

05/22/2023

06/05/2023

ORDINANCE NO. M-4413

AN ORDINANCE extending for an additional period of six months the Vancouver City Ordinance M-4406, which declared an emergency and imposed a six-month temporary moratorium upon the acceptance and processing of applications for permits for the development or expansion of large warehouse and distribution facilities totaling more than 250,000 square feet under the Warehouse/Freight Movement use classification in the Light Industrial (IL) and Heavy Industrial (IH) zoning districts, as defined in Vancouver Municipal Code Title 20 or as otherwise allowed, such as by prior development agreement, based on certain findings of fact justifying such action and adopted by City Council, directing staff to continue efforts to develop recommendations addressing the circumstances necessitating the moratorium, and establishing an immediate effective date.

WHEREAS, the City of Vancouver is a Charter City of the First Class and has the authority to adopt and renew temporary moratoria pursuant to the City's constitutional police powers, home rule authority, RCW 36.70A.390, and RCW 35.63.200; and

WHEREAS, on December 12, 2022, the Vancouver City Council adopted Ordinance No. M-4396, enacting a six-month temporary moratorium upon the acceptance and processing of applications for permits for the development or expansion of large warehouse and distribution facilities under the Warehouse/Freight Movement use classification in the Light Industrial (IL) and Heavy Industrial (IH) zoning districts, as defined in Vancouver Municipal Code Title 20 or as otherwise allowed, such as by prior development agreement, based on certain findings of fact justifying such action and adopted by City Council; and

WHEREAS, on February 6, 2023, following a public hearing, City Council passed a resolution affirming the moratorium but requesting certain amendments relating to the threshold of warehouse space covered, warehouses proposed by the Port of Vancouver, and warehouses that will exclusively supply storage intended for the traded sector; and

WHEREAS, on March 6, 2023, held a public hearing and adopted findings of fact supporting the enactment of the moratorium through adoption of Ordinance No. M-4406, amending and restating Ordinance No. M-4396;

WHEREAS, on May 1, 2023 at a City Council Workshop, City staff provided an update of analysis completed to-date, early observations, and a presented a work plan demonstrating remaining analysis to be completed by staff and the City's consultant and staff, which requires an estimated additional four months to complete;

WHEREAS, City Council has determined, pursuant to an additional public hearing and based on the findings contained herein demonstrating the necessity for extending the moratorium, that, pursuant to RCW 36.70A.390, this temporary moratorium must be renewed for an additional six month period; and

WHEREAS, the findings associated with Ordinance No. M-4406, as delineated herein, continue to pertain; and

WHEREAS, in December when the moratorium was enacted there were eight pre-development or development applications for large warehouse and distribution facilities between 275,000 square feet up to 680,000 square feet, which are much larger than typical warehouses, for a total of 3.34 million square feet of proposed new warehouse structures;

WHEREAS, upon more recent review of the warehouses initially identified, one warehouse building was completed and issued an occupancy permit, and a second requires a zone change

approval, and therefore staff reports that there are a total of total of 2.8 million square feet of warehouse building space in the development review or construction process; and

WHEREAS, a primary concern is the land-intensive nature of these large warehouses and low job creation, but other issues such as air pollution, implications on the City's climate action goals, increase in truck traffic to vulnerable neighborhoods, and appropriately locating such warehouses near major arterial routes and highways need to be analyzed; and

WHEREAS, as described in the *2018 – 2023 Clark County Economic Development Plan*, certain Traded Sector Industry cluster uses do promote economic development and job growth and may require facilities that would otherwise be delayed or prohibited by this ordinance; and

WHEREAS, permit applications for large warehouse and distribution facilities tend to be speculative in nature and may not have a defined user at the time of application or when land use approval rights may conditionally vest; and

WHEREAS, as set forth in the City's recent climate action plan workshops, building energy and transportation are the most significant sources of greenhouse gas emissions and are unavoidable elements of the large warehouse and distribution facility use; and

WHEREAS, warehouse capacity is reportedly at a premium in the United States with ninety-six percent of available space in use and the continued post-COVID-19 growth in e-commerce represents a fundamental shift in warehouse and shipping logistics requiring more and larger facilities not contemplated by the existing code or evaluated in the context of the City's current climate action priorities; and

WHEREAS, commercial real estate market data and warehouse development standards indicate that warehouses are typically constructed at less than 25,000 square feet or greater than 250,000 square feet for large-scale distribution and that those large warehouse and distribution

facilities of greater than 250,000 square feet are developing at an unprecedented and unforeseen rate; and

WHEREAS, the City currently allows warehouse and distribution facilities as a permitted use in the Light Industrial (IL) and Heavy Industrial (IH) zones with no limit on size and such facilities may be a permitted pursuant to existing development agreements; and

WHEREAS, the City does not have unlimited industrial land, particularly larger, contiguous parcels, and the consumptive nature of these facilities may foreclose opportunities for higher value employment sectors with lesser climate impacts; and

WHEREAS, the surge in new, large warehouse developments and national trends suggest that more such proposals will be forthcoming with unconsidered and potentially irreversible implications for the City's climate action goals, transportation systems, and stated goal of attracting high-skilled, high-wage employment uses; and

WHEREAS, bulk storage warehouses are integral to the operations of the Port of Vancouver USA, which, since it was established in 1912 as the authorized Port district for Clark County pursuant to Chapter 53.04 RCW, has played a key role in the region's economy and is the primary point of entry for goods arriving by ship and rail in Southwest Washington, and that the Port of Vancouver USA, in accordance with its authorized purposes under RCW 53.04.010 as a Washington port district, requires warehouse space to store goods that are arriving or being shipped to other destinations in fulfillment of its mission as a public jobs-creating agency; and

WHEREAS, an exception for warehouse development projects for the transshipment and storage of bulk goods and wholesale distribution on land owned and retained by the Port of Vancouver USA is merited based on the unique character of the Port of Vancouver USA as a public agency, provided that such an exception would not allow the Port of Vancouver USA to

transfer any vested rights that would otherwise be prohibited by this temporary moratorium and were obtained pursuant to this exception to a third party or to develop facilities for home delivery of retail goods; and

WHEREAS, without a temporary moratorium the City could, in the near future, receive applications for development that would conflict with the achievement of the long-range vision for the City's economic development and climate action initiatives but be vested to existing land use regulations before the City can study potential effects; and

WHEREAS, the enactment of this ordinance constitutes an emergency, due to potential land use, climate, transportation, and economic impacts that may result from continued development of large warehouse and distribution facilities without adequate standards to address unintended consequences; and

WHEREAS, extension of the temporary moratorium requires the City to hold public hearings and maximize public input in the development of standards without jeopardizing any possible land use options that may be precluded by unrestricted development; and

WHEREAS, the City Council finds that extension of the temporary moratorium promotes the public health, safety, and general welfare and convenience of the people of Vancouver, and will encourage the most desirable and productive use of land and properties; and

WHEREAS, extending the temporary moratorium will allow for more time to study the differences in physical and operational characteristics between large e-commerce warehouse facilities and more traditional wholesale warehouses to develop code amendments that address any impacts; and

WHEREAS, several large parcels that appear to be poised for large warehouse development would not be able to vest to existing development code standards, but would instead

be subject to any new code provisions; and

WHEREAS, based on the facts recited above, the City Council finds that it would be appropriate to extend the moratorium on new applications for such projects to allow the City additional time to study the climate, transportation infrastructure, and economic implications from this recent trend and, if merited by such study, recommend regulatory changes to the Vancouver Municipal Code as needed to address concerns;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Temporary Moratorium. As authorized by RCW 36.70A.390 and RCW 35.63.200 and justified by the findings of fact set forth above, the City Council hereby adopts a temporary moratorium upon the acceptance and processing of applications for permits for the development or expansion of large warehouse and distribution facilities totaling more than 250,000 square feet under the Warehouse/Freight Movement use classification in the Light Industrial (IL) and Heavy Industrial (IH) zoning districts, as defined in Vancouver Municipal Code Title 20 or as otherwise allowed, such as by prior development agreement.

Section 2. Exemptions.

Subsection A. Maintenance. The moratorium established in Section 1 of this ordinance shall not apply to permits required for upkeep, repair, or basic maintenance of existing large warehouse and distribution facilities or to work mandated by the City as necessary to maintain public health and safety.

Subsection B. Port of Vancouver USA. The moratorium established in Section 1 of this ordinance shall not apply to warehouse development projects on land owned and retained by the Port of Vancouver USA for the transshipment and storage of bulk goods and wholesale

distribution; provided that such exception will not apply to the transfer of any Vested Rights obtained by the Port of Vancouver USA pursuant to this exception that would otherwise be prohibited by this ordinance and provided that any such warehouse development shall not be for home delivery of retail goods.

Subsection C. Traded Sector Industry Use. Applications for permits otherwise prohibited by the moratorium established in Section 1 of this ordinance that are exclusively for use by a Traded Sector Industry shall continue to be processed throughout the duration of this ordinance, however no Vested Rights shall attach to any such Traded Sector Industry application until a Development Agreement is entered into with the City and recorded on the subject property in accordance with Chapter 20.250 VMC. For purposes of this ordinance, “Traded Sector Industry” shall be defined as North American Industry Classification System (NAICS) sectors 31, 32, 33, 42, 51, 54, and 55, in accordance with the respective industry sector clusters specified in the *2018-2023 Clark County Comprehensive Economic Development Plan*.

Section 3. Duration. This moratorium shall be in effect as an extension of Ordinance No. M-4406 for a period of six months following the effective date established in Section 6, below.

Section 4. Vested Rights. The moratorium created by this ordinance does not apply to properties with vested rights existing on the date of enactment of this ordinance. “Vested Rights” shall be defined in accordance with VMC 20.210.110 and VMC 20.250.040.

Section 5. Public Hearing Required. Pursuant to RCW 35.63.200 and RCW 36.70A.390, a public hearing on the adopted moratorium was held prior to the adoption of this ordinance.

Section 6. Effective Date. The City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to

preserve the public health, safety, and welfare. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary hereof including the title at the earliest possible publication date.

DATE OF FINAL PASSAGE by the Vancouver City Council: June 5, 2023.

SIGNED this 5<sup>th</sup> day of June 2023.

DocuSigned by:  
*Anne McEnerny-Ogle*  
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Anne McEnerny-Ogle, Mayor

ATTEST:

DocuSigned by:  
*Natasha Ramras*  
BCF6734E40E94AE...  
By: Natasha Ramras, City Clerk (or Designee)

APPROVED AS TO FORM:

DocuSigned by:  
*Jonathan Young*  
9A7DC2E31F694A2...  
By: Jonathan Young, City Attorney (or Designee)



## SUMMARY

### ORDINANCE NO. M-4413

AN ORDINANCE extending for an additional period of six months the Vancouver City Ordinance M-4406, which declared an emergency and imposed a six-month temporary moratorium upon the acceptance and processing of applications for permits for the development or expansion of large warehouse and distribution facilities totaling more than 250,000 square feet under the Warehouse/Freight Movement use classification in the Light Industrial (IL) and Heavy Industrial (IH) zoning districts, as defined in Vancouver Municipal Code Title 20 or as otherwise allowed, such as by prior development agreement, based on certain findings of fact justifying such action and adopted by City Council, directing staff to continue efforts to develop recommendations addressing the circumstances necessitating the moratorium, and establishing an immediate effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via [www.cityofvancouver.us](http://www.cityofvancouver.us) (Go to City Government and Public Records).