

ORDINANCE NO. 2006-09-090

AN INTERIM EMERGENCY ORDINANCE RELATING TO LAND USE CONTROLS, ESTABLISHING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR NEW OR EXPANDED RETAIL ESTABLISHMENTS THAT EXCEED 100,000 SQUARE FEET IN THE AGGREGATE, AND ESTABLISHING A WORK PLAN FOR REVIEW AND DEVELOPMENT OF REGULATIONS RELATING TO THESE TYPES OF LARGE RETAIL ESTABLISHMENTS.

WHEREAS, large retail sales establishments may have unintended and uncalculated economic and social impacts which outweigh the benefits of such establishments; and

WHEREAS, such costs may include increased costs for public infrastructure, including roads, sewers, water lines, and increased costs for public services, such as law enforcement, fire, and other emergency services, and such costs may exceed the revenue from such establishments; and

WHEREAS, the construction of additional large retail establishments may be inconsistent with City's Comprehensive Plan Policies encouraging the development of urban villages and mixed use development; and

WHEREAS, the citizens of Bellingham are concerned about potentially negative economic impacts of multiple larger retail sales establishments on existing businesses, particularly smaller local businesses; and

WHEREAS, the City Council supports a sustainable, local economy; and

WHEREAS, the City Council believes in promoting competition to protect and benefit the public interest, and such large retail sales establishments could limit competition by resulting in the loss of existing businesses; and

WHEREAS, a moratorium on the issuance of permits for large retail sales establishments is necessary to enable the City Council to consider whether to amend the City's development regulations to formulate criteria to address impacts, particularly economic and social, and mitigation requirements; and

WHEREAS, the State's vested rights doctrine could enable applications for large retail sales establishments to vest while the City studies possible changes needed in its development regulations, thereby undermining effective City planning for the facilities; and

WHEREAS, a moratorium on further acceptance and processing of applications for such large retail sales establishments is necessary while the City conducts a community impact review; and

WHEREAS, RCW 36.70A.390 authorizes a city to adopt a moratorium on the acceptance of applications for land use and building permits for large retail sales

establishments and to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium; and

WHEREAS, the potential adverse impacts on the public health, public safety, public property and public peace justify the passage of an Interim emergency ordinance,

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Moratorium Imposed. A moratorium is imposed on the filing, acceptance, and processing of applications for land use and building permits for retail sales establishments with a floor area greater than 100,000 square feet in size, unless complete applications were filed with the City prior to the effective date of this ordinance. This moratorium includes proposed expansions of existing retail sales establishments if either the existing establishment or the expansion combined with the existing establishment will exceed the above threshold.

Section 2. Duration. This moratorium shall be in effect for six (6) months following the effective date of this ordinance, and may be renewed as provided by law.

Section 3. Public Hearing Required. As required by RCW 36.70A.390, within sixty (60) days of passage of this ordinance the City Council will hold a public hearing on this moratorium and will adopt the necessary findings required by law.

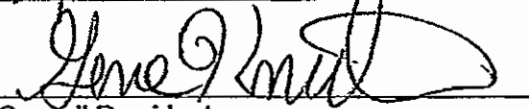
Section 4. Work Plan. During the moratorium, the City's Planning and Community Development Department is directed to study and report back to City Council as to whether the City's development regulations should be amended to address the impacts, particularly economic and social, and mitigation requirements of these large retail sales establishments.

Section 5. Emergency Declared -- Immediate Effect. For the reasons set forth above, and to promote the objectives stated above, the City Council finds that a public emergency exists, necessitating that this ordinance take effect immediately upon its passage by five (5) Bellingham City Council Members in order to protect the public health, safety, property and general welfare.

Section 6. Severability -- Construction.

- (1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance.
- (2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this ordinance shall control.

PASSED by the Council this 11th day of September, 2006.


Council President

APPROVED by me this 11th day of September, 2006.

Mark Asmus
Mayor

ATTEST: Theresa Hill
Finance Director

APPROVED AS TO FORM:

Joan Hoisington
Office of the City Attorney

Published:

September 15, 2006

RESOLUTION NO. 2006-47**A RESOLUTION RELATING TO THE ADOPTION OF FINDINGS OF FACT AND CONCLUSIONS FOR ORDINANCE NO. 2006-09-090 ESTABLISHING A MORATORIUM ON LARGE RETAIL ESTABLISHMENTS.**

WHEREAS, The City adopted Ordinance 2006-09-090 on September 11, 2006 enacting a six-month moratorium on the acceptance and processing of retail establishments with a floor area greater than 100,000 square feet in size; and

WHEREAS, RCW 36.70A.390 requires that if the City Council does not adopt findings of fact justifying its action before conducting a public hearing on a moratorium, then the Council shall do so immediately after the hearing,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:

The City Council adopts the following findings of fact and conclusions for Ordinance No. 2006-09-090 establishing a moratorium on large retail establishments:

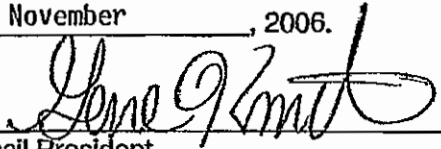
1. Large retail sales establishments may have unintended and uncalculated economic and social impacts which outweigh the benefits of such establishments.
2. Costs may include increased costs for public infrastructure, including roads, sewers, water lines, and increased costs for public services, such as law enforcement, fire, and other emergency services, and such costs may exceed the revenue from such establishments.
3. The construction of additional large retail establishments may be inconsistent with City's Comprehensive Plan Policies encouraging the development of urban villages and mixed use development.
4. The citizens of Bellingham are concerned about potentially negative economic impacts of multiple larger retail sales establishments on existing businesses, particularly smaller local businesses.
5. The City Council supports a sustainable, local economy.
6. The City Council believes in promoting competition to protect and benefit the public interest, and such large retail sales establishments could limit competition by resulting in the loss of existing businesses.
7. A moratorium on the issuance of permits for large retail sales establishments is necessary to enable the City Council to consider whether to amend the City's

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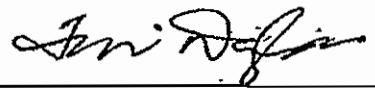
development regulations to formulate criteria to address impacts, particularly economic and social, and mitigation requirements; and

8. The State's vested rights doctrine could enable applications for large retail sales establishments to vest while the City studies possible changes needed in its development regulations, thereby undermining effective City planning for the facilities.
9. A moratorium on further acceptance and processing of applications for such large retail sales establishments is necessary while the City conducts a community impact review.
10. RCW 36.70A.390 authorizes a city to adopt a moratorium on the acceptance of applications for land use and building permits for large retail sales establishments and to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium.
11. The potential adverse impacts on the public health, public safety, public property and public peace justify the passage of an interim emergency ordinance.

PASSED by the Council this 6th day of November, 2006.

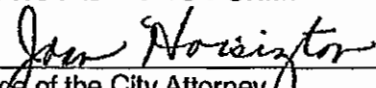

Council President

APPROVED by me this 14th day of November, 2006.


Mayor

ATTEST: 
Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

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