



CO00046638

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 12-007

RELATING TO THE COUNTY HEARING EXAMINER, PROVIDING FOR
SUBPOENAS, LIMITING APPEAL FEES, AMENDING SCC 2.02.090, 2.02.100,
2.02.125, AND 30.85.190, AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED:

Section 1. Snohomish County Code Section 2.02.090, last amended by
Ordinance No. 00-008 on March 29, 2000, is amended to read:

2.02.090 Rules.

The examiner shall have the power to adopt and amend rules governing
the scheduling and conduct of hearings and other procedural matters related to
the duties of his or her office. Such rules may provide for cross examination of
witnesses and, except in a SEPA appeal under chapter 30.61 SCC or a Type 1
or Type 2 proceeding under chapter 30.71 or 30.72 SCC, for issuance and
enforcement of subpoenas to compel the appearance of witnesses and
production of documents or materials. The examiner shall within five days after
adoption or amendment of any such rule transmit a copy of such rule to the clerk
of the council for council review, which rule shall remain in effect unless rejected
or modified by the council. The council may by motion modify or reject the rule.
The examiner shall incorporate any such action within ten days after adoption of
the motion.

Section 2. Snohomish County Code Section 2.02.100, last amended by
Amended Ordinance No. 96-003 on February 21, 1996, is amended to read:

2.02.100 Powers.

- The examiner shall have authority to:
- (1) Receive and examine available information,
 - (2) Conduct public hearings and prepare a record thereof,
 - (3) Administer oaths and affirmations,
 - (4) Examine witnesses, PROVIDED That no person shall be compelled to
divulge information which he or she could not be compelled to divulge in a court
of law,
 - (5) Regulate the course of the hearing,
 - (6) Make and enter decisions,
 - (7) At the examiner's discretion, hold conferences for the settlement or
simplification of issues and/or for establishment of special hearing procedures,
 - (8) Dispose of procedural requests or similar matters,

1 (9) Issue summary orders as provided for in SCC 2.02.125 and in
2 supplementary proceedings, ((and))

3 (10) Issue and enforce subpoenas as provided by rule under SCC
4 2.02.090, and

5 (11) Take any other action authorized by or necessary to carry out this
6 chapter.

7 The above authorities may be exercised on all matters for which
8 jurisdiction is assigned either by county ordinance or by other legal action of the
9 county or its elected officials. The examiner's decision shall be final and
10 conclusive and may be reviewable by the council, the shorelines hearings board
11 or court, as applicable. The nature of the examiner's decision shall be as
12 specified in this chapter and in each ordinance which grants jurisdiction.
13

14 Section 3. Snohomish County Code Section 2.02.125, last amended by
15 Ordinance No. 02-098 on December 9, 2002, is amended to read:
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17 **2.02.125 Procedures for Appeals within the Examiner's Jurisdiction.**

18 Administrative appeals over which the examiner has jurisdiction shall be
19 subject to the following procedural requirements:

20 (1) Appeals shall be addressed to the hearing examiner but shall be filed
21 in writing with the department whose decision is being appealed within 14
22 calendar days of the date of action or, in those cases requiring personal or
23 certified mail service, the date of service of the administrative action being
24 appealed. ~~((Appeals shall be accompanied by a filing fee in the amount of~~
25 ~~\$100.00; PROVIDED, That the filing fee shall not be charged to a department of~~
26 ~~the county, or to other than the first appellant; and PROVIDED, FURTHER, That~~
27 ~~the filing fee shall be refunded in any case where an appeal is dismissed without~~
28 ~~hearing because of procedural defect such as but not limited to untimely filing,~~
29 ~~lack of standing, facial lack of merit, etc.))~~

30 (2) An appeal must contain the following items in order to be complete.
31 The examiner, if procedural time limitations allow, may allow an appellant not
32 more than 15 days to perfect an otherwise timely filed appeal if such appeal is
33 incomplete in some manner.

34 (a) Specific identification of the order, permit, decision, determination or
35 other action being appealed (including the county's file number whenever such
36 exists). A complete copy of the document being appealed must be filed with the
37 appeal;

38 (b) The specific grounds upon which the appellant relies, including a
39 concise statement of the factual reasons for the appeal and, if known,
40 identification of the policies, statutes, codes, or regulations that the appellant
41 claims are violated;

42 (c) The name, mailing address and daytime telephone number of each
43 appellant together with the signature of at least one of the appellants or of the
44 attorney for the appellant(s), if any;

1 (d) The name, mailing address, daytime telephone number and signature
2 of the appellant's agent or representative, if any; and

3 (e) The required filing fee.

4 (3) Timely filing of an appeal shall stay the effect of the order, permit,
5 decision, determination or other action being appealed until the appeal is finally
6 disposed of by the examiner or withdrawn; PROVIDED, That filing of an appeal
7 from the denial of a permit shall not stay such denial. Failure to file a timely and
8 complete appeal shall constitute waiver of all rights to an administrative appeal
9 under county code.

10 (4) No new appeal issues may be raised or submitted after the close of
11 the time period for filing of the original appeal.

12 (5) The department whose decision is being appealed shall forward the
13 appeal to the examiner's office within three working days of its filing.

14 (6) The examiner's office, within three working days after receipt of the
15 appeal, shall send written notice of the filing of the appeal by first class mail, to
16 the person named in an order or to the person who initially sought the permit,
17 decision, determination or other action being appealed, whenever the appeal is
18 filed by other than such person.

19 (7) The examiner may summarily dismiss an appeal in whole or in part
20 without hearing if the examiner determines that the appeal is untimely,
21 incomplete, without merit on its face, frivolous, beyond the scope of the
22 examiner's jurisdiction or brought merely to secure a delay. The examiner may
23 also summarily dismiss an appeal if he/she finds, in response to a challenge
24 raised by the respondent and/or by the permit applicant and after allowing the
25 appellant a reasonable period in which to reply to the challenge, that the
26 appellant lacks legal standing to appeal. Except in extraordinary circumstances,
27 summary dismissal orders shall be issued within 15 days following receipt of
28 either a complete appeal or a request for issuance of such an order, whichever is
29 later.

30 (8) Appeals shall be processed by the examiner as expeditiously as
31 possible, giving proper consideration to the procedural due process rights of the
32 parties. An appeal hearing shall be held before a final decision is issued unless
33 the summary dismissal provisions of subsection (7), above, are utilized or the
34 appeal is withdrawn. The examiner may consolidate multiple appeals of the same
35 action for hearing and decision making purposes where to do so would facilitate
36 expeditious and thorough consideration of the appeals without adversely
37 affecting the due process rights of any of the parties.

38 (9) Notice of appeal hearings conducted pursuant to this section shall be
39 given as provided below not less than 15 calendar days prior to the hearing:

40 (a) The examiner's office shall give notice of all appeal hearings by first
41 class mail (unless otherwise required herein) to:

42 (i) the appellant;

43 (ii) the appellant's agent/representative, if any; and

44 (iii) the respondent (by interoffice mail); and

1 (iv) to the person named in an order or to the person who initially sought
2 the permit, decision, determination or other action being appealed, whenever the
3 appeal is filed by other than such person; and

4 (v) parties of record as defined by SCC 2.02.165.

5 (b) At a minimum, the following information shall be included in the notice:

6 (i) description of order, decision, determination, or other action being
7 appealed, assigned county file number, and county contact person,

8 (ii) the date, time and place of public hearing if scheduled at the time of
9 notice, and

10 (iii) any other information determined appropriate by the applicable
11 department.

12 (10) Notices required by the above subsections shall be deemed
13 adequate where a good-faith effort has been made by the county to identify and
14 mail notice to each person entitled thereto. Notices mailed pursuant to the above
15 subsections shall be deemed received by those persons named in an affidavit of
16 mailing executed by the person designated to mail the notices. The failure of any
17 person to actually receive the notice shall not invalidate any action.

18 (11) The appeal hearing and examiner consideration of the appeal shall
19 be limited solely to the issues identified by the appellant pursuant to SCC
20 2.02.125(2).

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22 Section 4. Snohomish County Code Section 30.85.190, adopted by Ordinance
23 No. 08-062 on October 1, 2008, is amended to read:

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25 **30.85.190 Appeal of notice of violation.**

26 (1) Upon service of a notice of violation, the person(s) named in the
27 notice of violation shall have 14 calendar days to file an appeal, except when
28 appealing a violation of the county shoreline management program. When the
29 violation falls within a shoreline area, an appeal to a notice of violation of the
30 county shoreline management program must be filed 30 days from the date of
31 service pursuant to chapter 30.44 SCC and RCW 90.58.210(4).

32 (2) An appeal of a notice of violation must be in writing and contain the
33 following:

34 (a) A detailed statement of the grounds for appeal, including the facts or
35 evidence upon which the appeal is based. The statement shall include at least
36 one of the following:

37 (i) The person named in the notice of violation, is not responsible for
38 causing the violation and is not the property owner; or

39 (ii) The cited violation did not occur.

40 (b) The name, mailing address, and daytime telephone number of each
41 appellant, or each appellant's representative, together with the signature of at
42 least one of the appellants or of the appellants' representative.

43 (c) A complete copy of the notice of violation.

