

NEW BUSINESS: Ordinance declaring an emergency relating to the Weathervane
NEW ITEM Waterline Replacement Project

FROM: Mike Smith, City Attorney

RECOMMENDED MOTION: I move to adopt Ordinance No. _____, declaring an emergency relating to the repair and replacement of the water main located along Weathervane Avenue between 44th Street and Weathervane Court and waiving the public bidding requirements of RCW 39.04.280 to perform the water main relocation work.

PROPOSAL: In order to be in compliance with Fircrest City Council Rules of Procedures Rule 22F, which requires that affirmative vote of at least a majority of the whole Council plus one (5 Councilmembers) is required for the passage of public emergency ordinances (which take effect immediately), the Council is being asked to adopt an ordinance declaring an emergency for the Weathervane Waterline Replacement project should be approved in order to be in compliance with the aforementioned Rule 22F.

FISCAL IMPACT: None known.

ADVANTAGE: Allows the City to be in compliance with Fircrest City Council Rules of Procedures Rule 22F.

DISADVANTAGES: None known.

ALTERNATIVES: None.

HISTORY: The Fircrest City Council passed Resolution No. 1500 at its November 14, 2017 regular Council meeting declaring an emergency relating to the repair and replacement of the water main located along Weathervane Avenue between 44th Street and Weathervane Court and waiving the public bidding requirements of RCW 39.04.280 to perform the water main relocation work. By approving this ordinance, Resolution No. 1500 will become null and void.

ATTACHMENTS: Ordinance
Fircrest Council Rules of Procedures Rule 22F

CITY OF FIRCREST
ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON,
DECLARING AN EMERGENCY RELATING TO THE REPAIR AND
REPLACEMENT OF THE WATER MAIN LOCATED ALONG
WEATHERVANE AVENUE BETWEEN 44TH STREET AND
WEATHERVANE COURT AND WAIVING THE PUBLIC BIDDING
REQUIREMENTS OF RCW 39.04.280 TO PERFORM THE WATER
MAIN RELOCATION WORK.**

WHEREAS, the City of Fircrest operates a water distribution system; and

WHEREAS, the City of Fircrest water main at the above location had a failure and rupture in the water main; and

WHEREAS, the City of Fircrest has determined that the break in the water main has diminished fire flow availability in the area; and

WHEREAS, the City needs to repair and replace this broken water main constitutes an emergency due to unforeseen circumstances beyond the control of the City, which presents a real, immediate threat to the proper performance of the essential functions of the City’s water system or will likely result in material loss or damage to property, bodily injury or loss of life if action is not immediately taken to relocate the water main on Weathervane Avenue; and

WHEREAS, the City staff has recommended (a) the water main be relocated immediately, (b) an emergency be declared to proceed with work as soon as possible to complete the relocation and the formal bidding requirements set forth in RCW 39.04.280 applicable to the City be waived to immediately obtain a qualified and responsible contractor to undertake this work; and

WHEREAS, the Fircrest City Council passed Resolution No. 1500 at its November 14, 2017 regular Council meeting declaring an emergency relating to the repair and replacement of the water main located along Weathervane Avenue between 44th Street and Weathervane Court and waiving the public bidding requirements of RCW 39.04.280 to perform the water main relocation work; and

WHEREAS, the Fircrest City Council Rules of Procedures Rule 22F requires that affirmative vote of at least a majority of the whole Council plus one (5 Councilmembers) is required for the passage of public emergency ordinances (which take effect immediately); and

WHEREAS, an ordinance declaring an emergency for the Weathervane Waterline Replacement project should be approved in order to be in compliance with the aforementioned Rule 22F; and

WHEREAS, the Fircrest Department of Public Works Washington is adhering to State guidelines force account work, and is working with Pape & Sons Construction, Inc. to complete the Weathervane water repair and replacement. Now, Therefore,

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THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. By approval of this ordinance, Resolution No. 1500 is null and void.

Section 2. The recitals set forth above are incorporated herein by this reference.

Section 3. Pursuant to RCW 39.04.280(1) (e), an emergency is hereby declared for the above stated water main relocation.

Section 4. City staff are hereby authorized and directed to immediately undertake getting the water main relocation project completed.

Section 5. Effective Date: This ordinance shall become effective immediately, upon approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 28th day of November, 2017.

APPROVED:

Hunter T. George, Mayor

ATTEST:

Jessica Nappi, City Clerk

APPROVED AS TO FORM:

Michael B. Smith, City Attorney

**DATE OF PUBLICATION:
EFFECTIVE DATE:**

(1) Neutrality in voting is frowned upon except when a Councilmember has a direct or pecuniary interest that would result in a conflict of interest or when participation is prevented due to the Appearance of Fairness Doctrine. In that instance, the refusal to vote shall not be considered as an affirmative vote.

(2) In all other instances, except as hereinafter noted, the rule is that when a quorum is present, members present and not voting are deemed to have voted with the majority.

(3) If the vote is tied with a member abstaining, such member will be considered as voting in the affirmative so that the proposition being considered passes.

(4) However, when an affirmative vote of a majority is required by statute or ordinance, a failure to indicate a yea or nay vote will be considered as a negative indication, as abstention cannot be considered in fulfilling such affirmative vote requirement. Most matters before Council merely require a concurrence of a majority and this would be considered to be an exception to the general rule.

(5) When abstaining from voting, Councilmembers must explain the basis for their abstention. If the reason involves a legitimate rationale for not voting, the abstention will not be considered as a vote for the majority. If the rationale does not involve disqualifying circumstances, the abstention will be counted as a vote with those voting in the majority, unless the noted exception outlined previously applies.

E. The affirmative vote of at least a majority of the whole membership of the Council (4 Councilmembers) is required for the passage of:

- ordinances,
- grant or revocation of franchise or license,
- any resolution for the payment of money,
- any approval of warrants, and
- any resolution pertaining to personnel actions.

F. The affirmative vote of at least a majority of the whole Council plus one (5 Councilmembers) is required for the passage of:

- public emergency ordinances (which take effect immediately),
- expenditures for any calamity, violence of nature, riot, insurrection, or war,
- budget amendments.

G. The affirmative vote of at least a majority of the membership of Council who are present and eligible to vote is required for the passage of:

- motions or resolutions not subject to the provisions of RCW, FMC, or these rules as amended.