

ORDINANCE NO. 07-2021

AN ORDINANCE OF THE CITY OF COVINGTON, WASHINGTON, ADOPTING INTERIM ZONING REGULATIONS RELATED TO PERMANENT SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, EMERGENCY HOUSING, AND EMERGENCY SHELTERS FOR A PERIOD OF SIX MONTHS IN RESPONSE TO HB 1220; ADDING NEW SECTIONS TO CHAPTER 18.20 CMC; AMENDING CMC 14.30.040, CMC 18.20.1305, CMC 18.25.030, AND CMC 18.31.080; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; REQUIRING A PUBLIC HEARING; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Washington State Constitution at article 11, section 11 grants cities the police power authority to protect the public health, safety, and welfare. Pursuant to that authority, a city may regulate the use of property. Cities may regulate property for purposes such as abating nuisances, enforcing building and health codes, zoning and planning, and environmental protection; and

WHEREAS, the City of Covington ("City"), under the authority of RCW 35A.63.220 and RCW 36.70A.390, may impose interim regulations to be effective for a period of up to one year, and for six-month intervals thereafter; and

WHEREAS, earlier this year, the state legislature enacted HB 1220, which, after partial veto by Governor Inslee, became Chapter 254, Laws of 2021, and will take effect on July 25, 2021; and

WHEREAS, Section 3 of HB 1220 contains the following preemption of local zoning authority:

A code city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed. Effective September 30, 2021, a code city shall not prohibit indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed, except in such cities that have adopted an ordinance authorizing indoor emergency shelters and indoor emergency housing in a majority of zones within a one-mile proximity to transit.; and

WHEREAS, HB 1220 allows code cities to impose reasonable occupancy, spacing, and intensity of use requirements on permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters to protect public health and safety; and

WHEREAS, any such requirements on occupancy, spacing, and intensity of use may not prevent the siting of a sufficient number of permanent supportive housing, transitional housing,

indoor emergency housing or indoor emergency shelters necessary to accommodate the City's projected need for such housing and shelter; and

WHEREAS, the Covington City Council ("Council") would like to make certain changes to its development regulations on an interim basis to be consistent with state law and to give City staff and the planning commission time to make recommendations to Council to ensure compliance with HB 1220 on a permanent basis; and

WHEREAS, the Housing Element chapter of the City's Comprehensive Plan ("Comprehensive Plan") states as follows: "Homeless individuals and families will have access to transitional housing and emergency shelter"; and

WHEREAS, the Housing Element chapter of the City's Comprehensive Plan states as follows: "Participate in educational campaigns in the community that support low-income and special needs housing"; and

WHEREAS, the City needs additional time to examine and evaluate the effect of HB 1220 on the uses allowed in zones and the permit process.; and

WHEREAS, the interim regulations will: amend Chapter 18.20 CMC to make the definitions consistent with the requirements of HB 1220, amend CMC 18.25.030 to add the newly defined definitions to the permitted use table, amend CMC 18.31.080 to add the newly defined definitions to the permitted use table for the downtown zones, and amend CMC 14.30.040 to identify the applicable decision types for these uses; and

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

WHEREAS, the City is in the process of updating codes related to development within the Downtown Zones, but does not address the use and allowance of permanent supportive housing, transitional housing, indoor emergency housing, or indoor emergency shelters; and

WHEREAS, the City has not been provided with the data as described in section 2 of HB 1220(2)(a) by the Washington State Department of Commerce ("Department of Commerce") to develop a Housing Element of the Comprehensive Plan that ensures the vitality and character of established residential neighborhoods that:

Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including: (i) Units for moderate, low, very low, and extremely low-income households; and (ii) Emergency housing, emergency shelters, and permanent supportive housing; and

WHEREAS, the City communicated with the Department of Commerce on July 15, 2021 and requested the data as described in HB 1220; and

WHEREAS, the Department of Commerce indicated on July 15, 2021 that it does not have the data referenced in HB 1220, but is in the process of developing a Request for Proposals for a consultant to develop the data over the next year. The Department of Commerce will need to develop methodology first and expects to have draft data prepared in the summer of 2022; and

WHEREAS, due to the lack of data from the Department of Commerce, the Council finds that reasonable intensity, spacing, and occupancy requirements are necessary to protect the public health and must be based on data currently available to the City; and

WHEREAS, it is reasonable and necessary to utilize existing data until such time as the Department of Commerce provides the information regarding the City's projected housing needs identifying the number of housing units necessary to manage projected growth; and

WHEREAS, the 2019 Seattle/King County Point-In-Time Count of Persons Experiencing Homelessness identified 65 unsheltered individuals and 56 sheltered individuals in Southeast King County, within the cities of Black Diamond, Covington, Enumclaw, Maple Valley, and Unincorporated Areas; and

WHEREAS, the population of the cities grouped into the Southeast King County classification is approximately 68,000 people; and

WHEREAS, the City makes up 33 percent of the population of the cities listed in the Southeast King County classification; and

WHEREAS, based on an assumed number of unsheltered individuals in Southeast King County at 80 individuals, and the proportional share of population, 33 percent, the proportional share of unsheltered individuals the City would need to provide services for is 26 individuals, thus providing sufficient number of permanent supportive housing, transitional housing, indoor emergency housing or indoor emergency shelters necessary to accommodate the City's projected need for such housing and shelter; and

WHEREAS, data compiled for the 2020 Seattle/King County Point-In-Time Count of Persons Experiencing Homelessness indicates that people experiencing homelessness increased by five percent within King County; and

WHEREAS, these interim regulations will be reviewed by staff and the City of Covington Planning Commission, and may be revised to generate more allowances based on the number of housing units necessary to manage projected growth; and

WHEREAS, the reasonable occupancy, spacing, and intensity requirement set in these interim regulations are necessary to preserve the public health and safety because they provide for basic health requirements, do not prevent the siting of a sufficient number of permanent supportive housing, transitional housing, indoor emergency housing, and indoor emergency shelters, and are sufficient to accommodate the City's needs for such housing and shelter according to the existing data; 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, adoption of interim regulations is exempt from a threshold determination under the State Environmental Policy Act; and

WHEREAS, the Council finds that the adoption of these interim land use regulations are necessary to ensure that the City develops in a manner that is consistent with the state law, the comprehensive plan, Council's goals, and public health and safety;

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

Section 1. Findings of Fact. The recitals set forth above and the information and staff findings (including the CMC 14.25.060 selection and decision criteria) provided in staff memo are hereby adopted as the Council's findings of fact. Council may, in its discretion, adopt additional findings of fact after the public hearing referenced below.

Section 2. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.394 as follows:

18.20.394 Emergency Housing.

"Emergency housing" means emergency housing as defined in defined by RCW 36.70A.030.

Section 3. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.396 as follows:

18.20.396 Emergency Shelter.

"Emergency shelter" means emergency shelter as defined by RCW 36.70A.030.

Section 4. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.428 as follows:

18.20.428 Extremely low-income household.

"Extremely low-income household" means Extremely low-income household as defined by RCW 36.70A.030.

Section 5. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.728 as follows:

18.20.728 Low-income household.

"Low-income household" means low-income household as defined by RCW 36.70A.030.

Section 6. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.762 as follows:

18.20.762 Moderate-income household.

“Moderate-income household” means moderate-income household as defined by RCW 36.70A.030.

Section 7. Chapter 18.20 of the Covington Municipal Code is amended to add a new section 18.20.875.7 as follows:

18.20.875.7 Permanent supportive housing.

“Permanent supportive housing” means permanent supportive housing as defined by RCW 36.70A.030.

Section 8. Section 18.20.1305 of the Covington Municipal Code is amended to read as follows:

18.20.1305 Transitional housing facilities.

“Transitional housing facilities” means Transitional housing facilities as defined by RCW 84.36.043.

Section 9. Section 18.20.1362 of the Covington Municipal Code is amended to read as follows:

18.20.1362 Very low-income household

“Very low-income household” means Very low-income household as defined by RCW 36.70A.030.

Section 10. Section 18.25.030 of the Covington Municipal Code is amended to read as set forth in Exhibit 1, which is attached hereto and incorporated by this reference.

Section 11. Section 18.31.080 of the Covington Municipal Code is amended to read as set forth in Exhibit 2, which is attached hereto and incorporated by this reference.

Section 12. Section 14.30.040 of the Covington Municipal Code is amended to read as set forth in Exhibit 3, which is attached hereto and incorporated by this reference.

Section 13. Effective Period of Interim Development Regulations. This ordinance shall be in effect for a period of six months from the effective date of this ordinance, unless earlier repealed, renewed, or modified by the City Council as provided by State law.

Section 14. 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 adoption of this ordinance in order to take public testimony and to consider adopting additional findings of fact.

Section 15. 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 City Council of the

City of Covington 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 16. 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 17. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 18. Effective Date. This ordinance shall be in full effect five (5) days after passage and publication, as provided by law. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Passed by the City Council of the City of Covington this 27th day of July 2021.

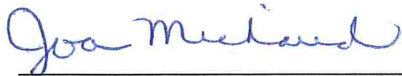
Signed in authentication of its passage this 29TH day of July, 2021.



Jeff Wagner, Mayor

EFFECTIVE: July 30, 2021
PUBLISHED: August 4, 2021

AUTHENTICATED:



Joan Michaud, City Clerk

APPROVED AS TO FORM:

/s/ Mark Orthmann, as authorized by email on July 27, 2021
Mark Orthmann, City Attorney