

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BURLINGTON, WASHINGTON, ADOPTING AN EXTENSION OF A MORATORIUM ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING OR MAINTENANCE OF A DAY CENTER HUMAN SERVICES FACILITIES; AMENDING BURLINGTON CODE SECTION TO CONTINUE THE MORATORIUM ADOPTED BY ORDINANCE 1860; PROVIDING THAT THE EXTENDED MORATORIUM WILL EXPIRE SIX (6) MONTHS FROM THE DATE OF ADOPTION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, facilitating the provision of basic shelter, food, job training and other health and social services to those City residents in need is an important function of the Community; and

WHEREAS, regulation of social services is an important City function in order to minimize adverse impacts to the public health and safety, particularly in established neighborhoods where such facilities may be located, and to ensure that no area bears a disproportionate burden in the provision of these services; and

WHEREAS, RCW 35.63.200 and RCW 36.70A.390 authorize a municipality to adopt, and subsequently extend, a moratorium for a specific purpose for up to six (6) months if a public hearing on the proposal is held within at least sixty (60) days of the moratorium's adoption; and

WHEREAS, moratoria enacted under RCW 35.63.200 and RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening developments; and

WHEREAS, Day Center Human Services Facilities are distinct from overnight shelters or facilities that provide healthcare or other social services by appointment, or those facilities already defined within RCW 74.39A.009, instead providing an array of free human social services on a drop-in basis with no overnight shelter available; and

WHEREAS, the Burlington Municipal Code does not currently have specific provisions addressing the establishment, operation, licensing or maintenance of Day Center Human Services Facilities; and

WHEREAS, establishment of Day Center Human Services Facilities may have the unintended consequence of promoting and perpetuating long term outdoor and/or unhoused "homeless" living without the benefit of approved shelter, proper sanitation,

refuse disposal, and other infrastructure and systems required to protect the public health and safety of individuals experiencing homelessness and/or the general public; and

WHEREAS, a duly advertised public hearing will be held on _____, 2018, regarding the six month moratorium on the establishment, location, operation, licensing or maintenance of Day Center Human Services Facilities within the City of Burlington and all who wish to speak will be afforded an opportunity to do so, and

WHEREAS, the City Council finds that there are present issues of public health and safety for surrounding properties as well as for the property on which Day Center Human Service Facilities may exist. Furthermore, the location of such Facilities near schools, day care facilities, and other lawful uses presents issues relating to the public welfare and the protection of minors; and

WHEREAS, the City's zoning, licensing, and other development regulations do not address the potential impacts from Day Center Human Service Facilities and the City needs adequate time to consider whether additional regulations should be enacted; and

WHEREAS, the City Council finds that this moratorium ordinance is necessary to complete a work plan for related studies that may be needed to set permanent regulations in place, protect property rights and ensure that the public interest is protected; and

WHEREAS, the City of Burlington is currently developing regulations to address Day Center Human Services Facilities as part of the City's comprehensive plan update, currently expected to be complete on or around the end of 2018; and

WHEREAS, the City continues to make progress on the comprehensive plan update; and

WHEREAS, the City intends to revoke or allow this moratorium to expire upon passage of the updated City comprehensive plan; and

WHEREAS, the City Council finds that the emerging nature of this matter may lead to the establishment of such facilities before the ramifications of the City's zoning regulations may be fully studied. The establishment of such facilities may lead to impacts to public health, safety and welfare within the City of Burlington if proper safeguards are not implemented, and it is therefore necessary to immediately protect the public health and safety, and public peace.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON DO
ORDAIN AS FOLLOWS:**

Section 1. Recitals and Findings. The Burlington City Council adopts all of the “WHEREAS” sections of this Ordinance as findings in support of this Ordinance. The Burlington City Council, in its discretion, may adopt additional findings at the conclusion of the public hearing referenced above.

Section 2. Moratorium Established. Pursuant to RCW 35.63.200 and RCW 36.70A.390, a moratorium was established prohibiting within the City of Burlington the establishment, location, operation, licensing or maintenance of a Day Center Human Services Facility in Ordinance 1850 is hereby extended for an additional six (6) months period from the date of adoption of the Ordinance and the findings, terms, and conditions of Ordinance 1850 is hereby amended consistent herewith.

Section 3. Use Prohibited. While this moratorium is in effect, the establishment, location, operation, licensing or maintenance of a Day Center Human Services Facility is hereby designated as prohibited in all zoning districts of the City of Burlington. No building permit, occupancy permit, or other development permit or approval shall be issued in accordance with the provisions of RCW 35A.82.020 for any of the purposed or activities listed above and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses, or other permits for any of these operations that are issued as a result of error or by use of vague or deceptive descriptions in any license or development application during the moratorium are null and void and without legal force or effect.

Section 4. Definitions. As used in this Ordinance, all references to “Day Center Human Services Facilities” shall mean any facility that does not provide overnight shelter, but provides some or all of the following free services to the public on a drop-in basis: laundry, shower or bathing facilities, lockers or storage, access to electricity, mail services, or access to telephone services. For purposes of this moratorium, a Day Center Human Services Facility does not include religious, governmental, medical or dental facilities that may provide similar services.

Section 5. Duration. This moratorium shall remain in effect until May 24, 2019 and shall automatically expire at the conclusion of that six (6) month period unless extended as provided in RCW 35.63.200 or unless earlier terminated by the Burlington City Council.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared

unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This Ordinance shall be effective after its passage, approval and publication as provided by law. Unless otherwise extended by the City Council, this Ordinance and the moratorium established herein shall terminate and expire on May 24, 2019.

INTRODUCED AND PASSED and approved at a regular meeting of the City Council this _____ day of November, 2018.

CITY OF BURLINGTON

Steve Sexton, Mayor

ATTEST:

Renee Sinclair, Director of Budget & Accounting

APPROVED AS TO FORM:

Leif Johnson, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Signed by the Mayor:

Published:

Effective Date: