



SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 97-067

RELATING TO ADMINISTRATIVE APPEALS OF ENVIRONMENTAL
DETERMINATIONS UNDER THE STATE ENVIRONMENTAL POLICY ACT,
AMENDING CHAPTER 23.40 OF THE SNOHOMISH COUNTY
CODE, AND PROVIDING FOR APPLICATION TO PENDING
AND FUTURE ADMINISTRATIVE APPEALS

BE IT ORDAINED:

Section 1. Snohomish County Code Section 23.40.010, last amended by Ordinance 95-076 on August 30, 1995, 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))~~ Administrative appeals shall be limited to one review of a final threshold determination and to one review of the adequacy of a final EIS. An appeal shall not be allowed following remand from an appeal under this chapter, except that an appeal challenging the adequacy of a final EIS shall be allowed if the adequacy of a final EIS was not the subject of the prior appeal. 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 administrative 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))~~ environmental 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))~~ Administrative appeals under this title shall be governed by the procedures set forth in this chapter and chapter 2.02 SCC. 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 2.02.175.

Section 2. Snohomish County Code Section 23.40.022, last amended by Amended Ordinance No. 96-003 on February 21, 1996. is amended to read:

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

(1) ~~((Any))~~ Except as provided in SCC 23.40.010, a 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 and other legislative rezones), 19, 19A, 20, 21, 24, 27, and 29 SCC; ~~((EXCEPT))~~ PROVIDED, That appeals of a final threshold determination or the adequacy of a final EIS related to a shoreline substantial development, shoreline variance, and shoreline conditional use permit for which a final county decision on said permit is made by the department may be appealed to the State Shorelines Hearing Board together with the underlying permit appeal.

(2) ~~((Appeals,))~~ Administrative appeals other than those excepted above shall be filed and processed pursuant to the provisions of this chapter and 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.

(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. Actions taken

pursuant to SCC 23.16.280 are exempt from the requirements of this subsection.

(4) The examiner's decision on any appeal shall be final and conclusive with an optional right of reconsideration as provided in SCC 2.02.167 and may then be reviewed pursuant to SCC 23.40.040.

Section 3. Application. (1) This ordinance shall apply according to its terms to prohibit administrative appeals commenced after this ordinance takes effect and administrative appeals pending when this ordinance takes effect.

(2) This ordinance is not intended to limit the ability of a party to obtain judicial review of a land use decision or accompanying environmental determination under RCW 36.70C.040, RCW 43.21C.075, or other law.

PASSED this 16th day of July, 1997.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

John Hamner
Chairperson

ATTEST:

Barbara Ditoro
Clerk of the Council, *Asst.*

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

DATE: _____

County Executive

ATTEST: _____

Approved as to form only:

Barbara Dyles 7/15/97
Deputy Prosecuting Attorney

CODE REVISER'S NOTE:

Enacted without the County Executive's signature pursuant to Snohomish County Charter Section 2.110.
Effective date - August 7, 1997

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