

ORDINANCE NO. 1337-12

AN ORDINANCE RELATING TO THE PARKS CHARTER AMENDMENT;
IDENTIFYING CERTAIN UTILITY ACTIVITIES NOT REQUIRING A VOTE; AND
ADDING A NEW CHAPTER 5-7 TO THE TUALATIN MUNICIPAL CODE.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. A new section, TMC 5-7-005 is added to the Tualatin Municipal Code to read as follows:

Purpose and Intent.

- (1) Whereas, on March 8, 2011, Tualatin voters approved an amendment to the City Charter that would require a vote of City electors before a "major change in use" of parkland could occur; and
- (2) Whereas, while the amendment gives examples of what would constitute a major change in use, including certain activities of public and franchised utilities, it does not clearly set out what activities of the utilities would not constitute as a major change; and
- (3) Whereas, the chief petitioners of the amendment, the City Council and the utility companies have agreed on a number of activities utilities must perform that would not constitute a major change in use;
- (4) Therefore, the City Council finds that it is in the best interests of the public to adopt an ordinance to identify some of these activities to provide a level of certainty both to the utilities and to Tualatin residents.

Section 2. A new section, 5-7-010, is added to the Tualatin Municipal Code to read as follows:

Definitions. As used in this chapter, the following definitions apply:

- (1) "De minimus" or "slight" or "minor", as a slight increase in size, means up to, but no more than twice the current size.
- (2) "Emergency" means any situation that causes or could cause an unintended loss of service, threat, hazard, or endangerment of public health, safety, or welfare.
- (3) "Maintenance by utilities" means any regular or periodic work conducted to maintain operational capacity or function of an existing utility, structure, or facility.
- (4) "Temporary" means an installation, development, or change to a park intended to remain in place for no more than 12 months, until it can be removed or a permanent installation can be constructed in compliance with any applicable Charter requirements.

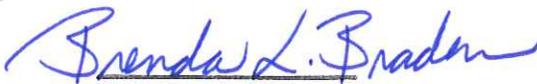
Section 3. A new section, 5-7-020, is added to the Tualatin Municipal Code to read as follows:

Activities Allowed Without a Vote. Some activities that do not constitute a major change in use under the City's Charter chapter XI, include but are not limited to:

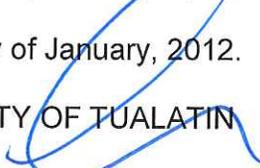
- (1) All emergency repair or construction required under existing agreements, which are temporary in nature, to restore services by utilities, including cable companies, that may not be required to have a permit or may not have to have a permit until after the work is completed.
- (2) Construction requiring a permit in advance for any of the following if they do not require additional right-of-way or easement over parkland and the parkland is returned to its original park purpose and condition or better:
 - (a) Addition to an existing pole of a new power line, cable line, communication line, or transformer;
 - (b) Replacing an existing pole with a taller pole;
 - (c) Replacing a wood pole with a steel pole;
 - (d) Replacing a pole with an identical or slightly larger pole, as defined as a de minimus change;
 - (e) Adding a larger capacity or diameter line to an existing pole;
 - (f) Adding a guy wire between the pole and the ground;
 - (g) Manhole covers not interfering with a park use or purpose, including those with an above-ground raised profile placed in wetlands that have been landscaped in a manner consistent with the surroundings;
 - (h) Above-ground control units or cabinets for underground utilities located in an existing easement and not interfering with park use or purpose;
 - (i) Small, above-ground control units, such as utility vaults and valves for underground utilities or minor anchoring facilities, such as guy wires, located on parkland that do not convert park use;
 - (j) New construction projects for underground utilities that may disrupt the use of the park during construction but do not do so after construction is complete;
 - (k) Relocation of an existing utility easement on parkland when required by the City;
 - (l) Installation of a new guy wire on an existing utility pole, so long as the guy wire does not interfere with any existing use of the park.

INTRODUCED AND ADOPTED this 9th day of January, 2012.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN

By 
Mayor

ATTEST:

By 
City Recorder