

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing and Discussion on Ordinance No. 951 - 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 type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

On July 27, 2020, the City Council adopted Ordinance No. 893, enacting 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, Council adopted Ordinance No. 916 and on June 21, 2021, Council adopted Ordinance No. 935 to continue the interim regulations to extend development permit and application deadlines. The interim regulations will expire on December 29, 2021 if not extended again. The COVID-19 pandemic may continue to impact the ability of permit customers, which in turn, may cause delays for the commencement of development activities.

Tonight, Council will hold a public hearing on and discuss proposed Ordinance No. 951. This Ordinance would extend these interim regulations for another six months. Proposed Ordinance No. 951 is currently scheduled to be brought back to Council for potential action on December 13, 2021.

RESOURCE/FINANCIAL IMPACT:

Extension of the interim regulations adopted by Ordinance No. 935 has the potential to protect the time and financial investment of applicants. 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

Based on the Findings of Fact regarding the continued health and economic impacts of COVID-19 in King County, staff recommends that Council conduct the required public hearing on proposed Ordinance No. 951. No further action is required tonight as this is a Council discussion on the proposed Ordinance. Proposed Ordinance No. 951 is currently scheduled for potential Council action on December 13, 2021.

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 a variety of ways, which in turn, has caused delays for the commencement of development activities. Recognizing the impacts the pandemic 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. The staff report for this Council action can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport072720-7d.pdf>.

On January 11, 2021, the City Council adopted Ordinance No. 916, which extended Ordinance No. 893 for an additional six months. The staff report for this Council action can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2021/staffreport011121-7d.pdf>.

On June 21, 2021, the City Council adopted Ordinance No. 935, which extended Ordinance No. 916 for an additional six months. The staff report for this Council action can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2021/staffreport062121-7b.pdf>.

Ordinance No. 916 is set to expire on December 29, 2021 unless it is extended by Council.

Interim Regulation Code Sections

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. 951.

DISCUSSION

As is noted above, Ordinance No. 935 will expire on December 29, 2021 unless extended by Council. Proposed Ordinance No. 951 would allow for a continuation of a second extension for permit issuance deadlines. Two permit applicants requested and received the additional permit application extension allowed under 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. Under these statutory provisions, the City adopted Ordinance No. 893 without a public hearing and without review and recommendation by the Planning Commission prior to adoption of this Ordinance. As required by State law, a public hearing for Ordinance No. 893 was subsequently held on August 10, 2020.

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. Based on the limitations of length of time an interim ordinance can be in place, the Council is being asked if there are sufficient findings of fact to approve a six (6) month extension of Ordinance No. 915. Proposed Ordinance No. 935 would be the third extension of these interim regulations. Conversely, should Ordinance No. 915 expire because the emergent issues related to COVID-19 that necessitated the adoption of Ordinance No. 893 are no longer applicable.

Supporting Information

As of the writing of this staff report, there were 168,735 confirmed cases of COVID-19 in King County. Data from the [Washington State COVID-19 Data Dashboard](#) indicate that the transmission of COVID-19 cases, COVID-19 related hospitalizations and COVID-19 related deaths in King County are greater now than when Interim Ordinance No. 893 was enacted in July 2020 and renewed by Ordinance No. 935 in June 2021. COVID-19 cases, hospitalizations and deaths spiked over the 2020-2021 winter months when Ordinance No. 916 was approved. It is not known if the upcoming colder temperatures will result in another winter spike in COVID-19 cases, hospitalizations, and deaths. The availability COVID-19 vaccines for most adults and children over the age of 5 may be effective in preventing another winter spike.

Anecdotally, applicants have informed staff of the following COVID-19 related impacts that continue to cause delay and increased costs and uncertainties for local development projects:

Shortages of a wide variety of building materials and construction equipment

This local claim was further substantiated by the National Association of Builders in the November 10, 2021 online article entitled “Materials Prices Post Record Year- To-Date Increase”. Materials used for residential construction (excluding energy) increased 12.2% year to date compared to 4.5% over the same period last year. An August 30, 2021 article in the New York Times, titled “*The World is Still Short of Everything Get Use to It*”, stated that:

Factories around the world are limiting operations – despite powerful demand for their wares-because they cannot buy metal, parts, plastics, and raw materials. Construction companies are paying more for paint, lumber, and hardware, while waiting weeks and sometimes months to receive what they need.

We need to look no further than the Port of Seattle to see how both the availability of goods and materials and labor shortages are working together to compound impacts to many businesses and industries including construction. Jeff Cox, the Finance Editor for CNBC.com reported at the end of October that shipping issues which lead to impacts on supply and cost will continue into 2022.

Reduced labor supply in all stages of development including permitting

COVID-19 has caused direct and indirect temporary and longer-term reductions in experienced labor forces. Staffing for all sectors have been impacted by staff absences to recovery from COVID-19, to care for a family member with COVID-19, to quarantine based on exposure to COVID-19 or to provide childcare while daycares or schools are experiencing COVID-related closures. Longer term impacts are being felt by “The Great Resignation”, a phrase attributed to Anthony Klotz, an organizational psychologist at Texas A & M University. The City’s permitting division was met with seven such resignations in 2021 which in turn created delays for processing permit applications resulting in potential economic impacts to applicants.

Increased holding costs due to increased timelines to complete construction

Many projects require loans to cover construction costs or payments to property owners for the option to buy properties. The longer such projects are delayed, the more it costs the developer in interest and payments. This can also be true of holding the cost for materials ordered that are awaiting labor for installation.

Proclamation 20-09.2 Tenancy Preservation – [A Bridge to E2SSB 5150](#) (preceded by the Statewide Eviction Moratorium)

One of the permit applicants that has utilized the additional permit application extension provided via Ordinance No. 915 stated the reason they were requesting the permit extension was related to the Statewide Eviction Moratorium. This project is for five townhomes in the 185th Street Station Area. The existing single-family home is occupied by people renting from the previous owner. The home cannot be demolished until the rental issues are resolved. Therefore, construction has unexpectedly been delayed as an indirect impact from COVID-19.

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.

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 and this Proclamation is still in effect.
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 18, 2021, the Governor announced a widespread vaccination plan.
 8. 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.
 9. 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.
 10. Shoreline City Hall is currently open to the public under the City’s ‘Phase 1’ reopening plan. Permitting service is also available through online, phone, mail in and drop off methods. Inspection services have resumed with COVID-19 safety precautions such as use of PPE, frequent hand washing, and social distancing.
 11. On October 4, 2021, the City Council adopted Resolution No. 483 which requires that all City of Shoreline employees be fully vaccinated for COVID-19 or receive approval for a religious or medical accommodation by December 1, 2021, as a qualification for employment.
 12. On November 2, 2021, the Center of Disease Control recommended children ages 5 to 15 receive the Pfizer-BioNTech COVID-19 vaccination.
 13. As of November 11, 2021, King County to date has had 168,735 confirmed cases of COVID-19, 8,621 COVID-19 related hospitalizations, and 2,030 COVID-19 related deaths.
 14. Staffing for permit intake, review, issuance, and inspections services continues to be impacted by COVID-19 resulting in longer permit turnaround times.
 15. Professional services and labor required for development are also experiencing direct and indirect COVID 19 impacts such as staffing and construction material supply issues.

Tonight, Council will hold the required public hearing on and discuss proposed Ordinance No. 951 (Attachment A). The Council is asked to consider if the Interim regulations are still needed to respond to the emergency based on the Findings of Fact and therefore meeting the intent of RCW 35A.63.220. If the Council concludes that the Findings of Fact do not support a six (6) month extension, then Ordinance No. 935 will expire. Proposed Ordinance No. 951 would extend the interim regulations for another six months to allow an additional extension of permit applications that are ready to be issued. Proposed Ordinance No. 951 is currently scheduled to be brought back to Council for potential action on December 13, 2021.

RESOURCE/FINANCIAL IMPACT

Extension of the interim regulations adopted by 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

Based on the Findings of Fact presented in the staff report regarding the continued health and economic impacts of COVID-19 in King County, staff recommends that Council conduct the required public hearing on proposed Ordinance No. 951. No further action is required tonight as this is a Council discussion on the proposed Ordinance. Proposed Ordinance No. 951 is currently scheduled for potential Council action on December 13, 2021.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 951 - Extension of Interim Regulations to Extend Permit Deadlines

ORDINANCE NO. 951

**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 NOS. 916 AND 935; 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, with the adoption of Ordinance No. 916, and on June 20, 2021, with the adoption of Ordinance No. 935, the interim regulations were extended by and will expire on December 29, 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 awaiting issuance; and

WHEREAS, while progress has been made in addressing COVID-19, impacts are still occurring, including impacts on City permit and inspection staffing, increased holding costs for developers, and delays due to eviction moratorium; 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 November 29, 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, Ordinance No. 916, and Ordinance No. 935.

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 DECEMBER 13, 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