

05-25-99

Introduced By: Brian Derdowski

rb
Clerk 04-08-99

Proposed No.: 1999-0205

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ORDINANCE NO. **13573**

AN ORDINANCE relating to public notice and ensuring appropriate opportunity to respond to county determinations on notice of applications and on notice of decisions; and amending Ordinance 12196, Section 13, Ordinance 12196, Section 16, Ordinance 4461, Section 3, and Ordinance 6949, Section 14, each as amended, and K.C.C. 20.20.060, 20.20.090, 20.24.090, and 20.44.120.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12196, Section 13, as amended, and K.C.C. 20.20.060 are each hereby amended to read as follows:

Notice of application. A. A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA (~~((pursuant to))~~) under this section.

B. Notice of the application shall be provided by the department within fourteen days following the department's determination that the application is complete. A public comment period of at least twenty-one days shall be provided, except as otherwise provided in chapter 90.58 RCW. The public comment period shall commence on the ~~((fifteenth))~~ third day following the department's ~~((determination that))~~ mailing of the notice of application~~((is complete))~~ as provided for in Subsection G of this section.

1 C.If the county has made a determination of significance ("DS") under chapter 43.21
2 RCW ((prior to)) before the issuance of the notice of application, the notice of the DS shall
3 be combined with the notice of application and the scoping notice.

4 D. All required notices of application shall contain the following information:

- 5 1. The file number;
- 6 2. The name of the applicant;
- 7 3. The date of application, the date of the notice of completeness and the date of
8 the notice of application;
- 9 4. A description of the project, the location, a list of the permits included in the
10 application and the location where the application and any environmental documents or
11 studies can be reviewed;
- 12 5. A site plan on 8 1/2 x 14 inch paper, if applicable;
- 13 6. The procedures and deadline for filing comments, requesting notice of any
14 required hearings and any appeal procedure((+));
- 15 7. The date, time, place and type of hearing, if applicable and scheduled at the
16 time of notice((+));
- 17 8. The identification of other permits not included in the application to the extent
18 known((+));
- 19 9. The identification of existing environmental documents that evaluate the
20 proposed project((+)); and

1 10. A statement of the preliminary determination, if one has been made, of those
2 development regulations that will be used for project mitigation and of consistency with
3 applicable county plans and regulations.

4 E. Notice shall be provided in the following manner:

5 1. Posted at the project site as provided in subsections F and I (~~hereof~~) of this
6 section;

7 2. Mailed by first class mail as provided in subsection G (~~hereof~~) of this section;
8 and

9 3. Published as provided in subsection H (~~hereof~~) of this section.

10 F. Posted notice for a proposal shall consist of one or more notice boards posted by the
11 applicant within fourteen days following the department's determination of completeness as
12 follows:

13 1. A single notice board shall be posted for a project. This notice board may also be
14 used for the posting of the ((N))_notice of ((D))_decision and ((N))_notice of ((H))_hearing and
15 shall be placed by the applicant:

16 a. at the midpoint of the site street frontage or as otherwise directed by the
17 department for maximum visibility;

18 b. five feet inside the street property line except when the board is structurally
19 attached to an existing building, provided that no notice board shall be placed more than five
20 feet from the street property without approval of the department;

21 c. so that the top of the notice board is between seven to nine feet above grade;

22 and

- 1 d. where it is completely visible to pedestrians((+));
- 2 2. Additional notice boards may be required when:
- 3 a. the site does not abut a public road;
- 4 b. a large site abuts more than one public road; or
- 5 c. the department determines that additional notice boards are necessary to
- 6 provide adequate public notice((+));
- 7 3. Notice boards shall be:
- 8 a. maintained in good condition by the applicant during the notice period through
- 9 the time of the final county decision on the proposal, including the expiration of any
- 10 applicable appeal periods, and for decisions which are appealed, through the time of the final
- 11 resolution of any appeal((+));
- 12 b. in place at least twenty-eight days (~~(prior to)~~) before the date of any required
- 13 hearing for a Type 3 or 4 decision, or at least fourteen days following the department's
- 14 determination of completeness for any Type 2 decision; and
- 15 c. removed within fourteen days after the end of the notice period((+));
- 16 4. Removal of the notice board (~~(prior to)~~) before the end of the notice period may
- 17 be cause for discontinuance of county review until the notice board is replaced and remains in
- 18 place for the specified time period((+));
- 19 5. An affidavit of posting shall be submitted to the department by the applicant
- 20 within fourteen days following the department's determination of completeness to allow
- 21 continued processing of the application by the department((+)); and

1 6. Notice boards shall be constructed and installed in accordance with subsection
 2 F(~~(, above,)~~) of this section and any additional specifications promulgated by the department
 3 (~~(pursuant to)~~) under K.C.C. chapter 2.98, ((R))rules of ((C))county ((A))agencies.

4 G. Mailed notice for a proposal shall be sent by the department within fourteen days
 5 after the department's determination of completeness:

6 1. By first class mail to owners of record of property in an area within five hundred
 7 feet of the site, provided such area shall be expanded as necessary to send mailed notices to at
 8 least twenty different property owners;

9 2. To any city with a utility which is intended to serve the site;

10 3. To the state Department of Transportation, if the site adjoins a state highway;

11 4. To the affected tribes;

12 5. To any agency or community group which the department may identify as having
 13 an interest in the proposal;

14 6. Be considered supplementary to posted notice and be deemed satisfactory despite
 15 the failure of one or more owners to receive mailed notice; (~~(and)~~)

16 7. For preliminary plats only, to all cities within one mile of the proposed
 17 preliminary plat, and to all airports within two miles of the proposed preliminary plat(~~(,)~~); and

18 8. In those parts of the urban growth area designated by the King County
 19 Comprehensive Plan where King County and a city have adopted either a memorandum of
 20 understanding (~~(and/)~~) or a potential annexation boundary agreement, or both, the director
 21 shall ensure that the city receives notice of all applications for development subject to this

1 chapter((7)) and shall respond specifically in writing to any comments on proposed
2 developments subject to this title.

3 H. Notice of a proposed action shall be published by the department within fourteen
4 days after the department's determination of completeness in the official county newspaper
5 and another newspaper of general circulation in the affected area.

6 I. ~~((Posted notice for approved formal subdivision engineering plan, clearing or
7 grading permits subject to SEPA or building permits subject to SEPA.))~~ Posted notice for
8 approved formal subdivision engineering plans, clearing or grading permits subject to SEPA
9 or building permits subject to SEPA shall be a condition of the plan or permit approval and
10 shall consist of a single notice board posted by the applicant at the project site, ~~((prior to))~~
11 before construction as follows:

12 1. Notice boards shall comport with the size and placement provisions identified for
13 construction signs in K.C.C. 21A.20.120B;

14 2. Notice boards shall include the following information:

15 a. permit number and description of the project;

16 b. projected completion date of the project;

17 c. a contact name and phone number for both the department and the applicant;

18 and

19 d. hours of construction, if limited as a condition of the permit;

20 3. Notice boards shall be maintained in the same manner as identified above, in
21 subsection F; and

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4. Notice boards shall remain in place until final construction approval is granted.

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Early removal of the notice board may preclude authorization of final construction

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approval(;~~and~~

1 ~~5. These provisions shall become effective 90 days following adoption of this~~
2 ~~ordinance)).~~

3 SECTION 2. Ordinance 12196, Section 16, as amended, and K.C.C. 20.20.090 are
4 each hereby amended to read as follows:

5 Notice of decision or recommendation - appeals. A. The department shall provide
6 notice in a timely manner of its final decision or recommendation on permits requiring
7 Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the
8 threshold determination, if any, the dates for any public hearings and the procedures for
9 administrative appeals, if any. Notice shall be provided to the applicant, to the Department
10 of Ecology and to agencies with jurisdiction if required by K.C.C. chapter 20.44, to the
11 Department of Ecology and Attorney General as provided in chapter 90.58 RCW, ~~((and))~~
12 to any person who, prior to the decision or recommendation, had requested notice of the
13 decision or recommendation or submitted comments ~~((The notice shall also be provided to~~
14 ~~the public))~~, and to property owners of record, as provided in K.C.C. 20.20.060.G.

15 B. Except for shoreline permits which are appealable to the state Shorelines
16 Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions
17 made by the director shall be filed ~~((within fourteen calendar days from the date of~~
18 ~~issuance of the notice of decision))~~ as provided in K.C.C. 20.24.090 ~~((; provided that the~~
19 ~~appeal period shall be extended for an additional seven calendar days if WAC 197-11-~~
20 ~~340(2)(a) applies)).~~

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

1 Notice of appeal to examiner - filing. A. Except as otherwise provided herein, all
2 notices of appeal to the examiner shall be filed with the county department or division
3 issuing the original decision with a copy provided by the department or division to the
4 office of the hearing examiner. Except as otherwise provided herein, notice of appeal,
5 together with the required appeal fee, shall be filed within the prescribed appeal period.
6 The appeal period shall be fourteen calendar days and shall commence on the third day
7 after ~~((from the date of issuance of such decisions))~~ the mailing of the notice of decision.
8 In cases of appeals of Type 2 land use decisions made by the director, the appeal period
9 shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies.

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

14 C. If a notice of appeal has been filed within the time period provided herein, the
15 appellant shall file a statement of appeal with the county department or division issuing the
16 original decision or action within a twenty-one calendar day~~((s))~~ period commencing three
17 days after the mailing of the notice ~~((from the date of issuance))~~ of ~~((such))~~ decision or
18 action. Department or division staff shall:

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

1 2. Make available within a reasonable time a complete set of files detailing the facts
2 of the department or division ruling in question to persons wishing to file a statement of
3 appeal, subsequent to an agency ruling. If a department or division is unable to comply with
4 these provisions, the hearing examiner may authorize amendments to a statement of appeal to
5 reflect information not made available to an appellant within a reasonable time due to a
6 failure by a county agency to meet the foregoing requirements. The statement of appeal shall
7 identify the decision being appealed and the alleged errors in that decision. Further, the
8 statement of appeal shall state specific reasons why the decision should be reversed or
9 modified; and the harm suffered or anticipated by the appellant, and the relief sought. The
10 scope of an appeal shall be based principally on matters or issues raised in the statement of
11 appeal. Failure to timely file a notice of appeal, appeal fee or statement of appeal deprives
12 the examiner of jurisdiction to consider the appeal.

13 SECTION 4. Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120 are
14 each hereby amended to read as follows:

15 Appeals. A. Appeals of threshold determinations or the adequacy of a final EIS are
16 procedural SEPA appeals which are conducted by the hearing examiner pursuant to the
17 provisions of K.C.C. 20.24.080, subject to the following:

- 18 1. Only one appeal of each threshold determination shall be allowed on a proposal.
- 19 2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official
20 shall be entitled to substantial weight.
- 21 3. An appeal of a DS must be filed (~~((within fourteen calendar days following~~
22 ~~issuance of the DS))~~) as provided in K.C.C. 20.20.090.

1 4. An appeal of a DNS for actions classified as land use permit decisions in K.C.C.
2 20.20.020 must be filed (~~within fourteen calendar days following notice of the decision~~) as
3 provided in K.C.C. (~~chapter~~) 20.20.090, provided that the appeal period for a DNS for land
4 use permit decisions shall be extended for an additional seven calendar days if WAC 197-11-
5 340(2)(a) applies. For actions not classified as land use permit decisions in K.C.C.
6 20.20.020, no administrative appeal of a DNS is permitted.

7 5. Administrative appeals of the adequacy of a final EIS are permitted for actions
8 classified as Type 2, 3 or 4 land use permit decisions in K.C.C. 20.20.020. except Type 1
9 decisions for which the department has issued a threshold determination.(*) Such appeals
10 must be filed (~~within fourteen calendar days following notice of the decision or~~
11 ~~recommendation~~) as provided in K.C.C. 20.20.090.

12 6. The hearing examiner shall make a final decision on all procedural SEPA
13 determinations. The hearing examiner's decision may be appealed to superior court as
14 provided in K.C.C. 20.24.240B.

15 B. The hearing examiner's consideration of procedural SEPA appeals shall be
16 consolidated in all cases with substantive SEPA appeals, if any, involving decisions to
17 condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or
18 appeal, if any, on the proposal, except for appeals of a DS.

19 C. Administrative appeals of decisions to condition or deny applications pursuant to
20 RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the
21 merits of a proposal. If proposals requiring Type 3 or 4 land use decisions are appealed to the
22 county council as provided in K.C.C. 20.24.210B or D, the recommendation or decision of


1 the examiner to condition or deny the proposal pursuant to RCW 43.21C.060 also may be
2 appealed to the council, which shall make a final decision.

3 D. Notwithstanding the provisions of subsections A through C of this section, a
4 department may adopt procedures under which an administrative appeal shall not be provided
5 if the director of that department finds that consideration of an appeal would be likely to
6 cause the department to violate a compliance, enforcement or other specific mandatory order
7 or specific legal obligation. The director's determination shall be included in the notice of the
8 SEPA determination, and the director shall provide a written summary upon which the
9 determination is based within five days of receiving a written request. Because there would
10 be no administrative appeal in such situations, review may be sought before a court of
11 competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection
12 with an appeal of the underlying governmental action.

13 INTRODUCED AND READ for the first time this 12th day of April, 1999.

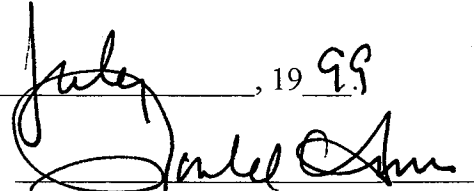
14 PASSED by a vote of 12 to 0 this 6th day of July, 1999.

15 KING COUNTY COUNCIL
16 KING COUNTY, WASHINGTON

17 
18 Chair

19 ATTEST:

20 
21 Deputy Clerk of the Council

22 APPROVED this 12 day of July, 19 99
23 
24 King County Executive

25 Attachments: None