

SNOHOMISH COUNTY COUNCIL

AMENDED
ORDINANCE NO. 93-077



AMENDING SNOHOMISH COUNTY CODE
TITLES 1, 2, 3, 6, 9, 17, 18, 19, 20, 21, 23, 24, 26B, 27, 28, AND
29 RELATING TO PROCEDURES FOR APPEALS TO THE HEARING EXAMINER AND
APPEALS OF HEARING EXAMINER DECISIONS

BE IT ORDAINED:

Section 1. That SCC, Title 1, section 1.01.040, last amended by Ord. No. 89-004, adopted February 15, 1989, is amended to read:

1.01.040 Definitions and construction.

(1) Unless the context otherwise requires, the following words and phrases where used in this code shall have the meaning and construction given in this section:

(a) "Aggrieved person", "person aggrieved" and/or "aggrieved party of record" means one whose proprietary, pecuniary or personal rights would be substantially affected by a particular action;

~~((a))~~ (b) "Code" means the "Snohomish County Code";
~~((b))~~ (c) "County Council" means the Snohomish County Council established by Snohomish County Charter Section 2.30(+);
~~((e))~~ (d) "County" means the county of Snohomish. Snohomish county shall consist of the territory bounded as follows, to-wit:

Commencing at the Southwest corner of Skagit County, thence East along the Eighth Standard Parallel to the summit of the Cascade Mountains; thence Southerly along the summit of the Cascade Mountains to the Northeast corner of King County, it being a point due East of the Northeast corner of Township 26 North, Range 4 East W.M., thence due West along the North boundary of King County to Puget Sound; thence northerly along the channel of Puget Sound and Possession Sound to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of the Stillaguamish River; thence Northwesterly through the channel of the slough at the head of Camano Island known as Davis Slough; thence northerly to the place of beginning. (Reference RCW 36.04.310);

~~((d))~~ (e) "Person" means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or their manager, lessee, agent, servant, officer or employee or any of them;

~~((e))~~ (f) "State" means the state of Washington;

~~((f))~~ (g) "Oath" includes affirmation;

((~~g~~))(h) "Shall," "may". "Shall" is mandatory. "May" is permissive((+)).

(2) Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing the masculine gender may be extended as well to the feminine and neuter genders.

(3) The present tense includes the past and future tenses and the future tense includes the present tense.

(4) The use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of Snohomish county.

(5) Unless subsequent provisions of this code specifically provide otherwise, the date of action or, in those cases requiring personal or certified mail service, the date of service shall not be included when computing time periods. The last day of the period so computed shall be included unless it is not a business day, in which event the period runs until the close of the next business day.

Section 2. That SCC, Title 2, section 2.02.100, last amended by Ord. No. 85-105, adopted December 4, 1985, 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 the issues,
- (8) Dispose of procedural requests or similar matters,
- (9) Issue summary orders as provided for in SCC 2.02.125 and 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 action of the county or its elected officials. The examiner's decision shall be final and conclusive ~~((with right of appeal to))~~ and may be reviewable by the council, the shorelines hearings board or court, as applicable. The nature of the examiner's decision shall be as specified by this chapter and in each ordinance which grants jurisdiction.

Section 3. That SCC, Title 2, section 2.02.120, last amended by Ord. No. 85-105, adopted December 4, 1985, is amended to read:

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 on forms furnished by the department containing all necessary information. The master application shall thereafter be jointly processed by the department and 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 appeal to the council, then the decision of the examiner on the master application shall be final with right of appeal to the council; PROVIDED, That decisions issued pursuant to Title 21 SCC (shoreline management permit decisions) shall be appealable directly to the state shorelines hearings board pursuant to chapter 90.58 RCW, notwithstanding their incorporation into a master application decision.

NEW SECTION. Section 4. A new section 2.02.125 is added to SCC Chapter 2.02, as follows:

2.02.125 Procedures for appeals within the examiner's jurisdiction. Administrative appeals over which the examiner has jurisdiction shall be subject to the following procedural requirements:

(1) Appeals shall be addressed to the hearing examiner but shall be filed in writing with the community development division within fifteen (15) calendar days of the date of action or, in those cases requiring personal or certified mail service, the date of service of the administrative action being appealed, and shall be accompanied by a filing fee in the amount of one hundred dollars (\$100.00); 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 without hearing because of procedural defect such as but not limited to untimely filing, lack of standing, facial lack of merit, etc.

(2) An appeal must contain the items set forth in the following subsections in order to be complete. The examiner may allow an appellant not more than fifteen (15) days to perfect an otherwise timely filed appeal if such appeal is incomplete in some manner.

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

(b) specific identification of the county code provision which authorizes the appeal;

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

In the case of appeals filed pursuant to Title 23 SCC, a specific listing of the environmental elements alleged to be inadequately or inappropriately addressed in the environmental document and the reasons therefor shall be included;

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

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

(f) the required filing fee.

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

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

(5) The community development division shall forward the appeal to the examiner's office within three (3) working days of its filing.

(6) The examiner's office, within three (3) working days of receipt of the appeal, shall send written notice of the filing of the appeal to the department whose decision has been appealed (hereinafter referred to as the "respondent"). The respondent, within three (3) working days after notification by the examiner's office of the filing of an appeal, shall transmit to the examiner's office all relevant public files on the order, permit, decision, determination or other action being appealed.

(7) The examiner's office, within five (5) working days after receipt of the file from the respondent, shall send written notice of the filing of the appeal by certified mail, return receipt requested, to the person named in an order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person.

(8) The examiner may summarily dismiss an appeal in whole or in part without hearing if the examiner determines that the appeal is untimely, incomplete (but only after having allowed the appellant an opportunity to perfect the appeal), without merit on its face, frivolous, beyond the scope of his jurisdiction or brought merely to secure a delay. The examiner may also summarily dismiss an appeal if he/she finds, in response to a challenge raised by the respondent and/or by the permit applicant and after allowing the appellant a reasonable period in which to reply to the challenge, that the appellant lacks legal standing to appeal. Except in extraordinary circumstances, summary dismissal orders shall be issued within fifteen (15) days following receipt of either a complete appeal or a proper request for issuance of such an order, whichever is later.

(9) Appeals shall be processed by the examiner as expeditiously as possible, giving proper consideration to the procedural due process rights of the parties. In no event shall more than sixty (60) calendar days elapse after the filing of a complete appeal without either a prehearing conference or a public hearing having been convened, or a summary dismissal order having been issued. The examiner may consolidate multiple appeals of the same action for hearing and decision mak-

ing purposes where to do so would facilitate expeditious and thorough consideration of the appeals without adversely affecting the due process rights of any of the parties. In the event of a conflict between time deadlines when multiple appeals are consolidated, the time deadlines of the last filed appeal shall control.

(10) Notice of appeal hearings conducted pursuant to this section, containing at a minimum the information required in SCC 18.73.050(4)(a) - (e), shall be given as provided below not less than fifteen (15) calendar days prior to the hearing to.

(a) For all appeal hearings: by postage prepaid mail (unless otherwise required herein) to:

- (i) the appellant (by certified mail);
- (ii) the appellant's agent/representative, if any (by certified mail);
- (iii) the respondent; and
- (iv) other parties of record as defined by SCC

2.02.165;

(b) For appeals arising from Title 20 SCC, notice shall be given as required by SCC 19.16.040 in addition to the notices required by subsection (a), above.

(c) For appeals arising from Title 23 SCC, notice shall be mailed to:

- (i) all persons listed in subsection (a), above;
- (ii) agencies with jurisdiction as disclosed by documents in the appeal file; and
- (iii) all taxpayers of record and known site addresses within five hundred (500) feet of any boundaries of the property subject to the appeal; PROVIDED, That the mailing radius for written notice shall correspond to the mailing radius required for the notice of hearing of any discretionary permit or action associated with the environmental document under appeal where such mailing radius is greater than 500 feet. The department of planning and community development shall perform the required mailing under subsection (c).

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

(12) The appeal hearing and examiner consideration of the appeal shall be limited solely to the issues identified by the appellant pursuant to the above subsections.

Section 5. That SCC, Title 2, section 2.02.130, last amended by Ord. No. 85-105, adopted December 4, 1985, is amended to read:

2.02.130 Report of department.

(1) Where the hearing to be conducted before the examiner concerns a matter evolving from a land use statute or ordinance, the ((The)) department of planning and community development shall coordinate and assemble the reviews of the other county departments and governmental agencies having an interest in the subject application/appeal ((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.

(2) Where the hearing to be conducted before the examiner concerns a matter evolving from a statute or ordinance other than one dealing with land use matters, the department involved shall be responsible for preparing a report summarizing the factors involved and the department's findings and recommendations.

(3) At least seven (7) calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be mailed by the preparing department to the applicant/appellant and made available for public inspection. Copies thereof shall be provided to interested persons (~~(parties)~~) upon payment of reproduction costs.

Section 6. That SCC, Title 2, section 2.02.140, last amended by Ord. No. 90-174, adopted November 14, 1990, is amended to read:

2.02.140 Public hearings.

(1) Where a public hearing is required by statute or ordinance, the examiner shall hold at least one public hearing prior to rendering a decision on any such matter. All testimony at any such hearing shall be taken under oath. Notice of the time and place of the public hearing shall be given as required by county ordinance. At the commencement of the hearing the examiner shall give oral notice (~~(regarding the parties)~~) of the opportunity to become a party of record ((procedure)) as provided for in SCC 2.02.((160))165.

(2) Each person participating in a hearing shall have the following rights, among others:

(a) to call, examine and cross-examine witnesses (subject to reasonable limitation by the examiner in accordance with the examiner's adopted rules of procedure) on any matter relevant to the issues of the hearing;

(b) to introduce documentary and physical evidence;

(c) to rebut evidence against him/her; and

(d) to represent him/herself or to be represented by anyone of his choice who is lawfully permitted to do so.

Section 7. That SCC, Title 2, section 2.02.150, last amended by Ord. No. 90-088, adopted July 28, 1990, is amended to read:

2.02.150 Examiner's decision. Within fifteen (15) calendar days of the conclusion of a hearing, unless a longer period is agreed to in writing or verbally on the record at a public hearing by the applicant/appellant, the examiner shall render a written decision which shall include at least the following:

(1) 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, other official policies and objectives and land use regulatory enactments (land use applications (~~(matters)~~) only).

(2) A decision:

(a) on the application which may be to grant, grant in part, return to the applicant for modification, deny without prejudice, deny or grant with such conditions, modifications, and/or restrictions as the examiner finds necessary to make the application compatible with its environment, the comprehensive plan, other official policies and objectives, and land use regulatory enactments as applicable(+) ; or

(b) on the appeal which may, in conformity with applicable statutes and/or ordinances, reverse or affirm, in whole or in part, or modify the order, permit, decision, determination or other action appealed from. To that end, the examiner shall have full authority to exercise all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

(3) A statement which indicates the procedure for reconsideration and appeal of an examiner decision.

Section 8. That SCC, Title 2, section 2.02.160, last amended by Ord. No. 90-174, adopted November 14, 1990, is amended to read:

2.02.160 Notice of examiner's decision. Not later than five (5) calendar days following the rendering of a written decision, copies thereof shall be distributed as follows:

(1) mailed by regular mail to the applicant and other parties of record in the case;

(2) mailed by certified mail, return receipt requested, to the appellant in appeal cases; and

(3) sent by inter-office mail to affected county departments.

NEW SECTION. Section 9. A new section 2.02.167 is added to SCC Chapter 2.02 as follows:

2.02.167 Reconsideration by hearing examiner.

(1) Reconsideration must have been sought by one or more parties before the filing of an appeal pursuant to SCC 2.02.171, 2.02.195 or 21.16.090.

(2) Any party of record or a department of the county may file a written petition for reconsideration with the hearing examiner within ten (10) calendar days following the date of the examiner's written decision. The timely filing of a petition for reconsideration shall stay the effective date of the examiner's decision until such time as the petition has been disposed of by the examiner.

(3) The grounds for seeking reconsideration shall be limited to the following:

(a) the examiner exceeded his jurisdiction;

(b) the examiner failed to follow the applicable procedure in reaching his decision;

(c) the examiner committed an error of law or misintepreted the applicable comprehensive plan, provisions of the Snohomish County Code, or other county or state law or regulation;

(d) the examiner's findings, conclusions and/or conditions are not supported by the record;

(e) newly discovered evidence alleged to be material to the examiner's decision which could not reasonably have been produced at the examiner's hearing; or

(f) changes to the application proposed by the applicant in response to deficiencies identified in the decision;

(4) The petition for reconsideration must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the specific grounds upon which relief is requested; describe the specific relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

(5) The petition for reconsideration shall be deemed to have been denied if one of the actions specified in subsection (6), below, has not been taken within ten (10) calendar days of the end of the reconsideration period established in subsection (2), above.

(6) The petition for reconsideration shall be disposed of in writing by the same examiner who rendered the decision, if reasonably available. If such examiner is not reasonably available, the petition shall be disposed of by another examiner. The examiner may at his discretion:

(a) deny the petition;

(b) grant the petition and issue an amended decision in accordance with the provisions of SCC 2.02.150 following reconsideration;

(c) grant the petition and give all parties of record the opportunity to submit written comment. Notice of the filing of, together with a copy of, a petition for reconsideration to be handled in such a fashion shall be sent to all parties of record by the examiner's office. Parties shall have ten (10) calendar days from the date of such notice in which to submit written comments. The examiner shall thereafter issue a decision in accordance with the provisions of SCC 2.02.150; or

(d) grant the petition and set the matter for further hearing to consider new evidence, proposed changes in the application and/or the arguments of the parties. Notice of such further hearing shall be mailed by the examiner's office not less than fifteen (15) days prior to the hearing date to all parties of record. The examiner shall issue a decision following the further hearing in accordance with the provisions of SCC 2.02.150.

(7) A decision which has been subjected to the reconsideration process shall not again be subject to reconsideration.

(8) The examiner may consolidate for action, in whole or in part, multiple petitions for reconsideration of the same decision where such consolidation would facilitate procedural efficiency.

Section 10. That SCC, Title 2, section 2.02.170, last amended by Ord. No. 87-094, adopted September 30, 1987, is hereby repealed.

NEW SECTION. Section 11. A new section 2.02.171 is added to SCC Chapter 2, as follows:

2.02.171 Appeal to county council from examiner's decision.

Where the examiner's decision is final and conclusive with right of appeal to the council, the following provisions shall apply:

(1) Reconsideration pursuant to SCC 2.02.167 must have been sought by one or more parties prior to the filing of an appeal under this section. No appeal under this section may raise an issue which has not been the subject of a petition for reconsideration.

(2) Appeals may be filed by any aggrieved party of record or a department of the county; PROVIDED, That only the petitioner for reconsideration may appeal from the denial of a petition for reconsideration. Appeals shall be addressed to the Snohomish county council but shall be filed in writing with the community development division within ten (10) calendar days following the date of the examiner's decision on reconsideration pursuant to SCC 2.02.167 and shall be accompanied by a filing fee in the amount of one hundred dollars (\$100.00); 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 without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect.

(3) The grounds for filing an appeal shall be limited to the following:

(a) the examiner exceeded his jurisdiction;

(b) the examiner failed to follow the applicable procedure in reaching his decision;

(c) 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

(d) the examiner's findings, conclusions and/or conditions are not supported by the record.

(4) An appeal must contain the items set forth in the following subsections in order to be complete. The council may allow an appellant not more than fifteen (15) days to perfect an otherwise timely filed appeal, if such appeal is incomplete in some manner.

(a) a detailed statement of the grounds for appeal;

(b) a detailed statement of the facts upon which the appeal is based;

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

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

(e) the required filing fee.

(5) 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. The council shall have authority to rule on the timeliness and completeness of appeals filed for its consideration.

(6) No new appeal issues may be raised or submitted after the close of the time period established in subsection (2), above, for filing of the original appeal.

(7) Within seven calendar days following timely filing of a complete appeal with the community development division, notice thereof and of the date, time and place for council consideration shall be mailed by the council's office to the applicant/appellant, to the examiner, and to all other parties of record. Such notice shall additionally indicate the deadline for submittal of written comments as prescribed in SCC 2.02.180.

(8) All council proceedings shall be limited to those issues expressly raised in a timely written appeal or appeals.

NEW SECTION. Section 12. A new section 2.02.185 is added to SCC Chapter 2, as follows:

2.02.185 Clerical mistakes - authority to correct. Clerical mistakes and errors arising from oversight or omission in hearing examiner and council decisions and/or orders issued pursuant to this chapter may be corrected by the issuing body at any time either on its own initiative or on the motion of a party of record. A copy of each page affected by the correction, with the correction clearly identified, shall be mailed to all parties of record.

Section 13. That SCC, Title 2, section 2.02.190, last amended by Ord. No. 88-041, adopted June 22, 1988, is amended to read:

2.02.190 Effect of council action. The council's decision to affirm an examiner decision or remand a matter to the examiner pursuant to SCC 2.02.180(2), or the council's decision after public hearing on an appeal, shall be final and conclusive (~~with right of appeal to~~) and may be reviewable by an action for a writ of review filed in the superior court of Snohomish county; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC. ((by writ of certiorari, writ of prohibition or writ of mandamus)) Such an action may be brought by any party of record aggrieved by the council's decision by petition to the court for such a writ filed within fifteen (15) calendar days of the date of the council's decision. The cost of ((transcription of all records ordered certified by the court for such review)) transcribing the record of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time spent in copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant for the writ.

NEW SECTION. Section 14. A new section 2.02.195 is added to Chapter 2.02, as follows:

2.02.195 Appeal to court from examiner's decision. Where the examiner's decision is final and conclusive and may be reviewable by an action for writ of review filed in Snohomish county superior court, the following provisions shall apply:

(1) Reconsideration pursuant to SCC 2.02.167 must have been sought by one or more parties prior to the filing of a petition for a writ of review under this section.

(2) Such an action may be brought by any aggrieved party of record or a department of the county by petition to the court for such a writ filed within fifteen (15) calendar days following the date of the examiner's decision on reconsideration; PROVIDED, That only the petitioner for reconsideration may appeal from the denial of a petition for reconsideration. The cost of transcribing the record of proceedings, of copying photographs, video tapes, and oversized documents, and of staff time spent in copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant for the writ.

NEW SECTION. Section 15. A new section 2.02.215 is added to Chapter 2.02, as follows:

2.02.215 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provisions to other persons or circumstances is not affected.

Section 16. That SCC, Title 3, section 3.09.070, added by Resolution adopted October 1, 1973, is amended to read:

3.09.070 Appeals - Procedure.

(1) Any person aggrieved by the imposition of fees, ((or)) charges or other sanctions authorized by sections 3.09.050 and 3.09.060 may appeal to the Snohomish county hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(2) At the hearing, the executive and his officers shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

(3) The decision of the examiner on any such appeal shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC. ((file a request for an appeal within fifteen days of the county's action. Appeals shall be filed with the executive in writing and shall contain a brief statement of why the appellant believes the county erred in the imposition of fees or charges or other sanctions. Appeals shall be processed and heard in the manner prescribed for hearing administrative appeals pursuant to chapter 2.02 and 18.72 SCC.))

Section 17. That SCC, Title 6, subsection 6.01.050(2)(g), last amended by Ord. No. 91-102, adopted July, 1991, is amended to read:

6.01.050 Fees.

. . .

(2) Fees for the following licenses and permits are established as follows:

. . .

(q) Appeal Processes of Hearing Examiner (Chapter 6.01).

(i) Appeal filing fee - see SCC 2.02.125(1) (~~(\$50.00 per~~
ease))

(ii) Appeal document reproduction \$.25 per page

Section 18. That SCC, Title 6, section 6.01.135, last amended by Ord. No. 87-038, adopted June 3, 1987, is amended to read:

6.01.135 Notice and Order.

(1) The licensing authority shall issue a notice and order, pursuant to SCC 6.01.130(1), directed to the person whom the licensing authority has determined to be in violation of any of the terms and provisions of this chapter or license permit ordinance. The notice and order shall contain:

(a) The street address, when available, and a legal description sufficient for identification of the premises upon which the violation occurred;

(b) A statement that the licensing authority has found a violation of this chapter or the terms of any license/permit ordinance, with a brief and concise description of the conditions found to be a violation of business license/permit;

(c) A statement of any action taken or required to be taken as determined by the licensing authority. If the licensing authority has determined to assess a civil penalty, the order shall so state and require that the penalty be paid within a certain time from the date of the order as determined by the licensing authority to be reasonable;

(d) A written statement of any action taken by the licensing authority;

(e) A statement that failure to comply with the instructions or remedies outlined in the Notice and Order will constitute sufficient grounds for suspension or revocation of the license by the licensing authority;

(f) A statement advising: (1) that the licensee/permit holder may appeal (~~from~~) the notice and order to the Snohomish county hearing examiner pursuant to the provisions of SCC 2.02.125 and SCC 6.01.151 (~~(7 provided the appeal is made in writing as provided in this chapter and filed with the licensing authority within ten days from the date of service of such notice and order)~~); (2) that any per diem civil penalty shall not accrue during the pendency of such administrative appeal; and (~~(+2)~~) (3) that the failure to file a timely and complete appeal will constitute a waiver of all rights to an administrative (~~hearing and determination of the matter~~) appeal under county code.

(2) The notice and order, and any amended or supplemental notice and order, shall be served upon the person either personally or by mailing a copy of such notice and order by certified mail with return receipt requested to such person at his address as it appears on the

license or permit. Service by certified mail in the manner herein provided shall be effective on the date of the mailing. Proof of service of the notice and order shall be made at the time of service by a notarized verification or a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made.

Section 19. That SCC, Title 6, section 6.01.140, last amended by Ord. No. 87-038, adopted June 3, 1987, is amended to read:

6.01.140 Procedure for Suspension, Revocation.

(1) To suspend or revoke any license or permit, the licensing authority must issue a Notice and Order as prescribed in SCC 6.01.135.

(2) Failure to comply with any Notice and Order or the failure to appeal such action as described in SCC 6.01.135(1)(f) automatically forfeits the right of the licensee or permit holder to further administrative appeals as described in this chapter.

(3) The licensing authority may rely on statements filed by the fire marshal, prosecuting attorney, sheriff or other public official alleging facts exists which constitute grounds for suspension or revocation of a license/permit title in determining whether or not to suspend or revoke a license or permit. The licensing authority may also rely on facts and circumstances otherwise brought to his attention in determining whether or not to suspend or revoke a license or permit.

(4) The Notice and Order for suspension or revocation will be served as set out in SCC 6.01.135(2). Such suspension or revocation shall become effective fifteen (~~ten~~) days from the date of service, unless the person affected thereby files a written appeal (~~with the licensing authority~~) as authorized by SCC 6.01.151 (~~150~~).

Section 20. That SCC, Title 6, section 6.01.150, last amended by Ord. No. 87-038, adopted June 3, 1987, is hereby repealed.

NEW SECTION. Section 21. A new section 6.01.151 is added to Chapter 6.01, as follows:

6.01.151 Appeals - Procedure.

(1) Any person who has been served with a notice and order pursuant to SCC 6.01.135 or whose application for a license/permit has been denied may appeal to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(2) At the hearing on a notice and order appeal, the licensing authority shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence. At the hearing on an appeal from the denial of a license/permit, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(3) The decision of the hearing examiner on any such appeal shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC.

Section 22. That SCC, Title 6, section 6.01.155, last amended by Ord. No. 86-099, adopted November 12, 1986, is hereby repealed.

Section 23. That SCC, Title 9, section 9.08.070, added by Resolution adopted July 10, 1978, is amended to read:

9.08.070 License--Revocation, denial or refusal to renew. Any of the agencies participating in the licensing procedure, and including the Snohomish County animal control agency, may issue a written request to the license issuing agency, that a license issued to any private kennel, commercial kennel, pet shop or grooming parlor be revoked, denied or not renewed, upon the showing of good cause or failure to comply with the provisions of this title, and such action of the licensing agency shall be final and conclusive unless (~~within twenty (20) days~~) an appeal is filed in the manner as provided in Section 9.12.101 (~~(100)~~) within this title.

Section 24. That SCC, Title 9, section 9.12.090, added by Ord. 80-115, adopted December 29, 1980, is amended to read:

9.12.090 Notice of violation.

(1) Whenever an authorized county animal control officer has reasonable grounds to believe that an animal is violating or being maintained in violation of this title, he shall be authorized to issue to the violator a notice of violation containing:

(a) The names and address, if known, of the owner or person in violation of the resolution codified herein.

(b) A statement that the animal control office has found the animal maintained illegally with a brief description of the violation.

(c) A statement assessing a civil penalty for each violation, which penalty(ies) shall be paid to the county within twenty days from the date of issuance. The penalties assessed within any one-year period shall be as follows: twenty dollars for first offense; twenty-five dollars for second offense; thirty dollars for third and subsequent offenses.

(d) A statement setting out an order of abatement and a reasonable period during which to comply as determined by the Snohomish county animal control officer.

(e) A statement advising that if any required statement is not commenced within the time specified, or any civil penalty is not timely paid, the animal control officer shall report such noncompliance to the office of the prosecuting attorney, which shall have authority to issue a criminal citation, charging such person with violation of the resolution codified in this title, or authorizing him to take such other recourse as if provided for within this title.

(f) A statement advising: (1) that the notice of violation may be appealed to the Snohomish county hearing examiner (~~by filing written notice of appeal, in duplicate, with the department of community affairs within fifteen calendar days of service of the notice of violation~~) pursuant to the provisions of SCC 2.02.125 and SCC 9.12.101; (~~and~~) (2) that (~~the~~) any per diem civil penalty shall

not accrue during the pendency of such administrative appeal; and (3) that the failure to file a timely and complete appeal will constitute a waiver of all rights to an administrative appeal under county code.

(2) The notice of violation shall be served on the owner or keeper of the animal in violation of this title either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to the person at his last known address.

Proof of personal service of the notice shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner in which service was made.

Section 25. That SCC, Title 9, section 9.12.100, added by Ord. No. 80-115, adopted December 29, 1980, is hereby repealed.

NEW SECTION. Section 26. A new section 9.12.101 is added to SCC Chapter 9.12, as follows:

9.12.101 Appeals - Procedure.

(1) Any person aggrieved by the issuance of any license required by this title, the denial of a license pursuant to section 9.08.070 or the issuance of a notice of violation pursuant to section 9.12.090 may appeal to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(2) The enforcement stay contained in SCC 2.02.125(3) shall not apply to the impoundment of an animal which is vicious or cruelly treated.

(3) At the hearing, the director of the animal control agency and his officers shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

(4) The decision of the hearing examiner on any such appeal shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC.

Section 27. That SCC, Title 17, section 17.02.070, last amended by Ord. No. 91-173, adopted November 26, 1991, is hereby repealed.

Section 28. That SCC, Title 18, subsection 18.44.060(2), last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

18.44.060 FS Zone Requirements.

. . .

(2) The Hearing Examiner shall hold a public hearing on an application for the approval of a freestanding sign. Said hearing shall be conducted pursuant to SCC 2.02. Notice for said hearing shall be provided in accordance with the notice requirements for other than county initiated rezones in SCC 18.73.050, EXCEPT that all notices shall be sent to taxpayers of record and known site addresses

within five hundred feet of any boundary of the proposed site. The decision of the hearing examiner shall be final and conclusive with right of ~~((appeal))~~ reconsideration and may then be appealed to the county council pursuant to ~~((SCC 2.02.170))~~ chapter 2.02 SCC;

Section 29. That SCC, Title 18, section 18.53.050, last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

18.53.050 Approval period. In the event construction has not commenced within four years after the date of approval of a rezone to the townhouse zone or issuance of a conditional use permit for townhouses, the hearing examiner shall hold a public hearing to determine whether the rezone or conditional use permit should be revoked or whether the site plan should be revised or continued as approved. For the purpose of this section, construction shall mean actual construction begun on some permanent structure, utility, or facility on the site. Notice of said hearing shall be provided in accordance with the notice requirements for other than county initiated rezones in SCC 18.73.050. The decision of the hearing examiner shall be final and conclusive with right of ~~((appeal))~~ reconsideration and may then be appealed to the county council pursuant to ~~((SCC 2.02.170))~~ chapter 2.02 SCC.

Section 30. That SCC, Title 18, subsection 18.55.010(6), last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

18.55.010 Mobile home parks--Establishment. Where permitted mobile home parks shall meet the following minimum requirements:

. . .

(6) In the event construction has not commenced within eighteen months after the date of approval by the hearing examiner, the hearing examiner shall hold a public hearing conducted pursuant to SCC 2.02 to determine whether the mobile home park permit shall be revoked or whether the site plan should be modified or continued as approved. For the purpose of this section, construction shall mean actual construction begun on some permanent structure, utility, or facility on the site. Notice of said hearing shall be provided in accordance with the notice requirements for conditional use permits in SCC 18.72.160. The decision of the hearing examiner shall be final and conclusive with right of ~~((appeal))~~ reconsideration and may then be appealed to the county council pursuant to ~~((SCC 2.02.170))~~ chapter 2.02 SCC.

Section 31. That SCC, Title 18, section 18.56.030, last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

18.56.030 Issuing building permits. Prior to the issuing of the building permit for any structure in an FS zone, a binding site plan for the zone, indicating the provisions for acceleration and deceleration lanes, ingress and egress driveways; curbing, internal

traffic circulation and parking; the location of structures, and the floor area devoted to accessory uses must be reviewed and approved by the hearing examiner. Where only partial development of the zone is involved, the hearing examiner will evaluate the partial development plans as they contribute to or limit the possible ultimate development of the zone. Prior to the approval of a binding site plan the hearing examiner shall hold a public hearing conducted pursuant to SCC 2.02. Notice of said hearing shall be provided in accordance with the notice requirements for other than county initiated rezones in SCC 18.73.050. The decision of the hearing examiner shall be final and conclusive with right of ~~((appeal))~~ reconsideration and may then be appealed to the county council pursuant to ~~((SCC 2.02.170))~~ chapter 2.02 SCC.

Section 32. That SCC, Title 18, section 18.72.030, added by Ord. No. 86-037, adopted May 7, 1986, is amended to read:

18.72.030 Variances - effect of hearing examiner's decision. The decision of the hearing examiner~~((s))~~ on a variance shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC. ~~((Within ten days from the date of the examiner's decision, the applicant or an adverse party may appeal to a court of competent jurisdiction by application for a writ of certiorari, a writ of prohibition or a writ of mandamus.))~~

Section 33: That SCC, Title 18, section 18.72.040, added by Ord. No. 86-037, adopted May 7, 1986, is amended to read:

18.72.040 Granting conditional use permits. Upon application therefor, the hearing examiner may grant conditional use permits under the circumstances set forth in this title. Conditional uses are allowed in zones as listed in SCC 18.32.040.

Section 34. That SCC, Title 18, section 18.72.050, added by Ord. No. 86-037, adopted May 7, 1986, is amended to read:

18.72.050 Granting special use permits. Upon application therefor, the hearing examiner may grant special use permits under the circumstances set forth in this title.

Section 35. That SCC, Title 18, section 18.72.070, added by Ord. 86-037, adopted May 7, 1986, is amended to read:

18.72.070 Conditional and special use permits - effect of hearing examiner's decision. The decision of the hearing examiner on a conditional use or special use permit shall be final and conclusive with right of ~~((appeal))~~ reconsideration and may then be appealed to the council pursuant to chapter 2.02 SCC.

Section 36. That SCC, Title 18, section 18.72.090, added by Ord. No. 86-037, adopted May 7, 1986, is amended to read:

18.72.090 Administrative authority ((appeals)). The director of the department of planning and community development or his designee ((examiner)) shall have the authority to make and issue ((hear and decide appeals from any)) orders, requirements, permits, decisions or determinations as necessary ((made by the director of the department of planning and community development or his designee)) in the administration and enforcement of the provisions of this title.

Section 37. That SCC, Title 18, section 18.72.100, last amended by Ord. No. 89-092, adopted August 16, 1989, is amended to read:

18.72.100 Administrative appeals ((time limit)) - Procedure.

(1) Appeals may be taken to the hearing examiner by any person aggrieved, or by any officer, department, board or bureau of the county affected by any order, requirement, permit, decision or determination made by ((ef)) the director of the department of planning and community development or his designee in the administration and enforcement of the provisions of this title. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC. ((The appeals shall be filed in writing, in duplicate, with the community development division within fifteen days of the date of the action being appealed. Upon filing an appeal, a place and time for the hearing within a reasonable time, not to exceed ninety days from such notice of appeal shall be set by the department of planning and community development.))

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(3) The decision of the examiner on an administrative appeal shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

Section 38. That SCC, Title 18, section 18.72.110, added by Ord. No. 86-037, adopted May 7, 1986, is hereby repealed.

Section 39. That SCC, Title 18, section 18.72.120, added by Ord. No. 86-037, adopted May 7, 1986, is hereby repealed.

Section 40. That SCC, Title 18, section 18.72.125, added by Ord. No. 86-037, adopted May 7, 1986, is hereby repealed.

Section 41. That SCC, Title 18, section 18.72.140, last amended by Ord. No. 92-140, adopted November 24, 1992, is amended to read:

18.72.140 Filing fees. The filing fees for requests/actions covered by this chapter shall be as follows:

(1)	Variance	\$1,000.00
	(a) Except that a request for a single revision to a dimensional requirement related to a single family residence shall be:	\$500.00
	(b) Request for time extension	\$100.00
	(c) Request for minor revision under SCC 18.72.192	\$200.00
	(d) Request for major revision under SCC 18.72.192	\$800.00
(2)	Special use permit plus a per-acre fee of \$50.00, limited to a maximum fee of \$3,000.00	\$1,000.00
	(a) Request for time extension	\$100.00
	(b) Request for minor revision under SCC 18.72.192	\$200.00
	(c) Request for major revision under SCC 18.72.192	\$800.00
(3)	Conditional use permit	\$2,100.00
	(a) Landfill plus a per acre fee of \$50.00, limited to a maximum fee of \$4,000.00	\$1,800.00
	(b) Mineral extraction/processing plus a per acre fee of \$100.00, limited to a maximum fee of \$6,000	\$1,800.00
	(c) Sanitary landfill plus a per acre fee of \$100.00, limited to a maximum fee of \$6,000	\$1,800.00
	(d) Modification to site plan	
	Minor revision under 18.72.192	\$200.00
	Major revision under 18.72.192	\$800.00
(4)	Temporary use permit	\$150.00
	(a) Temporary woodwaste recycling and temporary woodwaste storage	\$500.00
	((5) Administrative appeals	\$100.00)
	((6)) (5) Accessory apartment permit	\$150.00

Section 42. That SCC, Title 18, section 18.72.170, last amended by Ord. No. 92-075, adopted July 22, 1992, is hereby repealed.

Section 43. That SCC, Title 18, section 18.73.070, added by Ord. 86-037, adopted May 7, 1986, is amended to read:

18.73.070 Decision by hearing examiner. When a rezone application is heard by the examiner, it shall be processed and a decision made thereon in accordance with the provisions of chapter

2.02 SCC. The decision of the examiner shall be final and conclusive ~~(unless)~~ with right of reconsideration and may then be appealed to the council pursuant to chapter 2.02 SCC.

Section 44. That SCC, Title 18, section 19.16.050, last amended by Ord. 91-114, adopted August 28, 1991, is amended to read:

19.16.050 Hearing and approval procedure. Preliminary plat applications shall be processed in accordance with the provisions of this title and Title 23 SCC and, in addition, in accordance with the provisions of chapter 2.02 SCC where applicable. Approval of a preliminary plat by the hearing examiner is final and conclusive ~~((unless))~~ with right of reconsideration and may then be appealed to the county council pursuant to ((the procedures set out in)) chapter 2.02 SCC.

Section 45. That SCC, Title 20, section 20.20.020, last amended by Ord. No. 92-145, adopted November 21, 1990, is amended to read:

20.20.020 Fees. The filing fee for requests or actions covered by this chapter shall be as follows:

- (1) Application for approval of preliminary short subdivision: \$1,000.00
PLUS, a per-acre fee: \$ 50.00
PLUS, a per-lot fee: \$ 50.00
THEREFORE, the maximum fee shall be: \$1,500.00
- (2) Final approval of short subdivision: \$ 500.00
- (3) Final check of short subdivision documents: \$ 600.00
- (4) Recording of the final short subdivision: \$ 25.00
- ~~((5) Appeal pursuant to SCC 20.20.090- \$ 100.00))~~
- ~~((6))~~ (5) Application for modification of short plat pursuant to chapter 20.32 SCC: \$ 600.00

Section 46. That SCC, Title 20, subsection 20.20.080(2), last amended by Ord. 90-214, adopted January 16, 1991, is amended to read:

20.20.080 Department action.

. . . .

- (2) The department may:
 - (a) Approve the preliminary short subdivision and short plat with or without conditions; or
 - (b) Return the preliminary short subdivision and short plat to the applicant for correction or for applicant's construction of improvements in a manner consistent with the department findings; or
 - (c) Deny the preliminary short subdivision and short plat; or
 - (d) Submit the preliminary short subdivision and short plat to the hearing examiner for his consideration together with the department's recommendation. The examiner shall hear the application in accordance with the procedures of chapter 2.02 SCC and 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)) reconsideration and may then be appealed to the council pursuant to chapter 2.02 SCC.

Section 47. That SCC, Title 20, section 20.20.090, last amended by Amended Ord. No. 92-145, adopted November 24, 1992, is amended to read:

20.20.090 Review of decision on short subdivisions.

(1) Decision by department.

(a) Any person aggrieved by a decision by the department to deny or issue preliminary approval of a short subdivision, or final approval where no preliminary approval was given may appeal such decision to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC. ~~((within fifteen days of notice given pursuant to SCC 20.20.045(3)). Appeals shall be filed with the department in writing, shall contain a brief description of why error is assigned to the department's decision and shall be accompanied by a fee of one hundred dollars. Such appeal fee shall not be charged to an agency of the county or a second appellant. The appeal shall be heard pursuant to chapter 2.02 SCC, and notice of the appeal hearing shall be given as required in Title 19 SCC for hearings on preliminary plat applications.))~~

(b) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(c) The decision of the hearing examiner shall be final and conclusive with right of reconsideration and may then be appealed to the county council pursuant to chapter 2.02 SCC.

Section 48. That SCC, Title 20, section 20.32.020, last amended by Ord. 85-105, adopted December 5, 1985, is amended to read:

20.32.020 Public hearing required. Requests for modification shall be heard by the hearing examiner and processed in accordance with the procedures established in chapter 2.02 SCC 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)) reconsideration and may then be appealed to the council pursuant to chapter 2.02 SCC.

Section 49. That SCC, Title 20, section 20.36.050, last amended by Ord. 85-105, adopted December 4, 1985, is amended to read:

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 days or more than thirty days after date of mailing where he may present his views to the hearing examiner. The hearing shall be conducted by the examiner upon such notice and under the procedure established by SCC 20.20.090. 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 with right of reconsideration and may then be

reviewable by an action for writ of review filed in Snohomish County superior court as provided in chapter 2.02 SCC. ((Review of the examiner's decision shall be as provided by SCC 20.36.060.)) 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 50. That SCC, Title 20, section 20.36.060, last amended by Ord. 85-105, adopted December 4, 1985, is hereby repealed.

Section 51. That SCC, Title 21, section 21.16.090, last amended by Ord. 85-105, adopted December 4, 1985, is amended to read:

21.16.090 Appeals to Shorelines Hearings Board.

(1) 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; PROVIDED, That reconsideration pursuant to SCC 2.02.167 must have been sought by one or more parties prior to the filing of an appeal under this section; PROVIDED FURTHER, That only the petitioner for reconsideration may appeal from the denial of a petition for reconsideration.

(2) 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.

(3) 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 52. That SCC, Title 23, section 23.16.280, last amended by Ord. No. 84-111, adopted September 19, 1984, is amended to read:

23.16.280 Denial of proposal without EIS. When denial of a non-county proposal, for which early notice of whether a DS is likely to be issued or for which a DS has been issued, can be based on grounds which are ascertainable without preparation of an EIS, the responsible official may deny the application and/or recommend denial thereof by other departments or agencies with jurisdiction without preparing an EIS in order to avoid incurring needless county and applicant expense, subject to the following:

(1) Any such denial or recommendation of denial shall be supported by express written findings or conclusions of substantial (~~irreconcilable~~) conflict with adopted plans, ordinances, regulations or laws.

(2) When considering a recommendation of denial made pursuant to this section, the decision making body may take one of the following actions:

- (a) Deny the application;
- (b) Find that there is reasonable doubt that the recommended grounds for denial are sufficient and remand the application to the responsible official for ~~((reconsideration following preparation of an EIS))~~ compliance with the procedural requirements of this title.

Section 53. That SCC, Title 23, section 23.28.040, last amended by Ord. No. 92-075, adopted July 22, 1992, is amended to read:

23.28.040 Public notice requirement - general.

(1) Snohomish county shall give public notice of the issuance of a DNS (WAC 197-11-340 [1] and [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 the official county newspaper and in a newspaper of general circulation in the area where the proposal is located;

(b) Conspicuous posting of the property by the applicant with two or more signs, as determined by the department. Signs and instructions for posting shall be provided to the applicant by the county. Posting shall be evidenced by submittal of a verified statement confirming the date and location of posting;

(c) Mailing of written notice to all taxpayers of record and known site addresses within a five hundred foot radius of the external boundary of the proposal site; PROVIDED, That the mailing radius for written notice shall correspond to the mailing radius required for the notice of hearing of any discretionary permit or action associated with the issuance of a DNS, DS, draft EIS or draft supplemental EIS where such mailing radius is greater than 500 feet; and

(d) Notifying public or private groups which have expressed interest in a certain proposal or geographic area or in the type of proposal being considered;

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

- (a) Notifying the news media;
- (b) Placing notices in appropriate regional, neighborhood, ethnic or trade journals; and
- (c) Publishing notice in agency newsletters.

(3) All notices shall specify the appeal process available and deadline for filing appeals.

Section 54. That SCC, Title 23, section 23.28.060, last amended by Ord. No. 90-098 on August 15, 1990, is hereby repealed.

Section 55. That SCC, Title 23, section 23.40.010, added by 'Ord.' No. 84-111, adopted September 19, 1984, is amended to read:

23.40.010 General.

(1) Except as provided by SCC 23.40.022 (~~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,~~ a) 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, except as provided by SCC 23.40.022, 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 seek review of environmental determinations made after supplemental review including determinations made during proceedings conducted following remand from an appeal.

(4) All appeals of environmental determinations made pursuant to this title shall be conducted on the record according to the applicable provisions of county code. (~~chapter 2.02 SCC and a~~) 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.

(5) In any appeal, the procedural determinations made pursuant to this title by the responsible official shall be entitled to substantial weight and may be overturned only if proven to be clearly erroneous. The appellant shall have the burden of proof.

(~~(5)~~) (6) 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 56. That SCC, Title 23, section 23.40.021, last amended by Ord. No. 92-075, adopted July 22, 1992, is hereby repealed.

NEW SECTION. Section 57. That a new section 23.40.022 is added to SCC, Title 23, as follows:

23.40.022 Appeals of threshold determinations and final EIS adequacy for administrative and quasi-judicial permits.

(1) Any person with standing may appeal to the hearing examiner a final threshold determination or the adequacy of a final EIS related to applications filed under titles 13, 16, 17, 18 (except area-wide rezones), 19, 20, 21, 24, 27, and 29 SCC.

(2) Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC; PROVIDED, That the time period established therein for the filing of any such appeal shall commence on the date of either the posting of the property or the publication of notice, whichever occurs later, of the DNS, mitigated DNS, DS or final EIS being appealed; and PROVIDED FURTHER, That for a DNS, mitigated DNS or DS requiring a comment period pursuant to sections 23.28.040 and 23.28.160 SCC, the appeal period shall commence at the close of the comment period.

(3) Any appeal filed pursuant to this section shall be adjudicated by the examiner prior to the issuance of any administrative approval or the convening of any required hearing on the merits of the underlying application, whichever is applicable; PROVIDED, that actions taken pursuant to SCC 23.16.280 are exempt from this requirement.

(4) The examiner's decision on any appeal shall be final and conclusive with right of reconsideration and may then be reviewed pursuant to SCC 23.40.040.

Section 58. That SCC, Title 23, section 23.40.030, last amended by Ord. No. 86-092, adopted September 10, 1986, is hereby repealed.

Section 59. That SCC, Title 23, section 23.40.040, last amended by Ord. 85-105, adopted December 4, 1985, is amended to read:

23.40.040 Judicial Review.

(1) No person may seek judicial review of environmental determinations made pursuant to this title unless such person has first appealed such environmental determinations using the procedures set forth in the preceding sections of this chapter, where applicable.

(2) Proceedings for judicial review shall be governed by RCW 43.21C.075 (4), (5), (6), (7), (8) and (9) and 43.21C.080. Judicial review under this section shall without exception be of the county's final decision on the underlying application or proposal, together with its accompanying environmental determinations as required by RCW 43.21C.075(6)(c).

(3) The official notice required pursuant to the requirements of RCW 43.21C.075(5)(a) (, the final decision making body shall issue an official notice stating the date and place for commencing a judicial appeal at the time the county's decision on an appeal brought under this chapter is issued. Such notice) shall state that a judicial appeal raising SEPA issues shall be brought ((may be commenced on or before the fifteenth day (the date of which shall be stated) following the issuance of the county's decision by

~~bringing an action~~) in the superior court of Snohomish county at Everett, Washington.

(4) The notice of intent to commence a judicial appeal required by RCW 43.21C.075(5)(a) shall be filed with the clerk of the county council.

Section 60. That SCC, Title 24, section 24.12.320, added by ordinance adopted January 12, 1979, is amended to read:

24.12.320 Appeals - Procedure.

(1) ~~Any ((An)) aggrieved person ((applicant)) may appeal any decision or determination of the director under this title to the county hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC. ((Any such appeal shall be filed in writing with the examiner's office within twenty days of the date of transmittal of such decision or determination to the applicant, shall state fully the grounds therefor, and shall be processed in the manner prescribed for hearing administrative appeals under chapters 2.02 and 18.18 SCC.))~~

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(3) The decision of the hearing examiner shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC.

Section 61. That SCC, Title 26B, section 26B.57.010, last amended by Ord. No. 90-186, adopted November 14, 1990, is hereby repealed.

NEW SECTION. Section 62. That a new section 26B.57.015 is added to SCC, Title 26B, as follows:

26B.57.015 Appeals - Procedure.

(1) Any person aggrieved by a decision applying this title to a development may appeal such decision:

(a) to the hearing examiner in those cases where no other administrative appeal procedure is provided by county code. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC;

(b) in conjunction with an appeal of the underlying application/permit in those cases where administrative appeal of the underlying application/permit is expressly authorized by county code; or

(c) together with the underlying decision pursuant to the provisions of chapter 2.02 SCC in those cases where this title has been applied by the hearing examiner in conjunction with an application/permit over which the examiner exercised original jurisdiction.

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(3) The decision of the hearing examiner pursuant to subsection (1)(a) shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

(4) The effect of and procedures for appeal from decisions rendered pursuant to subsections (1)(b) and (1)(c) shall be subject to all provisions of county code regarding the underlying application/permit.

Section 63. That SCC, Title 27, section 27.16.090, last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

27.16.090 Appeals - Procedure.

(1) The decision of the department to grant, grant with conditions or deny a flood hazard zone permit shall be final and conclusive unless appealed by any aggrieved person to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC. ((, within fifteen calendar days from the date of the department's decision, the applicant appeals the decision to the Snohomish county hearing examiner pursuant to the procedure established for administrative appeals in title 18, SCC 18.72.090, 18.72.120, 18.72.125, 18.72.130, 18.72.140 and 18.72.150.))

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(3) The decision of the hearing examiner shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

Section 64. That SCC, Title 28, subsection 28.12.020(2)(f), added by Ord. 85-017, adopted May 1, 1985, is amended to read:

28.12.020 Issuance - Contents.

. . .

(2) The notice and order shall contain:

(a) The street address, when available, and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located;

(b) A statement that a director has found the person to be in violation of a land use ordinance with a brief and concise description of the conditions found to be in violation;

(c) A statement of the corrective action required to be taken. If a director has determined that corrective work is required, the order shall require that all required permits be secured, that work physically be commenced and that the work be completed within such times as a director determines are reasonable under the circumstances;

(d) A statement specifying the amount of any civil penalty assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent;

(e) Statements advising that:

(i) If any required work is not commenced or completed within the times specified, a director will proceed to cause abatement of the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation, and

(ii) If any assessed civil penalty is not paid, a director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation;

(f) A statement advising: (1) that the notice and order may be appealed to the Snohomish county hearing examiner pursuant to the provisions of SCC 2.02.125 and SCC 28.12.065 ((that the order shall become final, unless, no later than ten days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the hearing examiner.)); (2) that any per diem civil penalty shall not accrue during the pendency of such administrative appeal; and (3) that failure to file a timely and complete appeal will constitute a waiver of all rights to an administrative appeal under county code.

Section 65. That SCC, Title 28, section 28.12.030, added by Ord. 85-017, adopted May 1, 1985, is hereby repealed.

Section 66. That SCC, Title 28, section 28.12.050, added by Ord. 85-017, adopted May 1, 1985, is amended to read:

28.12.050 Administrative conference; supplemental notice and order. At any time prior to the convening by the hearing examiner of an appeal hearing (~~other than during the pendency of an appeal~~), an informal administrative conference may be conducted by a director for the purposes of bringing communications between concerned parties and providing a forum for efficient resolution of any violation. A director may call a conference in response to a request from any person aggrieved by the director's order. The director may, but is not required to, involve the enforcement technical review committee. As a result of information developed at the conference, the director may affirm, modify or revoke his order. If the order is to be modified, a supplemental notice and order shall be issued which shall be subject to the same procedures applicable to all notices and orders contained in this title. The administrative conference is optional with a director, and is not a prerequisite to utilization of any of the enforcement provisions described in this title.

NEW SECTION. Section 67. That a new section 28.12.055 is added to SCC, Title 28, as follows:

28.12.055 Final order designated. Any order duly issued by a director pursuant to the procedures contained in this title shall be final unless an appeal is timely filed pursuant to SCC 28.12.065 and 2.02.125.

Section 68. That SCC, Title 28, section 28.12.060, added by Ord. 92-075, adopted July 22, 1992, is hereby repealed.

NEW SECTION. Section 69. That a new section is added to SCC, Title 28, as follows:

28.12.065 Appeals - Procedure.

(1) Any person who has been served with a notice and order pursuant to SCC 28.12.020 may appeal to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(2) At the hearing, the director shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

(3) The hearing examiner's decision shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

Section 70. That SCC, Title 28, section 28.12.070, last amended by Ord. No. 85-105, adopted December 4, 1985, is hereby repealed.

Section 71. That SCC, Title 29, section 29.16.020, last amended by Ord. 92-075, adopted July 22, 1992, is amended to read:

29.16.020 Appeals ((of the director's decision)) - Procedure.

(1) ~~((The examiner shall have the authority to hear and decide appeals from any decision or determination made by the director or his designee in the administration and enforcement of provisions of this title. (2))~~ Appeals may be taken to the hearing examiner by any person aggrieved, or by any officer, department, board or bureau of the county affected by any order, requirement, permit, decision or determination made by ((of)) the director or his designee in the administration and enforcement of the provisions of this title. Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC. ~~((The appeals shall be filed in writing, in duplicate, with the planning division within fifteen days of the date of the action being appealed and shall be accompanied by a filing fee of one hundred dollars. The appeal shall contain a detailed statement of the grounds for appeal and the facts upon which the appeal is based. Upon filing an appeal, a place and time for the hearing within a reasonable time,~~

~~not to exceed ninety days from such notice of appeal shall be set by the hearing examiner. At least fifteen days notice of such time and place together with one copy of the written appeal shall be given to the official whose decision is being appealed, to the appellant, and to other parties of record as defined in SCC 2.02.165. All hearing notices required by this section shall include the date, time, place and purpose of the public hearing, and may include any other information which the county finds may be of assistance in providing a complete and reasonably understandable summary to the general public.~~

~~((3) The examiner may, in conformity with this title or other applicable ordinances, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination as necessary. To that end, the examiner shall have all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.)~~

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

~~((4)) (3) The decision of the hearing examiner ((on an appeal)) shall be final and conclusive with right of reconsideration and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC. ((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 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 72. Applicability.

1. This ordinance shall take effect on January 1, 1994.

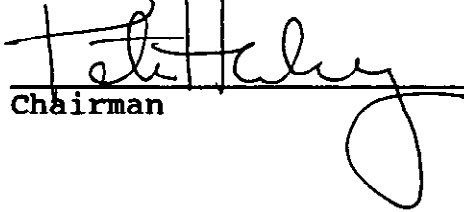
2. For threshold determinations issued pursuant to Title 23 SCC prior to the effective date of this ordinance, the applicability of this ordinance shall be limited as follows:

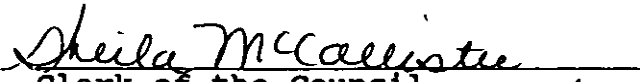
a. Appeals from determinations of significance issued prior to the effective date of this ordinance which were not subject to SCC 23.40.021, (environmental appeals for administrative permits), or which have not been reviewed in a public hearing begun prior to the effective date of this ordinance pursuant to SCC 23.16.280 (denial of proposal without EIS), shall be subject to all requirements of this ordinance. The time period for filing such an appeal shall commence on the effective date of this ordinance; and

b. Appeals of threshold determinations, other than determinations of significance, which were issued prior to the effective date of this ordinance shall be accepted and brought to hearing before the Hearing Examiner as provided in the former Chapter 23.40 SCC.

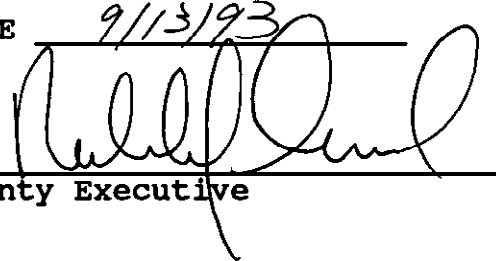
Dated this 8th day of September, 1993.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

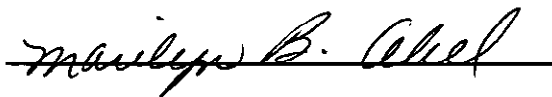

Chairman


Clerk of the Council, asst

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

DATE 9/13/93

County Executive

ATTEST:



D-8