ORDINANCE NO. 07-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON AMENDING THE CITY OF COVINGTON MUNICIPAL CODE (CMC) SECTIONS 14.30.050 AND 14.45.030(6) RELATING TO OPEN AND CLOSED RECORD PUBLIC HEARINGS AND APPEALS.

WHEREAS, Chapter 36.70B of the Revised Code of Washington (RCW) provides permit procedures to administer the permit application processes; and

WHEREAS, Chapter 35A.63 RCW empowers the City of Covington to enact planning regulations including procedures for permits and appeals; and

WHEREAS, the proposed amendments to CMC 14.30.050 and 14.45.030(6) are consistent with state law to allow no more than one open record hearing and not more than one closed record appeal hearing on permit and environmental review; and

WHEREAS, the City Council of the City of Covington, upon review of the facts, findings and information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 14.30.050 of the Covington Municipal Code is hereby amended as follows:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Type 1</th>
<th>Type 2</th>
<th>Type 3</th>
<th>Type 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation made by:</td>
<td>n/a</td>
<td>n/a</td>
<td>Director</td>
<td>Hearing Examiner</td>
</tr>
<tr>
<td>Final decision made by:</td>
<td>Director</td>
<td>Director</td>
<td>Hearing Examiner</td>
<td>City Council</td>
</tr>
<tr>
<td>Notice of permit application:</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Notice of final decision:</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Open record public hearing:</td>
<td>No</td>
<td>No</td>
<td>Yes, before the Hearing Examiner</td>
<td>Yes, before the Hearing Examiner</td>
</tr>
<tr>
<td>Closed record appeal hearing:</td>
<td>No</td>
<td>Yes, before the Hearing Examiner</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Judicial appeal hearing:</td>
<td>King County Superior Court</td>
<td>King County Superior Court</td>
<td>King County Superior Court</td>
<td>King County Superior Court</td>
</tr>
</tbody>
</table>

1 If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

Section 2. Section 14.45.030(6) of the Covington Municipal Code is hereby amended as
(6) The Hearing Examiner shall render a decision based upon the written record of the previous proceedings, including, but not limited to, written materials, exhibits and minutes. The Hearing Examiner may consider a tape recording of the previous proceedings. The Hearing Examiner may hear oral argument from the appellant, the applicant if the appellant is not the applicant, and the City. The Hearing Examiner shall render a decision based upon testimony presented by the parties, evidence admitted, information of which judicial notice is taken, and written and oral argument by the parties. The Hearing Examiner may affirm the decision, reverse the decision, affirm the decision with modification, or remand the decision to the decisionmaker for further consideration. The Hearing Examiner shall affirm the decision unless it is determined the decision being appealed meets one of the following criteria:

(a) The body or officer that made the decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The decision is an erroneous interpretation by the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The decision is not supported by evidence that is substantial when viewed in light of the whole record;

(d) The decision is a clearly erroneous application of the law to the facts;

(e) The decision is outside the authority or jurisdiction of the body or officer making the decision;

(f) The decision violates the constitutional rights of the party seeking relief.

Section 3. This ordinance shall be in full force and effect five (5) days after publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Section 4. If any provision of this ordinance, or ordinance modified by it, is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance and ordinances and/or resolutions modified by it shall remain in force and effect.

Passed by the City Council on the 14th day of May 2019,

Mayor Jeff Wagner

PUBLISHED: May 17, 2019
EFFECTIVE: May 22, 2019

ATTESTED:

Sharon Scott
City Clerk

APPROVED AS TO FORM:

Kathy Hardy
City Attorney