



CO00021932

SNOHOMISH COUNTY COUNCIL
AMENDED
ORDINANCE NO. 94-037
AMENDING SNOHOMISH COUNTY CODE
TITLE 23, CHAPTERS 23.12 AND 23.16,
ESTABLISHING REVIEW TIME PERIODS

BE IT ORDAINED:

Section 1. That SCC Title 23, section 23.12.200, last amended by Ordinance 84-111, adopted September 19, 1984, is amended to read:

23.12.200 Mitigated determinations of nonsignificance.

(1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and an environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the county's actual threshold determination for the proposal.

(3) The responsible official (~~((should, if possible,))~~) shall respond to the request for early notice within ~~((fifteen))~~ sixty (60) days of receipt of a complete application as defined in SCC 23.16.163. The response shall:

(a) Be written;

(b) State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the county to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the county shall base its threshold determination on the changed or clarified proposal and (~~((, should, if possible,))~~) shall make the determination within ~~((fifteen days of receiving the changed or clarified proposal))~~ the time periods established for making a threshold determination in SCC 23.16.161(2).

(a) If the county indicated specific mitigation measures which would remove all probable adverse environmental impacts in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures,

the county shall issue and circulate a mitigated determination of nonsignificance under WAC 197-11-240(2).

(b) If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct two hundred foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) Mitigated DNS's issued under WAC 197-11-340(2), require a fifteen day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit.

(8) A decisionmaker or a reviewing body on an appeal shall not be bound by the designation of mitigation measures contained in a mitigated DNS and may change such mitigation measures or impose additional conditions or approval as authorized by law. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall make a new threshold determination and, if necessary may withdraw the mitigated DNS and issue a DS.

(9) The county's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the county to issue a mitigated DNS.

Section 2. That Snohomish County Code Section 23.16.160, added by Ordinance 84-111, adopted September 19, 1984, is repealed.

NEW SECTION. Section 3. A new section is added to Chapter 23.16 of the Snohomish County Code to read:

23.16.161 Time limits applicable to the SEPA process. The following time limits (expressed in calendar days) shall apply to the processing of all private projects and to governmental proposals submitted to Snohomish County by other agencies:

(1) Categorical Exemptions. A determination that a project is categorically exempt should be made within thirty (30) days of submission of an adequate application;

(2) Threshold determinations without agreed EIS.

(a) The lead department shall determine whether an application is complete as specified in SCC 23.16.163 within thirty (30) days of the date of application submittal. A written notification of completeness shall be mailed to the applicant within five (5) days of the

determination. This notification does not constitute a threshold determination pursuant to this title.

(b) If the original application is complete, a threshold determination shall be made within ninety (90) days of application submittal.

(c) If the original application is determined to be incomplete, the lead department shall request in writing any required additional information. The written request shall be mailed to the applicant within five (5) days of determining that the application is incomplete.

(d) All information requested pursuant to SCC 23.16.161(2)(c) must be submitted together. The applicant must respond in writing to every item included in the request for additional information. The lead department may decline to accept the submittal package when a response to one or more items or requested information is not included.

(e) When the county receives and accepts from the applicant a written response to a request for additional information made pursuant to SCC 23.16.161(2)(c):

(i) The lead department shall issue a threshold determination within ninety (90) days of receipt of the applicant's written response; or

(ii) the lead department shall notify the applicant within sixty (60) days that a determination of significance is likely and specify the areas of likely impact pursuant to the early notice provisions of SCC 23.12.200(2) and (3). A threshold determination shall be made within ninety (90) days of receipt of the applicant's written response to the request for additional information regardless of whether the submitted information adequately satisfies the lead department needs. The ninety (90) day period may be extended if requested by the applicant pursuant to SCC 23.16.161(2)(f).

(f) If an application is determined to be complete pursuant to SCC 23.16.161(2)(b), the applicant may submit a clarified or revised proposal, including a revised environmental checklist in response to the impacts identified in the county's completeness letter. Any such submittal is subject to the submittal provisions of SCC 23.16.161(2)(d), and must be accompanied by a request for a time extension pursuant to SCC 23.16.161(2)(g).

(g) The applicant may request that the ninety (90) day requirement for making a threshold determination set forth in SCC 23.16.161(2)(b) or (e) be extended. The extension:

(i) shall be granted one time only;

(ii) shall be requested in writing and must be received by the lead department no later than twenty (20) days prior to the end of the applicable ninety (90) day time period for making a threshold determination. Requests for extensions not received within the specified time period will not be granted, and a threshold determination will be prepared and issued within the required time period;

(iii) shall be used to allow additional time for the lead department to review and evaluate additional information submitted by the applicant; and

(iv) shall not exceed thirty (30) days. The 30 day period shall not commence until the lead department has received the submittal package from the applicant. The applicant may take up to one hundred twenty (120) days from the date the extension is granted to submit the package of additional information to the department. The thirty (30) day extension shall be added to the required ninety (90) day review period.

(h) The time periods prescribed for making a threshold determination pursuant to SCC 23.16.161(2) shall not apply to an application if the proposal is substantially revised and/or altered so as to require the county to conduct a complete re-evaluation of proposal impacts in conjunction with a substantial project redesign. The revised proposal shall be processed as a new application for the purposes of meeting the review time period requirements of SCC 23.16.161(2).

(3) Threshold determinations with agreed EIS. Threshold determinations should be made within thirty (30) days of receiving an application that describes probable significant adverse environmental impact(s) when:

- (a) The applicant requests in writing that an EIS be prepared; or
- (b) the applicant and county agree that an EIS be prepared.

NEW SECTION. Section 4. A new section is added to Chapter 23.16 of the Snohomish County Code to read:

23.16.163 Complete application. A complete application for purposes of processing and meeting the time periods specified in SCC 23.16.161 shall consist of the following:

- (1) A completed application form and any project information otherwise required at the time of application by applicable county land use regulations;
- (2) A signed and completed environmental checklist, including written responses to all questions; and
- (3) supporting documentation, including any additional information necessary to comprehensively disclose and evaluate whether the proposal is likely to have significant adverse environmental impacts.

Section 5. That Snohomish County Code Section 23.16.240, last amended by Ordinance 92-146 adopted November 24, 1992, is amended to read:

23.16.240 Fees. The following fees, which are in addition to any other fees provided for by law, shall be charged when Snohomish County is the lead agency for a noncounty proposal.

(1) Threshold determination. For every threshold determination, a fee shall be collected prior to undertaking the threshold determination (~~as follows,~~) and the time periods provided in SCC 23.16.16~~((0))~~1 for making a threshold determination shall not begin to run until the payment of the fee. The following fees shall apply:

- (a) Application for building permits for single-family dwelling or duplex which would be categorically exempt but for the provisions of SCC 23.12.120 \$350.00
- (b) All other actions requiring a threshold determination \$550.00
- (c) Review of special studies submitted to supplement the environmental checklist by principal reviewing staff, per hour \$ 60.00

(2) Mitigated threshold determination. For every mitigated threshold determination considered as provided by SCC 23.12.200 and WAC 197-11-350, one or a combination of the following fees shall be paid by the applicant. If after 30 days of the date an applicant receives

"Notice of Payment Due" by certified mail, the required fees remain unpaid, the county shall discontinue action on the proposal, including postponement of scheduled hearings, until the fees are paid. Such fees are in addition to the initial threshold determination fees in (1) above.

- (a) Mitigation considerations for school, park, or road impacts: \$150.00
- (b) Mitigation consideration limited to wetland and related sensitive areas: \$600.00
- (c) Mitigation consideration limited to wetland and related sensitive areas for an individual single-family residence: \$150.00
- (d) A fee for time spent by county professional employees' required in making the determination beyond the scope or initial review of above shall be paid at an hourly rate: \$ 60.00

(3) Withdrawal of determination of significance and new threshold determination. A fee in an amount equal to the original fee paid for the environmental checklist review pursuant to 23.16.240(1) shall be charged for the additional environmental review conducted when a determination of significance is withdrawn and a new threshold determination is made for the same proposal. The fee shall be paid prior to issuance of the new threshold determination.

~~(3)~~ (4) EIS.

(a) The following EIS preparation and distribution costs shall be borne by the applicant or proponent.

(i) Actual cost of the time spent by regular county professional, technical and clerical employees required for the preparation and distribution of the applicant's impact statement: PROVIDED, that such costs shall be accounted for properly; and PROVIDED FURTHER, That no costs shall be charged for processing of the application which would be incurred with or without the requirement for an EIS on which are covered by the regular application fee; and

(ii) Additional costs, if any, for experts not employed by the county, texts, printing, advertising, and for any other actual costs required for the preparation and distribution of the EIS; and

(iii) When an EIS is to be prepared by a consultant actual consultant fees which shall be solely the responsibility of and billed directly to the applicant or proponent PROVIDED, That the applicant or proponent shall also bear such additional county costs as provided for (i) and (ii) above as are incurred in the review, revision, approval and distribution of the EIS.

(b) When an EIS is to be prepared by the county, following consultation with the applicant, the lead department shall inform the applicant of estimated costs and completion date for the draft EIS prior to accepting the deposit required by subsection 2(c). Such estimate shall not constitute an offer or covenant by the lead department nor shall it be binding upon the county.

(c) In order to assure payment of the above county costs, the applicant or proponent shall post with the county cash, surety bond or other sufficient and acceptable security in the minimum amount of \$1,500; PROVIDED, That for consultant-prepared EISs, the security may be in such lesser amount as deemed sufficient by the responsible official to

cover estimated county costs. If accrued county costs will exceed the posted security, EIS preparation shall cease following reasonable notice to the applicant until posting by the applicant or proponent of such additional security as deemed sufficient by the responsible official to secure the payment of estimated additional county costs. If after 30 days of the date an applicant receives "Notice of Payment Due" by certified mail, the required fees remain unpaid, the county shall discontinue action on the proposal, including postponement of scheduled hearings, until the fees are paid.

Any unexpended balance from security deposits made by the applicant shall be returned upon completion of the final EIS.

(d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsection 2(a) thru (c) of this section which remain after incurred costs are paid.

(4)(5) The county shall collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(5)(6) The county may charge any person for copies of any document prepared under this ordinance, and for mailing the document in a manner provided by chapter 42.17 RCW.

PASSED this 4th day of May, 1994.

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON


Chairperson


Clerk of the Council, *A357*

- APPROVED
- VETOED
- EMERGENCY

DATE 5/6/94

ATTEST: Marilyn B. Abel

[Signature]
SNOHOMISH COUNTY EXECUTIVE

Approved as to form:

[Signature]
Deputy Prosecuting Attorney

April 20, 1994
(Date)

PUBLISHED _____ and _____

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