

CITY OF SUMAS

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Memo

To: Honorable Mayor and Members of the Sumas City Council

From: Carson Cortez, City Planner, City of Sumas

Date: August 8, 2025

Re: Public Hearing on Moratorium regarding Land Use Regulations in the Industrial Zone

On June 23, 2025, the Sumas City Council passed Ordinance No. 1822, adopting a moratorium on the City receiving and processing permit applications for development projects, and on the allowance of new uses and development activities in the City, involving hazardous, toxic, and/or flammable materials except where such developments are allowed and permitted as a conditional use.

Pursuant to section 36.70A.390 of the Revised Code of Washington (RCW), a city must hold a public hearing within at least sixty days following the adoption of a moratorium, if they have not done so already. The purpose for holding a public hearing following the adoption of a moratorium is to decide what to do with said moratorium. Pursuant to the same RCW section, once a public hearing is held, a city may decide to extend the moratorium an additional six months, or longer if a work plan involving additional studies is developed.

The purpose of the moratorium was to put a temporary hold on all development permits and projects involving hazardous, toxic, and/or flammable materials that would be identified as a permitted use, and thus not need Council review, under the current municipal code. However, development permits and projects that include such materials which go through the conditional use process are allowed. The temporary hold is in place in order to give the City enough time to review and make amendments to the Industrial zone development regulations as deemed necessary by the City Council. This will happen as part of the Comprehensive Plan and Development Regulations which, if all goes according to plan, be adopted in November, four months into the six-month moratorium extension.

It is staff's recommendation that to ensure adequate review of uses or development activities in the industrial district involving potentially hazardous activities, including hazardous, toxic, and/or flammable materials, the moratorium established by Ordinance No. 1822 should remain in effect pursuant to its terms. Staff is currently undertaking review of City code revisions through its Comprehensive Plan update process, including those applicable to the City's Industrial district, and will recommend changes deemed appropriate with respect to uses and development activities in the City's Industrial district involving hazardous, toxic, and/or flammable materials. It is expected that this process will be completed by the end of the six month time period provided pursuant to Section 36.70A.390 RCW.

ORDINANCE NO. 1822

AN ORDINANCE OF THE CITY OF SUMAS, WASHINGTON, RELATING TO LAND USE REGULATIONS, DECLARING AN EMERGENCY, ESTABLISHING AN IMMEDIATE MORATORIUM ON THE CITY RECEIVING AND PROCESSING PERMIT APPLICATIONS FOR DEVELOPMENT PROJECTS, AND ON THE ALLOWANCE OF NEW USES AND DEVELOPMENT ACTIVITIES IN THE CITY, INVOLVING HAZARDOUS, TOXIC, AND/OR FLAMMABLE MATERIALS EXCEPT WHERE SUCH DEVELOPMENTS ARE ALLOWED AND PERMITTED AS A CONDITIONAL USE PURSUANT TO SECTION 20.44.030 SMC; AND SETTING A PUBLIC HEARING

WHEREAS, the City of Sumas has the authority to adopt a moratorium pursuant to RCW 35A.63.220; and

WHEREAS, chapter 20.44 of the Sumas Municipal Code ("SMC") provides regulations for development and uses in the City's industrial district; and

WHEREAS, in analyzing the provisions of the City's Municipal Code regarding the industrial district, City staff identified a need to ensure for sufficient and proper review, regulation and conditions with respect to certain uses or development activities in the industrial district involving potentially hazardous activities, including those involving hazardous, toxic, and/or flammable materials including, but not limited to, petroleum-based products; and

WHEREAS, such uses and activities have the potential for significant impacts, including on adjacent or surrounding properties, as well as the City as a whole, that may be adverse to the City and its citizens; and

WHEREAS, in order to further the health, safety and welfare of the City and its residents, further review of the regulation, allowance and conditions related to such uses and activities should be undertaken; and

WHEREAS, staff is currently undertaking review of City code provisions through its comprehensive plan update process, including those applicable to the City's industrial district; and

WHEREAS, staff have been requested to identify any necessary changes with respect to uses and development activities in the City's industrial district involving hazardous, toxic, and/or flammable materials in order to ensure appropriate development and use activities within the City's industrial district; and

WHEREAS, an emergency exists necessitating adoption of a moratorium on the City receiving and processing permit applications for development projects, and on the allowance of new uses and development activities in the City, involving hazardous, toxic, and/or flammable materials including, but not limited to, petroleum-based products, except where such developments are allowed and permitted as a conditional use pursuant to Section 20.44.030 SMC; and

WHEREAS, moratorium acts under RCW 36.70A.390 and RCW 35A.63.220 are a means by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390, RCW 35.63.200 and RCW 35A.63.220 authorize the enactment of a moratorium, interim zoning map, interim zoning ordinance and interim official control without holding a public hearing as long as a public hearing is held within 60 days of its enactment; and

WHEREAS, RCW 35A.63.220 provides as follows: “[a] legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of [or] interim zoning ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.”

WHEREAS, the moratorium will provide the City with additional time to review and amend its land use regulations and, if necessary, related code provisions and plans, with respect to uses in its industrial district; and

WHEREAS, the City council concludes that it has the authority to establish an emergency moratorium and that the City must adopt an emergency moratorium on the processing of applications and the construction of uses in its industrial district as described above; and

WHEREAS, the City council adopts the foregoing recitals as its findings of fact justifying the adoption of this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMAS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The City Council adopts the above whereas recitals as Findings of Fact in support of its action as required by RCW 36.70A.390, RCW 35.63.200, and RCW 35A.63.220.

Section 2. Moratorium Established. The City hereby establishes a moratorium on the City receiving and processing permit applications for development projects, and on the allowance of new uses and development activities in the City, including pursuant to section 20.44.020 SMC, involving hazardous, toxic, and/or flammable materials including, but not limited to, petroleum-based products, except where such developments are allowed and permitted as a conditional use pursuant to Section 20.44.030 SMC.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 a public hearing shall be held on August 11, 2025 at 7:00 p.m. to hear testimony regarding the City's moratorium.

Section 4. Duration. The moratorium herein shall be in effect until six months from the effective date noted below, unless extended by the City Council, pursuant to state law.

Section 5. Work Plan. During the moratorium period, City staff will study the issues concerning uses and development activities in the City's industrial district involving the use of hazardous, toxic, and/or flammable materials including, but not limited to, petroleum-based products, except where such developments are allowed and permitted as a conditional use pursuant. Staff will prepare appropriate proposed revisions to the City's codes and regulations and conduct the public review process as required for amendments to the Sumas Municipal Code.

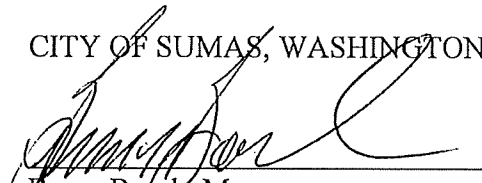
Section 6. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole of the Council as required by RCW 35A.12.130. Without an immediate moratorium on the City's acceptance of non-exempt development applications, such applications could become vested, leading to development or a use of property that is incompatible with the laws adopted by the City of Sumas. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights.

Section 7. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.


Section 8. 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.

PASSED by the City Council and approved by the Mayor of the City of Sumas, Washington, this 23rd day of June, 2025.

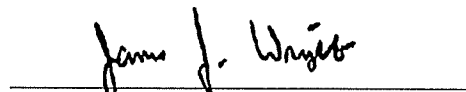
CITY OF SUMAS, WASHINGTON


Bruce Bosch, Mayor

Attested/Authenticated:


Michelle Quinn, City Clerk

Approved as to Form:


James J. Wright, City Attorney