

**CITY OF WASILLA
ORDINANCE SERIAL NO. 09-57(AM)**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 16.12.020 ADMINISTRATIVE APPROVAL AND USE PERMITS, TO PROVIDE FOR NOTICE OF THE RIGHT TO APPEAL DECISIONS OF THE CITY PLANNER, AND AMENDING WMC 16.16.040 PROCEDURE FOR COMMISSION APPROVALS, TO PROVIDE FOR NOTICE OF THE RIGHT TO APPEAL COMMISSION DECISIONS.

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. Paragraph A.4 of WMC 16.12.020, Administrative approval and use permits, is hereby amended to read as follows:

A. An administrative approval (“AA”) or a use permit (“UP”), as defined in Section 16.04.070 or listed on the district use chart in Section 16.20.020 are within the authority of the planner to approve. Developers must file an application with the planner and receive a permit or approval prior to commencement of the use.

* * *

4. Appeal. A decision of the planner may be appealed pursuant to Chapter 16.34, **and the decision shall notify interested persons, as defined in Section 16.34.005, of the right to appeal.**

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

Section 3. Amendment of section. Paragraph A.6 of WMC 16.16.040, Procedure for Commission Approvals, is hereby amended to read as follows:

A. The following procedures apply to approvals by the commission including conditional uses, rezonings and variances.

* * *

6. **Decision.** The commission shall decide to deny, approve or approve with conditions the proposal or appeal. The burden of proof shall be on the applicant. The commission's decision may be made immediately following the public hearing portion of the commission meeting. The decision of the commission shall set forth the facts it finds relevant to its decision and the reasons for its decision, **and notify interested persons, as defined in Section 16.36.010, of the right to appeal under Section 16.36.060.** The effective date of the decision is the date the findings and the reasons are set out in writing and signed by the commission chairperson or the chairperson's designee.

Section 4. Effective date. This ordinance shall be effective upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on August 10, 2009.

ATTEST:


VERNE E. RUPRIGHT, Mayor


KRISTIE L. SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Cox, Hall, Harris, Holler, Larson, and Woodruff in favor.

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



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: Ordinance Serial No. 09-57: AMENDING WMC 16.12.020, ADMINISTRATIVE APPROVAL AND USE PERMITS, TO PROVIDE FOR NOTICE OF THE RIGHT TO APPEAL DECISIONS OF THE CITY PLANNER, AND AMENDING WMC 16.16.040, PROCEDURE FOR COMMISSION APPROVALS, TO PROVIDE FOR NOTICE OF THE RIGHT TO APPEAL COMMISSION DECISIONS.

Agenda of: July 27, 2009
Originator: Tom Klinkner, City Attorney

Date: July 15, 2009

Route to:	Department	Signature/Date
	Police Chief	
	Public Works Director	
	Recreation & Cultural Services Manager	
X	Director of Finance	<i>[Signature]</i> 7/17/09
X	Deputy Administrator	<i>[Signature]</i>
X	City Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR VERNE E. RUPRIGHT: *[Signature]*

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

Account name/number:

Attachments: Memo from T. Klinkner dated July 14, 2009 (1 p)

SUMMARY STATEMENT:

At the July 13, 2009, meeting, the Council requested the City Attorney to review the code in regard to the planning division giving notice to the parties of their right to appeal planning decisions.

The proposed ordinance amendments the code to include notice of the right to appeal in two sections of the code in which it was not included. Please see the attached memo from Tom Klinkner dated July 14, 2009, for more information.

MEMORANDUM

TO: Mayor and City Council Members
City of Wasilla

CC: City Clerk

FROM: Tom Klinkner

DATE: July 14, 2009

FILE NO. 505,780.49

RE: Notice of Right to Appeal Planning Administrative Decisions

At its July 13, 2009 meeting, the Council asked that I prepare a Code amendment requiring that parties be given notice of their right to appeal a planning administrative decision at the time the decision is issued. In reviewing the Code, I discovered that this notice requirement already exists for certain planning administrative decisions, but not for others. The following summarizes the current status of such notice requirements, with references to the addition of notice requirements in the attached draft ordinance.

- **Enforcement orders.** WMC 16.08.080.D requires that an enforcement order include a description of the appeal procedure in Section 16.34.030.
- **Permitting decisions by the City Planner.** The Code presently does not provide for notice of the right to appeal permitting decisions by the City Planner. The attached ordinance includes an amendment to WMC 16.12.020 to require such notice.
- **Decisions of the Planning Commission on variances and conditional uses.** The Code presently does not provide for notice of the right to appeal decisions of the Planning Commission on variances and conditional uses. The attached ordinance includes an amendment to WMC 16.16.040 to require such notice.
- **Decisions of the Planning Commission on Appeals from the City Planner.** WMC 16.34.070.B requires the Commission's decision on an appeal from the City Planner to notify the parties of their right to appeal under Section 16.36.060.
- **Decisions of the Hearing Officer on Appeals from the Planning Commission.** WMC 16.36.090.B requires the hearing officer's decision on an appeal from the Planning Commission to notify the parties of their right to appeal under WMC 16.36.100.