

Vote: Holler, Larson, Massie, Menard, Metiva and Woodruff in favor

**CITY OF WASILLA
ORDINANCE SERIAL NO. 07-58(AM)**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 16.16.040, PROCEDURE FOR COMMISSION APPROVALS, TO REQUIRE THE APPLICANT TO POST NOTICE OF THE COMMISSION HEARING, AND TO REDUCE THE TIME FOR ORAL ARGUMENT BEFORE THE COMMISSION; AND AMENDING WMC 16.34.060, APPEALS TO THE PLANNING COMMISSION, TO REDUCE THE TIME FOR ORAL ARGUMENT BEFORE THE 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 subsection.** WMC 16.16.040, Procedure for commission approvals—Public notice, is amended to read as follows:

2. Public Notice. If the application is accepted the planner shall:

a. Place the application on the agenda of the next available meeting of the commission;

b. Publish the agenda item in a newspaper of general circulation or place a public service announcement on radio or television. The published notice must set out the time, date and place of the hearing, the name of the applicant, the address or general location of the property and subject or nature of the action;

c. Within five days of acceptance, issue a public hearing notice;

d. Mail or electronically transfer a copy of the public hearing notice to the applicant, the commission members, the neighborhood association if the neighborhood has an approved neighborhood plan and to appropriate reviewing parties;

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

e. The public hearing notice shall be sent to the owners of property, as listed on the Matanuska-Susitna Borough property tax rolls, located within a minimum of one thousand two hundred (1,200) feet of the lot lines of the development. The public notice shall be posted in City Hall and on the site. Staff will allow a minimum of ten (10) days (fourteen (14) calendar days) from the date of public notice mailing before scheduling a public hearing on the request before the planning commission;

f. The **applicant** [PLANNER] will post the notice on the site at least ten (10) days prior to the hearing. The notice shall be posted so that it may be easily seen from the public right-of-way. The applicant is responsible for maintaining the notice.

* **Section 3. Amendment of subsection.** WMC 16.16.040.A.5, Procedure for commission approvals—Hearing format, is amended to read as follows:

5. Hearing Format. At the hearing before the commission, any interested person may present oral argument. Failure to observe the procedures in a hearing shall not affect the validity of the decision so long as the appellant has had a reasonable opportunity to be heard. Oral argument shall be subject to the following order and time limitations, unless the commission, for good cause shown, permits a change in the order or an enlargement of time:

a. City staff, **five (5)** [TEN (10)] minutes each to present the city position and to set forth the evidence and reasons relied upon for the decision;

b. Applicant or representative, **five (5)** [TEN (10)] minutes;

c. Private person supporting **or opposing** the proposal, five minutes each;

d. [PRIVATE PERSON OPPOSING THE PROPOSAL, FIVE MINUTES EACH;

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

E.]Applicant, for rebuttal, **five (5)** [TEN (10)] minutes.

* **Section 4. Amendment of subsection.** WMC 16.34.060.B, Hearing, is amended to read as follows:

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

1. City planner or representative, **five (5)** [TEN (10)] minutes to present the city position and to set forth the evidence and reasons relied upon for the decision.
2. Appellant or representative, **five (5)** [TEN (10)] minutes.
3. Each interested person supporting or opposing the appeal, five minutes.
4. Appellant, for rebuttal, **five (5)** [TEN (10)] minutes.

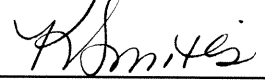
* **Section 5. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on December 10, 2007.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]

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



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: 07-58 REQUEST FOR CITY COUNCIL TO AMEND WMC 16.16.040, PROCEDURE FOR COMMISSION APPROVALS, SECTION A.2., PUBLIC NOTICE, SUBPARAGRAPH (f) POSTING OF NOTICE AND SECTION A.5., HEARING FORMAT, SUBPARAGRAPHS (a-e) AND WMC 16.34.060, APPEALS TO THE PLANNING COMMISSION, SECTION B., HEARING, PARAGRAPHS (1-4) TO AMEND THE LENGTH OF THE TIME ALLOTTED FOR ORAL ARGUMENTS AT APPEAL HEARINGS BEFORE THE PLANNING COMMISSION.

Agenda of: November 26, 2007

Date: November 15, 2007

Originator: Community and Economic Development

Route to:	Department	Signature/Date
X	Police Dispatch, Code Compliance & Youth Court	
X	Culture and Recreational Services Library, Museum, Sports Complex	
X	Public Works & Recreation Facility Maintenance	
X	Finance, Risk Management & Purchasing	<i>Susan E. Colligan 11-15-07</i>
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>S. Hailey 11-15-07</i>
X	City Clerk	

REVIEWED BY MAYOR DIANNE M. KELLER:

S. Hailey for the Mayor

FISCAL IMPACT: yes or no

Funds Available yes no

Account name/number:

Attachments: Proposed Ordinance Serial Number 07-58;
WPC Resolution No. 07-14;
WPCM 06-07

SUMMARY STATEMENT:

The current *Land Development Code*, Title 16, requires the planner to post a notice on the site of a proposed use at least 10 days prior to the hearing. For several years, the actual practice has been to have the applicant post the notice on the site. A member of the planning staff documents the posting of the notice by driving to the site and photographing the posted notice. The proposed amendment to WMC 16.16.040(A)(2)(f) will codify the process.

WMC 16.16.040(A)(5) and 16.34.060(B), (1-4) currently allow ten minutes to the planner and ten minutes for the applicant to give an overview of the requested planning action and five minutes each for members of the public to present oral testimony either in favor or in opposition to the proposed action followed by a 10 minute rebuttal by the applicant.

The City Council and other city boards and commissions limit each person's public testimony to three minutes in the interest of providing everyone a judicious opportunity to speak on an issue without waiting through a prolonged period of testimony for the commission to begin debate and to reach a decision. Public testimony may always be extended allowing longer periods of time when warranted, at the discretion of the Chairman.

In order to promote consistency, and in the interest of time constraints, the Planning Commission and Staff would like to follow the format used by other boards and commissions of the city by limiting public input to three minutes.

The Matanuska-Susitna Borough Assembly Rules of Policy and Procedures currently limits public testimony to three minutes per Resolution Serial No. 04-043(AM), V(A)3 and Resolution Serial No. 05-058(SUB)(AM); the Matanuska-Susitna Borough Planning Commission Public Hearing Procedures, #6 limits testimony to three minutes; the City of Palmer Planning Commission currently limits public testimony to three minutes per Palmer Municipal Code 2.20.060(A); and the Wasilla City Council currently limits public testimony to three minutes per WMC 2.04.110(C).

On September 12, 2006, the Wasilla City Planning Commission conducted a public hearing on the request and approved PCM No.06-07 recommending the amendment by the City Council of WMC Title 16, the Land Development Code, 16.16.040(A)(2)(f) on posting notices and sections 16.16.040(A)(5), (a. through e.) and 16.34.060(B), (1. through 4.) to limit public testimony to three minutes each and applicant and city staff limited to five minutes each to present their overviews.

Kristie Smithers

From: Dianne Woodruff [dianne32@mtaonline.net]
Sent: Monday, November 26, 2007 6:26 PM
To: Kristie Smithers
Subject: Comments regarding Proposed Ordinance Serial No. 7-58 (Planning Commission Amendments)

Kristie,

Please forward these thoughts regarding Proposed Ordinance Serial No. 7-58: Amending WMC 16.16.040 Procedure For Commission Approvals, To Require The Applicant To Post Notice Of The Commission Hearing, And To Reduce The Time For Oral Argument Before The Commission, And Amending WMC 16.34.060 Appeals to the Planning Commission, To Reduce The Time For Oral Argument Before The Commission to the rest of the council members.

Thank you.

Dianne

Dear Fellow Council Members:

I object to modifying 16.16.040 A.5.c/d or 16.34.060 B.3. in such a way that reduces the amount time a private person has to speak from five (5) minutes to three (3) minutes either at a regular public hearing or an appeals hearing.

I have attended a good many City of Wasilla Planning Commission meetings over the past few years and have seen no reason why we should allow the public input to be any more limited than it already is. Bearing in mind that the planning commission is both an oversight body and a preliminary clearinghouse for many important issues that have lasting impacts on our community, it is imperative that the public has a full opportunity to share what information they have and to get all their concerns heard and addressed. It can be very intimidating for a community member who isn't used to public speaking to even come forward; it is even harder when they know they only have three minutes to defend their homes (often their single largest investment) and have to decide which information or concerns they have to leave out. Remember, these folks know the property next to them better than either the staff or the commissioners and often can bring to light things that should be considered that otherwise would be missed in the standard staff review, for example, existing drainage issues over multiple seasons. Let's also keep in mind that the developers and staff have likely been working on this project for some time before the public is even aware it exists, know the rules and procedures, and have a full opportunity to have all their information already in the meeting packet, but staff still gets five minutes and the developer gets five minutes plus another five for rebuttal, something the public doesn't have a right to. I don't think we need to bias the process any more in favor of the developers.

It should be noted that the time issue only came to light because someone realized that people were being cut off before they were finished at three minutes even though the code said they should be allotted five minutes because the planning commission had been operating in violation of the code for some time. In any case, very few of the meetings I have gone to at the planning commission were so well attended or ran so late that allowing each of the people that came to speak five minutes would have made the meetings unduly long. Should a topic actually pack the house with people wishing to speak, perhaps it is important enough to merit continuing the public hearing to another date. That way, the meetings don't get too long and the planning commission can act on the matter with complete information instead of leaving the public feeling like there was no point in their coming because the planning commission members appeared to be in a rush to get to a conclusion they had already reached before the meeting started and go home. I for one, think that is an impression we want to avoid giving the public.

As to the contention that public testimony may always be extended at the discretion of the

Chairman, I submit that at two meetings I attended (not related to my issue) that the Chairperson turned to the Planner and asked, in the middle of the public hearing, if all the people remaining to speak had the same thing to say, if there wasn't some way under Robert's Rules of Order to simply cut off the public hearing at that point. Given that, it's best to err on the side of more public testimony in the code and not leave it up to the personalities. Incidentally, my experience as Vice Chair of the Borough planning commission is that if it is explained to the general public at the time the topic is brought up for public hearing that they need to limit repetitive comments because the room is full and the commissioners want to hear from everyone, people are generally respectful and you can get through a whole assembly chamber of speakers in a reasonable amount of time.

As to consistency with the procedures of other entities, we in Wasilla seem to get very testy when other entities think we should do things their way and are sometimes less than tactful in expressing our dismay that they would have the audacity to tell us what we should do within our city borders. I have heard it expressed many times that we should do what is best for Wasilla regardless of what other people do in their communities. In light of that, one of the citizens who testified on this matter at the planning commission hearing wanted to know why we would suddenly want to follow the procedures of other bodies on this matter when we could offer our citizens more.

Last, but not least, we as council members receive recommendations from our planning commissioners. In order for us to place much reliance on those recommendations, we need to know they were based on complete, accurate, information and that the public comments were fully heard, understood, and considered. Let's keep giving people the extra two minutes in an effort to make sure that happens.

I support the remainder of the changes proposed in this ordinance.

If you have gotten this far, I thank you for reading all of my comments and considering them.

Sincerely,

Dianne Woodruff