

ORDINANCE NUMBER 45 - 05

INTERIM ORDINANCE DELETING SEPA ADMINISTRATIVE APPEALS

WHEREAS, the SEPA (the State Environmental Policy Act) comment process allows parties to submit comment, argument and evidence on both legislative and permit proposals, and it gives the County an opportunity to respond to that evidence and argument;

WHEREAS, the County's SEPA appeal process creates an unnecessary administrative hurdle for permit applicants and others;

WHEREAS, SEPA appeals processes are "optional" under SEPA;

WHEREAS, the county Hearing Examiner expressed concern over the clarity of the current authority for handling appeals of SEPA administrative decisions;

WHEREAS, the County adopts these regulations pursuant to chapters 36.70 and 36.70A RCW, the County's police power, Article 11, section 11 of the Washington Constitution, and any other applicable authority;

WHEREAS, Mason County is updating its comprehensive plan and regulations and expects to take action prior to December 1, 2005 and will have an opportunity to incorporate the drafting of permanent regulations within that process;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF MASON COUNTY DO HEREBY ORDAIN as follows:

SECTION 1.

The ordinance shall be effective immediately and shall be effective until November 2, 2005,

SECTION 2.

Amend Title 8 (SEPA) as follows:

8.32.030 Appeals.

~~(a) Mason County establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:~~

~~(1) Any agency or person may appeal the county's procedural compliance with Chapter 197-11 WAC for issuance of the following:~~

~~(A) A Final DNS. Appeal must be made to the board of county commissioners within fourteen days of the date the DNS is final.~~

~~(B) A DS. The appeal must be made to the board of county commissioners within fourteen days of the date the DS is issued (14 days after issuance of the threshold determination).~~

~~(C) An EIS. Appeal of the FEIS must be made to the board of county commissioners within fourteen days of the date the FEIS or supplemental EIS is issued.~~

~~(2) Provided, however, that the appeal periods stated in subsection (a) of this section shall be extended for an additional seven days if state or local rules adopted pursuant to Chapter 43.21c RCW allow public comment on a determination of nonsignificance.~~

~~(3) Such appeal shall be reviewed in accordance with the requirements stated in Mason County Code, Title 15, Section 15.11.020.~~

~~(b) The county shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. [Statutory Authority: RCW 43.21C.130, 84-13-036 (Order DE 84-25), § 173-806-170, filed 6/15/84. Formerly Chapter 173-805 WAC.] (Ord. 125-98 § 8.3, 1998; Ord. 55-97 § 8.3, 1997; Ord. 17-95, 1995; Ord. 99-84 § 8.3 (part), 1984).~~

There shall be no administrative appeal process for SEPA decisions. All evidence and arguments in opposition to a proposal must be made during the SEPA comment period.

Amend Title 15 as follows:

15.11.010 Appeal of administrative interpretations and decisions.

(a) Administrative interpretations and administrative decisions may be appealed, by applicants or parties of record, to the following hearing body, based upon the relevant code or ordinance as follows:

Hearing Examiner. Title 6 (Sanitary Code) and other regulations listed in part 1 of Section 15.03.005, Title 7 (Shoreline Master Program), Title 8 (Environmental Policy and Resource), Title 14 (Construction), Title 16 (Subdivision), and the Development Regulations, provided that appeals of the building official's notice and order shall be in accordance with Section 401 of the Uniform Code of Abatement (hereafter Section 401) and, shall be to the hearing examiner as specified in this chapter.

(b) The appeal shall be considered and decided within ninety days of receipt of a date stamped application, provided that the parties to an appeal may agree to extend these time periods, and provided that a shorter time period is not specified in the applicable code or regulation.

15.03.050 Hearing examiner.

The hearing examiner shall review and act on the following subjects:

(1) Appeals of decisions of the building official on the interpretation or application of the building code;

(2) Revoking or modifying a permit or approval per Section 15.13.070;

(3) Appeals of enforcement actions under the codes, ordinances and regulations listed under Section 15.03.005. Enforcement actions include interpretations and decisions made as part of the enforcement actions under the authority of provisions in Section 15.03.005;

(4) Appeals of decisions of the fire marshal on interpretation or application of the fire code;

(5) Enforcement actions as provided in Chapter 15.13;

(6) Applications for preliminary and final plats;

(7) Appeal of administrative decisions by the department of community development as set forth in Sections 15.09.020, 15.09.030, and 15.09.040;

~~(8) Appeal of threshold determination under Title 8 (Environmental Policy);~~

~~(98) Granting of variances, except for administrative variances;~~

~~(409) Other Type III permit reviews, including: large lot subdivisions involving a public hearing, Mason conditional environmental permits, mobile home and recreation vehicle park permits, special use permits, reasonable use exceptions, and shoreline substantial development permits and conditional use permits;~~

~~(410) Plat vacation or amendments, pursuant to Chapter 58.17 RCW, and for the purpose of removing utility and drainage easements set forth in Section 15.03.060. (Ord. 50-04 Attach. B (part), 2004: Ord. 61-03 Attach. B, 2003: Ord. 02-03 § 1, 2003: Ord. 179-02 Attach. B (part), 2002; Ord. 142-02 Attach. B (part), 2002: Ord. 88-02 Attach. B (part), 2002: Ord. 116-01 Attach. A (part), 2001: Ord. 129-00 Attach. A § 2 (part), 2000: Res. 79-78 (part), 1998: Res. 136-96 (part), 1996).~~

SECTION 3.

Pursuant to RCW 36.70A.390, the Board will hold a public hearing on this interim ordinance on June 14, 2005, at 9:30 A.M.

DATED this 17th day of May, 2005.

Board of Commissioners
Mason County, Washington



Tim Sheldon



Lynda Ring Erickson



Jayne L. Kamin, Chair

ATTEST:



Rebecca S. Rogers
Clerk of the Board

APPROVED AS TO FORM



Dawn N. Eroke DPA
Prosecuting Attorney