

ORDINANCE NO. 7651

AN ORDINANCE OF THE CITY OF  
LAWRENCE, KANSAS ESTABLISHING A  
TEMPORARY BUILDING PERMIT  
MORATORIUM

*Whereas*, the governing body of the City of Lawrence, Kansas is entrusted with the responsibility to establish reasonable laws, policies and regulations to further the general public health, safety and welfare of the community; and

*Whereas*, pursuant to this responsibility the City has adopted Zoning laws, Subdivision regulations, and a comprehensive plan pursuant to the provisions of Kansas law; and

*Whereas*, the City's comprehensive plan (*Horizon 2020*) and the City's laws provide for certain requirements and limitations on certain land uses in order to promote the general public health, safety and welfare of the community; and

*Whereas*, the governing body finds that for the property bounded by West 6<sup>th</sup> Street on the south, Congressional Drive on the west, Overland Drive on the north, and Folks Road on the east (hereinafter "Temporary Moratorium Area") existing rezoning ordinances, development plans, and street infrastructure require additional study, revision, improvement and clarification during the period of six (6) months after the effective date of this ordinance (hereinafter "Temporary Moratorium Period") to further the general public health, safety and welfare of the community; and

*Whereas*, the governing body finds that the terms “department store” and “variety store” are not adequately defined in the City’s Zoning laws; and

*Whereas*, the governing body finds that the City’s Comprehensive Plan provides that the intersection of West 6<sup>th</sup> Street and Wakarusa Drive may be a community commercial center, primarily designed as a smaller scale commercial node, but does not allocate the commercial uses to the four corners of the intersection (*Horizon 2020*) ; and

*Whereas*, the governing body finds that rigorous investigation is needed whether larger commercial uses aggregated under the four walls of one structure is compatible with community commercial centers as defined by *Horizon 2020*; and

*Whereas*, the allocation of commercial land uses to the four corners of West 6<sup>th</sup> Street and Wakarusa is in the public interest; and

*Whereas*, *Horizon 2020* limits the square footage size of typical commercial centers and that existing or current zoning ordinances for the intersection of 6<sup>th</sup> and Wakarusa currently exceed the limitations as interpreted; and

*Whereas*, the Lawrence-Douglas County Planning Commission is currently studying the amendment of the Commercial Chapter of *Horizon 2020* which may alter or amend the comprehensive plans’ guidance for the Temporary Moratorium Area; and

*Whereas*, Section 21-501 of the Code of the City of Lawrence, Kansas, provides, in part: “*Building and occupancy permits in*

*subdivisions shall not be issued by the official charged with issuing such permits until:...* (b) *Required public improvements have been substantially completed to provide for adequate occupancy of the subdivision or for that part of the subdivision being developed.*” The governing body specifically finds that the public improvements to Congressional, Overland, Wakarusa, and West 6<sup>th</sup> Street have not been substantially completed to provide for adequate occupancy in the Temporary Moratorium Area and additional study is required to determine the appropriate time to release building permits pursuant to this law; and

*Whereas*, Goal 4.1 of Horizon 2020 provides: “The expansion of existing or new commercial development shall not occur until the surrounding street system can provide an acceptable level of service.” The governing body specifically finds that the current levels of service to Congressional, Overland, Wakarusa and West 6<sup>th</sup> Street do not provide acceptable or safe levels of service, and that additional study, and possible improvement, is required to determine acceptable or safe levels of service during the Temporary Moratorium Period; and

*Whereas*, the governing body finds that public health, safety and welfare issues associated with the land use and public infrastructure concerns in the Temporary Moratorium Area have a significant impact on the entire community and are not simply limited to the Temporary Moratorium Area; and

*Whereas*, the State Planning and Zoning Enabling statutes, provide, in part: K.S.A. 12-764 (b) “For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and

substantial amounts of work have been completed under a validly issued permit;" and

*Whereas*, the governing body finds that no valid building permits, construction or substantial amounts of work pursuant to a building permit, have occurred at either the northeast or northwest corner of West 6<sup>th</sup> Street and Wakarusa Drive, and that therefore no vested rights are impaired or injured by the temporary building permit moratorium;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

Section 1. The above recitals are incorporated by reference as if fully set forth herein.

Section 2. The governing body hereby establishes a temporary building permit moratorium for the real estate bounded by the Temporary Moratorium Area. No building permit shall be issued in the Temporary Moratorium Area until six (6) months from the effective date of this ordinance, or the repeal, or amendment of this ordinance, the Temporary Moratorium Period.

Section 3. During the Temporary Moratorium Period the governing body shall consider, after all lawful notice and procedures are met, adoption of certain laws, which may include, but are not limited to the following:

A) Text amendments to the City's zoning code that will focus on definitions for certain commercial uses, including but

not limited “department store” uses, “variety store” uses, and other larger retail uses; AND

- B) Rezoning amendments that will focus on, but not be limited to, the aggregate amount of square footage allowed at both the northwest and northeast corners, the uses allowed at both the northwest and northeast corners, and the square footage amounts allowed within the four walls of a permitted use in each structure at both the northwest and northeast corners.

Section 4. The intent of the moratorium, zoning code changes, and rezonings is to ensure that the applicable City laws and zoning restrictions are in compliance with the City’s comprehensive plan and the preservation and enhancement of the community’s public health, safety, and welfare.

Section 5. Additionally, during the Temporary Moratorium Period, the governing body shall study and determine whether the public health, safety and welfare of the community is best served if building permits or construction, and any resulting vehicular traffic impacts resulting from such activity and land uses, is allowed in the Temporary Moratorium Area until street improvements are completed on the following streets: West 6<sup>th</sup> Street (US Highway 40), Wakarusa Drive, Congressional Drive and Overland Drive.


Section 6. During the Temporary Moratorium Period, the governing body may initiate consideration of additional matters not otherwise inconsistent with the purpose and findings of this ordinance.

Section 7. Any person or persons with property interests in the Temporary Moratorium Area may seek exception or

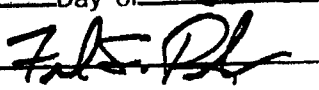
amendment to the provisions of this Ordinance by filing such request in writing with the Office of the City Clerk. Such request shall provide justification for the requested exception or amendment and shall be heard by the governing body within thirty (30) days of the receipt of the request by the City Clerk.

Adopted this 3RD day of JUNE, 2003.

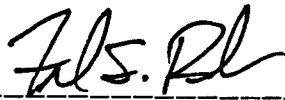
PASSED:



David M. Dunfield, Mayor

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said ordinance was passed on the 3 day of JUNE, 2003; that the record of the final vote on its passage is found on page ✓ Journal ✓; that it was published in the Lawrence Daily Journal-World on the 6 Day of JUNE, 2003.  
  
City Clerk

ATTEST:



Frank S. Reeb