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Title:	AN ORDINANCE renewing and extending a six-month moratorium prohibiting the establishment of new or expansion of existing major fossil fuel facilities.		
Sponsors:	Dave Upthegrove, Jeanne Kohl-Welles, Joe McDermott		
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Date	Ver.	Action By	Action	Result
12/11/2019	1	Metropolitan King County Council	Passed	Pass
12/3/2019	1	Mobility and Environment Committee	Recommended Do Pass	Pass
10/16/2019	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE renewing and extending a six-month moratorium prohibiting the establishment of new or expansion of existing major fossil fuel facilities.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. **Findings:**

A. King County has the authority, under to constitutional police powers, home rule authority, the Shoreline Management Act of 1971, chapter 90.58 RCW, and the Washington state Growth Management Act, including chapter 36.70A RCW ("the GMA"), to establish and renew a moratorium to preclude the acceptance of certain new development applications while the county studies related land use issues.

B. The scientific consensus is that warming of the earth's climate is occurring at an unprecedented rate due to anthropogenic greenhouse gas emissions driven by human activities and population growth according to

the Intergovernmental Panel on Climate Change Sixth Assessment Report.

C. The state of Washington found significant environmental, economic, public safety and public health impacts resulting from climate change on this state, in both chapter 80.80 RCW and Executive Order No. 14-04.

D. The state of Washington and King County are threatened by impacts resulting from climate change, including warming temperatures, sea level rise on coastal communities, diminishing snowpack and water availability, ocean acidification and forest decline.

E. King County and thirty-nine cities adopted as part of the countywide planning policies shared countywide targets in 2014 to reduce greenhouse gas emissions by fifty percent by 2030 and eighty percent by 2050 against a 2007 baseline.

F. The King County council unanimously adopted the 2015 King County Strategic Climate Action Plan in November 2015 under Motion 14449, including goals, targets and priority actions to meet these shared emission reduction targets.

G. Fossil fuels, including petroleum, coal and natural gas, are a major source of carbon dioxide, heavy metals, nitrogen oxide and sulfur dioxide, contributing to climate change and environmental pollution.

H. On numerous occasions across the United States and Canada, spills of crude oil from train derailments and tanker ships and natural gas pipeline explosions have caused numerous fatalities and illnesses, substantial loss of property and significant environmental damage.

I. King County has grave concerns about the safety of the public and environment, and the strain on public services and existing infrastructure resulting from the siting and operation of new major fossil fuel facilities.

J. In 2017, movement of crude oil and petroleum products through Washington state by rail had reached fifty-four million barrels of oil compared to no oil being moved by rail before 2012, and one hundred seventy-seven million barrels moved by pipeline within the state, a twenty-seven percent increase since 2006.

K. New major fossil fuel facilities create significant public health risks, including air polluting resulting in impaired respiratory functions from fine particulates, noise pollution affecting hearing loss and psychological health and exposure to heavy metals and contaminated drinking sources resulting in cancers, premature death and lung and heart diseases.

L. New major fossil fuel facilities pose a threat to King County's ecology, including extensive land disturbing activities that impact natural ecosystems, contamination of surface water and aquifers, sedimentation of rivers and streams, seismic and geological instability and destruction of critical habitat for wildlife.

M. New and expanded major fossil fuel facilities and related land uses will generate increased vehicle trips, noise, dust, debris and odor. The impacts of new major fossil fuel facilities in unincorporated King County has not been fully investigated.

N. In Quinault Indian Nation v. Imperium Terminal Services LLC, 187 Wn.2d 460 (2017), the Washington Supreme Court held that the Ocean Resources Management Act ("the ORMA") applied to a land-based petroleum terminal facility. Previous decisions had limited the scope of the ORMA to on-water uses. The court recognized that the ORMA is intended to address environmental threats to Washington's coastal waters and threats posed by increased expansion of the fossil fuel industry along the Pacific Coast and held that it must be applied to a terminal expansion project that would transfer millions of gallons of petroleum products across the threshold of Washington's coast. King County should evaluate whether the ORMA should also be applied to projects within its jurisdiction. If the ORMA is determined not to apply, King County should evaluate whether it should adopt substantively similar local regulations.

O. Local governments have core responsibilities for upholding the public health, safety and welfare, mitigating and preparing for disasters, protecting and preserving natural systems and supporting economic development.

P. King County is preparing an update of the Comprehensive Plan, scheduled to be adopted in June 2020. As part of the 2020 Comprehensive Plan update, King County is reviewing major fossil fuel facilities

and related land uses in unincorporated King County to ensure that the range of impacts from major fossil fuel facilities are identified, avoided and mitigated in order to protect public health and safety, air and water quality, habitats, natural resource lands and other resources and functions.

Q. It is in the public interest that any land use, zoning and development regulations are consistent with the King County Comprehensive Plan, the Shoreline Management Act, the State Environmental Policy Act, the Growth Management Act and other environmental and land use laws.

R. On January 28, 2019, in accordance with RCW 36.70A.390 and RCW 90.58.590, the county council adopted Ordinance 18866 as an emergency, declaring a six-month moratorium prohibiting the establishment of new or expansion of existing major fossil fuel facilities.

S. Following the adoption of the moratorium, the executive transmitted the required study addressing the issues and circumstances necessitating the moratorium.

T. The detailed study identifies proposed policy and code amendments that are consistent with and implement the direction in Ordinance 18866 and the 2020 Comprehensive Plan Scope of Work adopted by Motion 15329.

U. RCW 90.58.590 authorizes two six-month extensions of an original moratorium, and on July 10, 2019, the council extended the original moratorium for six months in accordance with the statute.

V. In order to continue to fully investigate whether existing regulations and policies sufficiently protect public health and the county's natural ecosystems, surface water, and geology, and whether additional regulations are necessary to properly mitigate such impacts, it is in the public interest to renew the moratorium on the acceptance of applications for development or expansion of major fossil fuel facilities and the establishment of new or expansion of existing major fossil fuel facilities for a six-month period.

SECTION 2. A. Commencing on January 25, 2020, the moratorium declared under Ordinance 18866 and renewed and extended by Ordinance 18946 on the acceptance of applications for the establishment of new or expansion of existing, which is increasing the size, quantity or scope, of major fossil fuel facilities in

unincorporated King County is hereby renewed and extended for an additional six months. An application shall not be accepted and a building permit, occupancy permit, department of public health approval, other development permits or approval of any kind shall not be issued for any of the purposes or activities prohibited by this ordinance. Any applications for land use approvals or other permits that are accepted as a result of error or by use of vague or deceptive descriptions during the moratorium are null and void and without legal force or effect. All lawfully existing uses, structures or other developments may continue to be deemed lawful conforming uses and may continue to be maintained, repaired and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium. This moratorium shall not apply to uses and facilities necessary to address a bona fide imminent threat to the public health, safety and welfare. This moratorium shall also not apply to uses and facilities necessary for public safety, including, but not limited to, police, fire and rescue agencies.

B. During the moratorium, the council shall consider the executive's study of major fossil fuel facilities identified in Ordinance 18866, Section 2.C.

SECTION 3. For the purposes of this ordinance:

A. "Fossil fuels" means petroleum and petroleum products, coal, and natural gas, such as methane, propane and butane, derived from prehistoric organic matter and used to generate energy. Fossil fuels do not include by-products such as asphalt, plastics, fertilizers, paints, or denatured ethanol.

B.1. "Major fossil fuel facilities" means:

a. large-scale uses and facilities engaged in the wholesale distribution, extraction, refinement or processing of fossil fuels;

b. terminals engaged in the bulk movement of fossil fuels, excluding railyards, fuel storage for airports and marine servicing facilities; and

c. bulk storage of fossil fuels in excess of two million gallons.

2. "Major fossil fuel facilities" do not provide direct sale or distribution to consumers.

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SECTION 4. **Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid or should any portion of this ordinance be preempted by state or federal law or regulation, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.