

ORDINANCE NO. 517

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON CONCERNING AMENDMENTS TO THE UNDERGROUNDING OF UTILITIES AS PART OF DEVELOPMENT, MAKING FINDINGS OF FACT; REVISING CHAPTER 15.39 WMC TO REQUIRE UNDERGROUNDING OF UTILITIES; REVISING WMC 20.06.110 TO REQUIRE UNDERGROUNDING OF UTILITIES; PROVIDING FOR SEVERABILITY; REQUIRING A COPY BE PROVIDED TO THE DEPARTMENT OF COMMERCE; PROVIDING FOR SUMMARY PUBLICATION BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the requirements of the Washington State Growth Management Act, the City of Woodinville is required to develop and adopt development regulations implementing its Comprehensive Plan; and

WHEREAS, RCW 36.70A.130(4) requires that the City of Woodinville, a "fully planning" city within King County shall update its development regulations, as necessary, to reflect local needs, new data, and current laws; and

WHEREAS, the Woodinville City Council has determined that certain amendments are necessary to keep the Zoning Code updated and to accommodate the needs of its citizens; and

WHEREAS, the Woodinville City Council has reviewed the amendments contained in this ordinance and finds that these amendments meet the required criteria in WMC 21.46.030; and

WHEREAS, a public hearing was held by the City of Woodinville Planning Commission on September 15, 2010; and

WHEREAS, a public hearing was held by the City of Woodinville City Council on November 16, 2010; and

WHEREAS, the requirements of the State Environmental Policy Act (SEPA) RCW 43.21C have been met; and

WHEREAS, adoption of this ordinance will promote the public health, safety, and general welfare within the City of Woodinville;

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

Section 1. Findings. The City Council hereby adopts the following findings in support of this ordinance, together with the recitals expressed herein.

1. The 2010 Docket list, including staff and Council initiated Comprehensive Plan and Development Code Amendments, was approved for further review by the Woodinville City Council on June 1, 2010.

2. Pursuant to Woodinville Municipal Code (WMC) Chapter 17, the Planning Commission is required to hold a public hearing on the proposed amendments and make a recommendation to the City Council.
3. The City SEPA Official reviewed the 2010 Docket amendments for environmental impacts under SEPA (RCW 43.21C), and issued a Determination of Nonsignificance (DNS) or SEPA Exemption for each proposed amendment. The appeal periods ended without any comments or appeals being received.
4. Pursuant to the Growth Management Act, the 2010 Docket proposed amendments were submitted to the Washington State Department of Commerce for review and comment. The state initiated the required 60-day state agency review period on August 17, 2010. No comments were received from any state agency regarding the amendments that are the subject of this ordinance.
5. The Planning Commission reviewed components of the 2010 Docket during its August 18, 2010 public meeting.
6. To encourage public involvement, the City held a public open house on September 1, 2010. This open house was noticed in the Woodinville Weekly and on the City website
7. A public hearing was held by the Planning Commission on September 15, 2010. The public hearing was noticed in the Woodinville Weekly and posted on the City's web site
8. The Planning Commission received written comments and public testimony; deliberated and produced a public record and recommendations on the amendments that are subject of this ordinance during the September 15, and October 20, 2010 Planning Commission meetings.
9. The City Council considered the Planning Commission's public record, included as Attachment A of this Ordinance, and recommendations concerning the amendments that are subject of this ordinance at a public hearing on November 16, 2010.
10. The City Council held first reading of Ordinance No. 517 on December 7, 2010.
11. The City Council held second reading of Ordinance No. 517 on December 14, 2010.

Section 2. Chapter 15.39, Utility Extensions, of the Woodinville Municipal Code is hereby amended to read as set forth below. New text is shown by underline. Deletions of text are shown by strikethrough. All other provisions of Chapter 15.39 shall remain unchanged and in full force and effect.

Chapter 15.39
UTILITY EXTENSIONS ~~REQUIREMENTS~~

15.39.010 ~~Utility extensions underground.~~ Undergrounding of utilities.

- (1) As a condition of any new development or redevelopment, utilities shall be required to be placed underground, including new utility extensions and existing overhead utilities.
 - (a) The terms "new" or "redevelopment" for purposes of this section include any one of the following four conditions:
 - 1) A building permit for a new building.
 - 2) A building permit for a project where the cost of construction equals or exceeds 50% of the assessed value of the existing structures on-site.

- 3) A project where there are 10 or more additional trips generated or more parking spaces required, or
- 4) A project where street frontage improvements are required under the Woodinville Municipal Code.
 - (b) All new utilities on the property or on abutting public or private rights-of-way shall be installed underground, except as exempted in WMC 12.30.310. This shall include, but not be limited to, utility features and apparatus such as utility meters, utility vaults, electrical conduit, cabinets, and other service utility apparatus; which would otherwise be visible from a public street or other public space.
 - (c) All existing overhead utilities on the property or on abutting public or private rights-of-way shall be placed underground, except as exempted in WMC 12.30.310
- (2) ~~Any person desiring to extend utilities in connection with any new construction within the City shall install such utilities underground. The applicant shall be responsible for complying with the requirements of this section and shall make all necessary arrangements with the utility companies and other persons or corporations affected by installation of such underground facilities. As used in this section, the term "utilities" includes, but is not limited to, public services provided in the form of electricity, telephone, and cable TV.~~
- (3) The following activities are exempt from the provisions of WMC 15.039.010:
 - (a) Remodel of existing single family residential structures and auxiliary buildings.
 - (b) The construction of a new single family residential structure on an existing legal lot when frontage improvements are not required to be constructed by other provisions of the Woodinville Municipal Code.
 - (c) When the cost of undergrounding utilities is greater than 2.5% of the valuation of the project as determined by the summation of the valuation on all required development permits.
- (4) If undergrounding utilities as required above is not feasible due to utility or infrastructure conflicts, topographic conditions, project location(s), or site limitations, and the above such improvements should not or cannot be accomplished at the time of building construction, the Public Works Director and Planning Director may approve a deviation to waive, limit, or modify the requirement(s) for such improvements.

Section 3. Section 20.06.110, Underground Utilities, of the Woodinville Municipal Code is hereby amended to read as set forth below. New text is shown by underline. Deletions of text are shown by ~~strikethrough~~. All other provisions of this section shall remain unchanged and in full force and effect.

20.06.110 Underground utilities.

All new and existing permanent utility service to lots shall be provided from underground facilities as set forth in the Woodinville Municipal Code regulating underground wiring, pursuant to WMC 12.30.310 and WMC 15.39.010. The applicant shall be responsible for complying with the requirements of this section, and shall make all necessary arrangements with the utility companies and other persons or corporations affected by installation of such underground facilities in accordance with the rules and regulations of the Public Utility Commissioner of the State of Washington.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be held 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. Provided, however, that if any section, sentence, clause, or phrase of this Ordinance, or any change in a land use designation is held to be invalid

by a court of competent jurisdiction, or by the Growth Management Hearings Board, then the section, sentence, clause, phrase, or land use designation in effect prior to the effective date of this ordinance, shall be in full force and effect for that invalidated section, sentence, clause, phrase, or land use designation, as if this ordinance had never been adopted.

Section 5. Copy to Department of Commerce. Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of the amendments to the State Department of Commerce for its files within ten (10) days after adoption of this Ordinance.

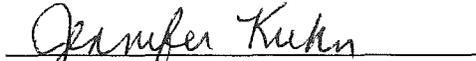
Section 6. Effective Date. This ordinance or a summary thereof shall be published in the City's official newspaper, and shall take effect five (5) days after passage and the publication of the ordinance or a summary thereof consisting of the title.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE
THIS 14th DAY OF DECEMBER 2010.**



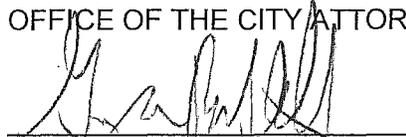
Charles E. Price, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn
City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: 12-14-2010
PUBLISHED: 12-20-2010
EFFECTIVE DATE: 12-28-2010
ORDINANCE NO. 517

PLANNING COMMISSION PUBLIC HEARING EXHIBIT LIST

SEPTEMBER 15, 2010

EXHIBIT NO.	EXHIBIT NAME
1	Staff Report dated September 15, 2010: Docket Public Hearing Overview & Recommended Motions
1b	Power point presentation
2	2010 Docket Amendments Summary List
3	Department of Commerce letter dated August 17, 2010
4	September 1, 2010 Open House Public Notice
5	September 15, 2010 Public Hearing Notice
5a	Public Hearing Sign in Sheets
10	Staff Report dated September 15, 2010 ZCA10008, Underground Utilities Amendments
10a	Proposed Underground Utilities Amendments
10b	SEPA Determination of Nonsignificance dated August 23, 2010
10c	WMC 12.30.310 Underground Electric Power and Telecommunication Facilities
10d	Power point presentation



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

December 22, 2010

Jennifer Kuhn
City Clerk
City of Woodinville
17301 - 133rd Avenue Northeast
Woodinville, Washington 98072

Dear Ms. Kuhn:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Woodinville - Adopted Ordinances 510, 511, 517, and 519, regarding several Municipal Code amendments and Comprehensive Plan amendments as outlined in those ordinance titles. These materials were received on December 22, 2010 and processed with the Material ID # 16497.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please call me at 360.725.3056.

Sincerely,

Linda Weyl
for

Ike Nwankwo
Technical & Financial Assistance Manager
Growth Management Services