

CITY COUNCIL AGENDA TOPIC

Ordinance imposing one-year moratorium on the acceptance or processing of applications for the establishment, expansion, or development of detention centers in the City of Bellevue; establishing a work plan; declaring an emergency; providing for severability; and establishing an immediate effective date.

Jake Hesselgesser, Acting Department Director
Nick Whipple, Code and Policy Director
Development Services Department

Matt McFarland, Supervising Civil Attorney
City Attorney's Office

EXECUTIVE SUMMARY**ACTION**

City Council consideration of an Ordinance imposing one-year moratorium on the acceptance or processing of applications for the establishment, expansion, or development of detention centers in the City of Bellevue. The Ordinance also declares an emergency and establishes a work plan for the city to study and evaluate updates to city code, local zoning, and associated land use controls to address, regulate, and mitigate potential impacts associated with detention center use in the City of Bellevue.

RECOMMENDATION

Move to adopt Ordinance No. 6926

ANALYSIS

The Growth Management Act (GMA), at RCW 36.70C.390, and RCW 35A.63.220 allow the city to establish and adopt moratoria when a public hearing is held on the moratoria within 60 days of adoption. In addition, the GMA and associated state law provisions authorize code cities to keep a moratorium, once adopted, in effect for a period of up to six months or, potentially, up to one-year if a legislative work plan is developed for related studies providing for a longer time period.

Under RCW 36.70A.200(1)(b), detention centers are facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings. These facilities are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense; and detention centers do not include facilities detaining persons under RCW 71.09.020(7) or (16), chapter 10.77 RCW, or chapter 71.05 RCW. Similarly, "detention centers" or "detention facilities" may also include public or private facilities for the detention, transportation, or food services for persons detained by state or federal law enforcement. These facilities may include, but are not limited to, holding facilities, processing centers, and staging areas for the transportation of detained persons.

The establishment, expansion, and development of detention centers have been proliferating around the country, including in the Puget Sound region in Washington State. In response to this increase in permitted, established, and/or proposed detention center use within local jurisdictions, multiple jurisdictions within King County and Pierce County have recently adopted moratoria on detention centers and detention facilities.

These moratoria provide a mechanism for the local jurisdictions to ensure sufficient time to study and develop appropriate permanent zoning and development regulations governing such detention center uses.

The city's current zoning and Land Use Code, Title 20 of the Bellevue City Code, do not specifically define or address detention centers as a unique use, with specific and potentially significant impacts, thereby creating uncertainty regarding the permitting and appropriate mitigation for the detention center use. As a result of this gap in city zoning and land use controls, the establishment, expansion, or development of detention centers within the city could impact surrounding land uses, transportation, and the environment, as well as the health, safety, and welfare of City of Bellevue residents.

The council may determine that a moratorium is necessary while the city studies and evaluates updates to city code, zoning, and associated land use controls to address and mitigate the potential impacts associated with detention center uses. The proposed moratorium Ordinance contains a legislative work plan that provides the city with time to review, study, and potentially revise local zoning and land use controls while the moratorium remains in effect.

The proposed work plan and schedule will be incorporated into—and should not have significant impact on—the City's initiated, or anticipated, code and policy legislative work program. The work plan includes the following study and evaluation of current city zoning and land use controls during the pendency of the moratorium:

- The Development Services Department, in coordination with other appropriate city Departments, will identify the gaps in current zoning and Land Use Districts, development regulations, and permitting processes that should be addressed in order to ensure that city zoning and regulation of detention center uses protects land use, transportation, public safety, environmental and public health, and the safety and welfare of Bellevue residents.
- The Development Services Department will evaluate potential amendments to city code, zoning, and associated land use controls that are necessary to regulate detention center use within the City of Bellevue. The Department will consider whether potential amendments may be incorporated into legislative work programs that have been, or will be, initiated by the council prior to expiration of the moratorium.
- Prior to expiration of the moratorium, the Department will prepare findings and recommendations for the council to consider, based on the Department's study and evaluation of current and potential regulation of detention center use within the city. These findings and recommendations may be incorporated into initiated city work programs or provided separately in connection with future council consideration of this moratorium.

Based on the foregoing, the council may find and declare that this is an emergency moratorium Ordinance, which shall take effect immediately and is necessary to prevent potential harm to the public health, safety, welfare, and peace. If adopted, the council will be required to hold a public hearing on this moratorium within 60 days of its adoption to take public testimony and consider adoption of further findings. The moratorium will remain in effect for a period of one-year and 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. The council retains the authority to terminate the moratorium prior to expiration of the initial one-year term through subsequent legislative action.

POLICY & FISCAL IMPACTS

Policy Impact

Council may find that the proposed moratorium is necessary to prevent potential harm to public health, safety, welfare, and peace. Further, the proposed moratorium is necessary while the city studies and evaluates updates to city code, zoning, and associated land use control ordinances to address and mitigate potentially significant impacts associated with detention center uses. Development Services does not anticipate that the proposed work plan and schedule will have a significant impact on the city's initiated, or anticipated, code and policy legislative work program.

Fiscal Impact

It is not anticipated that the proposed moratorium or the legislative work plan established by the moratorium Ordinance will have a negative fiscal impact. The moratorium and work plan could mitigate potential fiscal impacts associated with unregulated, or insufficiently regulated, detention center use within the city.

OPTIONS

1. Adopt the Ordinance imposing one-year moratorium on the acceptance or processing of applications for the establishment, expansion, or development of detention centers in the City of Bellevue; establishing a work plan; declaring an emergency; providing for severability; and establishing an immediate effective date.
2. Do not adopt the Ordinance and provide alternative direction.

ATTACHMENTS

Proposed Ordinance No. 6926

AVAILABLE IN COUNCIL LIBRARY

N/A