

ORDINANCE NO. 224

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ADOPTING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR USE PERMITS, BUILDING PERMITS, AND FRANCHISES FOR WIRELESS TELECOMMUNICATIONS FACILITIES, TO BE EFFECTIVE FOR A PERIOD OF SIX MONTHS, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, AND DECLARING AN EMERGENCY.

WHEREAS, the Telecommunications Act of 1996 (Pub. L. No. 104-104, 110 Stat. 56, 31-136, hereinafter the "Act"), was designed to remove regulatory barriers and encourage competition among all types of communications companies; and

WHEREAS, the Act ratifies the authority of local government to regulate telecommunications services and carriers, but also limits local governments' authority in certain respects; and

WHEREAS, the Act allows the Federal Communications Commission to preempt any local governmental regulation which prohibits, or has the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services (Public Law No. 104-104, 110 Stat. 70, Section 253(a); and

WHEREAS, the City needs to review its codes and ordinances in a comprehensive fashion to determine whether its existing regulations are consistent with the Act and to adopt new regulations; and

WHEREAS, city regulations pertaining to wireless telecommunications facilities and services have not kept pace with changing technology and business practices for these facilities and services; and

WHEREAS, the City should impose a moratorium barring the acceptance of applications relating to building permits and zoning code permits for wireless communications facilities until the necessary code revisions are complete,

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

Section 1. Purpose. The purpose of this moratorium is to allow the City adequate time to comprehensively study the Telecommunications Act of 1996, determine whether the City's existing ordinances and codes related to wireless telecommunications facilities are consistent with the Act, and develop new ordinances to amend inconsistencies and/or cover situations not

addressed by existing regulations, and to ensure that city ordinances keep pace with changing business and technology trends in the provision of wireless telecommunications services.

Section 2. Moratorium Imposed. The City Council hereby imposes a moratorium on the establishment, location, permitting or franchising of personal wireless service facilities, as said term is defined in applicable federal law, within the City, whether located upon private or public property or the public streets. During the term of this moratorium (unless earlier terminated by the City Council by ordinance), the City will not accept any permit applications or consider any franchise for the location, establishment or siting of any personal wireless service facilities in the City. Provided, however, that this moratorium shall not apply to pending applications or permits.

Section 3. Duration of Moratorium. The moratorium imposed by this Ordinance shall be in effect for a period of six months, beginning on the date of the adoption of this Ordinance. During this period, the Planning Commission is directed to develop a work plan and to study the issue as it relates to applications approved under the zoning code. The Planning Commission and the Community Development Director shall develop recommendations for the City's future action to address the Telecommunications Act of 1996, which may include proposed regulations for wireless telecommunications facilities within the City. The Planning Commission shall return its work plan to the City Council at least two weeks prior to the date of the public hearing scheduled in Section 4 of this Ordinance. In addition, the Planning Commission and Community Development Director shall return their final recommendations to the City Council within 140 days of the effective date of this Ordinance.

Section 4. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390, the City Council shall hold a public hearing on this moratorium on November 23, 1998. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium, and either justify its continued imposition or cancel the moratorium.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

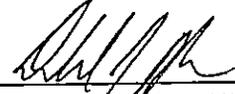
Section 6. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a unanimous vote of the members of the City Council, and that the same not be subject to a referendum. Without an immediate moratorium on the City's acceptance of permit applications under the building and zoning codes, processing of such applications by the City could occur under regulations that are inconsistent with the Telecommunications Act of 1996 and regulations that could possibly be preempted by the Federal Communications Commission. Wireless telecommunications facilities that are incompatible with adjoining land uses could also be permitted, since current city regulations have not anticipated the types of structures that are being constructed in response to rapid changes in telecommunications technology and law. Therefore,

the City's moratorium must be imposed immediately to prevent any development rights from vesting and preserve the City's ability to process applications under valid codes.

Section 7. Publication/Effective Date. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. Publication requirements may be satisfied by publication of an approved summary thereof consisting of the title.

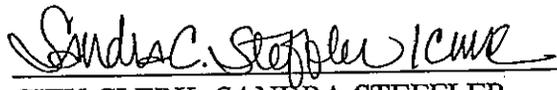
APPROVED BY THE CITY COUNCIL AT ITS REGULAR MEETING ON
OCTOBER 12, 1998.

APPROVED:



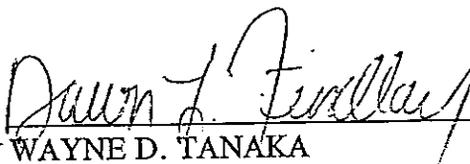
MAYOR, DONALD J. BROCHA

ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA STEFFLER

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY: 
for WAYNE D. TANAKA

FILED WITH THE CITY CLERK: 10-12-98
PASSED BY THE CITY COUNCIL: 10-12-98
PUBLISHED: 10-16-98
EFFECTIVE DATE: 10-21-98
ORDINANCE NO. 224