



CO00025639

SNOHOMISH COUNTY COUNCIL

AMENDED
ORDINANCE NO. 90-014
AMENDING SNOHOMISH COUNTY CODE
TITLE 23, "ENVIRONMENTAL POLICY",
RELATING TO APPEALS PROCEDURE FOR
ADMINISTRATIVE PERMITS

BE IT ORDAINED:

NEW SECTION. Section 1. That a new section 23.16.260 is added to SCC Title 23, to read as follows:

23.16.260 Effect of Appeal period on environmental documents. A DNS, Mitigated DNS or Final EIS issued for an administrative permit for which no other administrative appeal procedure is provided by county code, shall not become effective until the expiration of the period for appealing such determination as provided for in section 23.40.021 of this Title.

Section 2. That SCC, Title 23, section 23.28.040, added by Ord. 84-111 adopted September 19, 1984, is amended as follows:

23.28.040 Public notice requirement - general.

(1) Snohomish County shall give public notice of the issuance of a DNS (WAC 197-11-340[2]), DS (WAC 197-11-300[3]), draft EIS (WAC 197-11-455[5]), and draft supplemental EIS (WAC 197-11-620), as follows:

(a) Publishing notice in a newspaper of general circulation in the county, or general area where the proposal is located.

(b) Posting the property by the applicant for site-specific proposals;

(2) The county may provide additional public notice by one or more of the following methods:

(a) Mailing of written notice to all property owners of record and known residents within an eight hundred foot radius of the external boundaries of the proposal site.

(b) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered.

(c) Notifying the news media;

ORDINANCE AMENDING SCC TITLE 23
APPEALS PROCEDURE/ADMINISTRATIVE PERMITS
Page 1
ORDSEPA.DOCdc6

(451-761)

- (d) Placing notices in appropriate regional, neighborhood, ethnic or trade journals;
- (e) Publishing notice in agency newsletters.

NEW SECTION. Section 3. That a new section 23.28.060 is added to SCC Title 23, to read as follows:

23.28.060 Public notice requirements - administrative permits.

(1) Public notice shall be given for the issuance of all threshold determinations and Final EISs for administrative permits appealable pursuant to SCC 23.40.021 as follows:

- (a) Publication in the official county newspaper;
- (b) Posting on the subject property at least two signs, one sign on each frontage abutting a public right-of-way or at the point of access to the property. Signs for posting shall be provided to the applicant by the county.

PROVIDED, however; that when public notice is also required by section 23.28.040 SCC, the notice requirements of this section shall be deemed to be satisfied by compliance with section 23.28.040 SCC.

(2) Notice required by this section shall specify the appeal process available and deadline for filing appeals.

Section 4. That SCC, Title 23, section 23.40.010, added by Ord. 84-111 adopted September 19, 1984, is amended as follows:

23.40.010 General.

(1) Except as provided by SCC 23.40.021 and 23.40.030, any appeal of an environmental determination made pursuant to this title shall be combined with an appeal of the final decision on the governmental action for which such environmental determination was made.

(2) Appeals shall be limited to review of a final threshold determination and the adequacy of a final EIS. Appeals of intermediate steps under this title (e.g., lead agency determination, scoping, draft EIS adequacy) shall not be allowed.

(3) Except as provided by SCC 23.40.021 and 23.40.030, appeals under this title may be filed by any person with standing to appeal the final decision on the underlying governmental action for which an environmental determination was made and shall be filed within the time limits of and processed according to, the procedures governing appeals of such final decisions:

PROVIDED, That appeals under this title may also be filed to review environmental determinations made after supplemental review including determinations made during proceedings conducted follow-

ing remand from an appeal.

{4} Appeals of environmental determinations for administrative permits for which appeals are not otherwise provided by county code shall be conducted in accordance with the provisions of ~~SEC 23.40.020.~~

{5} (4) All appeals of environmental determinations made pursuant to this title shall be conducted on the record according to the provisions of chapter 2.02 SCC and all testimony shall be given under oath. An electronic transcript shall be made for all appeal hearings. The record of an appeal shall consist of all written and documentary evidence considered, the transcript of the testimony presented and the written findings, conclusions and the final decision issued in the appeal. The record of the original appeal shall be considered in any subsequent appeal. In any appeal, the procedural determinations made pursuant to this title by the responsible official shall be entitled to substantial weight.

{6} (5) All appeals under this title shall be governed by the procedures set forth in this chapter and except as provided herein, no appeal of the conditioning or denial of a proposal by a non-elected official shall be appealable under RCW 43.21C.060 to the county council.

SECTION REPEALED. Section 23.40.020.

Section 5. That SCC, Title 23, section 23.40.020, is hereby repealed in its entirety.

NEW SECTION. Section 6. That a new section 23.40.021 is added to SCC Title 23, to read as follows:

23.40.021 Appeals of threshold determinations and Final EIS adequacy for Administrative Permits. For administrative permits for which no other administrative appeal procedure is provided by county code, a final threshold determination or the adequacy of a Final EIS may be appealed as follows:

(1) A final threshold determination or the adequacy of a Final EIS may be appealed by any aggrieved person within fifteen (15) days of either the posting of the subject property, or publication of notice, whichever occurs later, of a DNS, Mitigated DNS, DS, or Final EIS.

(2) Appeals shall be filed in writing with the Department of Planning and Community Development, be accompanied by a filing fee of one hundred dollars (\$100.00), and be processed in the manner prescribed for appeals of administrative determinations under Chapters 2.02 and 18.72 and Section 23.40.010(5) SCC.

(3) Appeals shall contain:

(a) The name and mailing address of the appellant and the name and address of his/her representative, if any;

(b) A copy of the environmental document which is appealed;

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

(d) A specific listing of the environmental elements found to be lacking or inadequately addressed in the environmental document, and the reasons why such elements are determined to be deficient;

(4) The appellant may submit additional materials supporting the appeal as originally filed (no new appeal elements or issues may be submitted), for a period not to exceed 15 days from the date of filing of the appeal.

(5) The filing of an appeal of a threshold determination or adequacy of a Final EIS shall stay the effect of such determination or Final EIS, and no permit or license may be issued for the proposal until the appeal is finally disposed of by the Hearing Examiner. A decision to reverse the determination of the responsible official and uphold the appeal shall stay any decision, proceedings, or actions in regard to the proposal.

(6) The responsible official shall respond in writing to the appellant's objections. Such response shall be transmitted to the Hearing Examiner and appellant no later than seven (7) days prior to hearing. Response shall be made to each specific and explicit objection as set forth in the appeal.

(7) When an appeal of a DNS which requires a comment period pursuant to WAC 197-11-340 (2) is filed, the lead agency shall transmit to the appellant, a copy of any modified DNS prepared after the filing of the appeal.

(8) When a DNS for which an appeal has been filed is modified, and the appeal is subsequently withdrawn; the appeal filing fee shall be refunded to the appellant.

(9) The Hearing Examiner may summarily dismiss an appeal in whole or in part without hearing when the Examiner determines that the appeal is without merit on its face, frivolous, beyond the scope of his jurisdiction, brought merely to secure a delay, or that the appellant lacks legal standing to appeal.

(10) Notice of appeal hearings conducted pursuant to this section shall be mailed not less than 15 days prior to the hearing to the appellant, agencies with jurisdiction, and to all property owners of record within a five hundred (500) foot radius of the external boundaries of the property subject to the appeal.

(11) The appeal hearing and Hearing Examiner consideration of the appeal shall be limited solely to the issues identified by the appellant in the written appeal filed pursuant to 23.40.021(3) SCC.

Dated this 28th day of March, 1990.

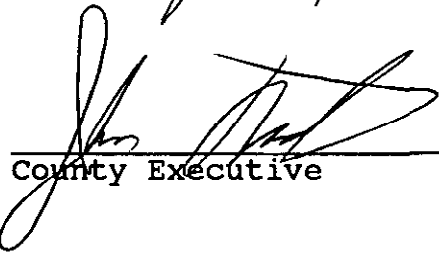
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairman


Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE April 9, 1990


County Executive

PUBLISHED _____

_____, DPA
Approved as to form only on

(Date)