

ORDINANCE NO. 4884

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO HEARING EXAMINERS AND ADDING NEW SECTIONS 1.70A.320 AND 1.70A.340, AND AMENDING SECTIONS 1.70A.200, 4.34.020 AND 9.100.140 OF THE ELLENSBURG CITY CODE.

WHEREAS, the Ellensburg City Council previously directed the creation of an Ad Hoc Subcommittee on Term Limits for Boards and Commissions (“Boards and Commissions Subcommittee”); and

WHEREAS, the Boards and Commissions Subcommittee met in May and June of 2021 to study the appointment, structure and representation on the City’s boards, committees and commissions; and

WHEREAS, the Boards and Commissions Subcommittee presented its report with recommendations to City Council at its July 19, 2021 meeting, after which the Council directed City staff to prepare the appropriate documents to implement the recommendations, as modified by Council during the meeting; and

WHEREAS, City staff reviewed a draft ordinance and draft revision of the City Council Rules of Procedures to implement the requested changes at its November 1, 2021 meeting, and provided further revisions for City staff to incorporate into the documents; and

WHEREAS, as a result of the amendments being proposed in a separate ordinance to implement City Council’s requested changes for commissions, boards and committees, changes are also required to Ch. 1.70A of the Ellensburg City Code regarding the role of the city’s appointed hearing examiner;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Section 1.70A.200 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4049, is hereby amended to read as follows:

1.70A.200 Appointments – Qualifications.

A. Appointments to the office of hearing examiner shall be made by majority vote of the city council and be subject to annual renewal in October. The city council may also from time to time appoint hearing examiners pro tempore to serve during the absence, unavailability, incapacity or disqualification of the hearing examiner.

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

C. The terms of employment for the examiner shall be specified in a written agreement prepared by the city attorney and approved by the mayor and 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 by the city council.

BD. The hearing examiner shall, at a minimum, be experienced in land use, planning, subdivision and related matters. [Ord. 4049 § 1, 1996.]

Section 2. A new section entitled “1.70A.320 Jurisdiction” is hereby added to the Ellensburg City Code to read as follows:

1.70A.320 Jurisdiction.

A. The hearing examiner shall have the power to receive and examine available information, conduct public hearings and prepare a record thereof and enter decisions as provided by ordinance.

B. The decision of the hearing examiner on the following matters which shall be within the jurisdiction of the hearing examiner, notwithstanding any other provision of the Ellensburg City Code, and shall be final unless such decision is appealed as provided by the applicable city code or state law:

1. Appeals taken pursuant to ECC 1.80.070;

2. Appeal of any order issued, or any action taken, by the city building or fire code official, or his or her designee, under the provisions set forth in Chapters 3.01 (Building Codes), 3.03 (Fire Code Amendments) and 3.06 (Building Relocation) of the Ellensburg City Code;

3. Appeals taken pursuant to ECC 4.34.020;

4. Appeals taken pursuant to ECC 5.40.180;

5. Appeals taken pursuant to ECC 6.72.150;

6. Appeals taken pursuant to ECC 9.100.140(B);

7. Appeals taken pursuant to any applicable provision of Title 15 of the Ellensburg City Code; and

8. Any other matter designated by this code or other city ordinance.

Section 3. A new section entitled “1.70A.340 Fees” is hereby added to the Ellensburg City Code to read as follows:

1.70A.340 Fees

Each application for a permit or approval which requires a hearing before the hearing examiner, each appeal to the hearing examiner shall be accompanied by payment of a fee which shall be set by resolution of the city council.

Section 4. Section 4.34.020 of the Ellensburg City Code, as last amended by Ordinance 2844, is hereby amended to read as follows:

4.34.020 Filing.

In the event that the enforcement of Chapters 4.02, 4.04 and 4.06 ECC, excluding ECC 4.06.050, and Chapters 4.08, 4.10, 4.12, 4.14, 4.16, 4.17 and 4.18 ECC is deemed unreasonable or arbitrary by any person, firm or corporation, that person, firm or corporation shall have the right to file an appeal in writing to the ~~city council~~ hearing examiner for a final determination by the city council hearing examiner. [Ord. 2844, 1970.]

Section 5. Section 9.100.140 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4549, is hereby amended to read as follows:

9.100.140 Appeals of fees.

A. Appeal to the Engineer. If an owner of a parcel subject to this chapter, or other responsible party, believes the stormwater user's fee applied to their property is incorrect or otherwise disagrees with the utility rate determination, the owner may appeal the correctness of the fee to the engineer within 30 calendar days of the mailing of the billing for the fee. Such appeals shall be in writing and shall specify the grounds of the appeal and the requested remedy and shall include a deposit sufficient to cover the engineer's cost of review. The engineer may make an adjustment to the charges consistent with the criteria provided in ECC 9.100.100 and 9.100.120. If the engineer determines that the adjustment does not result in more than a 10 percent decrease to the original stormwater user's fee, the applicant shall be responsible for the engineer's cost of review. Applicants shall be refunded the full deposit amount for adjustments that are determined by the engineer to result in more than a 10 percent decrease in stormwater user's fees. Decisions of the engineer regarding such appeals shall be final unless appealed to the ~~city council~~ hearing examiner in a timely manner in accordance with subsection (B) of this section.

B. Appeal to the ~~City Council~~ hearing examiner. The decision of the engineer of an appeal filed in accordance with subsection (A) of this section may be appealed to the ~~city council~~ hearing examiner. Such appeal must be in writing and filed with the city clerk within 30 calendar days of the date of the decision of the engineer. The written appeal must specify the grounds of the appeal and request a hearing before the ~~city council~~ hearing examiner. The city clerk shall set a time and place for the appeal hearing. At the hearing, the ~~city council~~ hearing examiner shall make a final determination regarding the appeal based upon the criteria provided in ECC 9.100.100 and 9.100.120. [Ord. 4549 § 5, 2009.]

Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 3rd day of January, 2022.

ATTEST:



MAYOR


CITY CLERK

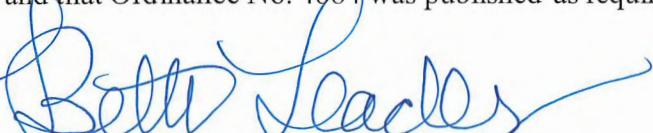
Approved as to form:



CITY ATTORNEY

Publish: 1-6-2022

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4884 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4884 was published as required by law.



BETH LEADER