

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 935 - Extension of Interim Regulations to Allow for Additional Extensions of Application and Permit Deadlines Beyond Those Provided for in the Shoreline Municipal Code Due to COVID-19 Impacts
DEPARTMENT:	Planning and Community Development
PRESENTED BY:	Rachael Markle, Director, Planning and Community Development
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:

On January 11, 2021, the City Council adopted Ordinance No. 916 to continue the interim regulations to extend development permit and application deadlines. The interim regulations will expire on July 19, 2021 if not extended again. The COVID-19 pandemic continues to impact permit customers in a variety of direct and indirect ways. These impacts may cause delays for the commencement of development activities. Approval of Ordinance No. 935 (Attachment A) would provide additional time for permit customers to safely begin construction when financing, labor and materials have been secured.

The City Council held the required public hearing and discussed proposed Ordinance No. 935 at their June 7, 2021, Council meeting. Council directed staff to prepare Ordinance No. 935 for potential adoption on tonight. If approved, this Ordinance will extend these interim regulations for another six months.

RESOURCE/FINANCIAL IMPACT:

Extension of these interim regulations through Proposed Ordinance No. 935 has the potential to protect the time and financial investment of applicants and permit holders. Supporting the viability of permit applications that are approved and ready to issue supports the greater economy and community with little or no impact on the City's resources.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 935.

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 in some cases resulting in delays for the commencement of development activities. Recognizing the impacts this has had on applicants, the City Manager enacted Temporary Emergency Order No. 6 on May 4, 2020, which suspended application and permit deadlines related to development, effective for approved permits and applications in process as of March 4, 2020.

On July 27, 2020, the City Council adopted Ordinance No. 893, which rescinded the Temporary Emergency Order and replaced it with six-month 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 January 11, 2021, the Council adopted Ordinance No. 916, which extended Ordinance No. 893 for an additional six months. Ordinance No. 916 is set to expire on July 19, 2021 unless it is extended by the Council.

On June 7, 2021, the City Council held a public hearing and had discussion about extending the interim regulations through proposed Ordinance No. 935 (Attachment A) to continue to allow for an additional 180-day extension for applicants to pick up permits that re ready to issue. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/Agendas/Agendas2021/060721.htm>.

DISCUSSION

As is noted above, Ordinance No. 916 will expire on July 19, 2021 unless extended by Council. Proposed Ordinance No. 935 would allow for a continuation of a second extension for permit deadlines. Since COVID-19 is still a threat to our local health and economy, applicants may still benefit from having an additional opportunity to extend permits that are ready to issue. The availability of the vaccines for COVID-19 for most adults and children over the age of 12 may make this the final time Council needs to extend this Ordinance.

Interim Regulation Code Sections

Shoreline Municipal Coded (SMC) Section 20.30.100(D) sets a 180-day deadline for applicants to pick up permits that are ready to issue and one extension to pick up the permit. Proposed Ordinance No. 935 provides for a second extension of the deadline to pick up the permit. Additionally, while SMC Section 12.15 - Use of the ROW - contains the regulatory language for ROW permits, this section does not contain provisions for extension of ROW permit applications. The additional extension to pick up a permit that is ready to issue also applies to ROW permits identical to the deadlines and number of extensions proposed for SMC 20.30.100(D) as proposed in Ordinance No. 935.

Interim Regulations Authority and Process

The City Council adopted interim regulations to allow for additional extensions of permit application deadlines, pursuant to RCW 35A.63.220 and under the Growth Management Act (GMA) at RCW 36.70A.390. Interim regulations adopted under this section may be effective for not longer than six months but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. Interim regulations may be renewed for one or more six-month periods if a subsequent public hearing is held, and findings of fact are made prior to each renewal.

Findings of Fact

Findings of Fact supporting the continued need for these interim regulations are as follows:

1. The COVID-19 pandemic continues to pose a threat to public health and the welfare of people living and working in Washington.
2. On February 29, 2020, Governor Inslee signed Proclamation 20-05 declaring a State of Emergency in all counties of the State of Washington.
3. On March 23, 2020, Governor Inslee issued Proclamation 20—25 “Stay Home – Stay Healthy,” that prohibited all people in Washington State from leaving their homes or participating in social, spiritual, and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses in Washington State from conducting business, within limitations.
4. On June 1, 2020, Proclamation 20-25 was amended for the 4th time to transition from the “Stay Home – Stay Healthy” restrictions to the “Safe Start-Stay Healthy” county by county Phased Reopening plan.
5. On November 15, 2020, Governor Inslee amended Proclamations 20-05 and 20-25 with version 20-25.8 which rolled back the county-by-county phased reopening in response to a COVID-19 outbreak surge. The restrictions effective at that time once again placed limits on social gatherings, closed indoor operations in restaurants, bars, entertainment venues, and fitness centers, and restricted occupancy in retail, grocery, professional services, and other facilities.
6. On January 5, 2021, the Governor announced the Healthy Washington – Roadmap to Recovery plan.
7. On January 11, 2021, Council adopted Ordinance No. 917 which renewed the interim regulations for outdoor seating for another six months.
8. On January 18, 2021, the Governor announced a widespread vaccination plan.
9. On March 31, 2021, all adults became eligible to receive a COVID-19 vaccine. Children 12 and older were approved for the vaccine on May 12, 2021.
10. On May 13, 2021, the Governor announced all Counties will move to Phase 3 of the Healthy Washington – Roadmap to Recovery reopening plan effective May 18 to June 30, and that statewide reopening would occur by June 30, 2021.
11. City Hall is currently still closed to public and permitting services have been limited to on-line, phone, mail in and drop off services. Inspection services are limited and restricted in some cases to ensure safe social distancing. Additionally, nearly all permit review staff are working remotely. This has created delays in processing and approving applications.
12. Although, the statewide reopening is underway, continued flexibility to allow for an additional extension of permit applications that are ready to issue may provide relief to permit applicants that have be impacted directly or indirectly by COVID.

Currently, there are also issues related to availability and high cost of construction related supplies, equipment, and appliances.

RESOURCE/FINANCIAL IMPACT

Extension of these interim regulations through Proposed Ordinance No. 935 has the potential to protect the time and financial investment of applicants and permit holders. Supporting the viability of permit applications that are approved and ready to issue supports the greater economy and community with little or no impact on the City's resources.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 935.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 935

ORDINANCE NO. 935

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
EXTENDING THE INTERIM REGULATIONS FOR THE EXTENSIONS
OF APPLICATION DEADLINE PERIODS IN RESPONSE TO THE
COVID-19 PANDEMIC ADOPTED BY ORDINANCE NO. 893 AND
EXTENDED BY ORDINANCE NO. 916; PROVIDING FOR A DURATION
OF SIX MONTHS.**

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 July 27, 2020, in response to the COVID-19 pandemic restrictions imposed by governmental authorities, the City Council adopted Ordinance No. 893, establishing interim regulations authorizing the extension of application deadline periods set forth in the Shoreline Municipal Code (SMC); and

WHEREAS, on January 11, 2021, the interim regulations were extended by Ordinance No. 916 and will expire on July 19, 2021 unless extended by the City Council; and

WHEREAS, despite public and private efforts to address the COVID-19 pandemic, including the availability of vaccines, COVID-19 continues to pose a threat to public health and limits the ability of both City Staff and the development community to effectively conduct business; and

WHEREAS, this results in a direct impact to the construction industry, including supporting consultants, by creating an inability for an applicant to timely respond to the City's comment review letter or to pick up an approved application; and

WHEREAS, while progress has been made in addressing COVID-19, City Hall is closed to the public, and permitting services which have been limited to on-line, phone, mail in and drop off services. Inspection services are limited and restricted in some cases to ensure safe social distancing. Additionally, all permit review staff are working remotely. This has created delays in processing and approving applications; and

WHEREAS, the extension of the previously enacted interim regulations for an additional six month period 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 unprecedented time in the City's history; 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, if applicable, SEPA review will be conducted at that time; and

WHEREAS, the City Council considered the interim regulations at its properly noticed June 7, 2021 regular meeting, at which it held the statutorily required public hearing, held virtually via Zoom, and determined that the extension of the interim regulations is appropriate and necessary; and

WHEREAS, due to the current economic conditions resulting from 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;

NOW 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 and incorporates by reference the Recitals set forth in Ordinance No. 893 and Ordinance No. 916.

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 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 this Section.
- C. 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.
- D. 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.

- E. 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 held a public hearing on the extension of the interim regulations on June 7, 2021. Pursuant to the Washington State Governor’s Proclamation 20-28, as amended, and the City Council Resolution No. 459, the public hearing was held online using the Zoom Webinar platform.

Section 4. Directions to the City Clerk.

- A. **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.
- B. **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.
- C. **Ordinance not to be Codified.** Because this Ordinance adopts interim regulations, the City Clerk shall not codify this Ordinance.

Section 5. 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 6. 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 JUNE 21, 2021.

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Julie Ainsworth-Taylor, Assistant City Attorney
On behalf of Margaret King, City Attorney

Date of Publication: _____, 2021
Effective Date: _____, 2021

Date of Transmittal to Commerce: _____, 2021