

Vote: Cox, Ewing, Holler, Koskela, Menard, and Metiva in favor

**CITY OF WASILLA
ORDINANCE SERIAL NO. 07-21**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 16.36.060 CONCERNING THE FEE AND DEPOSIT, AND 16.36.070 CONCERNING NOTICES AND RECORD PREPARATION, IN AN APPEAL FROM A DECISION OF THE PLANNING COMMISSION; AND ENACTING WMC 16.36.075, APPEAL PROCEDURE—AUTHORITY OF HEARING OFFICER, CONCERNING THE HEARING OFFICER’S AUTHORITY TO DETERMINE MATTERS OF PROCEDURE IN AN APPEAL FROM A DECISION OF THE PLANNING COMMISSION.

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

* **Section 2. Amendment of section.** WMC 16.36.060.B, Appeal From Planning Commission, is amended to read as follows:

B. Except as provided in subsection C of this section,

1. An appeal application shall include a nonrefundable filing fee of five hundred dollars (\$500.00), and a deposit of five hundred dollars (\$500.00) **for the costs the appellant is required to pay under paragraph 2 of this subsection**[FOR THE PREPARATION OF A TRANSCRIPT OF THE PROCEEDINGS BEFORE THE PLANNING COMMISSION, AND ADVERTISING AND MAILING COSTS].

2. The appellant shall pay the cost of preparing the transcript **of the proceedings before the planning commission**, and advertising and mailing **the notices required in 16.36.070. If such costs exceed [, IN EXCESS OF]** the amount of the deposit **paid by the appellant under paragraph 1 of this subsection, the appellant shall pay the excess to the city** no later than the date written arguments

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are due, or the appeal will be dismissed; provided that the clerk may waive payment of an excess amount that is less than \$25. The city shall return any unexpended part of the deposit to the appellant within 30 business days after issuance of the hearing officer's decision.

* **Section 3. Amendment of section.** WMC 16.36.070, Preparation of Record; Notice of Hearing Date, is amended to read as follows:

A. Upon the timely filing of an appeal, and any determination required under 16.36.060.C, the clerk shall mail [OR PERSONALLY SERVE] notice of the appeal within five business days to [THE CITY PLANNER AND] each interested person. The notice shall include:

1. A brief description of the decision or order appealed from;
2. A copy of the appellant's appeal application; and
3. A statement that an interested person may request a copy of the appeal record by submitting to the clerk a written request that includes the name, physical and mailing addresses of the person submitting the request, and a statement of the per page charge for a copy of the appeal record.

B. The clerk shall submit the items stated in subsections (A)(1) and (A)(2) of this section 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.

C. The clerk shall notify the city planner upon receipt of a timely appeal application, and [REQUEST FROM] the city planner shall provide the clerk with the mailing labels for each interested person in time to meet the notice requirement

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in 16.36.070.A, and a record of the appeal [TO BE FILED IN THE CLERK'S OFFICE] within twenty (20) business days **after** [OF] the filing of the appeal. The appeal record shall consist of a transcript 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, **and** a copy of the written decision of the planning commission[, AND MAILING LABELS FOR EACH INTERESTED PERSON].

D. Within ten (10) business days after receiving the entire appeal record from the city planner or after approval of the **hearing** [APPEAL] officer by the council, whichever is later, the clerk shall assemble the record and mail or personally serve the record on the hearing officer, the appellant, the applicant, if not the appellant, each other interested person who has submitted a written request for a copy of the appeal record, and the city planner. The clerk shall accompany the record with **the notice required in 16.36.070.F**[A NOTICE STATING THE DATE ON WHICH WRITTEN ARGUMENTS MUST BE FILED, AND THE DATE OF THE APPEAL HEARING]. Interested persons requesting a copy of the record shall be charged on a per page basis.

E. The clerk shall publish notice [OF] **stating the nature of the appeal, the location of the property that is the subject of the appeal, and** the time and place of the hearing at least twice in a newspaper of general circulation within the city. The first notice shall be published at least ten (10) calendar days prior to the date written arguments are due. [SUCH NOTICE SHALL STATE THE NATURE OF THE APPEAL,

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THE LOCATION OF THE PROPERTY THAT IS THE SUBJECT OF THE APPEAL, AND THE TIME AND PLACE OF HEARING.]

F. At least ten (10) business days before written arguments are due, the clerk shall give n[N]otice by regular mail [OF THE TIME AND PLACE OF HEARING SHALL BE GIVEN] to each interested person stating the nature of the appeal, the location of the property that is the subject of the appeal, the time and place of the hearing, and the date written arguments are due.

G[F]. An interested person must file any written argument with the city clerk on or before the due date for filing written argument. Within three business days after the date written arguments are due, the clerk shall provide a copy of the written arguments to the hearing officer, the appellant, the applicant, if not the appellant, each other interested person who requests a copy of the written arguments, and the city planner. Interested persons requesting a copy of the written arguments shall be charged on a per page basis.

* **Section 4. Adoption of section.** WMC 16.36.075, Appeal procedure— Authority of hearing officer, is adopted as follows:

16.36.075 Appeal procedure—Authority of hearing officer.

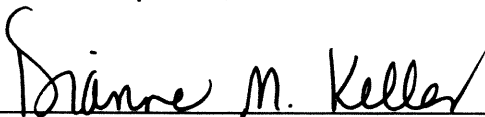
The hearing officer may change the prehearing schedule, the date of the hearing, or the procedure at the hearing, notwithstanding any other provision of this chapter, in response to a written request to the clerk from the appellant or an interested party, for good cause shown; provided that the appellant and all interested parties shall receive written notice of the hearing officer's action at least five days before the change becomes effective. The hearing officer may

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determine all other matters of procedure in the appeal that are not prescribed in this chapter.

* **Section 5. Effective date.** This ordinance shall take effect upon adoption of the Wasilla City Council.

ADOPTED by the Wasilla City Council on April 23, 2007.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]

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**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: Ordinance Serial No. 07-21 Amending Title 16.36 In Regard To Appeals To A Hearing Officer.

Agenda of: April 9, 2007
Originator: Kristie Smithers, City Clerk

Date: March 22, 2007

Route to:	Department	Signature/Date
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>[Signature]</i> 3/24/07
X	City Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *Dianne M. Keller* 3/30/07

FISCAL IMPACT: yes\$ or no Funds Available yes no

Account name/number:

Attachments: Proposed Ordinance

SUMMARY STATEMENT:

The proposed ordinance amends Chapter 16.36 of the Wasilla Municipal Code in regard to Appeals to a Hearing Officer. During the last appeal case, we discovered a few inconsistencies in our process. This ordinance corrects these minor problems and adopts a new code section allowing the hearing officer discretion and authority over matters such as rescheduling of a hearing date, or other matters which may arise during the process.

A sectional analysis of the ordinance follows:

Section 2. Clarifies the process in regard to the fee and deposit of the appeal.

Section 3. Clarifies the process in which the City Clerk obtains information from the city planner in regard to the notice to property owners. It also clarifies what information is required in the appeal notice.

Section 4. This new section is proposed to be adopted to clarify the authority of the hearing officer in regard to procedure of an appeal or changing the hearing schedule, date or the procedure of the hearing.

