



CITY COUNCIL SPECIAL MEETING AGENDA
February 25, 2020 (*immediately following*
***adjournment of workshop*)**
City Hall Council Chambers | 210 W. 6th Ave

1. CALL TO ORDER
Roll Call
2. APPROVAL OF AGENDA
3. NEW BUSINESS
 - a. Blasting Operations Emergency Moratorium
4. ADJOURNMENT

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio and Video Taped

Council Agenda Coversheet



Agenda Item Number	3.a.	Council Date	02/25/2020
Agenda Item Type	Ordinance		
Subject	Blasting Operations Emergency Moratorium		
Ordinance/Reso #	5862	Contract #	
Project #		Permit #	
Department	City Attorney		

Consent Agenda	<input type="checkbox"/>
Ordinance/Reso	<input checked="" type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Adopt Ordinance 5862 declaring a moratorium prohibiting blasting operations within the City and setting a public hearing.

Motion for Consideration

I move to adopt Ordinance 5862.

Summary

For Council's review, is a proposed ordinance adopting an emergency moratorium to halt all blasting activity until the Council can review proposed local regulations and a permitting process. Per RCW 35A.11.020, City Council has all the powers possible for a city or town to have under the Constitution of this state, assuming the authority has not been specifically denied to the City by state law. In this case, RCW 70.74.201 specifically states that it does not preempt local authority to adopt more stringent regulations regarding the use of explosives in the City. RCW 35A.63.220 and RCW 36.70A.390 allow for the adoption of an emergency moratorium without holding a public hearing, so long as the City Council holds a public hearing on the ordinance within 60 days of the date of the adoption of the moratorium. The moratorium may have a duration of up to six months. At the close of the public hearing, the Council may maintain the moratorium, adopt interim regulations, repeal the moratorium, or extend the moratorium for up to 12 months with the adoption of a work plan.

Council is under no obligation to adopt the emergency moratorium. In lieu of adopting the ordinance, Council may direct staff to prepare draft regulations to be presented at a future workshop. Local regulations could touch upon more than one title or chapter in the KMC, depending upon how Council wants to treat blasting. Several cities in Washington have codes specific to blasting, some require a special use permit similar to other land use permits, some cities require a public works civil permit and some have a permit process in their fire code. Based upon the complaints received from the Canyon Lakes neighborhoods, Council may want to consider additional distance restrictions when blasting occurs adjacent to developed residential neighborhoods.

Alternatives

Direct staff to prepare draft regulations to be presented at a future workshop.

Fiscal Impact

None.

Through	Bonnie Lanning Feb 21, 08:05:47 GMT-0800 2020
Dept Head Approval	Lisa Beaton Feb 21, 12:34:33 GMT-0800 2020
City Mgr Approval	Marie Mosley Feb 21, 13:32:26 GMT-0800 2020

Attachments:

Memorandum Ordinance Blasting Zone Map
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Recording Required?

February 21, 2020

MEMORANDUM

TO: Kennewick City Council

FROM: Lisa Beaton, City Attorney

RE: Blasting Operations Emergency Moratorium

The City has received multiple complaints regarding blasting operations which are occurring on property located in the South Hills Estates Phase II development which is adjacent to the Heights at Canyon Lakes and Canyon Lakes neighborhoods. A number of concerned citizens have commented during recent Council meetings that they have experienced cracked drywall and cracked foundations as a result of the blasting. City staff have met with the developer and the contractor working at the site as well as attended a public information meeting with the property owners adjacent to the blasting site. While the City has adopted the International Fire Code which contains provisions related to blasting, the City has not adopted more stringent local regulations or a formal permitting process. The developer for South Hills Estates Phase II has indicated the need to perform additional blasting on the property so that utilities may be installed to support the development. It is anticipated that blasting may occur for an additional two to three weeks on the property. The property owners have requested the City adopt a moratorium to halt the blasting activity. At the last City Council meeting on February 18th, City Council directed staff to provide Council with options to address these issues.

For Council's review, is a proposed ordinance adopting an emergency moratorium to halt all blasting activity until the Council can review proposed local regulations and a permitting process. Per RCW 35A.11.020, City Council has all the powers possible for a city or town to have under the Constitution of this state, assuming the authority has not been specifically denied to the City by state law. In this case, RCW 70.74.201 specifically states that it does not preempt local authority to adopt more stringent regulations regarding the use of explosives in the City. RCW 35A.63.220 and RCW 36.70A.390 allow for the adoption of an emergency moratorium without holding a public hearing, so long as the City Council holds a public hearing on the ordinance within 60 days of the date of the adoption of the moratorium. The moratorium may have a duration of up to six months. At the close of the public hearing, the Council may maintain the moratorium, adopt interim regulations, repeal the moratorium, or extend the moratorium for up to 12 months with the adoption of a work plan.

Council is under no obligation to adopt the emergency moratorium. In lieu of adopting the ordinance, Council may direct staff to prepare draft regulations to be presented at a future workshop. Local regulations could touch upon more than one title or chapter in the KMC, depending upon how Council wants to treat blasting. Several cities in Washington have codes specific to blasting, some require a special use permit similar to other land use permits, some cities require a public works civil permit and some have a permit process in their fire code. Based upon the complaints received from the Canyon Lakes neighborhoods, Council may want to consider additional distance restrictions when blasting occurs adjacent to developed residential neighborhoods.

CITY OF KENNEWICK
ORDINANCE NO. 5862

AN ORDINANCE DECLARING A MORATORIUM PROHIBITING BLASTING
OPERATIONS WITHIN THE CITY AND SETTING A PUBLIC HEARING
THEREON

WHEREAS, the City of Kennewick is a non-charter code city; and

WHEREAS, RCW 35A.11.020 declares that the legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law; and

WHEREAS, RCW 70.74.201 of the State Explosives Act states that it does not affect, modify or limit the power of a city, municipality or county in this state to make an ordinance that is more stringent than the state statute which is applicable within its respective corporate limits or boundaries; and

WHEREAS, on or about January 20, 2020, the City began receiving complaints regarding blasting occurring on property located in the South Hills Estates Phase II development which is located adjacent to the Heights and Canyon Lakes, and Canyon Lakes neighborhoods in Kennewick; and

WHEREAS, the blasting at this location has taken place on the following dates, 01-24-2020, 02-05-2020, 02-07-2020, 02-12-2020, 02-14-2020, and 02-19-2020; and

WHEREAS, the City has received complaints from several property owners adjacent to the blasting regarding cracked drywall in their homes, complaints regarding cracked foundations, as well as nuisance complaints regarding the noise and vibration caused by the blasting; and

WHEREAS, property owners have attended two separate City Council meetings and commented at the visitor's section of the meeting, asserting they have damage to their homes as a result of the blasting and have requested the City Council to review the situation and consider adopting legislation to protect the public health and safety concerns of the adjacent neighborhoods affected by the blasting; and

WHEREAS, the City of Kennewick has not adopted local regulations or a formal permitting process to address the public health and safety issues involved with blasting, and as a result, the blasting activity in South Hills Estates Phase II is occurring without formal review by the City; and

WHEREAS, the developer for South Hills Estates Phase II has indicated their intent to continue the blasting operations for two to three weeks, for a total of possibly six or more additional blasting events; and

WHEREAS, blasting is an inherently dangerous activity and the City of Kennewick Council is concerned about ongoing blasting adjacent to residential neighborhoods, and discussion regarding the establishment of local regulations both with the City Council and the public could take weeks to reach policy decision; and

WHEREAS, Washington laws RCW 35A.63.220 and RCW 36.70A.390 allow for the immediate adoption of a moratorium or interim official control without holding a public hearing, so long as the City Council holds a public hearing on the ordinance within sixty (60) days of the date of the adoption of a moratorium; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying the adoption of this moratorium to protect public health, safety and welfare of the residents of Kennewick; and

WHEREAS, the City Council has determined that it is in the best interest of the City that a moratorium be established to provide the City an opportunity to establish local regulations and a permit process for blasting operations within the City of Kennewick; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Moratorium Established. An emergency moratorium is imposed prohibiting all use of explosives and blasting operations as defined under RCW 70.74 within the City of Kennewick; and the moratorium is imposed on the licensing, location and permitting, as well as the filing with the City, any applications for licenses, permits, or other approvals for permitting the use of explosives or blasting operations during the term of this moratorium.

Section 2. Term of Moratorium. The moratorium imposed by this Ordinance shall become effective on the date hereof, and shall continue in effect for an initial period of six (6) months, unless repealed, extended, or modified by the City Council after a public hearing and entry of appropriate findings of fact as required by RCW 35A.63.200, provided, however, that the moratorium shall automatically expire upon local regulations and a permit process being adopted for allowing blasting operations within the City of Kennewick.

Section 3. Public Hearing. A public hearing shall be scheduled for 6:30 p.m., or as soon thereafter as the matter may be heard, on the 21st day of April, 2020, at the City Council Chambers of the Kennewick City Hall, where it will hear evidence and consider comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 4. Preliminary Findings. Following the public hearing, the City Council shall adopt Findings of Fact and determine whether a work plan is necessary to address the issues involving the blasting operations within the City and if appropriate, extending the moratorium to complete a work plan and implementation of appropriate regulations.

Section 5. Effective Date. This Ordinance shall be in full force and effect upon its passage and signature below.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 25th day of February, 2020, and signed in authentication of its passage this 25th day of February, 2020.

DON BRITAIN, Mayor

Attest:

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5862 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 26th day of February, 2020.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

Blasting zone:



The following sign will be posted at each access point to the blasting area.

DANGER

**BLASTING AREA
SIGNALS**

**3 LONG WHISTLES
5 MINUTES TO BLAST**

**A SERIES OF SHORT WHISTLES
ONE MINUTE TO BLAST**

BLAST

**1 LONG WHISTLE
ALL CLEAR**