

ORDINANCE NO. 2571

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE), SECTION 50.02.005 TO AMEND THE DEFINITION OF "PUBLIC FACILITY, MINOR", AND ADOPTING FINDINGS (LU 11-0018-1771).

Whereas, the Community Development Code currently classifies sewer, storm drainage, and water trunk lines as "major public facilities"; and

Whereas, regardless of size, sewer, storm drainage, and water pipes that are fully underground have no land use impacts to neighboring properties once construction is complete; and

Whereas, including sewer, storm drainage, and water trunk lines that are fully underground within the definition of "minor public facilities" would allow them to be permitted outright in all zoning districts;

The City of Lake Oswego ordains as follows:

**Section 1.** The definition of "Public Facility, Minor" in Section 50.02.005 of the Lake Oswego Code is hereby amended by adding the text shown in **bold, underlined type**, as follows:

**Public Facility, Minor.** The following public service improvements or structures developed by or for a public agency:

- a. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.
- b. Sewer, storm drainage, or water system structures, including reconstruction of existing facilities, pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems, except treatment plants, reservoirs, or **above-ground** trunk lines.
- c. Street improvements within existing development including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- d. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or on public property.

e. School improvements which will not increase the capacity of the school nor create additional traffic or other impact on the surrounding neighborhood.

f. Park improvements which will not create additional motor or foot traffic impact on the surrounding neighborhood.

**Section 2.** The City Council hereby adopts the Findings and Conclusions attached as Exhibit 1.

Enacted at the meeting of the Lake Oswego City Council held on the 15<sup>th</sup> day of November, 2011.


AYES: Mayor Hoffman, Tierney, Olson, Jordan, Moncrieff, Gudman, Kehoe

NOES: none

ABSENT: none

ABSTAIN: none

EXCUSED: none

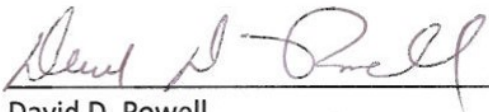
  
\_\_\_\_\_  
Jack D. Hoffman, Mayor

Dated: 11/15/11

ATTEST:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
David D. Powell  
City Attorney

Ordinance No. 2571

Page 2 of 2

BEFORE THE CITY COUNCIL

OF THE CITY OF LAKE OSWEGO

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3 A REQUEST TO AMEND THE TEXT OF THE )  
4 THE LAKE OSWEGO COMMUNITY ) LU 11-0018-1771  
5 DEVELOPMENT CODE, CHAPTER 50, ) (CITY OF LAKE OSWEGO)  
6 SECTION 50.02.005 TO AMEND THE )  
7 DEFINITION OF "PUBLIC FACILITY, MINOR," ) FINDINGS & CONCLUSIONS  
8 [ORDINANCE No. 2571] )

**NATURE OF PROCEEDING**

9 This matter came before the City Council pursuant to a recommendation by the Lake  
10 Oswego Planning Commission to amend the text of the Lake Oswego Community Development  
11 Code to classify underground sewer, storm drainage or water system trunk lines as "minor  
12 public facilities."  
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**HEARINGS**

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15 The Planning Commission held a public hearing and considered this application at its  
16 meeting of September 12, 2011. The City Council held a public hearing to consider the Planning  
17 Commission's recommendation on October 18, 2011.  
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**CRITERIA AND STANDARDS**

A. City of Lake Oswego Comprehensive Plan:

- 21 Goal 2: Land Use Planning
- 22 Goal 11: Public Facilities & Services

B. City of Lake Oswego Community Development Code:

- 24 LOC 50.75.005 Legislative Decisions Defined
- 25 LOC 50.75.015 Required Notice to DLCD
- 26 LOC 50.75.025 Planning Commission Recommendation Required
- LOC 50.75.025 City Council Review and Decision

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2 **FINDINGS AND REASONS**

3 As support for its decision, the City Council incorporates the staff Council Report dated  
4 October 10, 2011, for LU 11-0018 (with all exhibits), the September 1, 2011, Staff Report to the  
5 Planning Commission (with all exhibits), together with all supplemental reports, and the  
6 Findings and Conclusions of the Planning Commission in this matter.

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8 Currently LOC 50.02.005 defines "Public Facility, Minor" as including sewer, storm  
9 drainage or water system structures, except for "trunk lines." As a result, utility trunk lines  
10 outside of the public right-of-way are considered Major Public Facilities, which must be  
11 processed as conditional uses. Conditional use criteria are designed to ensure that  
12 development can be made reasonably compatible with other uses in the vicinity through the  
13 imposition of conditions relating to the manner of use, setbacks, height, size, location,  
14 screening, lighting, landscaping, etc. LOC 50.69.010. Since underground pipelines, once  
15 constructed, have no land use impacts on the surrounding neighborhood, the conditional use  
16 process is not appropriate. For these reasons, the City Council agrees with the Planning  
17 Commission's recommendation that the definition of Minor Public Facility in LOC 50.02.005  
18 should be amended to state that only "above-ground" trunk lines are excepted.  
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20 Concerns have been raised as to whether the minor development process provides  
21 adequate opportunity for public comment about infrastructure projects. Although the  
22 conditional use permit procedure guarantees public input opportunities, it is not otherwise  
23 appropriate for underground utility installations. Instead, staff has been directed to schedule a  
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1 future City Council presentation and discussion regarding opportunities for public comment on  
2 major infrastructure projects.

3 **CONCLUSION**

4           The City Council concludes that LU 11-0018 complies with all applicable criteria and that  
5 the proposed Code amendments should be enacted.  
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