

ORDINANCE NO. 373

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DECLARING AN EMERGENCY, SETTING A PUBLIC HEARING, AND AMENDING TITLE 13 UPMC TO ADD ADDITIONAL ENFORCEMENT PROVISIONS TO PROTECT POSTING OF STOP WORK AND EMERGENCY ORDERS, TO CLARIFY VIOLATION AND PENALTY PROVISIONS, AND TO STRENGTHEN PROVISIONS FOR WORK PERFORMED WITHOUT A PERMIT

WHEREAS, Title 13 of the University Place Municipal Code currently does not penalize the removal of stop work orders, does not provide for other emergency orders, does not clearly state all violations and penalties, and does not incorporate civil violations under 1.20 UPMC; and

WHEREAS, recent serious and egregious violations of Title 13 have occurred that could not be adequately addressed under the current code; and

WHEREAS, it is the purpose of Title 13, Public Works Standards to protect the public through the regulation and enforcement of these standards, and these revisions are necessary to adequately protect the public health, safety, and welfare; and

WHEREAS, to protect the public health, safety, and welfare, the City Council declares and emergency and acts now to place into immediate effect the enforcement provisions;
NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. AMENDMENT TO UPMC 13.10.030. Section 13.10.030 of the University Place Municipal Code is hereby amended as follows:

13.10.030 Stop Work and Emergency Orders.

A. Stop Work Orders.

Whenever any work is being done contrary to the provisions of this Code that will materially impair the Director's ability to secure compliance with this Code, or that is a threat to the public health, safety, welfare, or property, the Director may issue a stop work order. The stop work order shall specify the violation and prohibit any work or other activity at the site until the Director authorizes the resumption of work in writing. The stop work order shall be served in writing to any person at the project site and posted prominently on the site in a conspicuous location to be determined by the Director. It shall be unlawful to move, remove or deface any stop work order posted by the Director until the Director has authorized removal of the order. Any failure to comply with a stop work order shall constitute a violation of this Code.

B. Emergency Orders.

Whenever any work, use, or activity in violation of this Code threatens the public health, safety, welfare, or property, the Director may issue an emergency order directing the work, use, or activity be discontinued and that the condition causing the threat be corrected. The emergency order shall specify the actions to be taken and the time for compliance. The emergency order shall be served in writing to any person at the project site and posted prominently on the site in a conspicuous location to be determined by the Director. It shall be unlawful to move, remove or deface any emergency order posted by the Director until the Director has approved, in writing, the corrective action and authorized removal of the order. Any failure to comply with an emergency order within the time specified shall constitute a violation of this Code.

~~When any development is being done contrary to any provisions of Title 13, or other ordinance, code provisions, or regulation of the City, the PW Department may issue a Stop Work order. The stop work order shall be served in writing on any person at the project site. Alternatively, the Public Works Department may post the Stop Work order prominently at the project site. It shall be the duty of all persons at a project site who have either been served or have actual notice that a stop work notice has been posted at the site to immediately cease all work at the site until the Public Works Department authorizes in writing a resumption of work.~~

Section 2. AMENDMENT TO UPMC 13.10.050. Section 13.10.050 of the University Place Municipal Code is hereby amended as follows:

13.10.050 Permit Requirements.

A. Permits Required. Before any person, firm or corporation shall commence or permit any other person, firm or corporation to commence any work to clear land, cut and remove trees, plane fill, stockpile, grade, pave, level, alter, construct, repair, remove, excavate or place any pavement, sidewalk, crosswalk, curb, driveway, gutter, drain, sewer, water, conduit, tank, vault, street banner or any other structure, utility or improvement located over, under or upon any public right-of-way or property in the City of University Place, or place any structure, building, barricade, material, earth, gravel, rock, debris or any other material or thing tending to obstruct, damage, disturb, occupy, or interfere with the free use thereof or any improvement situated therein, or cause a dangerous condition, the appropriate permit shall be obtained from the City. A separate permit shall be obtained for each separate project.

Failure to obtain a permit is a violation of this Title and may be cause for withholding or withdrawing approval of project plans, revocation of a permit, suspension of building (or other) inspections, forfeiture of financial guarantees submitted to the City, refusal of the City to accept the work, or other enforcement action under this Title. Any permit application submitted for work commenced prior to the application submittal shall be charged double the actual cost for any applicable fees.

If a short plat or special use permit is a development requirement, a site development permit will not be issued until they are acquired. However, a site development permit may be processed jointly with a conditional use or land use permit.

Section 3. AMENDMENT TO UPMC 13.10.150. Section 13.10.150 of the University Place Municipal Code is hereby amended as follows:

13.10.150 Violations and Penalties.

A. Violations. General.

It is unlawful and a violation of this Title to do any of the following:

1. Perform or cause to be performed any work specified in 13.10.050 upon any structure, land, or property within the City of University Place without first obtaining a permit or authorization as required by this Code.
2. Perform or cause to be performed any work upon any structure, land, or property within the City of University Place in a manner not permitted by the terms or conditions of any permit or authorization issued pursuant to this Code;
3. Misrepresent any material fact in any application, plans, or other information submitted to the City to obtain any permit or authorization issued pursuant to this Code;
4. Fail to comply with any stop work order, emergency order, or other lawfully imposed order imposed under this Code;

5. Move, remove or deface any sign, notice, or order required by or posted in accordance with this Code;
6. Violate or fail to comply with any provisions of this Code.

~~1. Failure to comply with any of these regulations will be cause for withholding or withdrawing approval of the overall project plans, revocation of the site development permit, suspension of building inspections, forfeiture of the financial guarantee submitted to the city, and/or nonacceptance of the work by the city.~~

~~2. The city is authorized to make inspections and take such actions as required to enforce these regulations. The city representative shall present proper credentials and make a reasonable effort to contact the property owner before entering onto private property.~~

~~3. A site development application will not be issued on any parcel that has a valid nonconversion forest practices permit for a period of six years from the date of the forest practice application approval.~~

~~4. The city may require the property owner to remove or replace illegal earthwork and/or restore and reclaim an illegally graded parcel. Earth material brought onto a parcel must be removed to a properly permitted disposal site.~~

B. Penalties. Enforcement Powers.

1. A violation of this Code shall be a civil violation subject to the penalties and abatement process set forth in Chapter 1.20 UPMC.
2. In addition to or as an alternative to any other remedy provided in this section, any person or entity violating this Code shall be guilty of a misdemeanor punishable as provided for in RCW 9A.20.021.
3. Any work carried out contrary to the provisions of this Code shall constitute a public nuisance and may be enjoined as provided by state law.
4. Nothing in this section shall limit or preclude the City from issuing stop work orders, emergency orders, or commencing legal or equitable action to prevent, enjoin, abate, or terminate any condition that constitutes or will constitute a violation of this Code whenever civil or criminal penalties are inadequate to effect compliance.
5. A violation of this Code may be cause for withholding or withdrawing approval of project plans, revocation of a permit, suspension of building (or other) inspections, forfeiture of financial guarantees submitted to the City, and refusal of the City to accept the work.

~~The city may remove, correct, or replace any improperly constructed facility, structure, or portion thereof which was allowed through an issued site development permit, and all expenses incurred by the city shall be paid by the property owner or applicant. If the city is required to bring an action to recover such costs, the city will recover reasonable attorney's fees and interest at 12 percent per annum to run from the date the work was completed by the city. Applicants must agree to this provision as a condition of issuance of any permit authorized by these regulations.~~

C. Penalties

~~1. Violation of any of the provisions of these regulations by an applicant or engineer shall be a misdemeanor. Each day or portion of a day during which a violation of these regulations is continued, committed, or permitted shall constitute a separate offense.~~

~~2. Any work carried out contrary to the provisions hereof shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington.~~

Section 4. COPY TO BE AVAILABLE. One copy of this ordinance shall be available in the office of the City Clerk for use and examination by the public.

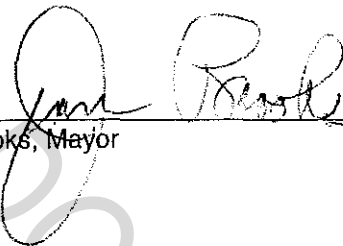
Section 5. SEVERABILITY. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 6. DECLARATION OF EMERGENCY AND SEPA EXEMPTION. The City Council declares that an emergency exists because passage of this ordinance is necessary immediately to protect the health, safety, and welfare of members of this community and to protect personal and real property interests. Therefore, this ordinance is exempt from the State Environmental Policy Act, pursuant to RCW 42.23C, and the City's SEPA provisions, UPMC 17.40.

Section 7. DIRECTING CITY CLERK TO SET A HEARING ON THIS ORDINANCE. To the extent that any portion of this ordinance acts as an interim zoning control within the meaning of RCW 35A.63.220 the City Clerk is directed to set a public hearing within sixty days for the purpose of taking testimony about this ordinance and adopting any necessary findings of fact required by law.

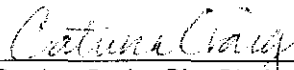
Section 8. PUBLICATION AND IMMEDIATE EFFECTIVENESS. This Ordinance having been enacted by a majority plus one vote of the members of the City Council after the Council declared an emergency shall be in full force and effect immediately. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City within five days hereof.

PASSED BY THE CITY COUNCIL ON MARCH 3, 2003.



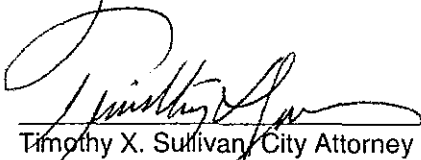
Jean Brooks, Mayor

ATTEST:



Catrina Craig, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Published: March 5, 2003
Effective Date: March 3, 2003