

ORDINANCE NO. C-_____

AN ORDINANCE imposing an immediate moratorium regarding building permit applications for residential structures in the Latah/Hangman and Grandview/Thorpe Neighborhoods; setting a public hearing; and declaring an emergency.

WHEREAS, there has been a significant increase in residential development in the Latah/Hangman and Grandview/Thorpe Neighborhoods in recent years; and

WHEREAS, based on comments received from the Washington State Department of Transportation (WSDOT), new subdivisions in the area have been required to make various improvements to US 195 and other roadways as a condition of approval; and

WHEREAS, despite the conditions that have been placed on new subdivisions, WSDOT continues to express concern about impacts to US 195 and has asked the City to impose a temporary development moratorium in the area while it works with the City to identify solutions for providing the facilities needed to serve new growth and development in the area; and

WHEREAS, the City has identified several transportation projects that are needed in order to serve the increased growth and development occurring and anticipated in the Latah/Hangman and Grandview/Thorpe Neighborhoods; and

WHEREAS, pursuant to RCW 82.02.050 *et seq* and Chapter 17D.075 of the Spokane Municipal Code (SMC), the City collects transportation impact fees on new development within the City ("Transportation Impact Fees"); and

WHEREAS, by enacting RCW 82.02.050 *et seq*, the legislature intended to enable cities to plan for new growth and development and to recoup from developers a predictable share of the infrastructure costs attributable to anticipated growth, *Spokane County v. Eastern Washington Growth Management Hearings Bd.*, 173 Wn. App 310 (2013), and further intended that impact fees are to be a proportionate share of the costs of system improvements, including roads and other public infrastructure identified in the cities' capital facilities plans, that are reasonably related to and reasonably benefit the development, *City of Olympia v. Drebeck*, 156 Wn.2d 2890 (2006); and

WHEREAS, Transportation Impact Fees do not vest during the platting process, *Pavlina v. City of Vancouver*, 122 Wn. App. 520 (2004), but are instead assessed, pursuant to SMC 17D.075.040C., prior to the issuance of building permits, although collection may be deferred until the end of construction pursuant to SMC 17D.075.040C.; and

WHEREAS, pursuant to Chapter 13.03 SMC, Article VIII, the City imposes a wastewater General Facilities Charge (GFC) for new connections to the City's wastewater system, the purpose of which is to defray costs created by new system demand, such as costs of providing increased system capacity for new development; and

WHEREAS, pursuant to Chapter 13.04 SMC, Article VIII, the City imposes a water General Facilities Charge (GFC) for new connections to the City's water system, the purpose of which is to defray costs created by new system demand, such as costs of providing increased system capacity for new development; and

WHEREAS, wastewater and water GFSs are collected at the time of connection which usually occurs after a building permit has been issued; and

WHEREAS, the City finds that, under the present Transportation Impact Fee schedules in Chapter 17D.075 SMC, the impact fees that are being collected from new residential construction and development occurring in these neighborhoods are not adequate to cover the development's proportionate share of the cost of new system improvements that are reasonably related to and will reasonably benefit the new development; and

WHEREAS, the City finds that, under the City's current fee schedules for wastewater and water GFCs, the fees that are collected are inadequate to cover the cost of providing the additional system capacity needed to serve the residential development occurring and anticipated within the Latah/Hangman and Grandview/Thorpe Neighborhoods; and

WHEREAS, the City finds that it is necessary to update the Transportation Impact Fees and General Facilities Charges (or such similar charges as the City is authorized to collect) it assesses and collects in the Latah/Hangman and Grandview/Thorpe Neighborhoods so that the fees (i) are adequate to cover the cost of system improvements that are reasonably related to new growth and development occurring and anticipated in these neighborhoods, (ii) do not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development, and (iii) will be used for system improvements that will reasonably benefit the new development; and

WHEREAS, the City finds that a moratorium on residential building permit applications in these neighborhoods is necessary in order to give the City time to update its Transportation Impact Fee schedules and General Facilities Charges schedules accordingly; and

WHEREAS, RCW 36.70A.390 provides: A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning

map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control 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; and.

WHEREAS, a moratorium enacted under RCW 36.70A.390 is a method by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390 authorizes the enactment of a moratorium without a hearing (*see also Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995)); and

WHEREAS, pursuant to RCW 36.70A.390, when the City Council adopts a moratorium without holding a public hearing on the proposed moratorium, it must hold a hearing on the adopted moratorium within at least sixty days of its adoption; and

WHEREAS, the City intends to impose a moratorium on the acceptance, approval, or issuance of building permit applications for construction of new residential structures within the Latah/Hangman and Grandview/Thorpe Neighborhoods as further depicted in Exhibit A; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act ("SEPA"); and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying its adoption of this ordinance and documenting the existence of an emergency allowing this ordinance to become effective immediately upon adoption; and

WHEREAS, the City Council finds that the moratorium imposed by this ordinance is necessary for the protection of the public peace, health, or safety and for the immediate support of City government and its existing public institutions.

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN:

Section 1. Moratorium Imposed. A moratorium is imposed on the acceptance, processing, review and approval of building permit applications for construction of new residential structures, including without limitation single-family residences, duplexes, apartments, multifamily buildings, condominiums, retirement center apartments, manufactured housing and other structures with self-contained dwelling units ("Residential Structures"), SMC, in those portions of the Latah/Hangman and Grandview/Thorpe Neighborhoods shown in the attached Exhibit A (referred to herein as the "moratorium zone").

During the term of this moratorium, the City will not accept, process, review and/or approval building permit applications for new Residential Structures for sites in the moratorium zone, but will continue to process applications that were counter complete, as provided in the Spokane Municipal Code, prior to the effective date of this ordinance.

This moratorium does not apply to any pending applications that were counter complete, as provided in the Spokane Municipal Code, prior to the effective date of this ordinance.

Pursuant to RCW 36.70A.390, this moratorium does not apply to building permit applications for the construction of transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed or to building permit applications for or the construction of indoor emergency shelters and indoor emergency housing in any zones in which hotels are allowed.

Section 2. Purposes and Work Plan. The purpose of this moratorium is to allow the City adequate time to update the Transportation Impact Fees and General Facilities Charges it assesses and collects in the Latah/Hangman and Grandview/Thorpe Neighborhoods so that the fees (i) are adequate to cover the cost of system improvements that are reasonably related to new growth and development occurring and anticipated in these neighborhoods, (ii) do not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development, and (iii) will be used for system improvements that will reasonably benefit the new development. Because of the need to implement the updated Transportation Impact Fees as quickly as possible thereby shortening the length of the moratorium, the City Council hereby suspends the review requirements set forth in SMC 17D.075.140 for the duration of the moratorium adopted by this ordinance.

Section 3. Duration of Moratorium. The moratorium imposed by this Ordinance shall be in effect for a period of six months, beginning on the date of the adoption of this Ordinance. During this period, the City will work on updating the Transportation Impact Fees and General Facilities Charges it assesses and collects in the Latah/Hangman and Grandview/Thorpe Neighborhoods consistent with Section 2 above.

Section 4. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390, the City

Council shall hold a public hearing on this moratorium on **November 7, 2022**. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Declaration of Emergency and Effective Date. This ordinance, passed by a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the protection of the public peace, health, or safety and for the immediate support of City government and its existing public institutions, shall be effective immediately upon its passage. Without an immediate moratorium on the City's acceptance, processing, and approval of applications for new Residential Structures in the moratorium zone, new growth and development occurring in the Latah/Hangman and Grandview/Thorpe Neighborhoods will not be required to pay its proportionate share of the cost of system improvements that reasonably benefit the new development, and the Transportation Impact Fees and General Facilities Charges collected in the moratorium zone will be inadequate to cover the cost of system improvements that are reasonably related to and reasonably benefit new growth and development occurring and anticipated in these neighborhoods, thereby slowing the City's ability to construct the needed system improvements, undermining the City's legitimate policy of protecting the public health, welfare, and safety within the moratorium zone.

ADOPTED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

Map of Moratorium Zone