

ORDINANCE NO. 2019-40

AN ORDINANCE of the City of Bainbridge Island, Washington, adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390; imposing a temporary six-month moratorium on the acceptance of building permit applications or land use applications for self-service storage facilities located, or proposed to be located, in the Business/Industrial or Neighborhood Center districts; setting forth findings of fact in support of this moratorium; imposing the moratorium; stating the effect on vested rights; providing for exclusions; recognizing that a public hearing will be held within 60 days; authorizing interpretative authority; providing for severability; declaring an emergency; setting the duration; and establishing an immediate effective date.

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

WHEREAS, self-service storage facilities are currently a permitted use in the City’s Business/Industrial (B/I) and Neighborhood Center (NC) districts; and

WHEREAS, the B/I district includes only 109.23 acres of land on Bainbridge Island, which constitutes 0.63% of the total acreage of land on Bainbridge Island; and

WHEREAS, Policy 1.5 of the Economic Element of the City’s Comprehensive Plan states that “[i]n order to provide opportunities for business enterprise, adequate space must be provided for efficient use of existing developed areas near public transportation (e.g., ferry, bus service) and for growth that recognizes and protects the Island’s valued natural amenities, its limits of land and water and the quality of its residential neighborhoods”; and

WHEREAS, given the limited amount of land within the B/I district, the City Council has a significant interest in ensuring that the use of such land provides opportunities for business enterprise within the City; and

WHEREAS, the City Council has significant concerns regarding further development of self-service storage facilities within the B/I district under current regulations in the context of the vision and goals of the City’s Comprehensive Plan; and

WHEREAS, Policy 15.1 of the Economic Element of the City’s Comprehensive Plan is to “[p]romote manufacturing and business/industrial employment as an important source of family wage jobs on Bainbridge Island”; and

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

WHEREAS, the City Council has significant concerns regarding whether self-service storage facilities create family wage jobs as compared to other possible permitted uses within the B/I district; and

WHEREAS, the City Council has similar concerns regarding self-service storage facilities located in the NC district as it does with such facilities located in the B/I district; and

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

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; 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 BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. 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. As authorized by the police powers of the City as set forth, for example, in Article XI, Section 11, of the Washington State Constitution, and pursuant to statutory authority set forth, for example, in RCW 36.70A.390 and RCW 35A.63.220, and unless expressly excluded under Section 3 and Section 4 of this ordinance, the City hereby imposes a temporary moratorium, as described in this Section 2, for those properties requesting the following ("Permit Applications"):

All building permit applications or land use applications for self-service storage facilities located, or proposed to be located, in the Business/Industrial or Neighborhood Center districts.

Section 3. Effect on Vested Rights. The moratorium imposed under Section 2 of this ordinance shall apply prospectively only and shall operate to prevent acceptance of Permit Applications submitted after the effective date of this ordinance. Nothing in this ordinance shall be construed to extinguish, limit, or otherwise infringe on any permit applicant's vested development rights as defined by state law and City of Bainbridge Island regulations, provided that such a permit applicant has filed a complete Permit Application before the effective date of this ordinance.

Section 4. 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 structures or work mandated by the city to maintain public health and safety.

Section 5. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at a City Council meeting within 60 days of adoption of this ordinance in order to take public testimony and to consider adopting further findings of fact.

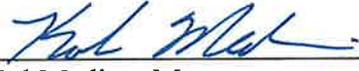
Section 6. Interpretive Authority. The City of Bainbridge Island Director of Planning and Community Development, or designee, is hereby authorized to issue official interpretations arising under or otherwise necessitated by this ordinance.

Section 7. 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 8. 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. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "Whereas" clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein. This moratorium shall take effect immediately and shall remain effective for six (6) months, unless terminated earlier by the City Council. Provided, that the Council may, at 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.

PASSED by the City Council this 26th day of November, 2019.

APPROVED by the Mayor this 26th day of November, 2019.


Kol Medina, Mayor

ATTEST/AUTHENTICATE:


Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	November 26, 2019
PASSED BY THE CITY COUNCIL:	November 26, 2019
PUBLISHED:	December 6, 2019
EFFECTIVE DATE:	November 26, 2019
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