

CITY OF ROSLYN, WASHINGTON

ORDINANCE NO. 1064

**AN ORDINANCE OF THE CITY OF ROSLYN, WASHINGTON,
ENACTING A NEW CODE CHAPTER 2.13 ESTABLISHING THE
POSITION OF ENFORCEMENT HEARING EXAMINER; PROVIDING
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City continues to work toward more efficient and effective processing of civil code violations; and

WHEREAS, City Council desires to enact a new Code Enforcement Chapter to ensure greater efficiencies; and

WHEREAS, the new Code Enforcement Chapter provides for a Hearing Examiner to consider appeals of notices of violation;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROSLYN,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. A new Chapter 2.13 entitled Enforcement Hearing Examiner is added to the Roslyn City Code to read as follows:

Chapter 2.13

ENFORCEMENT HEARING EXAMINER

Sections:

- 2.13.010 Purpose.**
- 2.13.020 Creation of code enforcement hearing examiner.**
- 2.13.030 Qualifications and appointments.**
- 2.13.040 Freedom from improper influence.**
- 2.13.050 Conflict of interest.**
- 2.13.060 Rules.**
- 2.13.070 Powers and duties.**
- 2.13.080 Appeal of examiner's decision.**
- 2.13.090 Report by the planning department.**
- 2.13.100 Examiner's decision—Findings required.**

2.13.010 Purpose.

The purpose of this chapter is to provide a system of code enforcement which will address the following objectives:

- A. The need to separate the application of regulatory controls from planning;
- B. The need to protect the health, safety and welfare of the community;

- C. The need to assure the principles of fairness and due process of law in regulatory enforcement;
- D. The need to provide a civil enforcement system as a means to enforce Roslyn Municipal Code violations.

2.13.020 Creation of code enforcement hearing examiner.

The office of code enforcement hearing examiner (hereafter "examiner") is created. The examiner shall act on behalf of the city in considering violations of the Roslyn Municipal Code as provided in Section 2.13.070 of this chapter. The office of land use hearing examiner shall be a separate position from the enforcement hearing examiner, although the same person may hold both offices, appointment and terms.

2.13.030 Qualifications and appointments.

The examiner shall have demonstrated knowledge, skills, expertise and experience in matters of local and state land use law and its implementation, the Washington State Growth Management Act, and procedures for the conduct of administrative or quasi-judicial hearings on regulatory enactments. Examiners shall be appointed by the city mayor solely with regard to their qualifications. Examiners shall hold no other elective or appointive office or position in city or county government.

A. The examiner shall be appointed by the mayor and confirmed by a majority vote of the city council. The examiner shall be appointed solely with regard to his or her qualifications for the duties of the office and shall have such training or experience as will qualify him or her to discharge those duties.

B. The examiner shall hold no other appointive or elective office or position in the city except that the same person may also serve as land use hearing examiner.

C. The examiner shall be an independent contractor and not an employee of the city.

D. The terms of employment for the examiner shall be specified in a written agreement prepared by the city administrator and/or the city attorney and approved by the mayor and a majority vote of the city council. The agreement shall set forth the scope of work, the duration of the appointment, the procedure for removal, the amount of compensation, and such other provisions deemed appropriate.

E. Vacancies shall be filled in the same manner as initial appointments.

F. If the examiner disqualifies himself or herself, or is otherwise unable or unavailable to serve, the hearing shall be conducted by a pro tem examiner. The pro tem examiner shall be appointed and retained as provided in Section 2.13.030. The regular examiner shall be responsible for transferring any case to a pro tem examiner.

2.13.040 Freedom from improper influence.

No person, including city officials, elective or appointive, shall attempt to influence an examiner in any matter pending before him, except at a public hearing duly called for such purposes, or to interfere with an examiner in the performance of his duties in any other way; provided, that this section shall not prohibit the city attorney from rendering legal services to the examiner upon

request or prohibit other persons or officials from responding in writing to requests for information from the examiner.

2.13.050 Conflict of interest.

No examiner shall conduct or participate in any hearing, decision or recommendation in which the examiner has a direct or indirect substantial financial or familial interest, or concerning which the examiner has had substantial prehearing contacts with proponents or opponents. An examiner shall abide by the applicable provisions of state law, Roslyn Municipal Code and the appearance of fairness doctrine.

2.13.060 Rules.

The examiner shall have the power to prescribe rules for the scheduling and conduct of hearings and other procedural matters related to the duties of his office.

2.13.070 Powers and duties.

The examiner shall make final written decisions on civil infractions, penalties, fines, orders, and other matters as specified in RMC Chapter 8.60 for the enforcement of the code provisions set forth in RMC Section 8.60.015(A), or as otherwise set forth by the City Council.

2.13.080 Appeal of examiner's decision.

The examiner's decision on all enforcement actions shall be final and conclusive unless an appeal is filed with superior court within twenty-one days of the notice of decision. The timely filing of any appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated by a competent court of jurisdiction or is withdrawn.

2.13.090 Report by the planning department.

When such application has been set for public hearing, if required, the planning department shall coordinate and assemble the comments and recommendations of other city departments and other governmental agencies having an interest in the subject application and shall prepare a report summarizing the issues involved, planning department findings of fact, recommended conditions and/or recommended action. This report shall be transmitted to the examiner at least four calendar days prior to the scheduled hearing. Copies of this report shall be mailed to the applicant prior to the hearing and shall be made available to the public for the cost of reproduction prior to the scheduled hearing.

2.13.100 Examiner's decision--Findings required.

Unless the time is extended pursuant to this section, within ten calendar days of the conclusion of a hearing, or the date set for submission of additional information pursuant to this chapter, the examiner shall render a written decision, including findings from the record and conclusions therefrom, and shall transmit a copy of such decision by regular mail, or in person, to the city of Roslyn and file a copy of the decision with the court of competent jurisdiction. The city of Roslyn shall transmit the decision to all affected parties and other parties of record in the case who have requested notice of the decision at the public hearing. The person mailing the decision

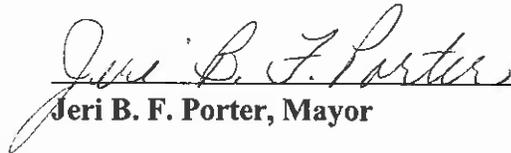
shall prepare an affidavit of mailing, in standard form, and the affidavit shall become a part of the record of the proceeding.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

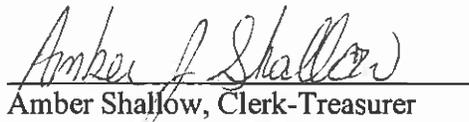
Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 14th DAY OF September, 2010.

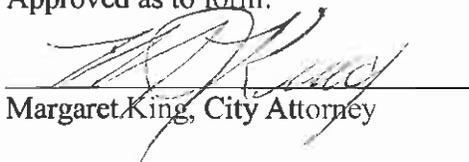
CITY OF ROSLYN


Jeri B. F. Porter, Mayor

ATTEST/AUTHENTICATED:


Amber Shallow, Clerk-Treasurer

Approved as to form:


Margaret King, City Attorney

Filed with the City Clerk: September 15, 2010
Passed by the City Council: September 14, 2010
Date of Publication: September 17, 2010
Effective Date: September 22, 2010