

ORDINANCE 2009-13

ORIGINAL

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, REAFFIRMING
AND EXTENDING MORATORIUM ON THE
ACCEPTANCE OF APPLICATIONS FOR AND ISSUANCE
OF ANY PERMIT OR APPROVAL OF ZONING OR CHANGE
OF ZONE CLASSIFICATION, FOR A PERIOD OF SIXTY (60) DAYS
FROM AND AFTER JUNE 6, 2009, DIRECTING DEVELOPMENT OF A
COMPREHENSIVE AIRPORT LAND USE PLAN, ENCOURAGING PARTICIPATION
OF INTERESTED PERSONS WHO
WISH TO PARTICIPATE IN THE DEVELOPMENT OF
SUCH ORDINANCE, AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of the City of Sunnyside has previously adopted Ordinance No. 2196 establishing and imposing a moratorium on the acceptance of applications for, and issuance of, zoning or change of zone classification pending development and enactment of a comprehensive airport land use plan; and

WHEREAS, the City Council subsequently adopted Ordinance No. 2009-2 extending such moratorium through June 6, 2009; and

WHEREAS, pursuant to RCW 35A.63.220 and RCW 36.70A.390, such moratorium may be renewed and extended for an additional term or terms of six months upon public hearing and findings of fact adopted by the City Council supporting such extension; and

WHEREAS, the City Council has held a public hearing on March 9, 2009 pursuant to notice duly published to receive public comment and evidence and to consider whether or not the moratorium previously adopted pursuant to Ordinance No. 2196 should be renewed and extended for an additional six months or until adoption of a comprehensive airport land use plan, whichever first occurs; and

WHEREAS, the City Council, having received and considered the record herein together all testimony and evidence presented at the public hearing described above, hereby makes the following findings of fact and conclusions:

1. In conformance with the State Growth Management Act, the City is required to adopt, review, develop and implement a comprehensive plan, as well as a zoning code and land use regulations consistent with that plan; and

2. In conformance with RCW 36.70.547, the City is mandated to develop a comprehensive airport land use plan, to wit:

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section;

Any additions or amendments to comprehensive plans or development regulations required by this section may be adopted during the normal course of land-use proceedings.

This section applies to every county, city, and town, whether operating under chapter 35.63, 35A.63, 36.70, [or] 36.70A RCW, or under a charter; and;

3. The current Comprehensive Plan of the City of Sunnyside does not include a comprehensive airport land use plan in conformity with RCW 36.70.547, including but not limited to, a comprehensive plan and development regulations, discouraging the siting of incompatible uses adjacent to such general aviation airport; and

4. In the future, the City could receive applications for zoning or change of zone application which would permit uses of adjacent lands incompatible with operations of the city's general aviation airport; and

5. The Municipal Code, Comprehensive Plan, existing airport plans and the city's development standards do not currently adequately address the various impacts to the city's general aviation airport and the public health, safety and general welfare that these uses present; and in fact, the city currently has a draft Airport layout Plan (ALP), provided to the City of Sunnyside in late January 2009. This plan identifies a series of improvements for the airport property itself. These improvements, some of which may have the potential to increase use at the facility, also need to be factored into land uses surrounding the airport. The City Council and Sunnyside Planning Commission have not yet had an adequate opportunity to review such ALP; and

6. The City needs to further review existing information on the current uses, zoning and potential incompatible uses adjacent to the city's general aviation airport, and to review the City's Code and ordinances in a comprehensive fashion to determine the appropriate means to address the effects of such uses; and

7. The City needs more time to consider properly and carefully the location, types and development standards best designed to address uses of land adjacent to the airport; and

8. The City council finds that the City's land use integrity and the State Growth Management Act planning process will suffer significant harm unless applications for licenses, permits and approvals for zoning and changes of zone classification are halted until the planning process is completed; and

10. The City council finds that protection of the health, safety and welfare supports establishment of a moratorium on applications for licenses, permits and approvals as set forth in Ordinance No. 2196; and

11. RCW 35A.63.220 and 36.70A.390 authorize the City to adopt a moratorium on development permits and approvals for zoning and changes in zone classifications for properties described within Ordinance No. 2196 and thereafter to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium; and

12. The City Council of the City of Sunnyside finds that enactment of Ordinance No. 2196 constituted an emergency, due to inquiries regarding permitting and/or licensing and zoning requirements for land use within properties adjacent to, or in the near vicinity of, the city's general aviation airport and the fact that the current city code and regulations do not adequately address the potential health, safety, environmental, zoning, infrastructure, law enforcement and community impacts associated with the type, number and siting of land uses located and likely to be proposed for location within the ambit of the airport properties designated in Ordinance No. 2196, and that these reasons continue; and

13. This emergency is further supported by the unnecessary burden and infringement placed on businesses and other persons desiring to process applications

for zoning and/or change of zone classification under a regulatory process that is ill-suited to review the health, safety, environmental, zoning, infrastructure, law enforcement, and community issues involved in such applications; and

14. A moratorium on the acceptance, processing and issuance of permits for zoning and/or change of zone classification is and remains necessary to enable the City Council to formulate a comprehensive airport land use plan and permitting process which addresses impacts, mitigation requirements, zoning for potential siting, and other requirements or standards to protect and benefit the public interest; and

15. The potential adverse effects on the public health, property, safety and welfare, as discussed above, justify the declaration of an emergency; and

16. The above findings support the renewal and extension of the moratorium for a period of 60 days or until adoption of a comprehensive airport land use plan, whichever first occurs; and

WHEREAS, the City Council, having made the above findings of fact, finds and determines that such moratorium should continue in effect for 180 days until terminated in accordance with the provisions of Ordinance No. 2196.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. The Findings of Fact set forth in the Preamble above are adopted and confirmed as the Findings of Fact.

SECTION 2. The moratorium adopted, imposed and implemented pursuant to Ordinance No. 2196 and extended pursuant to Ordinance No. 2009-2 shall be renewed and remain in effect in accordance with the terms of such Ordinance, except that the term of such moratorium shall be for an additional 60 days commencing from and after June 6, 2009.

SECTION 3. The City Manager is directed to prepare and present to the City Council a comprehensive regulation and land use plan pertaining to the regulation of land uses and incompatible land uses for properties lying within the ambit of the described properties in Ordinance No. 2196.

SECTION 4. For the reasons set forth above and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this Ordinance take effect immediately upon its passage by a majority plus one of the whole membership of the Council in order to protect the public health, safety, property and general welfare.

SECTION 5. Severability – Construction.

- (1) If a section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance.
- (2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Sunnyside Municipal Code, this Ordinance is deemed to control.

PASSED this 1st day of June, 2009.



PABLO GARCIA, MAYOR

ATTEST:



DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:

/s/

MARK A. KUNKLER, CITY ATTORNEY