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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 03-014

APPEAL FEES FOR DEVELOPMENT PERMIT APPEALS TO THE
HEARING EXAMINER AND COUNCIL
AMENDING SCC SECTIONS 30.71.050 AND 30.72.070

WHEREAS, Snohomish County has established a process for interpretation, review and implementation of land use regulations, including a provision for appeals to be reviewed and decided by the Hearing Examiner and the County Council; and

WHEREAS, the Department of Planning and Development Services (PDS) is responsible for overseeing the filing of said appeals; and

WHEREAS, as a result of inflation, the costs associated with the filing of appeals has increased over the past eight years, yet the appeal fee has not been increased during that time; and

WHEREAS, frivolous appeals should be discouraged without adversely affecting the filing of legitimate appeals; and

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council makes the following findings of fact and conclusions:

- A. The \$100.00 fee for the filing of an appeal to the Hearing Examiner or the County Council, as specified in SCC 30.71.050 and 30.72.070 respectively, was established on January 1, 1994. Due in part to inflation, the associated cost for PDS to oversee the filing of appeals has increased since that time. The proposed increase will help to offset such costs.
- B. A comparison of jurisdictions within Western Washington reveals that the Snohomish County appeal fee is below the average.
- C. Below average appeal fees can result in the filing of frivolous appeals. However, should the appeal fee be increased significantly, legitimate appeals may be discouraged. Although the proposed increase of \$50.00 will not completely offset the costs of staff time and materials, it will contribute toward the costs without adversely affecting the filing of legitimate appeals.

Section 2. Snohomish County Code Section 30.71.050, adopted by Ordinance 02-064, on December 9, 2002, is amended to read:

30.71.050 Appeal of Type 1 decision.

(1) **Who may appeal.** Any aggrieved party of record may file an appeal of a Type 1 decision.

(2) **Time and place to appeal.** Appeals of a Type 1 decision, except as provided in SCC 30.71.050(3), shall be addressed to the hearing examiner and filed in writing with the department within 14 calendar days of the notice of the decision, except that appeals of a Type 1 decision issued concurrently with a SEPA threshold determination shall be filed within 21 days of the notice of the decision, if the SEPA decision is a determination of nonsignificance that is required to have a public comment period pursuant to WAC 197-11-340.

(3) **Shoreline appeals.** Appeals of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall be filed with the state shorelines hearings board pursuant to RCW 90.58.180.

(4) **Fees.** Each ~~a((A))~~ appeal filed on ~~((ef))~~ a non-shoreline Type 1 decision shall be accompanied by a filing fee in the amount of ~~\$((100.00))~~500.00; provided that the filing fee shall not be charged to a department of the county ~~((or to other than the first appellant))~~; and provided further that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing pursuant to SCC 30.71.060.

(5) **Form of appeal.** A person appealing a Type 1 decision must file a written statement setting forth:

(a) Facts demonstrating that the person is aggrieved by the decision;

(b) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria. An appeal of a SEPA environmental document shall describe any alleged inadequacy in the threshold determination or environmental impact statement with respect to evaluation of a specific environmental element;

(c) The specific relief requested; and

(d) Any other information reasonably necessary to make a decision on appeal.

(6) **Limitation on new appeal issues.** No new substantive appeal issues may be raised or submitted after the close of the time period for filing of the original appeal. The hearing examiner, if procedural limitations allow, may allow an appellant not more than 15 days to perfect an otherwise timely filed appeal.

(7) **Matters within the jurisdiction of the building code board of appeals.** Matters within the jurisdiction of the building code board of appeals pursuant to SCC 30.50.020 shall not be subject to appeal pursuant to chapter 30.71 SCC.

Section 3. Snohomish County Code Section 30.72.070, adopted by Ordinance 02-064, on December 9, 2002, is amended to read:

30.72.070 Appeal of Type 2 decision.

(1) All Type 2 hearing examiner decisions may be appealed to the county council except for shoreline substantial development permits and permit rescissions, shoreline conditional use permits, and shoreline variances, which may be appealed to the state shorelines hearings board pursuant to the provisions of RCW 90.58.180.

(2) An appeal to the county council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner.

An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the county council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the county council shall be limited to those issues raised in the petition for reconsideration.

(3) Any aggrieved party of record may appeal a decision on reconsideration.

(4) Appeals shall be addressed to the county council and shall be filed in writing with the department within 14 days following the date of the hearing examiner's decision.

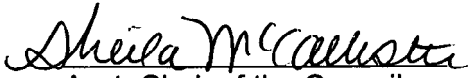
(5) A filing fee of ~~\$(100)~~ 500.00 shall be submitted with ~~((the))~~ each appeal filed; provided that the fee shall not be charged to a department of the county ~~((or to other than the first appellant))~~. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075 ~~((because of untimely filing, lack of standing, lack of jurisdiction, or other procedural defect))~~.

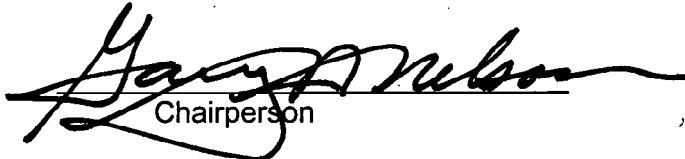
Section 4. Severability and savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (Board) or by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase is held to be invalid or unconstitutional by the Board or by a court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 19th day of March, 2003

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ATTEST:


Asst. Clerk of the Council


Chairperson

- () APPROVED
- () EMERGENCY
- () VETOED

DATE: _____

ATTEST:

Robert J. Drewel
County Executive

Approved as to form only:

Deputy Prosecuting Attorney

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