

Prepared by: Clerk/Attorney  
Requested by: Council  
Introduced: June 24, 2002  
Public Hearing: July 22, 2002  
Postponed on July 22 to August 12, 2002  
Postponed on August 12 to August 26, 2002  
Substituted: August 26, 2002  
Amended: August 26, 2002  
Adopted: August 26, 2002  
Vote: Unanimous

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 02-46(SUB)(AM)**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL ENACTING WMC 16.08.36, APPEALS, AMENDING WMC 16.08.010.C, STAYS PENDING APPEAL, AMENDING WMC 16.08.070 THROUGH 16.08.090, COMPLIANCE, ENFORCEMENT ORDERS AND PENALTIES, ENACTING WMC 16.08.095, INTERPRETATIONS, AMENDING 16.08.110.F APPEALS TO THE COMMISSION, REPEALING WMC 16.08.110, APPEALS TO THE COUNCIL, AND REPEALING WMC 16.08.120, HEARING OFFICER.**

**BE IT ENACTED:**

\* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

\* **Section 2. Amendment of subsection.** WMC 16.08.010.C, Permits required, is amended to read as follows:

**A.** The developer of a use shall apply for and obtain the appropriate approval prior to the establishment of a use or any site work except surveying.

**1[A].** Duration. Permit approvals are valid only during developer's compliance with this title and the terms and conditions of approval. However, approvals and permits expire automatically twelve (12) months after issuance if no significant construction, activity or occupancy has commenced.

**2[B].** Extensions. Requests for extensions of an approval period or after a twelve month period are a new application and subject to the appropriate approval

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process. The planner or commission may place limits on the duration of an approval or establish a longer duration.

[C. APPROVED USES. APPROVED USES UNLESS ORDERED TO CEASE BY THE PLANNER SHALL BE ALLOWED TO CONTINUE DURING THE APPEAL OF THE ISSUANCE OF AN APPROVAL.]

**3[D].** Conditions. The council, commission or planner may place conditions upon issuance of any approval which are necessary or desirable to ensure that a rule, policy, standard or intent will be implemented in a manner consistent with this title, the comprehensive plan and any rule, policy or standard implementing them.

**4[E].** Compliance. Any permit or approval issued under this title shall require compliance with the state fire code and any other federal, state or local regulations which are applicable to the activity.

**5[F].** Liability. The issuance of a permit or approval under this Title or enforcement or lack of enforcement of any such permit or approval shall not be deemed grounds for city liability arising out of the errors or omissions of the permittee or the person who received the approval.

\* **Section 3. Amendment of section.** WMC 16.08.070, Compliance, is amended to read as follows:

**16.08.70 Compliance.**

A. No person may erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any structure, or use of land or a structure, or cause or permit the same to be done in violation of this title. [ANY USE MAY BE ORDERED TO CEASE BY THE PLANNER IF IN CONFLICT

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

WITH THE PROVISIONS OF THIS TITLE, OR IF] the terms and conditions of any rezoning, [OR] commission approval, or administrative approval [ARE VIOLATED. THE COMMISSION MAY ESTABLISH BY RESOLUTION AN ENFORCEMENT PRIORITY FOR VIOLATIONS OF THIS TITLE.

B. VIOLATION COMPLAINT.] Any person may bring to the attention of the planner suspected violations described in subsection A of this section [OF THIS TITLE]. The complaint may be by phone or in writing but must include the full name of the person making the complaint.

C. The commission may establish by resolution an enforcement priority for violations described in subsection A of this section. [VIOLATION NOTICE. AFTER A VIOLATION HAS BEEN DISCOVERED, INVESTIGATED AND VERIFIED, THE PLANNER WILL NOTIFY BY WRITTEN FINDING THE PERSON RESPONSIBLE FOR VIOLATION AND THE PROPERTY OWNER BY PERSONAL NOTICE, CERTIFIED MAIL OR NOTICE POSTED ON THE SITE OF THE VIOLATION. THE FINDING WILL SPECIFY THE VIOLATIONS (S) AND ORDER ABATEMENT AND MAY ALSO (BUT IS NOT REQUIRED TO) SPECIFY THE RANGE OF FINES OR PENALTIES TO BE IMPOSED. THE FINDING SHALL DIRECT THE PERSON TO CEASE THE VIOLATION, OR APPEAL THE FINDING WITHING TWO DAYS AFTER RECEIPT OR POSTING OF THE NOTICE, AS THE CASE MAY BE. ALL VIOLATION NOTICES WILL BE REPORTED TO THE COMMISSION AT ITS NEXT MEETING.]

\* **Section 4. Amendment of section.** WMC 16.08.080, Enforcement orders, is amended to read as follows:

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

**16.08.80 Enforcement orders.**

[UPON SUBSTANTIATION OF A VIOLATION, THE PLANNER MAY ORDER:]

**A. After a violation described in section 16.08.070.A has been discovered, investigated and verified, the planner may issue a written finding of violation and enforcement order in accordance with this section.**

**B. A finding of violation shall state the facts constituting the violation and the provision of this title, or of a rezoning, commission approval or administrative approval, that has been violated.**

**C. An enforcement order may require**

**1.** The discontinuance **or removal of any structure, or use of land or a structure;** [OF ACTIVITY FOR ANY USE WHICH DOES NOT COMPLY WITH THE TERMS OF THIS TITLE;

**B. THE REMOVAL OR ABATEMENT OF BUILDINGS;]**

**2.** Submittal of a plan **to abate the violation** [FOR COMPLIANCE WITH THE TERMS OF THIS TITLE]. The plan shall include a schedule for completion and procedures to accomplish compliance. The planner will review and approve, condition or deny the plan under the administrative approval process;

**3.** [D.] Any other action necessary to ensure **abatement of the violation,** [COMPLIANCE WITH ALL PROVISIONS OF THIS TITLE], including **without limitation** revocation or suspension of approvals and filing of a notice of action against property.

**D. The planner will give notice of a finding of violation and an enforcement order in writing to the person responsible for the violation and the property owner by personal service, certified mail, or posting on the site of the**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

violation. The notice shall include a description of the appeal procedure in section 16.08.100.

E. All notices served under this section shall be reported to the commission at its next meeting.

\* **Section 5. Amendment of section.** WMC 16.08.090, Violations, remedies and penalties, is amended to read as follows:

**16.08.90 Violations, remedies and penalties.**

A. [NO PERSON MAY ERECT, CONSTRUCT, ENLARGE, ALTER, REPAIR MOVE, IMPROVE, REMOVE CONVERT, DEMOLISH, EQUIP, USE, OCCUPY, OR MAINTAIN ANY STRUCTURE, OR USE OF LAND OR A STRUCTURE, OR CAUSE OR PERMIT THE SAME TO BE DONE IN VIOLATION OF THIS TITLE. THE CITY PLANNER MAY ORDER THE DISCONTINUANCE OR REMOVAL OF ANY STRUCTURE, OR USE OF LAND OR A STRUCTURE THAT VIOLATES THIS TITLE BY ORDER SERVED UPON ANY PERSON WHO OWNS, CONTROLS OR OCCUPIES THE LAND OR STRUCTURE.] A person who is served with [SUCH] an enforcement order under section 16.08.080 shall cause the structure, or use of land or a structure, that is the subject of [TO] the order to be discontinued or removed within the time prescribed by the order.

B. In addition to the other remedies provided in this section, violations of this chapter are subject to the remedies and penalties provided in Chapter 1.20.

\* **Section 6. Enactment of section.** WMC 16.08.095, Interpretations, is enacted to read as follows:

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

16.08.095 Interpretations.

A. A person may apply to the commission for an interpretation of this title as it applies to particular persons or property. In response to such an application, the commission shall adopt an interpretation that carries out the purposes of this title.

B. The planner may determine whether a particular structure, or use of land or a structure, that is not listed as a permitted use in a zoning district, is permitted in that zoning district, under the following standards. If a structure, or use of land or a structure, is listed as permitted in another zoning district, it is not permitted except in the zoning district or districts for which it is listed as permitted. Subject to the preceding sentence, a structure, or use of land or a structure, that is not listed as permitted in a zoning district may be permitted if the planner determines that it is similar in character and effect on nearby properties, public facilities and the comprehensive plan as structures, or uses of land or structures, that are expressly permitted in the zoning district.

\* **Section 7. Amendment of subsection.** WMC 16.08.100.F, Appeals to the commission, is amended to read as follows:

F. The commission may affirm or reverse the planner's [PLANNERS'] decision, return the matter to the planner for further evidence and action, or change the conditions attached to any approval issued by the planner. The planning clerk shall, by certified mail, serve a copy of the commission's [COMMISSIONS'] decision [AND APPEAL RECORD] on each person who participated in the appeal and the owner of each property that is the subject of the planner's decision [THE APPLICANT].

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

The notice shall state that an interested person may appeal the decision within the time allowed by section 16.36.040. A copy of the appeal record shall be available for inspection at the planner's [PLANNERS'] office.

\* **Section 8. Enactment of chapter.** WMC 16.36, Appeals, is enacted to read as follows:

**APPEALS 16.36**

**16.36.010 Definitions.**

In this chapter, unless the context otherwise requires:

“Appellant” means the party who files a notice of appeal pursuant to WMC 16.36.040.

“Hearing officer” means the hearing officer appointed under WMC 16.36.020.

“Interested person” means, with respect to a decision of the planning commission, the applicant, any person adversely affected by the decision who appeared before the planning commission and made an oral or written presentation, and any governmental agency.

**16.36.020 Hearing Officer.**

A. Appeals filed under this chapter shall be heard by a hearing officer. The hearing officer shall hear and decide appeals from decisions of the planning commission on conditional uses, variances, and other quasi-judicial zoning and land use determinations pursuant to Title 16 of this code. To be appointed as a hearing officer, a person must have knowledge of, or an ability to comprehend, for the purposes of the proposed hearing, this chapter and general land use

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regulation, principles of due process, and some familiarity with the development of the city. A person may not act as hearing officer in any case in which the person has any direct or indirect financial interest, and must so certify to the absence of any such interest before appointment on a form provided by the city clerk. A hearing officer may not be a current city employee or a current member of the council or commission.

B. The mayor or city clerk shall solicit persons who are willing to serve as hearing officers, and shall maintain a list of interested persons determined to be qualified.

C. Upon an appeal being filed, the mayor shall recommend to the council for approval, the appointment of the hearing officer to the case.

D. Compensation of the hearing officer shall be determined by council resolution prior to the hearing.

16.68.030 Staff.

The city clerk and city clerk's staff shall assist the hearing officer. The city clerk shall keep minutes of the hearing and conduct all correspondence, including the notification of decisions of the hearing officer.

16.68.040 Ex parte contact.

A hearing officer shall be impartial in all decisions, both in fact and in appearance. No hearing officer may engage in ex parte contact with any person interested in an appeal concerning the appeal either before or after the appeal hearing.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]



**16.36.050 Stay.**

**An appeal stays the effectiveness of the decision or order appealed from until the hearing officer finally decides the appeal; provided that the hearing officer may vacate the stay if doing so is necessary to avoid immediate danger to public health and safety.**

**16.36.060 Appeal from planning commission.**

**Any interested person may appeal a decision or order of the commission to the hearing officer by filing a written notice of appeal with the clerk on a form provided by the clerk within five business days after date of the decision or order. The notice of appeal shall state with specificity the grounds for the appeal, include the appellant's mailing address or that of the appellant's attorney, and be accompanied by a filing fee of \$500.**

**16.36.070 Preparation of record; Notice of hearing date.**

**A. Upon the timely filing of an appeal, the clerk shall mail or personally serve notice of the appeal within three (3) business days to the city planner, the appellant and the owner of each property that is the subject of the decision or order appealed from. The notice shall include:**

- 1. A brief description of the decision or order appealed from; and**
- 2. The appellant's notice of appeal.**

**B. The clerk shall submit the items stated in section 16.36.070.A to the council at the next regular council meeting occurring at least ten (10) business days after the filing of an appeal. The submission also shall include the mayor's recommendation of the hearing officer to be appointed for the appeal.**

**Bold and underline added. [CAPS AND BRACKETS, DELETED.]**

C. The clerk shall request a record of the appeal to be filed in the clerk's office within twenty (20) business days of the filing of the appeal. The appeal record shall consist of a tape recording of the proceedings before the planning commission, copies of all documentary evidence, memoranda and exhibits, correspondence and other written material submitted to the planning commission, a copy of the written decision of the planning commission, and mailing labels for each interested party and each property owner that must be notified of the appeal as stated in 16.36.070.E. The city planner shall assemble the items that are required to be in the appeal record. An interested party may cause a verbatim transcript of the proceedings before the planning commission be included in the appeal record by arranging for a court reporter to prepare the transcript and filing the transcript with the clerk within twenty (20) business days of the service of the notice of appeal. The city shall pay the cost of preparing the verbatim transcript.

D. Within ten business days after receiving the entire appeal record, the clerk shall mail or personally serve the record on the hearing officer, the appellant, any interested party who has requested a copy of the appeal record in writing, and the city planner. The clerk shall accompany the record with a notice stating the date on which written arguments must be filed, and the date of the appeal hearing.

E. The clerk shall publish at least twice the time and place of the hearing in a newspaper of general circulation within the city at least ten (10) calendar days prior to the hearing. Such notice shall state the nature of the

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appeal, the location of the property that is the subject of the appeal, and the time and place of hearing. Notice by regular mail of the time and place of hearing shall be given to each interested party and to each owner, as listed on the Matanuska-Susitna Borough property tax rolls, of property located within 1200 feet of the boundary of the property that is the subject of the appeal. A notice of hearing shall be posted in a conspicuous manner on the property that is the subject of the appeal.

16.36.080 Hearing.

A. Only persons who have submitted written arguments to the hearing officer prior to the due date may present oral arguments at the hearing. A written argument must include the name, physical and mailing addresses of the person submitting the argument.

B. The hearing officer shall hold a hearing on the appeal within 10 business days after written arguments are due.

C. At the hearing, oral argument shall be subject to the following order and time limitations, unless the hearing officer, for good cause shown, permits a change in the order or an extension of time:

1. City planner or representative, 10 minutes to present the city position and to set forth the evidence and reasons relied upon for the decision.

2. Appellant or representative, 10 minutes.

3. Each interested person supporting or opposing the appeal, five minutes.

4. Appellant, for rebuttal, 10 minutes.

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**16.36.090 Decision.**

**A. The hearing officer shall base the decision upon the record and argument presented at the hearing. The hearing officer may affirm, reverse, or modify the decision or order of the commission in whole or in part.**

**B. The hearing officer's decision shall be in writing and shall state that it is a final decision, include the hearing officer's findings of fact and conclusions of law, and notify the parties of their right to appeal under section 16.36.100.**

**C. The hearing officer's decision shall be mailed or personally delivered by the clerk within 10 business days after the hearing officer's decision was final to the appellant and each interested person.**

**D. Each appeal record shall be kept in accordance with state regulations and shall be open to the public. Documents or other information considered by the hearing officer which were not part of the appeal record shall become a part of the record before the hearing officer.**

**16.36.100 Judicial review.**

**An interested person may appeal a decision of the hearing officer, or a case denied by the council, to the superior court within the time prescribed in the Alaska Rules of Appellate Procedure.**

\* **Section 9. Repeal of section.** WMC 16.08.110, Appeals to the council, is hereby repealed in its entirety:

[16.08.110 APPEALS TO THE COUNCIL.

A. AN APPEAL TO THE COUNCIL OF A COMMISSION DECISION SHALL BE BY SERVING WRITTEN NOTICE OF APPEAL ON THE CITY CLERK WITHIN

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

FIVE DAYS OF THE DECISION. NOTICE OF AN APPEAL IS CONSIDERED SERVED WHEN ACTUALLY RECEIVED OR WHEN PROPERLY MAILED. APPROVED USES MAY PROCEED DURING THE APPEAL PROCESS UNLESS SPECIFICALLY ORDERED BY THE PLANNER TO CEASE.

B. THE APPEAL MUST CONTAIN A CLEAR DESCRIPTION OF THE DECISION OR DECISIONS BEING APPEALED, THE DATE OF THE DECISION, THE ERROR CLAIMED AND AN EXPLANATION OF THE ERROR. UPON RECEIPT OF A TIMELY FILED APPEAL AND THE REQUIRED FEE, THE CITY CLERK SHALL CALENDAR THE APPEAL FOR THE NEXT COUNCIL MEETING FOR WHICH THE AGENDA HAS NOT CLOSED. THE PLANNER SHALL FORWARD TO THE CITY CLERK AND COUNCIL A COPY OF ANY PERMIT APPLICATION, THE PLANNERS' ANALYSIS AND DECISION, THE COMMISSION'S DECISION AND FINDINGS AND ANY OTHER RELEVANT MATERIAL.

C. AT THE MEETING AT WHICH THE COUNCIL RECEIVES THE APPEAL, IT SHALL DETERMINE WHETHER TO ACCEPT THE APPEAL. THE FAILURE OF THE COUNCIL TO ACCEPT THE APPEAL CONSTITUTES A REFUSAL BY THE CITY TO HEAR THE APPEAL. IF THE COUNCIL DETERMINES TO HEAR THE APPEAL, IT SHALL REFER THE APPEAL TO A HEARING OFFICER FOR HEARING AND DECISION. THE CITY CLERK SHALL REFER THE HEARING TO THE FIRST HEARING OFFICER WHO CAN HEAR THE APPEAL EXPEDITIOUSLY.

D. PUBLIC NOTICE, COMMENT PERIOD AND THE HEARING FORMAT OF THE APPEAL SHALL BE CONDUCTED IN FRONT OF THE HEARING OFFICER

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

FOLLOWING THE PROCEDURES FOR A CONDITIONAL USE IN SECTION 16.16.040.

E. THE BURDEN OF PROOF IS ON THE PARTY CHALLENGING THE COMMISSION DECISION. THE HEARING OFFICER MAY HEAR AND DECIDE AN APPEAL BASED SOLELY ON THE RECORD OR MAY OPEN THE RECORD. ONLY PERSONS WHO HAVE SUBMITTED WRITTEN ARGUMENT ON APPEAL OR TESTIFIED BEFORE THE COMMISSION, OR SUBMITTED WRITTEN COMMENTS TO THE COMMISSION MAY PRESENT ORAL ARGUMENT. ANY PARTY TO AN APPEAL FROM A COMMISSION DECISION MAY CAUSE THE APPEAL RECORD TO INCLUDE A VERBATIM TRANSCRIPT OF THE PROCEEDINGS BEFORE THE COMMISSION BY FILING A REQUEST THEREFOR, ACCOMPANIED BY A CASH DEPOSIT IN THE AMOUNT OF THE ESTIMATED COST OF PREPARING THE TRANSCRIPT. WITHIN FIVE DAYS OF NOTICE OF COMPLETION OF THE TRANSCRIPT THE PERSON REQUESTING IT SHALL PAY THE ACTUAL COST THEREOF, OR THE DEPOSIT SHALL BE FORFEITED TO THE CITY. A REQUEST BY THE CITY FOR A TRANSCRIPT IS NOT SUBJECT TO THE DEPOSIT OR REFUND PROVISIONS OF THIS SUBSECTION.

F. AFTER HEARING THE APPEAL, THE HEARING OFFICER MAY CONFIRM THE DECISION, REVERSE THE DECISION AND MAY ADD CONDITIONS OR MAY CHANGE CONDITIONS PLACED ON THE APPROVAL. THE HEARING OFFICER'S DECISION MUST SET FORTH THE FACT FOUND AND THE REASONS FOR THE DECISION. THE DATE OF THE DECISION IS THE DATE THE FINDINGS AND THE REASONS ARE SET OUT IN WRITING AND SIGNED BY THE HEARING

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

OFFICER. THE CITY CLERK SHALL, BY CERTIFIED MAIL, SERVE A COPY OF THE HEARING OFFICERS DECISION AND APPEAL RECORD ON THE APPLICANT. A COPY OF THE APPEAL RECORD SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT THE CITY CLERK'S OFFICE.

G. THE DECISION OF THE HEARING OFFICER IS THE DECISION OF THE COUNCIL AND IS FINAL FOR THE CITY. THE DECISION OF THE HEARING OFFICER AND THE REFUSAL OF THE COUNCIL TO HEAR AN APPEAL MAY BE APPEALED TO THE SUPERIOR COURT AS PROVIDED UNDER THE APPLICABLE RULES OF COURT.

H. AN AGGRIEVED PARTY MAY SEEK AN APPEAL BEFORE THE APPROPRIATE STATE OF ALASKA COURT ONLY AFTER FINAL EXHAUSTION OF ALL ADMINISTRATIVE REMEDIES AND APPEALS. ALL SUCH JUDICIAL APPEALS ARE APPEALS ON THE RECORD. BOTH PARTIES ARE LIMITED TO THE RECORD ON APPEAL, EXCEPT TO THE EXTENT THAT THE ALASKA RULES OF CIVIL PROCEDURE REQUIRE OTHERWISE.]

\* **Section 10. Repeal of section.** WMC 16.08.120, Hearing officer, is hereby repealed in its entirety:

[16.08.120 HEARING OFFICER.

A. ALL APPEALS UNDER THIS CHAPTER TO THE COUNCIL ARE HEARD BY A CITY-APPOINTED HEARING OFFICER. A ROSTER OF QUALIFIED INDIVIDUALS SHALL BE MAINTAINED BY THE CITY CLERK. QUALIFICATIONS FOR PLACEMENT ON THE ROSTER INCLUDE A KNOWLEDGE OF (OR AN ABILITY TO COMPREHEND, FOR THE PURPOSES OF THE PROPOSED HEARING) THIS

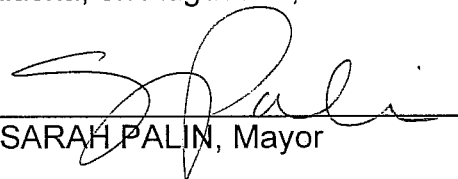
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CHAPTER AND GENERAL LAND USE REGULATION, PRINCIPLES OF DUE PROCESS, AND SOME FAMILIARITY WITH THE DEVELOPMENT OF THE CITY. HEARING OFFICERS MAY NOT HAVE ANY DIRECT OR INDIRECT FINANCIAL INTEREST IN ANY CASE, TO WHICH THEY ARE APPOINTED AND MUST SO CERTIFY ON A FORM PROVIDED BY THE CITY CLERK. HEARING OFFICERS MAY NOT BE A CURRENT CITY EMPLOYEE OR A CURRENT MEMBER OF THE COUNCIL OR COMMISSION.

B. THE CITY CLERK SHALL SOLICIT PERSONS WHO ARE WILLING TO SERVE AS HEARING OFFICERS. THE CITY CLERK SHALL MAINTAIN A LIST OF THOSE INTERESTED PERSONS DETERMINED TO BE QUALIFIED AND SHALL SUBMIT THE LIST AND PROPOSED ADDITIONS TO THE COUNCIL FROM TIME TO TIME. THE COUNCIL MAY ORDER A NAME PROPOSED OR ON THE LIST REMOVED. HEARING OFFICERS WILL BE COMPENSATED FOR THEIR SERVICES BY THE CITY AT THE RATE FIXED BY THE COUNCIL BY RESOLUTION OR BY DIRECTION OF THE MAYOR IN ABSENCE OF THE COUNCIL RESOLUTION.]

\* **Section 11. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council, and shall apply to all appeals from the planing commission that commence after its effective date.

ADOPTED by the Wasilla City Council, Alaska, on August 26, 2002.

  
SARAH PALIN, Mayor

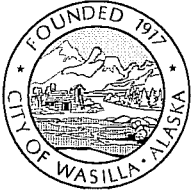
ATTEST:

  
\_\_\_\_\_  
KRISTIE L. SMITHERS, CMC  
City Clerk

[SEAL]

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**CITY OF WASILLA**  
290 E. HERNING AVE.  
WASILLA, AK 99654-7091  
PHONE: (907) 373-9090  
FAX: (907) 373-9092

TO: Wasilla City Council  
THRU: Mayor Sarah Palin *sl*  
FROM: Kristie Smithers, City Clerk *KS*  
DATE: June 19, 2002  
**SUBJECT: Ordinance Serial No. 02-46**

**SUMMARY:**

Attached is a proposed ordinance amending the appeals procedure. This ordinance will simplify the process for appeals for staff and corrects problems with redundancy. The attorney has also added compliance and enforcement provisions to correct violations.

This ordinance also repeals the hearing officer format, which has been used in the past and allows for a three member Board of Adjustment and Appeals to hear appeals. Each board member would be paid \$250 for each case for a total of \$750 per appeal case. In the past, the hearing office has been paid \$90 per hour. The past appeal case cost a total of \$2,430. This ordinance will save money and make the process of hearing an appeal more equitable with more persons hearing the case.

**FISCAL IMPACT:** If yes, amount requested: -0-  
Account No.:

**CLERK'S RECOMMENDED ACTION:** Introduce and set for public hearing.

**ATTACHMENTS:** None

Mayor's REC: Please consider pros + cons of  
this commission -vs- hearing officer proposal.  
My goal is to support a process that is as  
"less bureaucratic" as possible... and least  
expensive. *sl*



**OFFICE OF THE CITY CLERK**

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**CITY OF WASILLA**  
290 E. HERNING AVE.  
WASILLA, AK 99654-7091  
PHONE: (907) 373-9090  
FAX: (907) 373-9092

TO: Members of the Wasilla City Council

FROM: City Clerk

DATE: August 7, 2002

**SUBJECT: Ordinance Serial No. 02-46:** Enacting WMC 2.68, Board Of Adjustment And Appeals, Enacting WMC 16.36, Board Of Adjustment And Appeals, Repealing WMC 16.08.010.C, Stays Pending Appeal, Amending WMC 16.08.070 Through 16.08.090, Compliance, Enforcement Orders And Penalties, Enacting WMC 16.08.095, Interpretations, Repealing WMC 16.08.110, Appeals To The Council, And Repealing WMC 16.08.120, Hearing Officer.

Appeal Officer Dave Chappel and I are currently working with the city attorney on amendments to Ordinance Serial No. 02-46, which were requested by the city council at the July 22 city council meeting. The city attorney is currently out of town therefore the amended version of Ordinance Serial No. 02-46 will be not available until your August 26 city council meeting.

Please make the following motion this evening when considering Ordinance Serial No. 02-46, item A, under Unfinished Business:

***MOTION:***

***To postpone Ordinance Serial No. 02-46 until the August 26, 2002 Regular City Council Meeting.***

Thank-you for your assistance.

Pc: Mayor Palin  
Tim Krug, City Planner