

ORDINANCE NO. 3328

**AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON
EXTENDING AN EMERGENCY MORATORIUM UPON THE
ACCEPTANCE OF APPLICATIONS FOR EMERGENCY SHELTERS
UNDER LMC 19.09.223, SUCH MORATORIUM TO BE EFFECTIVE
IMMEDIATELY, DECLARING AN EMERGENCY NECESSITATING
IMMEDIATE EXTENSION OF SAID MORATORIUM AND DIRECTING THE
SETTING OF A PUBLIC HEARING.**

WHEREAS, the establishment of emergency shelters, especially those known as “low barrier shelters” in neighboring communities has demonstrated that such land uses pose a risk or increase demand on emergency services, and other secondary effects such as higher crime rates and negative impacts on property values; and

WHEREAS, the City is concerned that the creation of new emergency shelters without adequate size, spacing or other appropriate controls could undermine the goals, objectives and policies of the Comprehensive Plan and other City plans and policies; and

WHEREAS, on October 22, 2015 the City Council adopted Ordinance No. 3302 adopting a six-month moratorium on the acceptance of applications for emergency shelters. During the six-month period a sub-committee of the Council met to draft a proposal to address the siting of emergency shelters; and

WHEREAS, additional time was necessary for staff to conduct a survey of other jurisdictions relating to emergency shelter land uses, conduct an evaluation of the effectiveness of such responses and how they have attempted to deal with the issues listed above, conduct an evaluation of the current and potential impacts of emergency and low barrier shelters in the City, conduct an evaluation of the potential impact of such uses in the City, provide the Planning Commission with a recommendation, forward the Planning Commission's recommendation along with the staff's recommendation to the City Council; and

WHEREAS, the City Council appointed an *ad hoc* committee to develop recommendations regarding the regulation of emergency shelters. That committee met five times and developed recommended zoning code amendments; and

WHEREAS, on July 6, 2016 the Longview Planning Commission considered and held a public hearing on the ad hoc committee's proposed zoning code amendments and then voted to recommend approval of the proposed amendments; and

WHEREAS, on September 15, 2016 the City Council considered and held a public hearing on the proposed ordinance, as developed by the *ad hoc* committee. Based upon the testimony offered at the public hearing, the Council decided to reconvene the *ad hoc* committee and invite further participation from the community. This process is anticipated to extend beyond the current October 14, 2016 expiration date of the current moratorium; and

WHEREAS, this moratorium is authorized by RCW 35A.63.220, RCW 36.70A.390 and Article 11, Section 11 of the Washington State Constitution; and

WHEREAS, as required by RCW 35A.63.220 and RCW 36.70A.390, the Longview City Council will hold a public hearing within sixty (60) days of the passage of this Ordinance;

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

Section 1. Purpose. The purpose of the extension of the existing moratorium is to allow the City to continue the process of analyzing the issue of emergency shelters without the possibility the City will be asked to approve applications for development under the existing codes. Additional time is needed to fully explore the options available to the City and have them fully considered by the Planning Commission and City Council.

Section 2. Moratorium Extended. The Longview City Council hereby extends for a further a six-month period the moratorium upon:

- A) The submission, acceptance, processing or approval of any permit applications or licenses by or any establishments permitted under LMC Chapter 19.09.223
- B) The creation by an owner or operator of any land or building of any new use of such land or buildings as an emergency shelter as defined by LMC 19.09.223

Section 3. Effect of Moratorium. The moratorium does not alter any requirement that existing emergency shelters must comply with all applicable laws, and does not impact in any way the City's authority to enforce the Longview Municipal Code or state laws. Violations of this Ordinance are subject to the City's zoning penalties more particularly described in Chapters 1.33 and 19.87 of the Longview Municipal Code and state public nuisance laws.

Section 4. Duration. The extended moratorium set forth in this Ordinance shall be in effect for six (6) months from the date of the expiration of the moratorium established by Ordinance 3318, unless subsequently extended by the City Council pursuant to state law.

Section 5. Public Hearing. Pursuant to RCW 35A.63.220 and 36.70A.390, a public hearing will be held by October 13, 2016. Following the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium and either justify its continued imposition or cancel the moratorium.

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 membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediate moratorium on the City's acceptance of applications for emergency shelters, such applications could become vested, leading to development that could be incompatible with the codes eventually adopted by the City. Therefore, the moratorium must be extended as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of a flood of applications to the City in an attempt to vest rights for an indefinite period of time.

Section 7. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect. The City of Longview hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 8. That nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 9. That the City of Longview City Clerk is hereby ordered and directed to cause this Ordinance to be published.

Section 10. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 11. The City Council finds that this Ordinance is necessary for the immediate preservation of public health, safety and peace therefore shall be a public emergency ordinance in full force and effect upon adoption.

Passed by the City Council this ____ day of _____, 2016.

Approved by the Mayor this ____ day of _____, 2016.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McNamara
City Attorney

Published: _____