



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

### Ordinance 18866

Proposed No. 2019-0050.2

Sponsors Upthegrove, Gossett, Kohl-Welles  
and McDermott

1 AN ORDINANCE declaring a six-month moratorium  
2 prohibiting the establishment of new or expansion of  
3 existing major fossil fuel facilities; directing the executive  
4 to produce a detailed study to address the issues and  
5 circumstances necessitating the moratorium; and declaring  
6 an emergency.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 SECTION 1. Findings:

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

14 B. The scientific consensus is that warming of the earth's climate is occurring at  
15 an unprecedented rate due to anthropogenic greenhouse gas emissions driven by human  
16 activities and population growth according to the Intergovernmental Panel on Climate  
17 Change Sixth Assessment Report.

18 C. The state of Washington found significant environmental, economic, public  
19 safety and public health impacts resulting from climate change on this state, in both

20 chapter 80.80 RCW and Executive Order No. 14-04.

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

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

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

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

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

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

41 J. In 2017, movement of crude oil and petroleum products through Washington  
42 state by rail had reached fifty-four million barrels of oil compared to no oil being moved

43 by rail before 2012, and one hundred seventy-seven million barrels moved by pipeline  
44 within the state, a twenty-seven percent increase since 2006.

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

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

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

57 N. In *Quinault Indian Nation v. Imperium Terminal Services LLC*, 187 Wn.2d  
58 460 (2017), the Washington Supreme Court held that the Ocean Resources Management  
59 Act ("the ORMA") applied to a land-based petroleum terminal facility. Previous  
60 decisions had limited the scope of the ORMA to on-water uses. The court recognized  
61 that the ORMA is intended to address environmental threats to Washington's coastal  
62 waters and threats posed by increased expansion of the fossil fuel industry along the  
63 Pacific Coast and held that it must be applied to a terminal expansion project that would  
64 transfer millions of gallons of petroleum products across the threshold of Washington's  
65 coast. King County should evaluate whether the ORMA should also be applied to

66 projects within its jurisdiction. If the ORMA is determined not to apply, King County  
67 should evaluate whether it should adopt substantively similar local regulations.

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

71 P. King County is preparing an update of the Comprehensive Plan, scheduled to  
72 be adopted in June 2020. As part of the 2020 Comprehensive Plan update, King County  
73 is interested in reviewing major fossil fuel facilities and related land uses in  
74 unincorporated King County to ensure that the range of impacts from major fossil fuel  
75 facilities are identified, avoided and mitigated in order to protect public health and safety,  
76 air and water quality, habitats, natural resource lands and other resources and functions.

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

81 R. It is in the public interest to establish a moratorium on acceptance of  
82 applications for development or expansion of major fossil fuel facilities for six months in  
83 order to investigate whether additional regulation is necessary.

84 S. Under RCW 36.70A.390 and 90.58.590, King County is authorized to adopt a  
85 moratorium to implement the Growth Management Act and Shoreline Management Act.

86 T. It is necessary that this ordinance go into effect immediately in order to avoid  
87 a rush of applications for new or expanded development of major fossil fuel facilities.

88 SECTION 2. A. A six-month moratorium commencing upon the effective date

89 of this ordinance is declared on the acceptance of applications for the establishment of  
90 new or expansion of existing, which is increasing the size, quantity or scope, of major  
91 fossil fuel facilities in unincorporated King County. An application shall not be accepted  
92 and a building permit, occupancy permit, department of public health approval, other  
93 development permits or approval of any kind shall not be issued for any of the purposes  
94 or activities prohibited by this ordinance. Any applications for land use approvals or  
95 other permits that are accepted as a result of error or by use of vague or deceptive  
96 descriptions during the moratorium are null and void and without legal force or effect.  
97 All lawfully existing uses, structures or other developments may continue to be deemed  
98 lawful conforming uses and may continue to be maintained, repaired and redeveloped, so  
99 long as the use is not expanded, under the terms of the land use and shoreline rules and  
100 regulations in place at the time of the moratorium. This moratorium shall not apply to  
101 uses and facilities necessary to address a bona fide imminent threat to the public health,  
102 safety and welfare. This moratorium shall also not apply to uses and facilities necessary  
103 for public safety, including, but not limited to, police, fire and rescue agencies.

104 B. Within sixty days of the effective date of this ordinance, the council shall hold  
105 a public hearing on the moratorium.

106 C. During the moratorium, the executive shall study major fossil fuel facilities,  
107 and:

108 1. Identify the use classification for major fossil fuel facilities that currently  
109 exist or should be added in K.C.C. Title 21A. Use classifications shall include, at a  
110 minimum, a definition, a standard industrial classification if applicable and, if existing,  
111 any associated development conditions and zoning districts where the use is permitted or

112 potentially permitted;

113           2. Evaluate whether the use classifications are consistent with applicable laws,  
114 regulations, adopted policies and permitting and review processes and adequately  
115 addresses the impacts and concerns identified in section 1 of this ordinance;

116           3. Review literature on the impacts of major fossil fuel facilities to local  
117 communities and review efforts by other local governments to limit the impacts generated  
118 by the proliferation or expansion of these uses;

119           4. Propose any necessary amendments to the development regulations,  
120 permitting processes, environmental procedures and policies, the Comprehensive Plan  
121 and shoreline master program that would address the impacts and concerns identified in  
122 section 1 of this ordinance;

123           5. Review performance and maintenance guarantee procedures and recommend  
124 any changes deemed necessary for major fossil fuel facility uses;

125           6. Evaluate the economic and employment opportunities created as energy  
126 sources are shifted from fossil fuels to renewable energy sources; and

127           7. Evaluate existing and planned county-owned and operated fossil fuel  
128 facilities for potential health impacts.

129           D. The executive shall transmit the results of its study, and a proposed ordinance  
130 with any recommended changes to the development regulations, permitting processes,  
131 environmental procedures and policies, the Comprehensive Plan and the shoreline master  
132 program to the council within six months after the effective date of this ordinance, in the  
133 form of a paper original and an electronic copy filed with the clerk of the council, who  
134 shall retain the original and provide an electronic copy to all councilmembers, the council

135 chief of staff, the chief policy officer and the lead staff for the mobility and environment  
136 committee, or its successor.

137 E. The executive shall transmit a letter on the status of the study to the council  
138 within one-hundred and twenty days of the effective date of this ordinance, in the form of  
139 a paper original and an electronic copy filed with the clerk of the council, who shall  
140 retain the original and provide an electronic copy to all councilmembers, the council chief  
141 of staff, the chief policy officer and the lead staff for the mobility and environment  
142 committee, or its successor.

143 SECTION 3. For the purposes of this ordinance:

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

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

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

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

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

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

156 SECTION 4. Severability. If any provision of this ordinance or its application to  
157 any person or circumstance is held invalid or should any portion of this ordinance be

158 preempted by state or federal law or regulation, the remainder of the ordinance or the  
159 application of the provision to other persons or circumstances is not affected.

160       SECTION 5. The county council finds as a fact and declares that an emergency  
161 exists and that this ordinance is necessary for the immediate preservation of public peace,



162 health or safety or for the support of county government and its existing public  
163 institutions.  
164

Ordinance 18866 was introduced on 1/28/2019 and passed as amended by the Metropolitan King County Council on 1/28/2019, by the following vote:

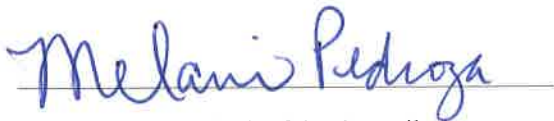
Yes: 6 - Mr. Gossett, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci  
No: 3 - Mr. von Reichbauer, Ms. Lambert and Mr. Dunn  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Rod Dembowski, Chair

ATTEST:



Melani Pedroza, Clerk of the Council

Attachments: None

