

CITY OF WOODINVILLE, WASHINGTON

ORDINANCE NO. 68

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, REQUIRING A PERMIT, PRESCRIBING CONDITIONS FOR THE ISSUANCE THEREOF, AND SETTING FEES FOR THE UNDERGROUND UTILITIES, PAVING, SIDEWALKS, CURB AND GUTTERS, PARKING, LANDSCAPING, ETC., BY PRIVATE INDIVIDUALS, CONTRACTORS, CORPORATIONS, AND/OR DEVELOPERS ON PUBLIC AND/OR PRIVATE PROPERTY.

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

Section I  
DEFINITIONS

Section 1 Definitions. For the purpose of this Ordinance, public or private improvements are defined as all construction constituting a valuable addition to or modification of all public and private lands by the installation of any and all facilities conveying water, sanitary sewage, storm waters, grading, clearing, electricity, heating gasses, telephone and television signals, vehicular and pedestrian traffic, and by creating in accordance with City Ordinances vehicular parking, landscaping, irrigation, and sight-screening.

Section II  
APPLICATIONS, PERMITS, AND EXPIRATIONS

Section 2.1 Permits. A permit is required for the construction of all public and private improvements where earth or public improvements are disturbed on or under public or private properties. The work shall not be made in any place other than the location specified in the permit.

Section 2.2 Applications. Applications for such permits shall be filed with the City a minimum of fifteen (15) days prior to date anticipated commencement of construction. Construction shall not commence until receipt of a permit from the City. Plans and profiles as required by the Public Service Department shall be submitted in triplicate and accompany said application delineating all proposed construction. A drawing of all submitted plans on mylar media, from which additional copies can be made shall be submitted to the City for a permanent file.

Section 2.3 Emergency Conditions. In the event of an emergency occurring after office hours, at night, on Sundays, or legal holidays, when an excavation may be necessary for the protection of public or private property; the same can be made after the person making such excavation has notified the police and fire department of such work; an application for a written permit as provided in this chapter shall be made on the next succeeding business day whether or not the emergency work has been completed.

Section 2.4 Errors within City Plans. Neither the City of Woodinville nor any employee or agent thereof shall be held responsible for the accuracy or any error appearing in any map.

Section 2.5 Validity of Permit. The issuance of a permit based upon approved plans, specifications, and other data shall not prevent the Public Services Administrator from thereafter requiring the correction of errors in said plans, specifications, and other data or from preventing construction being carried on thereunder when in violation of this Ordinance or any other Ordinance or standard of the City.

Section 2.6.1 Approval and Expiration of Plans. Prior to issuance of permits for the construction of public or private improvements, plans of the construction shall be submitted for approval by the Public Services Administrator or his/her designated representative. All plans shall conform with the City's comprehensive plans, ordinances, and adopted standards. Upon assurance of conformance, the Public Services Administrator will affix his/her signature and date of approval to the original construction drawings. Approval for plans for which no permit is issued within one hundred and eighty (180) days following the date of approval shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Public Services Administrator. The Public Services Administrator may extend the time for action by the applicant for a period not exceeding one hundred and eighty (180) days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action being taken. No plan approval shall be extended more than once. In order to renew action on any application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Section 2.6.2 Expiration of Permits. Every permit issued by the Public Services Administrator, or his/her designee, under the provisions of this Ordinance shall expire by limitation and become null and void if the construction authorized by such a permit is not commenced within one hundred and eighty (180) days from the date of such permit, or if the construction authorized by such permit is suspended at any time after the work is commenced for a period of one hundred and eighty (180) days. Before such construction can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided that such suspension or abandonment has not exceeded one year. In

order to renew action on a permit after expiration, the permittee shall be a new full permit fee.

Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required by this Section for good and satisfactory reasons. The Public Services Administrator may extend the time for action by the permittee for a period not exceeding one hundred and eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

Section 2.6.3 Current Approved Plans and Issued Permits. All approved plans or permits issued prior to the date of effect of this Ordinance are hereby placed under the conditions of this Ordinance with the time limitations beginning on the date of effect of this Ordinance.

Section 2.6.4 Conditions of Approval. In granting any permit, the Public Services Administrator may attach such other conditions thereto as may be reasonably necessary as identified in state, federal, or local codes, standards, or guidelines, to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to: (1) limitations on the hour, the day and the period of the year in which the work may be performed; (2) restrictions as to the size and type of excavating equipment; (3) designation of routes upon which materials may be transported; (4) the manner of removal of excavated materials; (5) requirements as to the control of dust nuisance, the cleaning of street and the prevention of noise and other results offensive or injurious to the neighborhood, the general public, or any portion thereof. Additionally, at any time conditions unforeseen at the time of issuance of the permit are discovered which could, in the opinion of the Public Services Administrator, cause unforeseen damage to public or private property, be a hazard to life or property, or become a public nuisance, the Public Services Administrator may forthwith order the stoppage of any further work under the permit until the permit conditions have been modified by the Public Services Administrator in such a manner as to protect from or eliminate the potential damages, hazards or nuisances enumerated in this Ordinance.

### Section III CONSTRUCTION WITHIN THE PUBLIC RIGHTS-OF-WAY

Section 3.1 Notification. The City shall exercise full control of all excavating, construction, and other invasions of City rights-of-way. The Public Services Administrator shall be notified forty-eight (48) hours prior to commencement of construction.

Section 3.2 Approval. No open cut crossings of City streets shall be made without the approval of the Public Services Administrator.

Section 3.3 Standards. All open cuts of City streets shall be in accordance with the current adopted edition of the "City of Woodinville Engineering Standards", and current edition of the Washington State Department of Transportation/APWA, "Standard Specifications for Road, Bridge, and Municipal Construction."

Section 3.4 Shoulder Restoration. Shoulders disturbed by excavation shall be reshaped to satisfaction of the Public Services Administrator and followed with a minimum four inch (4") compacted crushed rock top course.

Section 3.5 Backfill. All backfill of trenches within the improved roadway shall be compacted by mechanical means to the minimum density of ninety five percent (95%). Upon request, the contractor shall, at his/her expense, furnish the Public Services Department as many compaction tests as the department may deem necessary for proof of minimum compaction. Compaction by water settling or wheel rolling shall be permitted only with the written consent of the Public Services Administrator.

Section 3.6 Utility Strip Restoration. Backfilling and restoration of trenches authorized within the utility strip on fully improved streets shall be accomplished as follows: Areas shown on the drawing or as required by the Public Services Administrator to receive seeding or sodding shall receive topsoil. Areas to be seeded shall receive four inches (4") of topsoil; areas to be sodded shall receive three inches (3") of topsoil.

Section 3.7 Existing Drainage. Existing drainage ditches, culverts, etc., shall be kept clean at all times. Temporary diversion of any drainage system shall not be permitted without the written consent of the Public Services Administrator. Any drainage culverts, catch basins, manholes, etc., disturbed by excavation shall be replaced with new material or repaired as directed by the Public Services Administrator.

Section 3.8 Safety. If, in the opinion of the Public Services Administrator, it appears that the traveled roadway is, or may become unsafe for the traveling public due to weather or other reasons, excavation shall cease immediately, and cleanup shall be promptly accomplished.

Section 3.9 Trench Length. Maximum lengths of open trench on streets shall be two hundred (200) lineal feet.

Section 3.10 Placement of Pipe. All pipe strung along City rights-of-way shall be placed at a safe distance from traveled roadway in such a manner as to avoid accidental rolling onto roadway.

Section 3.11 Cleanup. Final cleanup, including complete restoration of shoulders, cleaning of ditches, culverts, and catch basins, removal of loose material from backslope of ditches, shall not exceed fifteen hundred (1,500) lineal feet, behind excavating operations.

Section 3.12 Optional Street Restoration. If, in the opinion of the Public Services Administrator, the final restoration of open cuts are inadequate to protect the base of the street from erosion caused by seepage of water, the contractor shall be required to seal coat the full width of the street a distance to be determined by the Public Services Administrator.

Section 3.13 Cleanup Street Street surface shall be cleaned at the end of each day's operation with a power broom or other approved means.

Section 3.14 Wasting of Material. No excess material or unsuitable material shall be wasted on City right-of-way without expressed written consent of the Public Services Administrator.

Section 3.15 Traffic Control. Every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as required by the MUTCD or the Washington State Department of Labor and Industrial standards, whichever is more restrictive, for the protection of the public. Whenever any permittee fails to provide proper safety devices, within a reasonable time after being notified, such devices may be installed and maintained by the City or its contracted representative. The cost incurred shall be paid by the permittee.

Section 3.16 Materials at the Site. All materials shall be readily available to the job site, and provisions shall be made to complete the construction in one continuous operation. Failure to comply shall result in excavation being halted until such time as the conditions are corrected.

Section 3.17 Police and Fire Notification. The Police and Fire Departments shall be notified twenty-four (24) hours prior to barricading or closing of streets. Proper provisions shall be made for the public convenience, safety and travel.

Section 3.18 Insurance. Before a permit shall be issued for any construction within the public right-of-way, all applicants shall file with the Public Services Administrator a certificate of insurance of general liability showing a minimum public liability of at least \$1 million combined single limits per occurrence and a copy of the endorsement naming the City as an additional insured. The policy shall provide that it will not be canceled or reduced without 30 days advanced written notice to the City.

#### Section IV INSPECTION, APPROVAL, VIOLATION

Section 4.1 Inspection. The Public Services Administrator shall be notified twenty-four (24) hours prior to any requested inspection, except where emergency repairs in existing systems are necessary to maintain normal operation.

Section 4.2 Approval. Prior to final approval of construction, the applicant shall furnish the Public Services Administrator all tests the City deems necessary to assure proper installation of all improvements. Should any improvements be rejected, the applicant shall make required repairs and retest the rejected portion of the improvement.

Section 4.3 Violation. Starting construction prior to obtaining any and all permits required by this Ordinance shall result in double the required permit fee as set forth by Resolution. All other violations of this Ordinance shall be deemed a misdemeanor punishable by a fine established by other City ordinances.

Section V  
PLAN CHECK AND PERMIT FEES

Section 5.1 Plan check and permit fees required . Plan check and permit fees are determined by the Woodinville City Council under separate resolution. Plan check and permit fees, and charges for that portion of work, if any, to be done by the City shall be paid prior to the issuance of a permit.

Section VI  
GUARANTEES

Section 6.1 Street Invasion Performance Guarantee. In addition to any other required performance and maintenance guarantees, and in conjunction with associated utility construction permit(s), the developer shall be required to make a cash deposit to the City for assurance of proper street invasion controls to protect improved public rights-of-way during the course of a development project. The developer shall deposit \$1,000.00 for each invasion of improved public street, with a maximum of \$2,000.00. Said cash deposit shall be made prior to issuance of any associated utility construction permit. The City shall give the developer 24 hours notice of any required correction or clean up work related to street invasion episodes, except that this shall be reduced to a (four) 4 hour notice if there is obvious hazard to health or safety. If the developer fails to adequately respond within the given time frame, the City will perform the work, and any costs incurred will be charged against the cash deposit. If there is any possibility of reoccurrence of problems associated with the street invasion incident, the City shall then give the developer written notice to replenish the cash deposit to its original level within five (5) calendar days. If the developer fails to replenish the cash deposit as required, the City reserves the right to stop any work on the project which is associated with the street invasion incident.

Section 6.2 Performance Guaranteed for Required Improvements. Before a permit, pursuant to the provisions of this Ordinance may be issued, the applicant may be required to execute to the City a performance guarantee. In some instances, and at the sole option of the City, a certificate of occupancy, final inspection, or final approval may be issued prior to completion of required public or site improvements if an

acceptable form of guarantee is provided by the applicant. The guarantee shall be in such sum as designated by the Public Services Administrator as necessary (but not less than 150% of the estimated completion cost of the improvements) for the proper protection of the City.

Section 6.3 Maintenance Guarantee. Prior to acceptance by the City of any newly constructed public improvements to be deeded to the City, repair of any City street associated with a street invasion, or on- or off-site storm drainage improvements, the developer shall file with the City a construction maintenance guarantee. The maintenance guarantee is to be held by the City for a period of two (2) years. The City shall require the applicant, at his cost, to correct all failures. Should the applicant fail to perform within a period of fifteen (15) days, the City may use said maintenance guarantee to correct any failures.

Section 6.4.1 Performance. All performance guarantees except for street invasion shall be for not less than 150% of the written estimate of the cost of construction of the required improvements associated with any development project. Said written cost estimate shall be provided by the developer and is subject to review and acceptance by the City.

A. The following forms of guarantees are acceptable to the City to assure completion of required improvements associated with any development project:

1. Bond in a form approved by the City;
2. Escrow or assigned bank account in a form approved by the City;
3. Cash deposit to the City of Woodinville;
4. Local Improvement District (L.I.D.) subject to City Council approval;
5. A combination of the above.

Section 6.4.2 Maintenance Guarantees and Warranty Guarantees Against Defects in Materials and/or Workmanship. All maintenance and warranty guarantees shall be for 20% of the estimated cost of construction of the required improvements associated with any development project. The following forms of guarantees are acceptable to the City to assure proper maintenance of required improvements associated with any development project, or to assure good quality materials and workmanship for required improvements:

1. Bond in a form approved by the City;
2. Escrow or assigned bank account in a form approved by the City;
3. Cash deposit to the City of Woodinville;
4. A combination of the above.

Section 6.5 Termination Date for Guarantee. Regardless of the form or type of guarantee, the City shall establish a termination date for the guarantee. The maximum time period for a performance guarantee shall be six (6) months from the date of acceptance of the guarantee. ~~The minimum time period for a maintenance guarantee or a~~

warranty guarantee against defects in materials and/or workmanship shall be two (2) years.

Section 6.6 Utilization of Funds Provided by Guarantees.

Section 6.6.1 Performance Guarantees. If the required improvements associated with a development project are not completed by the termination date of the performance guarantee, the City shall use said guarantee to construct the improvements in accordance with the City's standards. In the case of the street invasion performance guarantees, if the developer or utility fails to adequately respond within the specified time frame of the City's notification of required corrective or clean up work, the City shall apply these funds toward the cost of performing this work.

Section 6.6.2 Maintenance Guarantees. In the event that required improvements are not properly maintained during the required maintenance guarantee period, the City shall notify the developer/owner. If the developer/owner fails to correct the problem within a period of fifteen (15) days, the City shall use said maintenance guarantee to perform the maintenance work.

Section 6.6.3 Warranty Guarantees Against Defects in Materials and/or Workmanship. Should any failures occur in regard to required improvements associated with a development project within the warranty period, the City shall require the developer/owner to correct all failures. Should the developer/owner fail to perform within a period of fifteen (15) days, the City shall use said warranty guarantee to correct any failures.

Section 6.7 Reimbursement of City's Costs Incurred to Obtain Funds Provided by Guarantees. If the City finds it necessary to utilize funds provided for any guarantee, and incurs expenses in obtaining and administering such funds, a portion of these monies shall also be used to reimburse the City for such recovery costs. If the guarantee is not adequate to cover all necessary costs, the developer/owner is required to make up the deficit in cash within thirty (30) days of receipt of written notice from the City.

Section VII  
SEVERABILITY

Section 7 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 pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section VIII  
EFFECTIVE DATE

Section 8 Effective Date. This ordinance, or summary thereof, consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 23<sup>rd</sup> DAY OF August, 1993.

Bob Miller  
Bob Miller, Mayor Pro Tem

ATTEST/AUTHENTICATED:

James Katica  
James Katica  
City Clerk/Treasurer

APPROVED AS TO FORM:

Wayne Panaka  
Wayne Panaka  
City Attorney

DATE OF PUBLICATION: \_\_\_\_\_

RECEIVED

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City of Woodinville