

9/6/95
CAJ:cj
sepa-amd 9/12/95

Introduced By: Ron Sims

Proposed No.: 95-621

ORDINANCE NO. **11961**

AN ORDINANCE relating to environmental procedures, amending Ordinance 4461, Section 3, as amended, and Ordinance 6949, Sections 10, as amended, and 14, as amended, and K.C.C. 20.24.090, K.C.C. 20.44.080 and K.C.C. 20.44.120, and repealing Ordinance 11032, Section 23, and K.C.C. 28.36.010, K.C.C. 28.36.020, K.C.C. 28.36.030, K.C.C. 28.36.040 and K.C.C. 28.36.050.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 11032, Section 23, and K.C.C. 28.36.010, K.C.C. 28.36.020, K.C.C. 28.36.030, K.C.C. 28.36.040 and K.C.C. 28.36.050 are hereby repealed.

SECTION 2. Ordinance 4461, Section 3, as amended, and K.C.C. 20.24.090 are each hereby amended to read as follows:

Notice of appeal to examiner - Filing. Except as otherwise provided, all notices of appeal to the examiner shall be filed with the county department or division issuing the original decision with a copy provided to the office of the hearing examiner. Notice of appeal, together with the required appeal fee, shall be filed within ten calendar days from the date of issuance of such decisions except as follows:

A. Notices of appeal of State Environmental Policy Act threshold determinations shall be filed within fifteen days of the lead agency determination; provided however, that the time period within which an appeal shall be filed for threshold determinations of county projects may be extended by the lead agency; and

B. Notices of appeal of the recommendation to deny vacation of a county road by the department of ~~((public works))~~ transportation, shall be filed along with the required two hundred dollar administrative fee with the clerk of the county council within thirty days of an issuance of said denial.

C. Statements of appeal - appeal arguments. If a notice of appeal has been filed, the appellant shall file a statement of appeal with the county department or division issuing the

1 original decision or action within 15 calendar days from the date of issuance of such
2 decision or action. Department or division staff shall:

3 1. Be available within a reasonable time to persons wishing to file a statement of
4 appeal subsequent to an agency ruling, and to respond to queries concerning the facts and
5 process of the county decision; and

6 2. Make available within a reasonable time a complete set of files detailing the
7 facts of the department or division ruling in question to persons wishing to file a statement
8 of appeal, subsequent to an agency ruling.

9 If a department or division is unable to comply with these provisions, the hearing
10 examiner may authorize amendments to a statement of appeal to reflect information not
11 made available to an appellant within a reasonable time due to a failure by a county agency
12 to meet the foregoing requirements. The statement of appeal shall identify the decision
13 being appealed and the alleged errors in that decision. Further the statement of appeal shall
14 state specific reasons why the decision should be reversed or modified; and the harm
15 suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall
16 be based principally on matters or issues raised in the statement of appeal. Failure to
17 timely file a notice of appeal, appeal fee or statement of appeal deprives the examiner of
18 jurisdiction to consider the appeal.

19 SECTION 3. Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080 are
20 each hereby amended to read as follows:

21 **Substantive authority.** A. The procedures and standards of WAC 197-11-650
22 through 197-11-660 are adopted regarding substantive authority and mitigation.

23 B. For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following
24 policies, plans, rules and regulations, and all amendments thereto, are designated as
25 potential bases for the exercise of King County's authority under SEPA:

26 1. The policies of the State Environmental Policy Act, RCW chapter
27 43.21C.020.

28 2. The King County Comprehensive Plan, its addenda, and revisions and
29 community and ((middle)) subarea plans and housing report, and surface water
30 management program basin plans, as specified in King County Code chapter 20.12.

- 1 3. The King County Zoning Code, as adopted in King County Code Title 21.
- 2 4. The King County Agricultural Lands Policy, as adopted in King County Code
- 3 chapter 20.54 and Title 26.
- 4 5. The King County Landmarks Preservation Code, as adopted in King County
- 5 Code chapter 20.62.
- 6 6. The King County Shoreline Management Master Plan, as adopted in King
- 7 County Code Title 25.
- 8 7. The King County Surface Water Runoff Policy (chapter 9.04), including the
- 9 Covington Master Drainage Plan (chapter 20.14), as adopted in King County Code.
- 10 8. The King County Road Standards, 1986 Update, as adopted in King County
- 11 Code chapter 14.42.
- 12 9. The Comprehensive Plan for Transportation adopted by Resolution No. 6617
- 13 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by the
- 14 county council by Ordinance 11032, section 28, as amended.
- 15 10. The Comprehensive Sewerage Disposal Plan adopted by Resolution No. 23
- 16 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by the
- 17 county council by Ordinance 11032, section 28, as amended.
- 18 11. The rules and regulations for construction and use of local sewage facilities
- 19 set forth in Ordinance 11034, as amended.
- 20 12. The rules and regulations on the consistency of sewer projects with local
- 21 land use plans and policies set forth in Ordinance 11034, as amended.
- 22 13. The rules and regulations for the disposal of industrial waste into the
- 23 sewerage system set forth in Ordinance 11034, as amended.
- 24 14. The Duwamish Clean Water Plan adopted by the council of the Municipality
- 25 of Metropolitan Seattle and readopted and ratified by the county council by Ordinance
- 26 11032, section 28, as amended.
- 27 15. The Washington Department of Ecology's Best Management Practices for
- 28 the Use of Municipal Sludge.
- 29 Section 4. Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120 are each
- 30 hereby amended to read as follows:

1 **Appeals.** A. Appeals of threshold determinations shall be conducted by the
2 ((zoning and subdivision)) hearing examiner pursuant to K.C.C. 20.24.080, subject to the
3 following:

4 1. Only one appeal of each threshold determination shall be allowed on a
5 proposal.

6 2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible
7 official shall be entitled to substantial weight.

8 B. Consideration of the adequacy of the final EIS shall be consolidated in all cases
9 with the public hearing, if any, on the proposal. Administrative appeals regarding
10 adequacy of the EIS shall be consolidated with the administrative appeal, if any, on the
11 proposal. If no public hearing process exists for a proposal, review of final EIS adequacy
12 shall only be by writ of certiorari in King County Superior Court.

13 C. 1. Administrative appeals of decisions to condition or deny applications pursuant
14 to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any,
15 on the merits of a proposal.

16 2. If no administrative appeal is otherwise authorized for a proposal, a decision
17 denying or conditioning an application pursuant to RCW 43.21C.060 may be appealed to
18 the zoning and subdivision examiner pursuant to K.C.C. 20.24.080. Such appeals shall be
19 limited to issues of whether or not the application was properly conditioned or denied
20 pursuant to RCW 43.21C.060 and the regulations and ordinances implementing that
21 statute.

22 3. Appeals of the adequacy of a final EIS shall be filed within the time periods
23 for appeals of the proposal. Appeals of threshold determinations must be filed within
24 fifteen days of the lead agency determination; provided however, that the time period
25 within which an appeal must be filed for threshold determinations of county projects may
26 be extended by the lead agency.

27 D. Notwithstanding the provisions of subsections A through C of this section, a
28 department may adopt procedures under which an administrative appeal shall not be
29 provided if the director of that department finds that consideration of an appeal would be
30 likely to cause the department to violate a compliance, enforcement, or other specific

1 mandatory order or specific legal obligation. The director's determination shall be included
2 in the notice of the SEPA determination, and the director shall provide a written summary
3 upon which the determination is based within five days of receiving a written request.
4 Because there would be no administrative appeal in such situations, review may be sought
5 before a court of competent jurisdiction under RCW 43.21C.075 and applicable
6 regulations, in connection with an appeal of the underlying governmental action.

7 SECTION 5. Effective date. This ordinance shall take effect on January 1, 1996.

8 SECTION 6. Severability. The provisions of this ordinance shall be effective in all
9 cases unless otherwise provided by state or federal law. The provisions of this ordinance
10 are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,
11 section or other portion of this ordinance or the invalidity of the application thereof to any
12 person or circumstance shall not affect the validity of the remainder of this ordinance or the
13 validity of the application to other persons or circumstances.

14 SECTION 7. Continuation of ordinances. The provisions of this ordinance, so far
15 as they are substantially the same as those of ordinances existing at the time of the
16 enactment of this ordinance, shall be construed as continuations thereof.

17 INTRODUCED AND READ for the first time this 11th day of

18 September, 1995.

19 PASSED by a vote of 12 to 0 this 18th day of September
20 1995.

21 KING COUNTY COUNCIL
22 KING COUNTY, WASHINGTON

23 Kent Pullen
24 Chair

25 ATTEST:

26 Janet Masno
27 Deputy Clerk of the Council

28 APPROVED this 28 day of September, 1995

29 Ray Locke
30 King County Executive