

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Public Emergency Resolution No. 456 Authorizing the City Manager to Issue Temporary Emergency Waivers or Suspensions of Regulatory Obligations in the Shoreline Municipal Code Necessary to Preserve Life, Health, and Safety Related to COVID-19
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Margaret King, City Attorney
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The Shoreline Municipal Code (SMC) sets forth the "laws" of the City of Shoreline, which the City Council has adopted by ordinance since the City's incorporation in 1995. While the City Manager has certain duties and obligations during a State of Emergency, neither Washington State law or the SMC grants the City Manager express authority to waiver or suspend provisions of the SMC.

Given the COVID-19 public health emergency facing the nation, the State, and the City of Shoreline, in order to properly respond to the needs of the City of Shoreline and its residents in a timely manner, the City Manger's should have temporary, limited authority to waive or suspend SMC provisions so as to promptly respond to an emergent situation during the declared state of emergency if necessary to preserve and maintain public life, health, and safety. Proposed Public Emergency Resolution No. 456 (Attachment A) would provide for this temporary authority to the City Manager in response to COVID-19 during the term of the declared emergency.

As per Council Rules of Procedure, Section 6.1.B, that provide that during a Regular Meeting an Action Item that is before the City Council for the first time and is not part of the consent agenda, public comment for that item will follow the staff report but precede Council review. Council should allow for Public Comment following the staff report. The same rules for Public Comment provided as part of the Council's Regular Meeting Agenda apply.

RESOURCE/FINANCIAL IMPACT:

Staff does not anticipate any financial impacts arising from adoption of proposed Resolution No. 456. Waiving or suspending regulatory obligations will be limited and would mostly likely reduce impacts on staff resources and should not affect revenue.

RECOMMENDATION

Staff recommends that the City Council adopt Public Emergency Resolution No. 456 temporarily authorizing the City Manager to issue emergency orders waiving or suspending provisions of the Shoreline Municipal Code in response to COVID-19 until the end of the public emergency supporting the order.

Approved By: City Manager ***DT*** City Attorney ***J-AT***

BACKGROUND

COVID-19 is a respiratory disease that can result in serious illness or death caused by the SARS-CoV-2 virus, a new strain of coronavirus that had not been previously identified in humans, and can easily spread from person to person (“Community Spread”). Over the past few months, the nation has seen Community Spread of COVID-19 and public health officials from around the world encourage and advocate for proper hygiene, social distancing, and self-isolation.

On February 29, 2020, Washington State Governor Jay Inslee proclaimed a public health emergency for COVID-19 in Washington State. On March 13, 2020, President Trump proclaimed a nation-wide public health emergency. On March 16, 2020, Governor Inslee and Seattle-King County Public Health issued sweeping restrictions to control community-spread of COVID-19, including closing certain types of businesses and imposing stricter social distancing requirements. Also, on March 16, 2020, the City Council adopted Resolution No. 454 ratifying the City Manager’s March 4, 2020, Local Declaration of Public Health Emergency issued pursuant to SMC Chapter 2.60. The staff report for adoption of this Resolution can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport031620-7d.pdf>.

DISCUSSION

There are several items that have become evident that the City should address to help maintain public life, public health, or the public peace during the COVID-19 emergency. These are occurring at a rapid pace and in some cases necessitate actions based on other decisions. One example is the closure of the City’s Recreation Facilities, including soccer fields, in response to guidance provided by Public Health to limit large group gatherings, has resulted in a request to modify the City’s specified deadlines for various classes, programs and rentals as was adopted in City Council Resolution No. 451.

Other examples of decisions that have needed to be made in quick response to emerging issues that may include the waiver or suspension of provisions either in the SMC or other actions, such as resolutions, to be flexible and to respond to the emergency include allowing the County to move forward with setting-up the temporary medical facility on the City’s Soccer Field B, establishing leave and pay policy modifications for employees, modifying late fee charge requirements for business licenses and taxes and the timelines for submission of returns, or deciding not to accept cash payments for utility payments in person.

However, the City Manager is required, by RCW 35A.13.080, to see that all laws and ordinances are faithfully executed and has no independent, express authority to waive or suspend the SMC or other provisions that the City Council has enacted, even in a public health emergency.

In RCW 43.06.220, the Legislature gave such power to the Governor, subject to such conditions as conflict with federal law or constitutional rights, specifically:

RCW 43.06.220(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspensions of statutory obligations or limitations in the follow areas:

...

(g) Such other statutory or regulatory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with the provisions of any statute, order, rule, or regulation would in any ways prevent, hinder, or delay necessary action in coping with the emergency ...

Proposed Resolution No. 456 (Attachment A) is patterned after the authority granted to the Governor in RCW 43.06.220(2). The City Manager would have limited authority to temporarily waive or suspend when strict compliance would impede action to address the emergency. This proposed Resolution also permits City Council termination, recording keeping, and public posting.

As per Council Rules of Procedure, Section 6.1.B, that provide that during a Regular Meeting an Action Item that is before the City Council for the first time and is not part of the consent agenda, public comment for that item will follow the staff report but precede Council review. Council should allow for Public Comment following the staff report. The same rules for Public Comment provided as part of the Council's Regular Meeting Agenda apply.

RESOURCE/FINANCIAL IMPACT

Staff does not anticipate any financial impacts arising from adoption of proposed Resolution No. 456. Waiving or suspending regulatory obligations will be limited and would mostly likely reduce impacts on staff resources and should not affect revenue.

RECOMMENDATION

Staff recommends that the City Council adopt Public Emergency Resolution No. 456 temporarily authorizing the City Manager to issue emergency orders waiving or suspending provisions of the Shoreline Municipal Code in response to COVID-19 until the end of the public emergency supporting the order.

ATTACHMENTS

Attachment A – Resolution No. 456

RESOLUTION NO. 456

A PUBLIC EMERGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING THE CITY MANAGER TO ISSUE TEMPORARY EMERGENCY ORDERS FOR THE WAIVER OR SUSPENSION OF REGULATORY OBLIGATIONS RELATED TO THE RESPONSE TO THE COVID-19 VIRUS FOR PROTECTION OF PUBLIC HEALTH AND SAFETY; ESTABLISHING AN IMMEDIATE EFFECTIVE DATE AND A DURATION.

WHEREAS, in the exercise of authority granted to the City Manager pursuant to chapter 2.50 Emergency Management of the Shoreline Municipal Code (“SMC”), the City Manager did execute a Local Declaration of Public Health Emergency (“Declaration”) related to the COVID-19 virus, dated March 4, 2020, which the City Council ratified on March 16, 2020, by adoption of Resolution No. 454; and

WHEREAS, SMC 2.50.060 grants the City Manager the responsibility for the overall direction and control of emergency management activities in the City of Shoreline, including “to make rules and regulations to reasonably protect life during an emergency” and to “execute all of the special powers conferred by [chapter 2.50 SMC] or by resolution ... or any other lawful authority;” and

WHEREAS, RCW 35A.13.080 provides for the powers and duties of the City Manager which include “to see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency” and “to perform such other duties as the council may determine by ordinance or resolution;” and

WHEREAS, emergency management activities will likely necessitate the issuance of temporary emergency orders and the temporary waiver or suspension of certain regulatory provisions and administrative restrictions set forth in the Shoreline Municipal Code during the declared state of emergency in order to preserve and maintain public life, public health, or the public peace; and

WHEREAS, the City Council desires to allow the City Manager to immediately respond to such emergent situation during a proclaimed state of emergency by temporarily waiving or suspending regulatory obligations or administrative limitations if strict compliance would in any way prevent, hinder, or delay actions responding to the declared emergency;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES RESOLVE:

Section 1. City Manager Authority.

- A. In addition to those powers and duties granted to the City Manager in SMC 2.50.060, the City Manager may, prior to the termination of the declared public emergency, issue an order to temporarily waive or suspend regulatory obligations or limitations set forth in the Shoreline Municipal Code when strict compliance with such regulatory obligations or limitations is necessary to preserve and maintain public life, public health, public welfare, or the public

peace and, for which, compliance would in any way prevent, hinder, or delay actions responding to the declared public emergency.

- B. The City Manager’s order shall expressly denote the provision of the Shoreline Municipal Code that is being waived and the duration of the waiver or suspension.
- C. The City Council may terminate an order issued by the City Manager at any time if, in the Council’s sole discretion, the Council determines the order was not necessary to preserve and maintain the public life, health, welfare, or peace. The City Council shall take such action at its next regular or special meeting following notification of the City Manager’s waiver or suspension as provided in Section 3.

Section 2. Effective Duration. No order or orders concerning waiver or suspension of regulatory obligations or limitations under Section 1 shall be in effect for a period longer than the public emergency which supported the waiver or suspension, unless extended by the City Council.

Section 3. Record Management and Report to Council. A record of each order of regulatory waiver or suspension shall be made with the basis for making of the waiver or suspension clearly articulated and its need to address the City’s response to the emergency. This information shall be promptly provided to the City Council in the same manner that information is generally provided to the Council by the City Manager. The City Manager shall ensure that all orders shall be promptly posted on the City’s website for public review.

Section 4. Corrections by City Clerk. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Resolution, 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 5. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution 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 Resolution or its application to any person or situation.

PASSED BY THE CITY COUNCIL ON MARCH 23, 2020

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk