

ORDINANCE NO. 629

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO APPEALS OF DECISIONS REGARDING PROJECT PERMIT APPLICATIONS; AMENDING CHAPTER 17.17 OF THE WOODINVILLE MUNICIPAL CODE AND ORDINANCE NOS. 143, 379 AND 496; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, Chapter 17.17 of the Woodinville Municipal Code sets forth the procedures pertaining to appeals of City decisions on project permit applications; and

WHEREAS, the Planning Commission has recommended clarifications to said Chapter;

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

Section 1. Woodinville Municipal Code section 17.17.010 and the corresponding portions of Ordinance Nos. 143 § 1 and 496 § 2 are hereby amended to read as follows (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:

17.17.010 Appeal of decisions.

- (1) Project permit applications may be appealed ~~shall be appealable~~ as provided in the project permit application framework in WMC 17.07.030.
- (2) Time to File. Decisions shall be appealed as follows:
 - (a) Administrative appeals shall be filed within 14 calendar days following issuance of a notice of decision. Appeals and the appeal fee must be submitted to the City no later than 4:00 p.m. on the last business day of the appeal period. If a determination of nonsignificance (SEPA) with a comment period is issued concurrently with the project decision, the appeal period shall be extended an additional seven days.
 - (b) Judicial appeals shall be filed in King County Superior Court by filing a land use petition within 21 days pursuant to Chapter 36.70C RCW, or in the case of a shoreline permit, to the Shoreline Hearings Board pursuant to RCW 90.58.140.
- (3) Burden of Proof. The appellant shall have the burden of proof by a preponderance of evidence that the decision was not supported by substantial evidence, except SEPA threshold determinations, as to which the appellant shall have the burden of proof by a clearly erroneous standard.
- (4) Appeal Submittal Materials. Each appeal shall be in writing, be accompanied by an appeal fee as set forth by the City's current fee schedule, and contain the following information:
 - (a) Appellant's name, address and phone number;
 - (b) Appellant's statement describing his or her standing to appeal;
 - (c) Identification of the application that is the subject of the appeal;
 - (d) Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
 - (e) The relief sought, including the specific nature and extent;
 - (f) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

(5) Effect. The timely filing of an administrative appeal shall stay the effective date of the hearing body's decision until such time as the appeal is adjudicated by the Council or withdrawn.

Section 2. Woodinville Municipal Code section 17.17.020 and the corresponding portions of Ordinance Nos. 143 § 1 and 496 § 2 are hereby repealed.

Section 3. Woodinville Municipal Code section 17.17.030 and the corresponding portions of Ordinance Nos. 143 § 1 and 496 § 2 are hereby amended to read as follows (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:

17.17.030 Standing to initiate appeal.

~~(1) Standing Limited to Parties of Record. Only parties of record with standing may initiate an administrative appeal of a Type II, III or IV decision on a project permit application.~~

(a) For a Type I decision, only the applicant, property owner, and the City shall have standing;

(b) For a Type II or III decision, the following parties shall have standing:

(i) The applicant;

(ii) The property owner;

(iii) The City;

(iv) Any person or agency who submitted written comments to the City prior to the close of the public comment period provided in a legal notice; and

(v) Any person or agency who submitted written comments or provided testimony at a predecision hearing.

(vi) Persons who have only signed petitions or mechanically produced form letters shall be excluded from having standing.

~~(2) Definition. The term "parties of record," for the purposes of this chapter, shall mean:~~

~~(a) The applicant;~~

~~(b) Any person who testified at the open record public hearing on the application; and/or~~

~~(c) Any person who submitted written comments concerning the application at the open record public hearing excluding persons who have only signed petitions or mechanically produced form letters.~~

Section 4. Woodinville Municipal Code section 17.17.040 and the corresponding portions of Ordinance Nos. 143 § 1, 379 § 5 and 496 § 2 are hereby amended to read as follows (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:

17.17.040 Administrative appeals procedures.

~~(1) Time to File. Appeals shall be filed within 14 calendar days following issuance of the hearing body's written decision. Appeals and the appeal fee shall be delivered to the Planning Director by mail or personal delivery before 4:00 p.m. on the last business day of the appeal period. For the purposes of computing the time for filing an appeal, the day the hearing body's decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day.~~

- (2) ~~Content of Appeal. Appeal shall be in writing, be accompanied by an appeal fee as set forth by the City's most current fee schedule, and contain the following information:~~
- ~~(a) Appellant's name, address and phone number;~~
 - ~~(b) Appellant's statement describing his or her standing to appeal;~~
 - ~~(c) Identification of the application that is the subject of the appeal;~~
 - ~~(d) Appellant's statement of grounds for appeal and the facts upon which the appeal is based;~~
 - ~~(e) The relief sought, including the specific nature and extent;~~
 - ~~(f) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.~~
- (3) ~~Effect. The timely filing of an appeal shall stay the effective date of the hearing body's decision until such time as the appeal is adjudicated by the Council or withdrawn.~~
- (4) ~~Notice of Appeal. The Director shall provide public notice of the appeal as provided in Chapter 2.30 WMC.~~
- (5) ~~Time Limit. Administrative appeals of project permits, whether an open record appeal hearing or a closed record appeal, shall be considered and decided within the following time periods: The parties may mutually agree to extend these time periods.~~
- ~~(a) Ninety days for an open record appeal hearing; and~~
 - ~~(b) Sixty days for a closed record appeal.~~
- ~~The parties may mutually agree to extend these time periods.~~
- (2) Consolidated Appeals. All appeals of project permit application decisions, other than an appeal of determination of significance (DS), shall be considered together in a consolidated appeal.
- (3) Appeal of SEPA Determination. If an appeal of a SEPA threshold determination is filed and action on the project permit involves an open public record hearing, the appeal hearing and hearing shall be combined.
- (4) Appeal Dismissal. The hearing examiner may summarily dismiss an appeal in whole or in part without a hearing, if the hearing examiner determines that the appeal is untimely, incomplete, without merit on its face, frivolous, beyond the scope of the hearing examiner's jurisdiction, or brought merely to secure a delay. Summary dismissal orders shall be issued within 14 days of receipt by the hearing examiner of the appeal or a request for dismissal, whichever is later.
- (5) Notice of Appeal. The Director shall provide public notice of the appeal as provided in Chapter 2.30 WMC.
- (6) The City shall issue a written decision of appeal within 10 calendar business days of the appeal body's final action to the parties of record disclosing whether the appeal is upheld or denied.

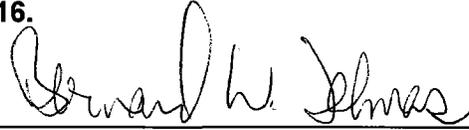
Section 5. Woodinville Municipal Code section 17.17.060 and the corresponding portions of Ordinance Nos. 143 § 1, 379 § 5 and 496 § 2 are hereby repealed.

Section 6. 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, or phrase of this Ordinance.

Section 7. Copy to Department of Commerce. Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten days after adoption of this ordinance.

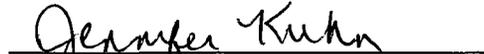
Section 8. Effective Date/Summary Publication. The adoption of this Ordinance, which is a power specifically delegated to the City legislative body, is not subject to referendum. This Ordinance or a summary thereof consisting of the Ordinance Title shall be published in the official newspaper of the City, and shall take effect and be in full force five days after publication.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS
PASSAGE THIS 4th DAY OF OCTOBER, 2016.**



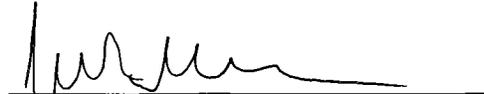
Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn, City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Jeffrey Ganson, City Attorney

PASSED BY THE CITY COUNCIL: 10-4-2016
PUBLISHED: 10-10-2016
EFFECTIVE DATE: 10-17-2016
ORDINANCE NO. 629



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

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

October 20, 2016

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 Ordinance No. 629 relating to appeals of decisions regarding project permit applications; amending Chapter 17.17 of the Woodinville Municipal Code and Ordinance Nos. 143, 379 and 496; providing for severability; and providing for an effective date and summary publication by ordinance title only. These materials were received on October 19, 2016 and processed with the Material ID # 22991.

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 December 03, 2016. Please remember to submit the final adopted amendment to Commerce within ten (10) days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491.

Sincerely,

Review Team
Growth Management Services