

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adopting Resolution No. 447: Repealing Resolution No. 182, Hearing Examiner Rules of Procedure

DEPARTMENT: City Attorney's Office

PRESENTED BY: Julie Ainsworth-Taylor, Assistant City Attorney

ACTION: ☐ Ordinance ☒ Resolution ☐ Motion
 ☐ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

Shortly after incorporation, with the adoption of Ordinance No. 38, the City Council established Chapter 2.15 of the Shoreline Municipal Code (SMC) creating the Office of the Hearing Examiner to conduct public hearings on certain matters. Although the Hearing Examiner system was established, the Planning Commission still held some public hearings, such as site-specific rezones, special use permits, and master development plans. Therefore, in 1996, the City Council adopted Resolution No. 88 establishing Rules of Procedures for Administrative Hearings applicable to both the Planning Commission and the Hearing Examiner. These Rules of Procedures were last amended by Resolution No. 182 in 2001. Resolution No. 182 and the accompanying Hearing Examiner Rules of Procedure can be found at the following link: <http://www.shorelinewa.gov/home/showdocument?id=8991>.

Starting in 2009, the City Council began transitioning public hearings from the Planning Commission to the Hearing Examiner and, with the adoption of Ordinance No. 621 in 2011, the Hearing Examiner was designated as the review authority for all quasi-judicial land use hearings. Despite this transition, the Hearing Examiner Rules of Procedures were never updated and still denote the Hearing Examiner-Planning Commission structure for such hearings.

Thus, the Rules of Procedure were not only long overdue for an update but needed to be amended to better address the practice and procedure under the Hearing Examiner system. In addition, the SMC has been amended to include special provisions related to certain types of actions (such as tax appeals and street vacations) that are not reflected in the current Rules of Procedure. As well, in 2018, the City retained a new Hearing Examiner which further expressed the need for an update of these Rules.

Section 2.15.070(H) SMC grants the Hearing Examiner authority to make rules for the conduct of hearings, notices, and other proceedings and procedures. Notwithstanding this authority, as noted above, the Rules of Procedures have always been adopted by City Council Resolution, possibly because they pertained to the Planning Commission as well.

Since the practices and procedures before the Hearing Examiner are best addressed by the Hearing Examiner, allowing the Hearing Examiner the ability to exercise the administrative authority for updating and amending the rules as provided in SMC 2.15.070(H) would facilitate up-to-date rules that reflect changes in the law and the SMC as well as the Hearing Examiner process. The City and the Hearing Examiner have already developed these updated rules which would become effect upon the repeal of Resolution No. 182, which is required for new rules to go into place. Proposed Resolution No. 447 (Attachment A) provides for this repeal.

RESOURCE/FINANCIAL IMPACT:

There is no impact from the repeal of Resolution No. 182.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 447 repealing Resolution No. 182, and thereby allowing the Hearing Examiner to make rules for the conduction of hearings as provided in SMC 2.15.070(H).

ATTACHMENTS:

Attachment A – Resolution No. 447

Approved By: City Manager **DT** City Attorney **JA-T**

RESOLUTION NO. 447

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, REPEALING RESOLUTION NO. 182.

WHEREAS, RCW 35.63.170 authorizes the City of Shoreline to establish a hearing examiner system for the purpose of hearing and deciding those issues the City Council believes should be reviewed and decided by a hearing examiner; and

WHEREAS, with the adoption of Shoreline Municipal Code (SMC) chapter 2.15 the City Council established such a system; and

WHEREAS, Resolution No. 88 established the first Rules of Procedures for Administrative Hearings before both the Hearing Examiner and the Planning Commission; these rules were last amended in 2001 by Resolution No. 182; and

WHEREAS, since the Rules of Procedures were last amended, the City Council designated the Hearing Examiner as the review authority for all quasi-judicial hearings and adopted amendments to the SMC broadening the Hearing Examiner's appellate authority for such things as tax appeals; and

WHEREAS, SMC 2.15.070(H) grants the Hearing Examiner authority to make rules for the conduct of hearings, notices, and other proceedings and procedures and, therefore adoption of the Rules of Procedure by Council Resolution is not necessary; and

WHEREAS, allowing the Hearing Examiner to exercise the administrative authority granted in SMC 2.15.070(H) will permit the Rules of Procedures to be efficiently amended to meet changing conditions in the law and processes; and

WHEREAS, the Shoreline City Council desires to repeal Resolution No. 182 and the Rules of Procedures adopted by that Resolution;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Repeal of Resolution No. 182. The City Council hereby repeals in its entirety, including attachments, Resolution No. 182 as adopted on December 10, 2001.

Section 2. Severability. If any one or more sections, subsections, or sentences of this Resolution are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

Section 3. Effective Date. This Resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED BY THE CITY COUNCIL ON OCTOBER 7, 2019

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk