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COUNTY COUNCIL
Snohomish County, Washington



CO00027753

ORDINANCE NO. 85- 105

RELATING TO HEARING EXAMINER -
COUNCIL APPEAL PROCEEDINGS;
AMENDING SNOHOMISH COUNTY CODE

BE IT ORDAINED:

Section 1. Snohomish County Code Section 2.02.100 adopted by Ordinance No. 80-115, dated December 29, 1980, is amended to read as follows:

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 the issues,
- (8) Dispose of procedural requests or similar matters,
- (9) Issue summary orders in supplementary proceedings, and
- (10) Take any other action authorized by or necessary to carry out this chapter.

The above authorities may be exercised on all matters for which jurisdiction is assigned either by county ordinance or by other legal actions of the county or its elected officials. The examiner's decisions shall be [(a)] final and conclusive [(decision-subject-to)] with right of appeal to the council or court. The nature of the examiner's [(authority)] decision shall be as specified in this chapter and in each ordinance which grants jurisdiction.

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Section 2. Snohomish County Code Section 2.02.110 adopted by Ordinance No. 80-115, dated December 29, 1980, is amended to read as follows:

2.02.110 Applications. Applications for permits or approvals within the jurisdiction of the examiner shall be presented to the appropriate county department as specified by the ordinance governing the application. The department of planning and community development [~~affairs~~] shall be responsible for assigning and/or coordinating hearing dates and assuring that due notice of public hearing is given for each application, which notice shall be in accordance with the statute or ordinance governing the application.

Section 3. Snohomish County Code Section 2.02.120 adopted by Ordinance No. 80-115, dated December 29, 1980, is amended as follows:

2.02.120 Master application. Any person proposing a land use project which would require more than one of the permits or approvals over which the examiner has jurisdiction, may submit a master application to the department of planning and community development [~~affairs~~] on forms furnished by the department containing all necessary information. The master application shall thereafter be jointly processed by the examiner subject to the most lengthy time limitation applicable to any of the required permits or approvals. If the examiner's decision on any of the required permits or approvals would be final with right of [~~subject-to~~] appeal to the council, then the decision of the examiner on the master application shall be final with right of [~~subject-to~~] appeal to the council.

Section 4. Subsection (1) of Snohomish County Code Section 2.02.130 adopted by Ordinance No. 80-115, dated December 29, 1980, is amended to read as follows:

2.02.130 Report of department. (1) The department of planning and community development [~~affairs~~] shall coordinate and assemble the reviews of the other county departments and governmental agencies having an interest in the subject application when the application deals with a land use matter and shall prepare a report summarizing the factors involved and the department's findings and recommendations.

Section 5. Snohomish County Code subsection 2.02.150(3) adopted by Ordinance 80-115 on December 29, 1980, is amended as follows:

2.02.150 Examiner's Decision.

. . .

(3) A statement which indicates the procedure for appeal of [~~appealing~~] an examiner decision.

Section 6. Snohomish County Code section 2.02.170, last amended by Ordinance 81-101 on October 19, 1981, is amended as follows:

2.02.170 Appeal from Examiner's Decision.

(1) The grounds for filing an appeal of an examiner decision shall be limited to the following:

- a) newly discovered evidence which is material to the examiner's decision and which could not reasonably have been produced at the examiner's hearing;
- b) the examiner exceeded his jurisdiction;
- c) the examiner failed to follow the applicable procedure in reaching his decision;
- d) the examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of the Snohomish County Code, or other county or state law or regulation; or
- e) the examiner's findings and conclusions are not supported by the record.

(2) [(A decision of the examiner shall be final and conclusive unless appealed as set forth in the ordinance governing the applicable permit.)] Where the examiner's decision is [(appealable to the council, the examiner's decision shall be)] final and conclusive with right of appeal to the council, any such appeal shall be filed by the applicant, a department of the county, or other aggrieved person or agency, with the department of planning and community development [(unless)] within ten (10) calendar days following the rendering of the examiner's decision pursuant to section 2.02.150 SCC. [(such decision an appeal therefrom is filed with the department of community affairs by the applicant, a department of the county or other interested person or agency.)] Appeals filed with the department of planning and community development [(affairs)] shall be in writing, shall contain a detailed [(brief)] statement of the [(reason why error is assigned to the examiner's decision)] grounds for appeal and the facts upon which the appeal is based, and shall be accompanied by a fee of fifty dollars (\$50.00); provided, that such appeal fee shall not be charged to a department of the county or to other than the first appellant.

[(2)--If the appeal is to the council)] The timely filing of an appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated by the council or withdrawn.

[(3)] Within seven (7) calendar days following the timely filing of an appeal with the department of planning and community development [(affairs)], notice thereof and of the date, time and

place for council consideration shall be mailed by the examiner's office to the applicant and to all other parties of record. Such notice shall additionally indicate the deadline for submittal of written comments as prescribed in Section 2.02.180.

(3) ~~((4))~~ Where the examiner's decision is final and conclusive with right of appeal ~~[(unless-appealed)]~~ to court, the procedures for appeal are as set out in the underlying ordinance or statute governing the land use permit or other quasi-judicial hearing.

Section 7. Snohomish County Code section 2.02.180, last amended by Ordinance 84-116 on November 7, 1984, is amended as follows:

2.02.180 Council Consideration.

(1) An examiner decision which has been timely appealed pursuant to Section 2.02.170 shall come on for council consideration in open public meeting no sooner than fourteen (14) nor longer than twenty-eight (28) calendar days from the date ~~the~~ ~~[(an)]~~ appeal was filed. The council shall consider the matter based upon the ~~[(written)]~~ record before the examiner, the examiner's decision, the written appeal statement and any written comments received by the council before closure of the council's office on the next to last working day prior to the date set for council consideration. ~~[(provided, that the council may publicly request additional information of the applicant, the examiner, the county department or other interested parties.)]~~

(2) The council may concur with the findings and conclusions of the examiner and affirm the examiner's decision ~~[(decline to hear the appeal)]~~; or may determine to hear the appeal at public hearing. ~~[(or the council may remand the decision to the examiner for further hearing.)]~~

(3) In those instances in which the council determines to conduct a public hearing, notice of the hearing shall be given by publication in the official county newspaper no less than ten (10) days prior to the date set for hearing ~~[(thereof shall be given pursuant to council rules)]~~ and written notice shall also be given by the council by mail to all parties of record before the hearing examiner. ~~[(Any such hearing before the council shall be de novo as to the matters raised in the appeal. All testimony at any public hearing shall be taken under oath. The decision of the council shall be supported by findings and conclusions.)]~~

(4) All council hearings conducted pursuant to this section shall be de novo and shall be limited to those matters raised in the appeal. The council shall consider the appeal based upon the record before the examiner and all written and oral testimony presented at the council hearing. All testimony at any public hearing shall be taken under oath.

(5) At the conclusion of the public hearing, the council shall enter its decision which shall set forth the findings and conclusions of the council in support of its decision. The council may adopt any or all of the findings or conclusions of the examiner which support the council's decision. The council may affirm the decision of the examiner, reverse the decision of the examiner either wholly or in part, or may remand the matter to the examiner for further proceedings in accordance with the council's findings and conclusions.

(6) The council's decision shall be reduced to writing and entered into the record of the proceedings within fifteen (15) days of the conclusion of the council's hearing. Copies of the decision shall be mailed to all parties of record.

Section 8. Snohomish County Code Section 2.02.190 adopted by Ordinance No. 80-115, dated December 29, 1980, is amended to read as follows:

2.02.190 Effect of Council Action. The council's decision to affirm an examiner decision pursuant to section 2.02.180(2) SCC[~~(not to hear an appeal)~~], or the council's decision after public hearing on appeal, shall be final and conclusive with right of appeal [~~(unless an application is made)~~] to the Superior Court of Snohomish County [~~(a court of competent jurisdiction)~~] by writ of certiorari, writ of prohibition or writ of mandamus within fifteen (15) [~~(thirty-(30))~~] calendar days of the council's decision. [~~(final county action-)~~] The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ.

Section 9. Snohomish County Code Section 18.88.070, adopted by Ordinance 80-115 on December 29, 1980, is amended as follows:

18.88.070 Conditional and Special Use Permit - Effect of Examiner's Decision. The decision of the examiner on a conditional use or special use permit shall be final and conclusive with right of appeal to the council pursuant to Chapter 2.02 SCC. [~~(unless appealed to the council pursuant to Chapter 2.02-6CC-)~~]

Section 10. Snohomish County Code Section 18.88.120, adopted by Ordinance 80-115 on December 29, 1980, is amended as follows:

18.88.120 Administrative Appeals - Effect of Examiner's Decision. The decision of the examiner on an administrative appeal shall be final and conclusive. [~~(unless appealed to the council pursuant to Chapter 2.02-6CC-)~~] Review of the examiner's decision shall be as provided by section 18.88.125 SCC.

New Section: Section 11. A new section is added to Snohomish County Code Chapter 18.88 as follows:

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18.88.125 Judicial Review. Any decision on an administrative appeal shall be reviewable for unlawful or arbitrary and capricious action or non-action by writ of review before the Superior Court of Snohomish County. An action for writ of review may be brought by any person aggrieved by the examiner's decision by making application to the court for such writ within fifteen (15) days of the date of the examiner's decision. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ of review.

Section 12. Snohomish County Code section 18.92.150 adopted by Ordinance 80-115 on December 29, 1980, is amended as follows:

18.92.150 Appeal from council. Action by the council on a rezone shall be final and conclusive. ~~[(unless)]~~ Review of the council's action may be brought by any person aggrieved if within ~~[(thirty {30})]~~ fifteen (15) days from the date of such action, [(an-aggrieved party-obtains)] an application is submitted to the superior court of Snohomish County for a writ of certiorari, writ of prohibition or writ of mandamus. ~~[(from-a-court-of-competent-jurisdiction)]~~

Section 13. Snohomish County Code subsection 20.20.080(2), last amended by Ordinance 80-115 on December 29, 1980, is amended as follows:

20.20.080 Department Action.

. . .

(2) The ~~[(planning)]~~ department of planning and community development may:

- A. Approve the short subdivision with or without conditions;
or
- B. Return the short plat to the applicant for correction or for applicant's construction of improvements in a manner consistent with the department findings; or
- C. Disapprove the short subdivision and the short plat thereof; or
- D. Submit the proposed short plat to the hearing examiner for his consideration together with the department of planning and community ~~[(affairs)]~~ development's recommendation. The examiner shall hear the application in accordance with the procedures of Chapter 2.02 Snohomish County Code, and with such notice as is required for hearings on preliminary plat applications; the examiner's decision shall be final ~~[(unless-appealed)]~~ and conclusive with right of appeal to the council pursuant to Chapter 2.02 SCC.

Section 14. Snohomish County Code Section 20.20.090, last amended by Ordinance 80-115 on December 29, 1980, is amended as follows:

20.20.090 Hearing Examiner Review, if Aggrieved. Any person aggrieved by the decision of the department of planning and community development on a short subdivision application [~~(of community affairs)~~] may request a review of that decision by the hearing examiner. Such request must be made in writing within fifteen (15) calendar days from the date the department's [~~(of community affairs)~~] written decision was made. Appeals shall be filed with the department of planning and community development [~~(of community affairs)~~] in writing and shall contain a brief description of why error is assigned to the department's determination and shall be accompanied by a fee of fifty dollars (\$50.00). [~~(twenty-five dollars - \$25.00) --- Provided that)~~] Such appeal fee shall not be charged to a department of the county, or other than the first appellant. The appeal shall be heard pursuant to Chapter 2.02 SCC and notice shall be required as is provided for hearings on preliminary plat applications. The decision of the hearing examiner [~~(is)~~] shall be final and conclusive with right of appeal [~~(unless appealed)~~] to the council pursuant to Chapter 2.02 SCC.

Section 15. Snohomish County Code Section 20.32.020, last amended by Ordinance 80-115 on December 29, 1980, is amended as follows:

20.32.020 Procedures. Requests for modification shall be heard by the hearing examiner and processed in accordance with the procedures established in Chapter 2.02 with such notice as is required for hearings on preliminary plat applications. The hearing examiner's decision shall be final and conclusive with right of appeal [~~(unless appealed)~~] to the council pursuant to Chapter 2.02 SCC.

Section 16. Snohomish County Code Section 20.36.010, adopted by Resolution on August 28, 1972 is amended as follows:

20.36.060 Court Review. Any decision made pursuant to section 20.36.050 [~~(approving or disapproving any short subdivision)~~] shall be reviewable for unlawful, arbitrary, capricious or corrupt action or nonaction by writ of review before the Superior Court of Snohomish County. The action may be brought by any person [~~(the property owner in Snohomish County who deems himself)~~] aggrieved thereby; PROVIDED, that application for a writ of review shall be made to the court within fifteen (15) [~~(thirty - (30))~~] days from any decision so to be reviewed. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant.

Section 17. Snohomish County Code Section 20.36.050, adopted by Resolution on August 28, 1972 is amended as follows:

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20.36.050 Revocation Procedure. Prior to the revocation of any approved short plat, notice will be mailed to the short subdivider at the address listed by him setting a date and time not less than fifteen (15) days or more than thirty (30) days after date of mailing where he may present his views to the hearing examiner. [~~Board-of County-Commissioners-~~] The hearing shall be conducted by the examiner upon such notice and under the procedures established by section 20.20.090 SCC. Issuance of or final approvals of any building permits may be withheld until action on the proposed revocation is completed. The hearing examiner's decision shall be final and conclusive. Review of the examiner's decision shall be as provided by section 20.36.060 SCC. Appropriate administrative or legal action may be taken after the meeting date provided for herein. If it is determined that such is necessary to prevent imminent sales, legal action may be instituted without notice.

Section 18. Snohomish County Code Section 20A.20.080 last amended by Ordinance 80-115 on December 29, 1980, is amended as follows:

20A.20.080 Preliminary Application Approval -- Term. Approval of the preliminary large tract segregation shall be effective for two (2) years from the date of approval by the department of planning and community development [~~of-community-affairs~~] unless extended as provided herein. Upon written application by the applicant or his successor, filed prior to the expiration of approval, the director of the department [~~of-community-affairs~~] shall extend the approval for an additional two (2) year period; provided, that if in the opinion of the director the preliminary large tract segregation may not continue to serve the public use and interest or comply with existing zoning or other applicable laws, the director shall set the application for public hearing before the hearing examiner upon such notice and in accordance with such procedures as are applicable to hearing short plat appeals; and provided further, that in no event shall preliminary large tract segregation approval be extended for a total approval period in excess of four (4) years from the date of original approval. The decision of the examiner shall be final and conclusive. [~~unless appealed-to-the-council-pursuant-to-Chapter-2-02-666-~~] Review of the examiner's decision shall be as provided by section 20A.32.010 SCC.

Section 19. Snohomish County Code Section 20A.20.170, last amended by Ordinance 82-056 on July 26, 1982, is amended as follows:

20A.20.170 Review. Any person [~~party~~] aggrieved by the decision of the department of planning and community development [~~of community-affairs~~] on a preliminary or final large tract segregation application may request a review of the decision by the hearing examiner. Such request must be made in writing within fifteen (15) calendar days from the date of the department's [~~of-community affairs~~'] written decision. Appeals shall be filed in writing with the department [~~of-community-affairs~~] and shall contain a brief statement of the [~~reason-why-error-is-assigned-to-the-department's~~

~~decision,~~)] grounds for appeal and the facts upon which the appeal is based, and shall be accompanied by a fee of fifty dollars (\$50.00). Provided, that such appeal fee shall not be charged to a department of the county or to other than the first appellant. Such appeals shall be heard by the hearing examiner upon such notice and under the procedures established for considering short plat appeals. The decision of the examiner shall be final and conclusive with right of appeal [~~(unless-appealed)~~] to the council pursuant to Chapter 2.02 SCC.

Section 20. Snohomish County Code Section 20A.28.020, last amended by Ordinance 80-115 on December 29, 1980, is amended as follows:

20A.28.020 Procedures. Requests for modification shall be heard by the hearing examiner and processed in accordance with the procedures established in Chapter 2.02 with such notice as is required for hearings on preliminary plat applications. The examiner's decision shall be final and conclusive with right of appeal [~~(unless appealed)~~] to the council pursuant to Chapter 2.02 SCC.

Section 21. Snohomish County Code Section 20A.32.010 adopted by Resolution on July 30, 1979, is amended as follows:

20A.32.010 Court Review.

Any decision made pursuant to sections 20A.20.080 or 20A.32.050 [~~(approving-or-disapproving-any-large-tract-segregation)~~] shall be reviewable for unlawful, arbitrary, capricious or corrupt action or nonaction by writ of review before the Superior Court of Snohomish County. The action may be brought by [~~(the-property-owner-in Snohomish-County-who-deems-himself)~~] any person aggrieved thereby; provided, that application for a writ of review shall be made to the court within fifteen (15) [~~(thirty-(30))~~] days from any decision so to be reviewed. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant.

Section 22. Snohomish County Code Section 20A.32.050, adopted by Resolution on July 30, 1979 is amended as follows:

20A.32.050 Revocation Procedure. Prior to the revocation for cause of any approved large tract segregation, notice will be mailed to the subdivider at the address listed by him setting a date and time not less than fifteen (15) days or more than thirty (30) days after date of mailing where he may present his views to the [~~(board-of county-commissioners-)]~~ hearing examiner. The hearing shall be conducted by the examiner upon such notice and under the procedures established by section 20A.20.170 SCC. Issuance of or final approvals of any building permits may be withheld until action on the proposed revocation is completed. The hearing examiner's decision shall be

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final and conclusive. Review of the examiner's decision shall be as provided by Section 20A.32.010 SCC. Appropriate administrative or legal action may be taken after the meeting date provided for herein. If it is determined that such is necessary to prevent imminent sales, legal action may be instituted without notice.

Section 23. Snohomish County Code Section 21.16.060, last amended by Ordinance 82-096 on September 16, 1982, is amended as follows:

21.16.060 County Action on Permit Applications Which do not Require Public Hearing. (1) The ~~[(office-of-community-planning)]~~ department of planning and community development is authorized to grant substantial development, conditional use, or variance permits for those applications which do not require a public hearing, pursuant to Section 21.16.050. The ~~[(office-of-community-planning)]~~ department of planning and community development shall review and process as expeditiously as possible all applications filed in conformance with this title.

(2) The decision of the ~~[(office-of-community-planning)]~~ department of planning and community development shall be based on information from the complete application, written comments from interested persons, and observations from a site inspection, and shall contain findings based upon the record and conclusions therefrom which support the decision. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the county's comprehensive plan, and other official policies, objectives, and land use regulatory enactments. The decision shall contain a statement that the decision is final and that review of the decision is available pursuant to the ~~[(will-become-the-final-county decision-within-fifteen-calendar-days-unless-appealed-to-the-county council,-together-with-a-description-of-the)]~~ appeal procedure prescribed in Section 21.16~~(-060(4))~~.090 SCC. Said decision shall be mailed within five calendar days to the applicant and all persons who notified the ~~[(office-of-community-planning)]~~ department of planning and community development of their desire to receive a copy of the final county decision.

(3) In authorizing a substantial development, conditional use, or variance permit, the ~~[(office-of-community-planning)]~~ department of planning and community development may impose special conditions to prevent undesirable effects of the proposed use. Such conditions shall be attached to the permit, and shall be binding upon the applicant and successors or assigns, appealable under Section 21.16~~(-060(4))~~.090 SCC, and enforceable under Chapter 21.24 SCC.

~~[(4)--The decision-of-the-office-of-community-planning-shall-be the-final-county-decision-on-a-substantial-development,-conditional use,-or-variance-permit-unless,-within-fifteen-calendar-days-following the-issuance-of-the-decision,-an-appeal-therefrom-is-filed-with-the office-of-community-planning-by-any-interested-person-or-agency-~~

~~(a)--Said-appeal-shall-be-in-writing,-shall-contain-a-brief statement-of-the-reason-why-error-is-assigned-to-the-office-of community-planning's-decision,-and-shall-be-accompanied-by-a-fee-of~~

fifty-dollars-(\$50.00).--Provided, that said appeal fee shall not be charged to a department of the county, or to other than the first appellant.

(b)--The timely filing of an appeal shall stay the effective date of the office of community planning's decision until such time as the appeal is adjudicated by the county council, or withdrawn.

(c)--The office of community planning shall, within seven calendar days following the timely filing of an appeal, notify the applicant, and persons who notified the office of their desire to receive a copy of the county's action, of the date, time and place for council consideration.--Said notice shall additionally indicate the deadline for submittal of written comments.

(d)--A decision of the office of community planning which has been timely appealed pursuant to this section shall come on for council consideration in open public meeting no sooner than fourteen nor longer than twenty-eight calendar days from the date an appeal was filed.--The council shall consider the matter based upon the written record before the office of community planning, the office of community planning's decision, the written appeal and any written comments received by the council before closure of the council's office on the next to last working day prior to the date set for council consideration; provided, that the council may publicly request additional information of the applicant, the examiner, the county department or other interested parties.

(e)--The council may concur with the findings and conclusions of the office of community planning and decline to hear the appeal, or the council may determine to hear the appeal at public hearing, or the council may remand the decision of the office of community planning for further consideration.

(f)--In those instances where the council decides to conduct a public hearing, notice thereof shall be given by the council pursuant to council rules.--Notice shall also be given by the council to all persons who notified the office of community planning of their desire to receive notice of the county's action.--Any such hearing before the council shall be de novo.--The decision of the council shall be supported by findings and conclusions.

(g)--The council's decision not to hear an appeal or the council's decision after public hearing on an appeal, shall be final unless appealed pursuant to Section 21.16.090-SEC.

Section 24. Snohomish County Code subsection 21.16.070(4), adopted by Ordinance 80-117 on December 30, 1980, is amended as follows:

21.16.070 County Action on Permit Applications Requiring Public Hearing.

. . .

(4) The hearing examiner shall consider the proposed substantial development, conditional use, or variance permit based on information

from the application; observations from a site inspection; written comments from interested persons; the advice of the various county departments; and views expressed during a public hearing. The hearing examiner may request that an applicant furnish information concerning a proposed substantial development, conditional use, or variance permit, in addition to information required in an application. The decision of the hearing examiner shall be ~~[(the)]~~ final and conclusive. ~~[(county-decision)]~~ ~~[(unless-appealed-to-the-council pursuant-to-Chapter-2.02-SCC-)]~~ Review of the examiner's decision shall be as provided by section 21.16.090 SCC.

Section 25. Snohomish County Code Section 21.16.090, adopted by Ordinance 80-117 on December 30, 1980, is amended as follow:

21.16.090 Appeals to Shorelines Hearings Board. Any person aggrieved by the granting or denying of a substantial development, conditional use, or variance permit by the county may seek review by filing a request for review with the Shorelines Hearings Board, the Department of Ecology, and the Attorney General within thirty days of the receipt of the county's final order by the Department of Ecology. Any person aggrieved by the final action of the Department of Ecology on a conditional use or variance permit may seek review by filing a request for review with the Shorelines Hearings Board, the Department of Ecology, and the Attorney General within thirty days of the date that the Department of Ecology's final decision is transmitted to the county and the applicant. All requests for review of final permit decisions are governed by the procedures established in RCW 90.58.180, WAC 173-14-170, WAC 173-14-174, and WAC 461-08 (the rules of practice and procedure of the Shorelines Hearings Board.)

Section 26. Snohomish County Code subsection 23.40.040(3), adopted by Ordinance 84-111 on September 19, 1984 is amended as follows:

23.40.040 Judicial Review.

. . .

(3) Pursuant to the requirements of RCW 43.21C.075(5)(a), the final decision making body ~~[(clerk-of-the-county-council)]~~ shall issue an official notice stating the date and place for commencing a judicial appeal at the time the county's ~~[(council's)]~~ decision on an appeal brought under this chapter is issued. Such notice shall state that a judicial appeal may be commenced on or before the fifteenth ~~[(thirtieth)]~~ day (the date of which shall be stated) following the issuance of the county's ~~[(council's)]~~ decision by bringing an action in the Superior Court of Snohomish County at Everett, Washington.

Section 27. Snohomish County Code section 26B.57.010, adopted by Ordinance 82-029 on May 11, 1982, is amended as follows:

26B.57.010 Appeals to be conducted as appeals of any other county land-use decision. Any ~~[(developer-or-other)]~~ person aggrieved by ~~[(who-wishes-to-appeal)]~~ any decision taken under this title may seek review of such county land-use decision; provided however, that appeals of decisions by the department of planning and community development ~~[(affairs)]~~ regarding the application of this title to building permits shall be made to the hearing examiner. Appeals shall be filed with the department of planning and community development ~~[(affairs)]~~ and shall be in writing and contain a brief statement of the reason why error is assigned to the director's decision, and shall be accompanied by a fee of fifty dollars (\$50.00); provided, that such appeal fee shall not be charged to a department of the county or to other than the first appellant. The appeal shall be processed in the manner prescribed for hearing administrative appeals under Chapters 2.02 and 18.88 Snohomish County Code except that the decision of the examiner on any such appeal shall be final and conclusive with right of appeal to the council.

Section 28. Snohomish County Code section 28.12.070 adopted by Ordinance 85-017 on May 1, 1985; is amended as follows:

28.12.070 Final order - designated.

A. Any order duly issued by a director pursuant to the procedures contained in this title shall become final ten days after service of the notice and order unless a written request for hearing is received and filed with the Community Development Division within the ten-day period.

B. An order which is subject~~[(ed)]~~ to the appeal procedure of section 28.12.060 SCC shall be ~~[(become)]~~ final and conclusive ~~[(ten days-after-mailing)]~~ upon the date of the hearing examiner's decision. ~~[(unless-within-that-time-period-an-aggrieved-person-initiates-review by-appeal-to-the-Snohomish-County-Council-pursuant-to-Snohomish-County Code-section-2.02-170)]~~ The examiner's decision shall be reviewable for unlawful or arbitrary and capricious action or non-action by writ of review before the Superior Court of Snohomish County. An action for writ of review may be brought by any person aggrieved by the examiner's decision by making application to the court for such writ within fifteen (15) days of the date of the examiner's decision. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ of review.

Section 29. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such decision shall not affect the validity of the remaining portions of the ordinance or its application to other persons or circumstances.

Section 30. The effective date of this ordinance is January 1, 1986

PASSED this 4th day of December, 1985.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Bruce Agnew
Chairperson

Approved as to Form:

John V. Alby
Deputy Prosecuting Attorney

ATTEST:

Kathryn J. Norton
Clerk of Council

- () APPROVED
() VETOED
() EMERGENCY

THOMAS G. CARLSON
DEPUTY EXECUTIVE

DATE: 12/4/85

Thomas G. Carlson
County Executive

PUBLISHED _____ and _____

ORDINANCE RE: HEARING EXAMINER -
COUNCIL APPEAL PROCEEDINGS - 14