

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 893 – Interim Regulations to Allow for Additional Extensions of Application Deadlines Beyond Those Provided for in the Shoreline Municipal Code Due to COVID-19 Impacts
DEPARTMENT:	Planning and Community Development City Attorney’s Office
PRESENTED BY:	Rachael Markle, Director, Planning and Community Development; Julie Ainsworth-Taylor, Assistant City Attorney
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The COVID-19 pandemic has impacted the ability of permit customers and Planning and Community Development Department (PCD) staff to process permit applications, which in turn, has caused delays for the commencement of development activities. Recognizing the impacts this had on applicants, the City Manager enacted Temporary Emergency Order No. 6 on May 4, 2020, temporarily suspending application and permit deadlines related to development, effective for approved permits and applications in process as of March 4, 2020.

Proposed Ordinance No. 893 (Attachment A) would rescind/terminate this Temporary Emergency Order and replace it with interim regulations that provide relief for applicants by creating additional extensions of application and permit deadlines due to the economic and health impacts of COVID-19. Council discussed proposed Ordinance No. 893 on July 20, 2020 and directed staff to bring this proposed Ordinance for adoption tonight.

RESOURCE/FINANCIAL IMPACT:

Approval of proposed Ordinance No. 893 has the potential to protect the time and financial investment of applicants and permit holders. Supporting the viability of permit applications, approved ready to issue permits and issued permits supports the greater economy and community with little or no impact on the City’s resources.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 893 to allow for additional extensions of permit application deadlines beyond those provided in the Shoreline Municipal Code due to COVID-19 impacts.

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

BACKGROUND

The COVID-19 pandemic has impacted the ability of permit customers and Planning and Community Development Department (PCD) staff to process permit applications, which in turn, has caused delays for the commencement of development activities. Recognizing the impacts this had on applicants, the City Manager enacted Temporary Emergency Order No. 6 on May 4, 2020, temporarily suspending application and permit deadlines related to development, effective for approved permits and applications in process as of March 4, 2020.

Proposed Ordinance No. 893 (Attachment A) would rescind/terminate this Temporary Emergency Order and replace it with interim regulations that provide relief for applicants by creating additional extensions of application and permit deadlines due to the economic and health impacts of COVID-19. On July 20, 2020, the City Council discussed proposed Ordinance No. 893. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport072020-8b.pdf>.

DISCUSSION

Under the City Manager's Temporary Emergency Order No. 6, deadlines for action by an applicant or permittee were stayed and the number of days that remained in the deadline prior as of March 4 were "tolled." The intent was when Emergency Order No. 6 was terminated, that applicants and permittees would be in the same position they were on March 4 – they would have the same amount of days remaining. However, to provide greater certainty in deadlines, staff recommends no longer use a tolling period but, rather, to provide applicants with an additional extension beyond those extensions currently provided in the Shoreline Municipal Code (SMC). The intent of the proposed interim regulations is to provide an additional extension for applicants who may have already used their existing codified extension or who just need additional time to address the City's review comments. In addition, by adding an additional extension period, the City will be prepared for continued or increased COVID-19 impacts over the next several months.

Approval of proposed Ordinance No. 893 would adopt the interim regulations, which would be effective for six (6) months and proactively provide applicants with additional time to respond to the City's comments or requests for information and pick up approved permits that are ready to be issued.

Interim Regulation Code Sections

An applicant has two primary deadlines – a deadline for responding to comments or information requests by City staff and a deadline for picking up an approved application.

- SMC Section 20.30.100(D) sets a 180-day deadline for applicants to pick up permits that are ready to issue; and
- SMC Section 20.30.110(C) sets a 90-day deadline for the applicant to respond to requests for additional information and review comment letters.

Each of these Code sections provides for one extension of the permit application deadlines. Adoption of proposed Ordinance No. 893 would allow a second extension of these permit application deadlines.

SMC Section 12.15 - Use of the ROW - contains the regulatory language for ROW permits. However, this section does not contain provisions for extension of ROW permit applications. Therefore, proposed Ordinance No. 893 also provides for two extensions of ROW permit applications identical to the deadlines and number of extensions proposed for SMC 20.30.100(D) and 20.30.110(C).

Additionally, a plan to transition from tolling to the provision of an additional permit application extension is included in proposed Ordinance No. 893. The plan is to allow enough time between the end of tolling and the beginning of the interim regulations to determine the applicant's new deadline post tolling. Then the applicant will be informed of their new deadline and ability to obtain applicable extensions moving forward.

Interim Regulations Authority and Process

The City Council has statutory authority to adopt interim regulations pursuant to RCW 35A.63.220 and under the Growth Management Act (GMA) at RCW 36.70A.390. Under these statutory provisions, the City may adopt an ordinance without a public hearing and without review and recommendation by the Planning Commission. As required by State law, a public hearing for proposed Ordinance No. 893 is scheduled on August 10, 2020.

July 20th Council Discussion

During the July 20, 2020 Council discussion of proposed Ordinance No. 893, Council asked a few clarifying questions about permit application extensions. This discussion concluded with Council instructing staff to bring back proposed Ordinance No. 893 without changes for adoption as part of tonight's consent calendar.

RESOURCE/FINANCIAL IMPACT

Approval of proposed Ordinance No. 893 has the potential to protect the time and financial investment of applicants and permit holders. Supporting the viability of permit applications, approved ready to issue permits and issued permits supports the greater economy and community with little or no impact on the City's resources.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 893 to allow for additional extensions of permit application deadlines beyond those provided in the Shoreline Municipal Code due to COVID-19 impacts.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 893

ORDINANCE NO. 893

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
ADOPTING INTERIM REGULATIONS FOR THE EXTENSIONS OF
APPLICATION DEADLINE PERIODS IN RESPONSE TO THE COVID-19
PANDEMIC; PROVIDING FOR A DURATION OF SIX MONTHS; AND
SETTING A PUBLIC HEARING.**

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, chapter 36.70A RCW; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City of Shoreline to adopt interim regulations with a duration of no more than six (6) months without review and recommendation by the Shoreline Planning Commission and without holding a public hearing; and

WHEREAS, on February 29, 2020, the Washington State Governor declared a State of Emergency in all counties. On March 4, 2020, the City Manager issued a Declaration of Local Public Health Emergency (“Declaration”). This Declaration was ratified by the City Council on March 16, 2020 by the passage of Resolution No. 454. During the first few weeks of March, Public Health – King County/Seattle and the Governor issued directions to close certain types of businesses, engage in social distancing protocols, and limit the size of gatherings to reduce the spread of COVID-19; and

WHEREAS, on March 23, 2020, the Washington State Governor issued the “Stay Home Stay Healthy” Proclamation 20-25, effectively closing all but those businesses deemed to be essential until at least April 6, 2020. On March 25, 2020, the Governor issued a memorandum providing guidance on construction, stating that “[I]n general, commercial and residential construction is not ... an essential activity” with three (3) exceptions – construction related to an essential facility; construction to further a public purpose of a public entity, including publicly-funded low-income housing; and repair construction to prevent spoliation or avoid damage at both non-essential businesses and residential structures; and

WHEREAS, the Washington State Governor has subsequently issued Proclamations and industry-specific guidance allowing most construction activities to occur subject to a COVID-19 exposure control, mitigation, and recovery plan; and

WHEREAS, these restrictions on most construction activities and non-essential businesses that support the industry, such as consultants and material suppliers, may have resulted in an inability for an applicant to timely respond to the City’s comment review letter or to pick up an approved application; and

WHEREAS, the establishment of interim regulations of six months in duration will provide applicants with additional time to act upon applications currently under review and/or approved applications awaiting issuance so as to prevent expiration of those applications during this time of economic downturn; and

WHEREAS, the expiration of applications can have significant financial impacts on the applicant as well as financial institutions or investors that have provided financing for a project and the City's tax revenue from the increase in property values; and

WHEREAS, interim regulations are exempt from SEPA review per WAC 197-11-800(19) Procedural Actions. If the City elects to replace these interim regulations with permanent regulations, SEPA review will be conducted at that time; and

WHEREAS, the City Council considered the interim regulations at its properly noticed July 20, 2020 regular meeting held virtually via Zoom and has determined that the use of the interim regulations is appropriate and necessary; and

WHEREAS, due to the current economic conditions resulting for COVID-19, it is in the best interests of the citizens of the City of Shoreline and its local economy to authorize the Director of Planning and Community Development and the Director of Public Works to temporarily grant extensions of the application deadlines to preclude expiration;

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

Section 1. Adoption of Findings of Fact. The City Council hereby adopts the above Recitals as findings of fact to support the adoption of this Ordinance.

Section 2. Interim Regulations. These interim regulations relate to Type A, Type B, and Type C applications administered through Title 20 SMC and chapter 12.15 SMC that were valid on March 4, 2020:

- A. SMC 20.30.100(D) In addition to the one extension authorized by this provision, the Director of Planning and Community Development, or designee, is authorized to grant one additional extension of no more than 180 days, for a total possible extension period of 360 calendar days.
- B. SMC 20.30.110(C) In addition to the one extension authorized by this provision, the Director of Planning and Community Development, or designee, is authorized to grant one additional extension of no more than 90 days, for a total possible extension period of 180 calendar days.
- C. SMC 12.15.040(C) The Director of Public Works or designee is authorized to grant an applicant a right-of-way permit extension, in the same number and duration as provided for in Section 1(A) and Section 1(B) of this Ordinance.
- D. An applicant must submit a written request for extension providing justification related to the COVID-19 pandemic, Washington State Governor's Proclamation 20-25, as clarified or amended, or other related federal, state, or local governmental action. The request must be submitted to the City before the expiration of the application for which the extension is being sought.

- E. The applicable Director shall have the authority to grant an extension as provided in this Section for a period of time no more than that provided for in the applicable SMC provision. A Director may grant an extension for less time, may deny an extension in its entirety, or may shorten or revoke a temporary extension for good cause. The decision to approve, deny, shorten, or revoke an extension is a discretionary act and a final decision of the City subject to appeal under chapter 36.70C RCW Land Use Petition Act.
- F. Any temporary extension shall be calculated from the initial expiration date of the application. If a development has multiple applications with differing expiration dates, the later expiration date shall be used for the purpose of calculating these extension provisions.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at 7:00 pm, or soon thereafter, on August 10, 2020, to take public testimony concerning the interim regulations. Pursuant to the Washington State Governor's Proclamation 20-28, as amended, and City Council Resolution No. 459, the public hearing will take place online using the Zoom Webinar platform.

Section 4. Directions to the City Clerk.

- A. **Public Hearing.** The City Clerk is hereby directed to establish a Zoom Webinar on August 10, 2020, and to post information on the City's website informing the public how to attend and/or participate in the public hearing.
- B. **Transmittal to the Department of Commerce.** The City Clerk is hereby directed to cause a certified copy of this Ordinance to be transmitted to the Washington State Department of Commerce as provided in RCW 36.70A.106.
- C. **Corrections by the City Clerk.** Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this Ordinance, including the correction 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.
- D. **Ordinance not to be Codified.** Because this Ordinance adopts interim regulations, the City Clerk shall not codify this Ordinance.

Section 5. Termination of Temporary Emergency Order No. 6. The City Council hereby terminates the City Manager's Temporary Emergency Order No. 6 as of 11:59 pm September 1, 2020.

Section 6. 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 7. Publication, Effective Date, and Expiration. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect

five (5) days after its publication and shall be in effect for a period of six (6) months from its effective date. After which, these interim regulations shall automatically expire unless extended as provided by statute or otherwise superseded by action of the City Council, whichever occurs first.

PASSED BY THE CITY COUNCIL ON JULY 27, 2020

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2020
Effective Date: _____, 2020