

ORDINANCE NO. **0004462**

AN ORDINANCE relating to the repeal of and substitution of sections in various land use ordinances, all for the purpose of deleting present appeals procedures and establishing a uniform system for appeals of land use and public health decisions to the zoning and subdivision examiner; amending Ordinance 2536, Section 1, Resolution 36058, Resolution 11048, Section IV(D) and KCC 19.28.050; Ordinance 263, Article 6 (part) and KCC 20.28.010; Ordinance 1886, Sections 2 and 7, Ordinance 1076, Sections 2 and 7 and KCC 20.36.020 and .070; Ordinance 3026, Sections 6, 7 and 11 and KCC 20.44. 050, .060 and .100; Resolution 25789, Sections 2612 and 2613 and KCC 21.52.130 and .140; Ordinance 1161, Section 11 and KCC 21.58.060; Ordinance 2910, Section 19, Resolution 25789, Section 2808 and KCC 21.58.100; repealing and substituting new sections in place of Ordinance 3113, Section 6(12) and KCC 19.26.160; Ordinance 173 and KCC 19.28.040; Ordinance 2250, Section 2, Ordinance 1886, Section 9, Ordinance 1076, Section 9 and KCC 20.36.090; Ordinance 2250, Section 5, Ordinance 1076, Section 13 and KCC 20.36.130; Ordinance 2423, Section 5 and KCC 21.46.180; Ordinance 1527, Section 9, Ordinance 2985, Section 13, Ordinance 3718, Section 3 and KCC 21.54.090; Resolution 25789, Section 2902 and KCC 21.60.030; and repealing Ordinance 263, Article 5, Section 7(part) and KCC 20.24.080; Ordinance 263, Article 7, Section 1 and KCC 20.32.010; Ordinance 1886, Section 6, Ordinance 1076, Section 6 and KCC 20.36.060; Ordinance 2250, Section 2, Ordinance 1886, Section 8, Ordinance 1076, Section 8 and KCC 20.36.080; Ordinance 2250, Section 4, Ordinance 1076, Section 10 and KCC 20.36.100; Ordinance 1076, Sections 11 and 12 and KCC 20.36.110 and .120; Ordinance 2910, Section 17; Resolution 25789, Section 2806 and KCC 21.58.080; Ordinance 2910, Section 18, Resolution 25789, Section 2807 and KCC 21.58.090; Resolution 25789, Sections 2811 and 2812 and KCC 21.58.130 and .140; Resolution 33880, Resolution 25789, Section 2903 and

1 KCC 21.60.040; Resolution 25789, Section
2 2904 and KCC 21.60.050; Ordinance 1161,
3 Sections 12, 13, 14, 15, 16, 17, 18, 19
4 and 20 and KCC 21.60.060, .070, .080,
5 .090, .100, .110, .120, .130 and .140;
6 Resolution 25789, Section 3005 and KCC
7 21.62.060; Resolution 25789, Section 3007
8 (part) and KCC 21.62.080(3).

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. The following ordinances and resolutions
11 and parts and sections of ordinances and resolutions are hereby
12 repealed:
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- 14 1. Ordinance 263, Article 5, Section 7 (part) and
15 KCC 20.24.080.
- 16 2. Ordinance 263, Article 7, Section 1 and KCC 20.32
17 .010.
- 18 3. Ordinance 1886, Section 6; Ordinance 1076, Section
19 6 and KCC 20.36.060.
- 20 4. Ordinance 2250, Section 2; Ordinance 1886, Section
21 8; Ordinance 1076, Section 8; and KCC 20.36.080.
- 22 5. Ordinance 2250, Section 4; Ordinance 1076,
23 Section 10 and KCC 20.36.100.
- 24 6. Ordinance 1076, Sections 11 and 12 and KCC 20.36
25 .110 and .120.
- 26 7. Ordinance 2910, Section 17; Resolution 25789,
27 Section 2806 and KCC 21.58.080.
- 28 8. Ordinance 2910, Section 18; Resolution 25789,
29 Section 2807 and KCC 21.58.090.
- 30 9. Resolution 25789, Sections 2811 and 2812, and KCC
31 21.58.130 and .140.
- 32 10. Resolution 33880; Resolution 25789, Section 2903
33 and KCC 21.60.040.
11. Resoultion 25789, Section 2904 and KCC 21.60.050.

1 12. Ordinance 1161, Sections 12, 13, 14, 15, 16, 17,
2 18, 19 and 20 and KCC 21.60.060, .070, 080, .090, .100, .110,
3 .120, .130, and .140.

4 13. Resolution 25789, Section 3005 and KCC 21.62.060.

5 14. Resolution 25789, (part), Section 3007 (part) and
6 KCC 21.62.080(3).

7 SECTION 2. Ordinance 3113, Section 6(12) and KCC
8 19.26.160 are each hereby repealed and the following substituted:

9 Appeals. (a) Any final decision or action of any
10 county agency regarding a short plat application, except the
11 Department of Public Health, may be appealed by any aggrieved
12 person to the zoning and subdivision examiner pursuant to KCC
13 20.24.

14 (b) The appeal of any final decision or action of the
15 Department of Public Health regarding requirements set forth in
16 this chapter shall be filed in accordance with WAC 248-96-160
17 and King County Department of Public Health Rules and Regulations.

18 SECTION 3. Ordinance 173 and KCC 19.28.040 are each
19 hereby repealed and the following substituted:

20 Hearing on Preliminary Plats. Hearings on preliminary
21 plats shall be conducted pursuant to the procedures established
22 in KCC 20.24.

23 SECTION 4. Ordinance 263, Article 6 (part) and KCC
24 20.28.010 is hereby amended to read as follows:

25 DECISION-APPEAL. The department shall make the initial
26 decision concerning all applications for zoning variance and
27 conditional use permits and its decisions shall be final unless
28 appealed to the (~~board-of-appeals~~) zoning and subdivision
29 examiner.

1 SECTION 5. Ordinance 263, Article 6, Section 1 and
2 KCC 20.28.020 are each amended to read as follows:

3 Zoning adjustor established. The (~~director-of-planning~~)
4 Manager of the Building and Land Development Division with the
5 approval of the county executive may appoint a zoning adjustor
6 to hear and decide variances and conditional use permits. (~~The~~
7 ~~examiner-may-be-appointed-as-zoning-adjustor.~~)

8 SECTION 6. Ordinance 1886, Section 2; Ordinance 1976,
9 32 and KCC 20.36.020 are each hereby amended to read as follows:

10 Zoning and Subdivision Examiner. The office of zoning
11 and subdivision examiner as established by Chapter 20.24 as amended
12 shall act in behalf of the council in considering applications
13 for current use assessments on open space or timber land in an
14 unincorporated area of the county or appeals from denials by the
15 county assessor of applications for current use assessments on
16 farm and agricultural land as provided herein. All such appli-
17 cations and appeals shall be processed pursuant to the procedures
18 established in this chapter and KCC 20.24.

19 SECTION 6A. Ordinance 1886, Section 7; Ordinance 1076,
20 Section 7 and KCC 20.36.070 are each hereby amended to read as
21 follows:

22 Notice of public hearings for open space and timberland
23 applications. Notice of the time, place and purpose of any such
24 public hearing on an open space or timber land application based
25 on land in unincorporated areas of the county shall be given by
26 one publication in the official county newspaper at least (~~ten~~)
27 twenty days before the hearing.

28 SECTION 7. Ordinance 2250, Section 2; Ordinance 1886,
29 Section 9; Ordinance 1076, Section 9 and KCC 20.36.090 are hereby
30 repealed and the following substituted:

1 Applications filed after October 1st. In the case of
2 open space and timber applications filed after October 1st of
3 each calendar year, the examiner shall establish time periods
4 for satisfaction of any conditions so as to enable the county
5 assessor to make a timely notation on the assessment list and
6 the tax roll for such land in the event of approval of such
7 applications.

8 SECTION 8. Ordinance 2250, Section 5; Ordinance 1076,
9 Section 13 and KCC 20.36.130 are hereby repealed and the following
10 substituted:

11 Effect of approval. Any ordinance approving an appli-
12 cation shall constitute authorization for the chairman of the
13 council to sign the open space taxation agreement.

14 SECTION 9. Ordinance 3026, Section 6 and KCC 20.44.050
15 are hereby amended to read as follows:

16 Lead agency - Responsibilities and designation.

17 (a) King County adopts by reference WAC 197-10-200 through
18 197-10-270 and 197-10-345, as now or hereafter amended. The
19 responsibilities and designation of responsible officials within
20 the county shall be governed by the SEPA Guidelines cited
21 herein.

22 (b) In case of uncertainty or disagreement as to which
23 county department, if any, should carry out the county's lead
24 agency responsibilities, the county executive shall designate
25 the responsible official.

26 (c) The director of the county department exercising
27 initial jurisdiction over private proposals, or sponsoring
28 a county proposal, shall be the responsible official as defined
29 in WAC 197-10-040(30) and required by WAC 197-10-820. The
30 directors of county departments may delegate their lead agency
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1 responsibilities to divisions within their departments on an
2 action category basis, and in accordance with their written
3 departmental procedures prepared pursuant to Section 20.44.140
4 of this chapter.

5 (d) The responsible official shall make the threshold
6 determination, supervise preparation of any required EIS, and
7 perform any other functions assigned to the lead agency or
8 responsible official by those sections of the SEPA Guidelines
9 adopted by reference in this chapter for all proposals for which
10 the county is the lead agency.

11 (e) The lead agency responsibilities of the county
12 council shall be carried out as follows:

13 (1) With respect to council action on application for
14 zone reclassification, unclassified use permits, planned unit
15 developments, preliminary plat approvals, changes to shoreline
16 management environment designations, or any other nonexempt
17 proposal reviewed by the zoning and subdivision examiner,
18 (~~pursuant to KCC-20-24-070~~) the director, Department of
19 Planning and Community Development, shall be the responsible
20 official making threshold determinations. The examiner's
21 recommendations on such application shall include findings and
22 conclusions on the environmental significance of the proposed
23 actions. The council, when acting on such recommendations,
24 shall expressly concur with and adopt, or expressly modify or
25 reverse, the examiner's findings and conclusions on the environ-
26 mental significance of such proposed actions. In so doing, the
27 council shall accord substantial weight to the threshold
28 determination made by the Department of Planning and Community
29 Development.

1 (2) With respect to council-initiated actions, the
2 council shall refer such proposals to the county executive for
3 threshold determination and any other procedural steps necessary
4 for compliance with SEPA.

5 SECTION 10. Ordinance 3026, Section 7 and KCC 20.44.060
6 are each hereby amended to read as follows:

7 Threshold determination and criteria procedures -
8 Environmental checklist - Information required from applicant.
9 (a) King County adopts by reference WAC 197-10-050, and WAC
10 197-10-300 through 197-10-340, and WAC 197-10-350 through
11 197-10-390 as now or hereafter amended. Procedures and criteria
12 for all threshold determinations made pursuant to this chapter,
13 including use of an environmental checklist and requiring
14 additional information from applications, shall be governed by
15 the SEPA Guidelines cited herein; provided, that nothing in WAC
16 197-10-350 or 197-10-390 shall preclude the county from denying
17 an application for a private or noncounty proposal which is
18 determined to be significant, based on grounds which are ascer-
19 tainable without preparation of an EIS, as provided for in
20 Section 20.44.100 of this chapter.

21 (b) Additional information not required by other state
22 law or county ordinance for an application may be required of
23 an applicant by a responsible official of the county for use in
24 threshold determination, pursuant to WAC 197-10-330(1)(a). The
25 responsible official may refuse to process and consider the
26 application further if the applicant refuses or fails to
27 provide specifically required information within six months of
28 written notification of such requirement. Written notice
29 specifying all additional information so required must be
30 provided within fifteen days of the proper filing of the
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1 application, except in the case of proposals being heard by the
2 zoning and subdivision examiner. Such a refusal by a responsible
3 official shall be final.

4 (c) In making threshold determinations, the responsible
5 official shall measure the environmental significance of a
6 proposal, recognizing that all applicable mandatory standards
7 and mitigating conditions would be imposed as part of any
8 approval of a proposed action.

9 (d) The environmental checklist required by WAC
10 197-10-365 shall be used for both county and noncounty major
11 actions. County departments are hereby authorized to combine
12 the checklist and/or information thereon with departmental
13 reports and application forms, provided that the checklist
14 questions are unaltered, as required by WAC 197-10-365.

15 (e) For proposals being heard by the zoning and
16 subdivision examiner and submitted to the county council for
17 final action (~~((pursuant to King County Code 20.24.070))~~) initial
18 threshold determinations shall be completed prior to commencement
19 of public hearings before the examiner, except that in the case
20 of applications by private persons and noncounty agencies where
21 the applicant requests in writing that an environmental impact
22 statement be prepared because of the significant impact asserted
23 and stated by the applicant, the responsible official shall
24 make a determination of significance within fifteen days of
25 such request. The examiner may require additional information
26 prior to making his threshold determination, pursuant to WAC
27 197-10-330; such requirement shall be provided orally or in
28 writing prior to closing the public hearing. For all other
29 noncounty proposals requiring county licenses, initial threshold
30 determination shall be made within fifteen calendar days of
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1 submittal of a complete application, except when additional
2 information is required pursuant to subsection(b) of this section.

3 SECTION 11. Ordinance 3026, Section 11 and KCC 20.44
4 .100 are each hereby amended to read as follows:

5 Final environmental impact statement - Content,
6 procedures and use of official actions. (a) King County
7 adopts by reference WAC 197-10-550 through 197-10-710, as now
8 and hereafter amended. The contents, preparation procedures
9 and use of final environmental impact statements in official
10 actions of the county shall be governed by the SEPA Guidelines
11 cited herein.

12 (b) Nothing in WAC 197-10-650 through 197-10-695 shall
13 prevent the county from obtaining new environmental information
14 and studies and making same available to the appropriate decision-
15 maker to be included in the planning, review and decision
16 processes without the necessity of a draft and final supplemental
17 EIS.

18 (c) The responsible official may refuse to process and
19 consider further an application if the applicant refuses or fails
20 to provide new information prior to the expiration of the final
21 EIS preparation period allowed by WAC 197-10-550 which the
22 responsible official requires in order to respond adequately
23 to critical comments received on the draft EIS (~~(7-within-six~~
24 ~~months-of-written-notification-of-such-requirements)~~). Written
25 notification specifying all additional information so required
26 must be provided within seven days of the expiration of the draft
27 EIS circulation period set forth in WAC 197-10-455. Such a
28 refusal shall be final.

29 (d) Where approval is given to a proposal which re-
30 quired an EIS, the county's responsible official may impose
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1 those reasonable conditions necessary to mitigate or avoid the
2 identified significant adverse impacts of the proposal.

3 (e) When denial of a private proposal, which is
4 determined to be significant, can be based on existing county
5 ordinances, the responsible official may deny the request without
6 preparing an EIS in order to save the applicant and the county
7 from incurring needless expense, subject to the following provi-
8 sions:

9 (1) With respect to any application reviewed by the
10 zoning and subdivision examiner (~~pursuant to King County Code~~
11 ~~20-24-070~~) which is not categorically exempt, an affirmative
12 threshold determination shall not preclude the Department of
13 Planning and Community Development or the zoning and subdivision

14 examiner from recommending denial of an application based on

15 existing county ordinances. Such a recommendation for denial

16 shall be based on express written findings and conclusions of:

17 (A) Clear and irreconcilable conflict with the policies
18 and standards of the county's comprehensive plan, or

19 (B) Irreconcilable conflict with adopted county
20 ordinance, or

21 (C) Irreconcilable conflict with duly adopted rules
22 and regulations. Provided, that the examiner may find that
23 there is reasonable doubt that grounds for denial are sufficient,
24 and therefore remand the application for consideration following
25 preparation of an EIS;

26 (2) When the county council considers a recommendatio
27 for denial by the zoning and subdivision examiner made pursuant
28 to this subsection (e), it may take one of the following actions

29 (A) Deny the application,
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1 (B) Find that there is reasonable doubt that grounds
2 for denial are sufficient, and therefore remand the application
3 for reconsideration following preparation of an EIS,

4 (C) Expressly reverse the examiner's conclusions and
5 determination of environmental significance, as provided in
6 Section 20.44.050(e) of this chapter;

7 (3) With respect to any other application reviewed by
8 any responsible official within the county for a project which
9 is not categorically exempt, an affirmative threshold determi-
10 nation shall not preclude the responsible official from denying
11 an application based on existing county ordinances. Such a
12 denial shall be based on express written findings and conclusions
13 of:

14 (A) Clear and irreconcilable conflict with the policies
15 and standards of the county's comprehensive plan, or

16 (B) Irreconcilable conflict with adopted county
17 ordinances, or

18 (C) Irreconcilable conflict with duly adopted rules and
19 regulations.

20 SECTION 12. Ordinance 2423, Section 5 and KCC 21.46.180
21 are each hereby repealed and the following substituted:

22 Site plan approvals - Appeals from decisions. Any
23 person aggrieved by the decision of the department regarding
24 site plan approvals may appeal that decision to the zoning and
25 subdivision examiner pursuant to KCC 20.24.

26 SECTION 13. Resolution 25789, Section 2612 and KCC
27 21.52.130 are each hereby amended to read as follows:

28 Notice of abatement or required conformance. When any
29 nonconforming condition exists which is subject to abatement, it
30 shall be the responsibility of the ((director-of-planning))
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1 Building and Land Development Division to ascertain the date upon
2 which the nonconforming use was established or acquired. The
3 ~~((director-of-planning))~~ Building and Land Development Division
4 shall notify the owner and lessee of the subject property of the
5 intent to consider the matter and the date of such consideration.
6 The ~~((director))~~ Division shall consider all pertinent data in
7 connection therewith and provide the opportunity for the owner
8 or lessee to present such evidence which properly relates to
9 such case. The ~~((director))~~ Division shall establish the facts
10 upon which the determination is made to require such property
11 owner to abate or make the use conforming, and shall formally
12 notify the owner of record and the occupant in writing of the
13 decision and of the date by which such use or uses shall be
14 abated or made conforming. Such formal notification shall be
15 by certified mail to the property owner and a copy mailed to
16 the occupant at the address of the premises. ~~((Determination
17 made-under-this-section-is-subject-to-the-appeal-provisions-of
18 Section-24.58.070.))~~ Any person aggrieved by a decision made
19 under this section may appeal that decision to the zoning and
20 subdivision examiner pursuant to KCC 20.34.

21 Not more than ten days from the final date by which an
22 appeal may be filed with the ~~((board-of-appeals))~~ examiner, or
23 not more than ten days following the date of a determination by
24 the ~~((board-of-appeals))~~ examiner on an appeal, the ~~((planning
25 agency))~~ Division shall cause the final decision in the matter
26 to be recorded with the ~~((county-auditor))~~ Records and Elections
27 Division, identifying in such record the property to which such
28 action applies.

29 SECTION 14. Resolution 25789 82613 and KCC 21.52.140
30 are each hereby amended to read as follows:
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1 (~~Board-of-Appeals~~) Examiner may extend time of abate-
 2 ment on certain uses. The (~~board-of-appeals~~) examiner may
 3 (~~upon-the-filing-of-an-application-therefor~~) in an appeal
 4 pursuant to KCC 21.52.130 and KCC 20.24, upon a showing of unusual
 5 hardship extend the time of abatement or required conformance of
 6 a nonconforming use of land wherein no structure or building is
 7 involved, or of accessory buildings and structures in connection
 8 with the nonconforming use of open land, or the nonconforming
 9 use of a conforming building.

10 SECTION 15. Ordinance 1527, Section 9; Ordinance 2985
 11 Section 13; Ordinance 3718, Section 3 and KCC 21.54.090 are each
 12 hereby repealed and the following substituted:

13 Permits and licenses - Appeal from Decision. (a) The
 14 decision of the Department of Public Works to approve or dis-
 15 approve a permit or license in a Flood Hazard area may be
 16 appealed to the Zoning and Subdivision Examiner pursuant to
 17 KCC 20.24.

18 (b) The requested permit or license shall not be issued
 19 by a County Department pending a decision by the examiner.

20 SECTION 16. Ordinance 1161, Section 11 and KCC 21.58
 21 .060 are each hereby amended to read as follows:

22 Decision of adjustor final unless appealed. The
 23 decision of the adjustor shall be final unless the original
 24 applicant or an adverse party files an appeal to the (~~board-of~~
 25 ~~appeals~~) zoning and subdivision examiner pursuant to KCC 20.24.

26 SECTION 17. Ordinance 2910, Section 19, Resolution
 27 25789, Section 2808 and KCC 21.58.100 are each hereby amended to
 28 read as follows:

29 Appeal - (~~Board-of-appeals~~) Examiner's authority.
 30 The (~~board-of-appeals~~) examiner's consideration shall be
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1 based upon the record developed before the zoning adjustor
2 only. If, after examination of the written appeal and the
3 record, the ~~((board))~~ examiner determines that: (1) A material
4 error in fact or procedure may exist in the record, ~~((it))~~
5 the examiner shall remand the proceeding to the zoning adjustor
6 for reconsideration; or

7 (2) The decision of the zoning adjustor is arbitrary
8 and capricious or is based upon an ~~((arbitrary-or-capricious-error~~
9 ~~in-judgment-or))~~ erroneous conclusion ~~((based-upon-the-applicable~~
10 ~~law-and-the-record))~~, the Examiner may reverse or affirm, wholly
11 or in part, or may modify the order, requirement, decision or
12 determination appealed from.

13 SECTION 18. Resolution 25789, Section 2902 and
14 KCC 21.60.030 are each hereby amended to read as follows:

15 Initiation of amendment. Amendments ~~((of-this-title~~
16 ~~and-the-maps-which-are-a-part-hereof))~~ as provided in 21.60.010(1)
17 and (2) may be initiated by:

18 (1) The verified application of one or more owners
19 of property which is proposed to be changed or reclassified; or


20 (2) By the adoption of a motion by the council request-
21 ing the ~~((planning-agency))~~ Department of Planning and Community
22 Development to set a matter for hearing and reconsideration.

1 The procedure for consideration of such amendments shall
2 be provided in KCC 20.24.

3 INTRODUCED and READ for the first time this 26th day
4 of March, 1979.

5 PASSED this 27th day of August, 1979.

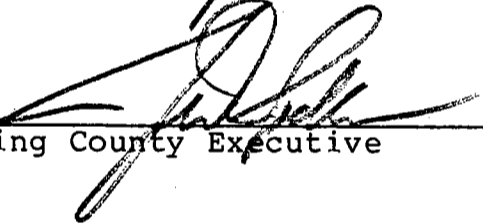
6 KING COUNTY COUNCIL
7 KING COUNTY, WASHINGTON

8 
9 _____
10 Chairman

11 ATTEST:

12 
13 _____
14 Clerk of the Council

15 APPROVED this 10th day of September, 1979.

16 
17 _____
18 King County Executive