



TEMPORARY EMERGENCY ORDER of the City Manager

<h2 style="margin: 0;">COVID-19 Public Health Emergency Suspension of Development-Related Application and Permit Deadlines</h2>			Category: COVID-19
			Number: 6
			Classification: Planning and Community Development Public Works
Effective Date: 03/04/2020 – Rescission of Declaration of Local Public Emergency	Waiver/ Suspends: SMC 20.30.100(D) SMC 20.30.110(C) SMC 20.30.165 SMC 15.05.030 (105.3.2/R105.3.2) SMC 15.05.040 (105.5/R105.5)	Policy Originator: PCD Director PW Director Planning Manager	Approved By: City Manager <hr style="width: 100%; border: 0.5px solid black;"/> Debbie Tarry

1. PURPOSE:

The purpose of this Temporary Emergency Order is to provide relief from development-related application and permit deadlines set forth in the Shoreline Municipal Code (SMC) due to the impact of the COVID-19 Public Health Emergency and the Governor’s Stay Home Stay Healthy Proclamation.

2. ELIGIBILITY CRITERIA:

As of 11:59 pm Local Time, March 4, 2020:

- Any applicant that had a pending, valid permit application under review;
- Any applicant that had a valid, approved permit application awaiting issuance; or
- Any permittee that had a valid, issued permit.

3. ORDER:

Several provisions of the SMC establish deadlines by which an applicant or a permittee must take action. The SMC establishes three (3) categories of deadlines: 90 days for an applicant to respond to a City request for information or comment review letter; 180 days for an applicant to pay fees and satisfy conditions so that an approved permit can be issued; and 180 days for construction to commence and remain active under an issued permit. If an applicant/permittee fails to act by the deadline, their application or permit will expire and any vesting that the applicant/permittee had would be lost along with the financial investment in the application process.

On February 29, 2020, the Washington State Governor declared a State of Emergency in all counties. On March 4, 2020, the City Manager issued a Declaration of Local Public Health Emergency (“Declaration”). This Declaration was ratified by

the City Council on March 16, 2020 by the passage of Resolution No.454. During the first few weeks of March, Public Health – King County/Seattle and the Governor issued directions to close certain types of businesses, engage in social distancing protocols, and limit the size of gatherings to reduce the spread of COVID-19.

On March 23, 2020, the Washington State Governor issued the “Stay Home Stay Healthy” Proclamation 20-25, effectively closing all but those businesses deemed to be essential until at least April 6, 2020. On March 25, 2020, the Governor issued a memorandum provided guidance on construction. In this memorandum, the Governor stated that “[I]n general, commercial and residential construction is not ... an essential activity” with three (3) exceptions – construction related to an essential facility; construction to further a public purpose of a public entity, including publicly-funded low-income housing; and repair construction to prevent spoliation or avoid damage at both non-essential businesses and residential structures. Moreover, even if essential, social distancing and public health protocols needed to be adhered to. These restrictions on most construction activities and non-essential business that support the industry, such as consultants and material suppliers, may have resulted in an inability for an applicant to timely respond to the City’s comment review letter or a permittee to ensure construction is actively proceeding. On April 2, 2020, the Governor extended the Stay Home Stay Healthy Proclamation until May 4, 2020.

However, on April 24, 2020, the Governor issued an addendum to Proclamation 20-25 – “Implementation of Phase 1 Construction Restart.” Which this addendum, authorized construction projects that developed and implemented a COVID-19 exposure control, mitigation, and recovery plan (due May 1 for current projects) and met all of the jobsite/worker safety recommendations of the Governor’s Construction Working Group could restart construction activities. On April 29, 2020, the Governor issued guidance in relationship to the meaning of “authorized construction” – projects previously permitted under Proclamation 20-25 or projects “in existence” as of March 25, 2020, with this encompassing contractually-obligated projects and those for which a permit had been issued. Thus, for projects meeting the criteria established by the Governor, the tolling period ended at 11:59 pm Local Time May 1, 2020.

To temporarily stay the deadline for action during the duration of the City’s Declaration (turn off the clock) and to restart the clock when the Declaration has been rescinded or otherwise terminated or impacted by action of the Governor, is an equitable approach to applicants and permittees as it preserves (tolls) the number of days remaining in their original deadline period as the basis for calculating the new deadline. For example, if an applicant had 23 days left to respond to a City comment letter on the effective date of the Declaration, then those 23 days would re-commence on the day the City’s Declaration is rescinded/terminated.

For pending applications and applications pending issuance, strict compliance with the SMC deadlines may result in non-essential business activities in conflict with the Governor’s Proclamation. In addition, by allowing for the stay of an issued permit deadline, compliance with the Proclamation is furthered in that for all but a few existing

construction projects continuing to operate is contrary to the Proclamation. Therefore, relief from strict compliance with the SMC deadlines is necessary to ensure compliance with the Governor's Proclamation that was issued to preserve and maintain public health and prevent actions that may hinder or delay the control of COVID-19.

THEREFORE, for the reasons set forth above and pursuant to the authority granted to the City Manager by the City Council under Resolution No. 456, this Temporary Emergency Order is issued providing the following:

1. The deadlines set forth in the following SMC provisions are stayed for a period of time equal to that of the Declaration of Local Public Health Emergency:
 - SMC 20.30.100(D), regarding the need to take substantial steps on an application to meet permit approval within 180 days of issuance of the determination of completeness;
 - SMC 20.30.110(C), regarding the need to respond to a City request for additional information within 90 days of the request;
 - SMC 15.05.030, adopting the International Building Code Section 105.3.2, and SMC 15.05.040, adopting the International Residential Code Section R105.3.2, both regarding abandonment of an application after 180 days of filing;
 - SMC 20.30.100 (D), regarding the expiration of an approved and still valid permit within 180 days of approval;
 - SMC 20.30.165, regarding the need to commence work authorized by a Clearing and Grading Permit or a Site Development Permit within 180 days of issuance;
 - SMC 15.05.030, adopting the International Building Code Section 105.5, and SMC 15.05.040, adopting the International Residential Code Section R105.5, both regarding the need to commence work within 180 days of permit issuance.
2. Once the Declaration of Local Public Health Emergency is rescinded or otherwise terminated, the duration of the Declaration shall be calculated and an applicant's/permittee's deadline for action shall be recalculated based on the number of days the Declaration was in effect. EXCEPT, that for construction not previously authorized under Proclamation 20-25 that was in existence on March 23, 2020, as those terms are defined in the Governor's April 29, 2020 addendum, the tolling period ends on May 1, 2020.
3. This Temporary Emergency Order shall not apply to construction previously authorized under Proclamation 20-25.

4. Nothing in this Temporary Emergency Order prohibits an applicant or a permittee from requesting a deadline extension as provided in the applicable provisions of SMC 15.05.030, 15.05.040, or chapter 20.30 SMC.
5. As provided in Section 2 of Resolution 454, this Temporary Emergency Order shall be in effect until such time as the Declaration of Local Public Health Emergency is rescinded or otherwise terminated by the City Manager or City Council.

Dated this 4th day of May, 2020.



Debbie Tarry
City Manager