

City of Kenmore



City of Kenmore - 18120 68th Avenue NE Kenmore, WA 98028 Phone: 425-398-8900
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City Council Regular Meeting Agenda

August 16, 2021 7 PM

VIA ZOOM - LINK: <https://us02web.zoom.us/j/86402641607>

US: +12532158782,,86402641607# or +16699009128,,86402641607#

Or Telephone: Dial US: +1 253 215 8782

Webinar ID: 833 5544 0292

I. CALL MEETING TO ORDER

II. ROLL CALL

III. FLAG SALUTE

IV. EXECUTIVE SESSION

Pursuant to RCW 42.30.110(1)(i), the City Council will now enter a closed executive session to discuss pending or potential litigation. The session is expected to last approximately 30 minutes.

V. POSSIBLE ACTION RELATING TO EXECUTIVE SESSION

VI. AGENDA APPROVAL

VII. PUBLIC COMMENTS

- A. We want to welcome our community members to the Council's meeting. In this forum, the Council does not engage or dialogue with the public; the primary role of the Council is to listen. All comments must be addressed to the Mayor and City Council. Please use the "raise hand" feature if you wish to speak. The Clerk will acknowledge your request and call your name when it is your turn. Your time will start when we confirm that we can hear you. Please state your name, city of residence for the record and keep your comments to the allotted time. Your time cannot be granted to another and your clock time will not be reset unless there are extenuating circumstances *and* the Presiding Officer has expressly allowed it. Screen-sharing is not allowed; you can submit materials to the Council or Clerk in advance. Please do not comment about pending development projects on which the Council will make future decisions as those are quasi-judicial matters, and Councilmembers must limit their communications about them This meeting is being recorded. Thank you for taking the time to express your comments.

VIII. BUSINESS AGENDA

- A. (Added to the Agenda by motion during the meeting following the Executive Session):

Ordinance 21-0533 - TOD Moratorium, for *Discussion and Action*
[Ordinance 21-0533 TOD Moratorium \(002\)](#)

IX. ADJOURNMENT

UPCOMING MEETINGS:

- A. September 13, 2021, Regular Meeting
September 20, 2021 Regular Meeting
September 27, 2021 Regular Meeting

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 21-0533**

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,
ADOPTING A SIX-MONTH MORATORIUM ON THE APPLICATION
FOR, INTAKE OF, REVIEW OR ISSUANCE OF ANY DEVELOPMENT
PERMIT OR APPROVAL FOR THE ESTABLISHMENT, LOCATION
AND/OR CONSTRUCTION OF ANY DEVELOPMENT WITHIN THE
TRANSIT ORIENTED DEVELOPMENT (TOD) DISTRICT OVERLAY
AREA; SETTING A DATE FOR A PUBLIC HEARING ON THE
MORATORIUM; DECLARING AN EMERGENCY; AND
ESTABLISHING AN IMMEDIATE EFFECTIVE DATE**

WHEREAS, the City Council adopted Ordinance 15-0406, which established the Transit Oriented Development (TOD) District Overlay, which is codified at Chapter 18.29 of the Kenmore Municipal Code (KMC); and

WHEREAS, the purpose of the TOD District Overlay is to reinforce the City's planned concentrations of pedestrian-oriented mixed-use development at intensities that support and are supported by multi-modal transportation options, including high capacity transit; and

WHEREAS, the City has directed the Planning Commission to review the City's TOD District Overlay regulations as part of the State-mandated Comprehensive Plan update, over the next several months; and

WHEREAS, the City has become aware of the potential of lower density projects within the TOD District Overlay area, which would interfere with the City's intended planning for the TOD District Overlay area; and

WHEREAS, a moratorium is necessary to give the Planning Commission sufficient time to hold a hearing, complete planning for the TOD District Overlay area, and provide recommendations to the City Council regarding the appropriate regulatory framework for the TOD District Overlay; and

WHEREAS, a moratorium is necessary to give the City Council sufficient time to consider the recommendation of the Planning Commission and adopt appropriate regulations regarding development within the TOD District Overlay area; and

WHEREAS, without a moratorium, the City could receive in the very near future, applications for permit approvals to develop in the TOD District Overlay area prior to completion of the City's regulatory review process, and such an action would conflict with the City's long-range planning; and

WHEREAS, the City Council deems it to be in the best interest of the public, and necessary for the protection of the public health, safety, property, or peace, to establish an

immediate moratorium on the acceptance, review and approval of permits for the establishment, location, and/or construction of any development within the TOD District Overlay; and

WHEREAS, the regulation of zoning and land use are valid exercises of the City's policy powers under Article XI, Section 11 of the Washington State Constitution, and such police powers grant the City Council authority to adopt a moratorium; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt a moratorium on development or land use for six-months, and hold a public hearing on the moratorium within sixty (60) days of the initial adoption of the moratorium; and

WHEREAS, RCW 35A.13.190 provides that an ordinance may be made effective upon adoption if passed by a majority plus one of the whole membership of the council, and if designated as a public emergency ordinance necessary for the protection of the public health, public safety, public property or public peace; and

WHEREAS, pursuant to RCW 35A.13.190, the City Council finds that this ordinance is a public emergency ordinance necessary for the protection of public health, public safety, public property, or public peace for the reasons set forth herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council adopts the recitals set forth above, which are incorporated by reference, as findings in support of the moratorium and declaration of this ordinance as a public emergency ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 3 below.

Section 2. Moratorium.

A. Adoption. Pursuant to the City's police powers under Article XI, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, a moratorium is hereby adopted and imposed on the application for, intake of, review of, or issuance of any approval and/or development permit, including, but not limited to, building permits, site plan review, etc., for the establishment, location and/or construction of any development within the Transit Oriented Development (TOD) District Overlay area, as shown and depicted in KMC 18.29.020. The term "development" means the same as defined in KMC 18.20.715. The term "development permit" means the same as defined in KMC 18.20.735.

B. Exemptions. The moratorium imposed under Section 2.A only applies to new development permit applications, and the following development permits are exempt from the moratorium:

1. Complete applications for building permits submitted to the City prior to the adoption of this ordinance;
2. Complete applications for site plans submitted to the City prior to the adoption of this ordinance.
3. Any other development permit submitted and deemed complete by the City prior to the adoption of this ordinance.

Section 3. Public Hearing. As provided in RCW 35A.63.220 and RCW 36.70A.390, the City Council hereby sets a public hearing for September 27, 2021, which shall begin at 7:00

p.m., or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and consider adopting further findings justifying the imposition of the moratorium established in Section 2 above.

Section 4. Duration. The moratorium established in Section 2 above shall be in effect for a period of six (6) months from the effective date of this Ordinance (to and through February 16, 2022), and shall automatically expire at the end of that day unless repealed, modified, or extended (after subsequent public hearing if extended), and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 5. Authorization of City Manager. The City Manager is hereby authorized and directed to move forward with the Planning Commission's review of appropriate development regulations relating to the TOD District Overlay area, and to bring its recommendation to the City Council for consideration and potential adoption.

Section 6. Transmittal of Ordinance. The City Manager is directed to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 8. Designation of Emergency Ordinance; Immediate Effective Date. Pursuant to RCW 35A.13.190, the City Council declares and designates this ordinance as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or the public peace. Upon adoption of this ordinance by a majority plus one of the whole membership of the council, this ordinance shall take effect and be in full force immediately upon its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 16 TH DAY OF AUGUST, 2021.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Anastasiya Warhol, City Clerk

Approved as to form:

Dawn Reitan, City Attorney

FILED WITH THE CITY CLERK: 8/16/21
PASSED BY THE CITY COUNCIL: 8/16/21
ORDINANCE NO.: 21-0533
DATE OF PUBLICATION: 8/19/21
EFFECTIVE DATE: 8/16/21