

**ORDINANCE NO. 07-2020**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, RELATING TO THE ADOPTION OF INTERIM LAND USE REGULATIONS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390 TO CONTROL THE PROVISION OF ON-SITE RECREATION SPACE FOR NEW MULTIFAMILY DEVELOPMENT IN THE DOWNTOWN ZONE; AMENDING CMC 18.35.005; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Chapter 18.35 of the Covington Municipal Code (“CMC”) contains the development standards and design requirements for projects within the City, with the exception of the downtown zone because CMC 18.35.005 states that “[t]he [design] standards contained in [Chapter 18.35 CMC] shall apply to all zones other than the downtown zone”; and

WHEREAS, CMC 18.35.160 requires that multifamily developments provide on-site recreation facilities; and

WHEREAS, CMC 18.35.180 provides the design standards for on-site recreation facilities; and

WHEREAS, because the design standards and design requirements of Chapter 18.35 CMC do not apply to the downtown zone, the on-site recreation requirements contained in CMC 18.35.160 and CMC 18.35.180 do not apply to multifamily development located in the downtown zone; and

WHEREAS, pursuant to the current City of Covington (“City”) zoning map, the downtown zone includes the following zoning districts: General Commercial, Mixed Commercial, Mixed Housing/Office, and Town Center; and

WHEREAS, on August 22, 2017 the Covington City Council (“Council”) adopted Ordinance No. 10-2017, which, among other things, adopted new on-site recreation requirements; and

WHEREAS, Ordinance No. 10-2017 reduced the on-site recreational requirement for multifamily to 100 square feet per unit, from the previous sliding scale, which used the following ranges: 200 square feet per unit for studio and one bedroom units, 350 square feet per unit for two bedroom units, and 400 square feet for three or more bedroom units; and

WHEREAS, after researching Ordinance No. 10-2017 and the supporting material, staff discovered uncertainty as to whether it was Council’s intent to exclude the requirement of on-site recreation for multifamily in the downtown zones; and

WHEREAS, the blue sheet staff report associated with Ordinance No. 10-2017 included the statement that “[a] multifamily project shall provide on-site recreation facilities with their project, to meet the needs of their tenants and pay the multifamily park impact fee,” which indicates that the exclusion of on-site recreation facilities for multifamily development in the downtown zone was not the intent of Ordinance No. 10-2017 and appears to have been an oversight; and

WHEREAS, Council finds that adequate on-site recreation facilities should be provided in the downtown zone, and with the onset of COVID-19, additionally finds that on-site recreation is vital to maintain the public health, safety, property, and peace in the downtown zone, where higher densities are allowed; and

WHEREAS, development in the downtown zone can be dense and more intense, as a mixed-use center, and due to the dense compact nature of development expected, it is essential that new multifamily development provide adequate usable on-site recreational opportunities for its users; and

WHEREAS, children and adolescents benefit from association with recreation space, as play is an important part of all phases of childhood development; and

WHEREAS, all ages experience the health, environmental, safety, and social benefits provided by the existence of on-site recreation; and

WHEREAS, on-site recreation and Crime Prevention Through Environmental Design principles increase the number of “eyes on the space” by allowing families to keep an eye on children and for residents to be on the lookout for potential illegal activity; and

WHEREAS, the City has the authority to adopt interim land use regulations pursuant to RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, pursuant to RCW 35A.63.220 and RCW 36.70A.390, a public hearing shall be held within 60 days of the adoption of these interim land use regulations; and

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

WHEREAS, resolution of these interim regulations a priority, therefore the City of Covington’s Planning Commission will commence work on the permanent regulations in June 2020, or as allowed pursuant to current restrictions on holding public meetings as a result of the COVID-19 emergency; and

WHEREAS, adoption of interim regulations is exempt from a threshold determination under the State Environmental Policy Act; and

WHEREAS, the Council’s desire correct an oversight in the exclusion of on-site recreation requirements from applying to the downtown zone justifies the declaration of an emergency and

the designation of this ordinance as a public emergency ordinance necessary for the protection of the 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 interim regulation 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 determinant that would occur by allowing multifamily development, located in the downtown zone, to vest to regulations without on-site recreation facilities requirements; and

WHEREAS, Chapter 8, Goal III of the Covington Comprehensive Plan (“Comprehensive Plan”) states that it is a goal of Council to “acquire and develop a high-quality, diversified system of parks, recreation facilities, and open spaces and trails that is attractive, functional, accessible, and safe – providing equitable access to all residents”; and

WHEREAS, if multifamily developments vest without providing on-site recreation facilities, under the current CMC 18.35.005 exclusion of such facilities from the downtown zone, the above noted Comprehensive Plan Goal will not be achieved; and

WHEREAS, RCW 35A.13.190 permits an ordinance to become effective immediately but requires passage by a majority plus one of the entire membership of Council to have such an effect; and

WHEREAS, the interim regulations imposed herein promotes the public good and is necessary for the protection of public health, property, safety and welfare; and

WHEREAS, a public emergency exists requiring that the City’s interim regulations take effect immediately upon adoption; and

WHEREAS, development applications are allowed vest during the current COVID-19 Stay Home – Stay Healthy Order; therefore, the City finds that the establishment of this interim land use regulation is necessary to ensure that the downtown zone develops in a manner that is consistent with the Comprehensive Plan and Council’s goals; and

WHEREAS, it is also necessary to correct the inadvertent oversight found in CMC 18.35.005, because a multifamily development in the downtown zone could currently vest to regulations that do not require on-site recreation facilities; and

WHEREAS, this action is routine for Council because it corrects an inadvertent oversight in Ordinance No. 10-2017, which added various on-site recreation facilities requirements into a Chapter 18.35 CMC that (due to the applicability provision of CMC 18.35.005) do not apply to multifamily development; and

WHEREAS, it is the standard, regular, and routine business of the council to correct such oversights in code drafting; and

WHEREAS, this action is also routine because Council regularly exercises its police powers to zone and control the development of the City in line with Council's goals and the Comprehensive Plan; and

WHEREAS, exercising its regulatory land use authority action is the kind of activity the City normally undertakes at a public meeting pursuant to the City's regular procedures and policies that were in place prior to the COVID-19 event;

NOW, THEREFORE, The City of Council of the City of Covington, Washington, do ordain as follows:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the Council's findings of fact in support of the interim land use regulations established by this ordinance. Council may, in its discretion, adopt additional findings after the public hearing referenced in Section 6 below.

Section 2. CMC 18.35.005 is hereby amended as follows:

**18.35.005 Applicability.**

The standards contained in this chapter shall apply to all zones other than the downtown zone, with the exception of CMC 18.35.160 and 18.35.180, which shall also apply to the downtown zone.

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, 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 preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or situation. The Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 4. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, Council shall hold a public hearing at a regularly scheduled Council meeting within 60 days of the effective

date of this ordinance in order to take public testimony and to consider adopting additional findings of fact.

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. This interim land use regulation shall take effect immediately and shall remain in effect for six months, unless terminated earlier by the Council; provided, however, Council may, in its sole discretion, renew the interim land use regulation 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.

Passed by the City Council of the City of Covington this 26<sup>th</sup> day of May, 2020.

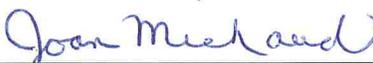
Signed in authentication of its passage this 27<sup>th</sup> day of May, 2020.

  
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Jeff Wagner, Mayor

EFFECTIVE: May 26, 2020

PUBLISHED: May 29, 2020

AUTHENTICATED:

  
\_\_\_\_\_  
Joan Michaud, City Clerk

APPROVED AS TO FORM:

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Mark Orthmann, City Attorney