, the moratorium imposed herein promotes the public good and is necessary for the protection of public health, property, safety, and welfare. A public emergency exists requiring that the City's moratorium takes effect immediately upon adoption.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** **Findings of Facts.** The recitals set forth above are hereby adopted as the City Council's initial findings of fact in support of the moratorium established by this ordinance. The City Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 5 below.

**Section 2.** **Moratorium Imposed.** A temporary development moratorium is hereby imposed upon self-service storage facilities in the City's GC and MC zones. No expansion of a current self-service storage facility use or creation of a new self-service storage facility use shall be allowed in the GC and MC zones for the duration of this moratorium; however, nothing herein shall be construed as applying to or otherwise interfering with, in contravention of state law, any vested rights that have accrued from specific, complete permit applications that were submitted to the City prior to the effective date of this moratorium. This moratorium also applies to the City's acceptance, processing, or approval of any applications for building permits and land use permits, including without limitation, development permits, special use permits, variances, and other development permits or approvals for self-service storage facilities in the GC and MC zones received after the effective date of this moratorium.

**Section 3.** **Corrections.** The City Clerk and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

**Section 4.** **Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance or its application to any persons or circumstances.

**Section 5.** **Public Hearing and Work Plan.** Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at its regularly scheduled City Council meeting on April 14, 2020 in order to take public testimony and to consider adopting further findings of fact. A work plan will be developed and provided as required by RCW 35A.63.220.

**Section 6.** **Exclusions.** The moratorium imposed under Section 2 of this ordinance shall not apply to permits required for upkeep, repair, or maintenance of existing self-service storage facilities or work mandated by the City to maintain public health and safety.

**Section 7. Declaration of Emergency; Effective Date; Duration.** This ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, and public peace, shall take effect and be in full force immediately upon its adoption. The foregoing “whereas” recitals are adopted by reference as findings of fact as if fully set forth herein. This moratorium shall take effect immediately and shall remain in effect for 12 months, unless terminated earlier by the Council; provided, however, Council may, in its sole discretion, renew the moratorium for one or more six-month periods in accordance with state law. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

**Section 8. Repeal.** This ordinance repeals and replaces Ordinance No. 03-2020.

Passed by the City Council of the City of Covington on the 10th day of March 2020.



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Mayor Jeff Wagner

ATTESTED:



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Sharon Scott, City Clerk

APPROVED AS TO FORM:



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Mark Orthmann, City Attorney

PUBLISHED: March 20, 2020

EFFECTIVE: March 10, 2020