

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 95-076  
AMENDING SNOHOMISH COUNTY CODE  
CHAPTER 23.40  
RELATING TO ADJUDICATION OF SEPA APPEALS



BE IT ORDAINED:

Section 1. Snohomish County Code Section 23.40.010, last amended by Ordinance 93-077 on September 8, 1993, is amended to read:

**23.40.010 General**

(1) Except as provided by SCC 23.40.022, 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) 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. 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 written 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.

(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.~~ An appeal of the conditioning or denial of a proposal pursuant to RCW 43.21C.060 shall not be made to the county council as a separate appeal under this chapter, but may be considered as part of an underlying permit appeal filed pursuant to SCC 2.02.171.

Section 2. Snohomish County Code Section 23.40.022 added by Amended Ordinance 93-077 on September 8, 1993, is amended to read:

**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 SCC 23.28.040 and SCC 23.28.160, the appeal period shall commence at the close of the comment period.

(3) Any appeal from a DS 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. Adjudication of all other appeals filed pursuant to this section shall be combined with a hearing on the merits of the underlying application where such hearing is otherwise required, or combined with the hearing on an appeal from an administrative decision where such appeal is authorized. ~~(- PROVIDED, That)~~ A(a)ctions taken pursuant to SCC 23.16.280 are exempt from ((this)) the requirements of this subsection.

(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.

DATED this 30th day of August, 1995.

ATTEST:

Sheila McCallister  
Clerk of the Council, *asst*

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

Karen Miller  
Karen Miller, Chair

- APPROVED  
 VETOED  
 EMERGENCY

DATE: 8/31/95  
Robert J. Drewel  
Robert J. Drewel, County Executive

ATTEST: Marilyn B. Abel

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