

ORDINANCE NO. 227

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ADOPTING FINDINGS OF FACT TO JUSTIFY THE CONTINUED IMPOSITION OF A SIX MONTH MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR USE PERMITS, BUILDING PERMITS, AND FRANCHISES FOR WIRELESS TELECOMMUNICATIONS FACILITIES, AS REQUIRED BY RCW 36.70A.390.

WHEREAS, on October 12, 1998, the City Council imposed a six month moratorium on the City's acceptance and approval of applications for use permits, building permits, and franchises for wireless telecommunications facilities, all as provided in Ordinance No. 224; and

WHEREAS, RCW 36.70A.390 requires that the City Council hold a public hearing on the moratorium within 60 days of its adoption, and that immediately thereafter, the City Council must adopt findings of fact to justify the continued imposition of the moratorium; and

WHEREAS, on November 23, 1998, the City Council held a public hearing on the wireless telecommunications moratorium during which time it heard testimony from the public and City staff; and

WHEREAS, the City Council determined that continuance of the moratorium on wireless telecommunications facilities is in the public interest, NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON,

DO ORDAIN AS FOLLOWS:

Section 1. As required by RCW 36.70A.390, the City Council hereby adopts the following findings of fact to support the continued imposition of the City's six month moratorium on the acceptance and approval of applications for use permits, building permits, and franchises for wireless telecommunications uses, all as provided in Ordinance No. 224:

A. Background.

1. Congress has adopted the Telecommunications Act of 1996 (hereinafter the "Act") in order to encourage the development of high-technology communications systems through increased competition among communications companies.

2. The Act provides for the removal of regulatory barriers, rate deregulation and relaxation of certain anti-trust provisions in an attempt to achieve this goal.

3. The Act is anticipated to have a significant effect on the manner in which communications services are delivered, and local telephone companies and cable television companies will all be able to provide telephone data, video and other communications services.

4. The Act contains numerous provisions which directly affect local taxation, zoning, franchise authority and public rights-of-way management.

5. The Act will likely place additional demands on the use of the City's public rights-of-way, public property, and private property.

6. Recent developments in telecommunications technology and regulatory actions by the Federal Communications Commission have resulted in the deployment of new wireless telecommunications networks throughout the Northwest.

7. Deployment of new wireless telecommunications networks could have dramatic impacts on land use patterns, aesthetics, and the public health, safety, and welfare due to the number of new wireless facilities and service providers in the Northwest.

8. The City's current regulations do not adequately and comprehensively address the location, siting or zoning of telecommunications facilities on public or private property.

B. Purpose. The purpose of this moratorium is to allow the City adequate time to comprehensively study the Act, determine whether the City's existing ordinances and codes are consistent with the Act, and develop new ordinances to amend inconsistencies and/or cover situations not addressed by existing regulations.

C. Specific Issues to be Studied. The City Council hereby directs the Planning Commission and City staff to pay special attention to the following issues, and as necessary, develop/recommend new draft regulations or draft amendments of existing regulations to conform with the Telecommunications Act generally following the attached work plan which may be amended from time to time with approval of the City Council. The Planning Commission shall confine its review to development code related issues, i.e., zoning and project permit processing.

1. The establishment of clear City guidelines, standards and time frames for the exercise of City authority with respect to the regulation of telecommunications providers and services, including City-imposed fees.

2. Minimize unnecessary City regulation of telecommunications providers and services.

3. Encourage the provision of advanced and competitive wireless telecommunications services on the widest possible basis to the businesses, institutions and residents of the City.

4. Assure that all wireless telecommunications carriers providing facilities and services within the City comply with the ordinances, rules and regulations of the City.

5. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare.

6. Enable the City to discharge its public trust, consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

D. The City Council hereby directs the City Planning Commission and City staff to conduct meetings and/or consult with wireless telecommunications providers before or after new regulations are developed to learn whether certain regulations cause any unnecessary hardship on the provision of wireless telecommunications services in the City.

Section 2. Moratorium to Remain in Effect. Except as limited in this Section, the moratorium on the acceptance and issuance of applications for use permits, building permits, and franchises for wireless telecommunications uses adopted by Ordinance No. 224 of the City of Woodinville shall remain in effect for the period prescribed therein or until the Council completes adoption of necessary code amendments related to wireless telecommunications uses, whichever is sooner. Provided, however, that the moratorium adopted by Ordinance No. 224 shall not apply to:

A. Applications pending prior to October 12, 1998.
"Pending" means a complete application, including the payment of any required fees, was filed with the City.

B. Any permits or approvals authorized by an existing franchise agreement.

Section 3. 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 4. Publication/Effective Date. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. This Ordinance shall take effect five (5) days after passage of publication of an approved summary thereof consisting of the title.

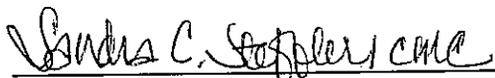
APPROVED BY THE CITY COUNCIL AT ITS REGULAR MEETING ON NOVEMBER 23, 1998.

APPROVED:



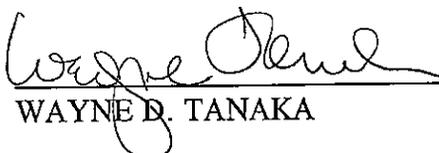
MAYOR, DONALD J. BROCHA

ATTEST/AUTHENTICATED:



SANDRA C. STEFFLER/CMC
CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY: 

WAYNE D. TANAKA

FILED WITH THE CITY CLERK: 11-23-98

PASSED BY THE CITY COUNCIL: 11-23-98

PUBLISHED:

EFFECTIVE DATE:

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