

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Discussion of Ordinance No. 788 - Development Code Amendment to Expand Use of Civil Penalties and Other Fees Collected
DEPARTMENT: Planning & Community Development
PRESENTED BY: Paul Cohen, Planning Manager Kristi Anderson, Code Enforcement Officer
ACTION: <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Currently, Shoreline Municipal Code (Development Code) Section 20.30.775(A) states that civil penalties and abatement funds must be used for abatement of code violations. Staff recommends that the code be amended to expand potential uses of this fund to include other code enforcement activities in support of Shoreline’s code enforcement program. The City’s abatement fund contains more money than is required to address abatement needs annually and could be used in support of these other code enforcement activities.

Tonight, Council will discuss proposed Ordinance No. 788, which provides for this code amendment to SMC 20.30.775(A). The Planning Commission convened June 1, 2017 to study the proposed code amendment and held a public hearing on the amendment on July 6, 2017. The Commission recommended the proposed amendments for approval.

RESOURCE/FINANCIAL IMPACT:

No additional resource or financial expenses will be needed since the added proposed use of the abatement fund will be from the current abatement fund surplus.

RECOMMENDATION

No action is required at this meeting; this item is for discussion purposes only. Staff recommends that the City Council discuss the Planning Commission’s recommendations for the Development Code amendments in proposed Ordinance No. 788. Staff does recommend that Council approved proposed Ordinance No. 788 when it is scheduled to be brought back to Council for adoption on August 14.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

Currently, Shoreline Municipal Code (Development Code) Section 20.30.775(A) states that civil penalties and abatement funds must be used for abatement of code violations. Staff recommends that the code be amended to expand potential uses of this fund to include other code enforcement activities in support of Shoreline's code enforcement program. The City's abatement fund contains more money than is required to address abatement needs annually and could be used in support of these other code enforcement activities.

The code defines "Abate" as:

"To repair, replace, remove, destroy or otherwise remedy a condition which constitutes a Code Violation by such means, in such a manner, and to such an extent as the Director determines is necessary in the interest of the general health, safety and welfare of the community and the environment." (Ord. 406 § 1, 2006)

Tonight, Council will discuss proposed Ordinance No. 788 (Attachment A), which provides for this code amendment to SMC 20.30.775(A) (Exhibit A). The Planning Commission convened June 1, 2017 to study the proposed code amendment and held a public hearing on the amendment on July 6, 2017. The Commission recommended the proposed amendments for approval.

DISCUSSION

The City typically budgets \$100,000 a year for the abatement fund. The City may expend these funds to resolve public nuisances on private or public property. These funds expended by the City to address public nuisances on private property are billed to the property owner. Typical abatement projects include: boarding up vacant nuisance structures; removal of accumulated refuse in extreme cases; payment of relocation assistance funds to tenants displaced by code violations; and removal of junk vehicles from private property. In some cases, the property owner pays the abatement bill from the City upon receipt. If the property owner does not pay the bill for the abatement, the City instructs the County Assessor to recoup the abatement costs by an assessment against the real property to be collected as taxes by the King County Treasury. Eventually, the cost of abatement is repaid to the City and deposited back into the abatement fund. However, abatement is a continuous expense and whatever other related expenses such as expert investigations, staff training, and legal help, that the City cannot use from the abatement fund, is paid from the City's general fund.

In the past five years, the most the City has spent annually on abatement was \$27,246. Because each year the City passes the remaining fund into the next year, the annual fund has increased. At the end of 2016, the abatement fund contained \$167,938. Staff recommends broadening the use of the civil penalties collected and abatement funds to include other activities to support the code enforcement program. These activities could include education, additional inspection, hiring of specialized resources, such as a noise expert, training, such as how to use a sound level meter, and outside legal assistance.

Staff has also determined that the amendment is in accordance with the Comprehensive Plan; that it will not adversely affect the public health, safety, or general welfare; and that it is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

It should also be noted that civil penalties are separate from abatement costs, and the City collects civil penalties as described in [SMC 20.30.770](#). Civil penalties are a tool used by the City to provide incentive to property owners and other responsible parties (ex. tenants) to voluntarily correct code violations in a timely fashion. Civil penalties are also used to penalize certain actions that are particularly egregious such as illegal tree removal; damage to critical areas or critical area buffers; deliberate violations; and repeat violations.

RECOMMENDATION

No action is required at this meeting; this item is for discussion purposes only. Staff recommends that the City Council discuss the Planning Commission's recommendations for the Development Code amendments in proposed Ordinance No. 788. Staff does recommend that Council approved proposed Ordinance No. 788 when it is scheduled to be brought back to Council for adoption on August 14.

ATTACHMENTS

Attachment A - Proposed Ordinance No. 788
Attachment A, Exhibit A - Amendments to SMC Section 20.30.775

ORDINANCE NO. 788

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AMENDING SUBCHAPTER 9 CODE ENFORCEMENT OF SHORELINE
MUNICIPAL CODE CHAPTER 20.30**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, with Subchapter 9 of Shoreline Municipal Code (SMC) Chapter 20.30, the City has adopted regulations to address code violations and to collect penalties, abatement costs, and other expenses related to those violations ; and

WHEREAS, SMC 20.30.775(A) require that monies collected from the assessment of civil penalties and for abatement costs be placed in a code abatement fund; such a fund is established by SMC 3.35.180; and

WHEREAS, SMC 20.30.775(A) limits the expenditures of monies collected from the assessment of civil penalties and for abatement costs from this fund only to support expenditures for abatement; and

WHEREAS, broadening the types of expenditures that these monies can be utilized for a variety of types of code enforcement action expenses, including education and outreach, better serves the intent an purposes of the City's code enforcement efforts; and

WHEREAS, on June 1, 2017, the City of Shoreline Planning Commission reviewed the proposed Development Code amendments; and

WHEREAS, on July 6, 2017, the City of Shoreline Planning Commission held a public hearing on the proposed Development Code amendments so as to receive public testimony and, at the conclusion of public hearing, the Planning Commission, recommended approval of the proposed Development Code amendments to the City Council; and

WHEREAS, on July 31, 2017, the City Council held a study session on the proposed Development Code amendments; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, the City provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, amendments to SMC 20.30.775 in Exhibit A are procedural resulting in no substantive change respecting the use or modification of the environment, and are therefore exempt from review under the State Environmental Policy Act (SEPA) in accordance with WAC 197-11-800(19); and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, the City has provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the City Council has determined that the amendments are consistent with and implement the Shoreline Comprehensive Plan and serves the purpose of the Unified Development Code as set forth in SMC 20.10.020;

THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment to Subchapter 9 Code Enforcement of SMC Chapter 20.30. Section 20.30.775 of the Shoreline Municipal Code is amended as set forth in Exhibit A to this Ordinance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON AUGUST 14, 2017.

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: , 2017

Effective Date: , 2017

20.30.775 Collection of penalties and costs.

A. All monies collected from the assessment of civil penalties, costs, and for abatement reimbursements recovered from violators resulting from code enforcement actions and work shall be allocated to support expenditures for abatement, and shall be accounted for through either creation of a fund or other appropriate accounting mechanism in the Department issuing the notice and order under which the abatement occurred. shall be deposited in a code enforcement/abatement fund and utilized for future code enforcement action expenses. Eligible expenses shall include, but not be limited to, all costs for abatement whether or not the responsible party is identified, education and outreach, and one-time expenses associated with a specific case necessary for obtaining code compliance.

B. The amount of cost of repairs, alterations or improvements; or vacating and closing; or removal or demolition by the Director shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. For the purposes of this section, the cost of vacating and closing shall include (1) the amount of relocation assistance payments advanced to the tenants under RCW [59.18.085](#) that a property owner has not repaid to the City, and (2) all penalties and interest that accrue as a result of the failure of the property owner to timely repay the amount of these relocation assistance payments under RCW [59.18.085](#).

Upon certification by the City Finance Director of the assessment amount being due and owing, the County Treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW [84.56.020](#), as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the City.

If the dwelling, building, structure, or premises is removed or demolished by the Director, the Director shall, if possible, sell the materials from such dwelling, building, structure, or premises and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the Director, after deducting the costs incident thereto.

The assessment shall constitute a lien against the property, which shall be of equal rank with State, county and municipal taxes.

C. In addition to, or in lieu of, the provisions set forth in this subchapter, the City may commence a civil action in any court of competent jurisdiction to collect for any such charges incurred by the City to obtain compliance pursuant to this chapter and/or to collect any penalties that have been assessed. (Ord. 466§ 4, 2007; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(f), 2000).