

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING A)
HEARING EXAMINER ORDINANCE) R E S O L U T I O N

WHEREAS, pursuant to the provisions of the Revised Code of Washington, Section 36.32.120(6), the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to the provisions of RCW Section 36.32.120(7), the Board of County Commissioners is authorized to make and enforce by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and

WHEREAS, pursuant to the provisions of Article XI, § 11 of the Washington State Constitution, any county may make and enforce within its limits all local police, sanitary and other regulations as are not in conflict with general law; and

WHEREAS, pursuant to the provisions of RCW Section 36.70.970 the Board of County Commissioners may adopt a hearing examiner system; and

WHEREAS, pursuant to the provisions of RCW Section 58.17.330, as an alternative to the provisions of chapter 58.17 RCW requiring a planning commission to hear and issue recommendations for plat approval, the Board of County Commissioners may adopt a hearing examiner system and shall specify by ordinance the legal effect of the decisions made by the examiner; and

WHEREAS, pursuant to WAC 197-11-800(20) the proposal or adoption of rules, regulations, resolutions or ordinances or of any plan or program relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment are categorically exempt from threshold determination and EIS requirements; and

WHEREAS, by Resolution No. 96-0078 passed and adopted on the 23rd day of January, 1996 the Board of County Commissioners scheduled a public hearing to consider public testimony and take action including adoption or modification and adoption of a proposed ordinance establishing a hearing examiner system; and

WHEREAS, on the 13th day of February, 1996, the Board of County commissioners held a public hearing to consider the proposed ordinance establishing a hearing examiner system;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners that following consideration of all public testimony the Board hereby adopts the Hearing Examiner Ordinance attached hereto as Attachment "1".

BE IT FURTHER RESOLVED that in adopting the Hearing Examiner Ordinance the Board hereby makes the following Findings of Fact:

3. That Section 5 of the Hearing Examiner Ordinance shall provide that:

The Examiner, and any deputies, serve at the pleasure of the Board of County Commissioners and may be removed from office without cause prior to expiration of a term by the affirmative vote of a majority of the Board of County Commissioners.

4. That Section 17 of the Hearing Examiner Ordinance is deleted.
5. That pursuant to the provisions of the Revised Code of Washington Section 36.32.120(7), the Clerk of the Board of County Commissioners duly and properly advertised the public hearing to consider the proposed Hearing Examiner Ordinance.

BE IT FURTHER RESOLVED that the effective date for the Hearing Examiner Ordinance shall be March 29, 1996.

PASSED AND ADOPTED this 13 day of February, 1996.

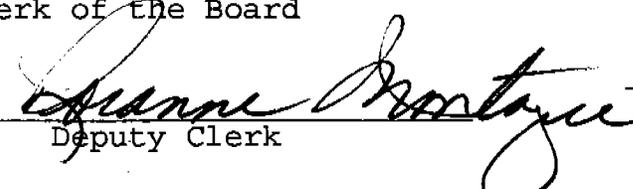
BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON


Phillip D. Harris, Chair

ATTEST:

WILLIAM E. DONAHUE,
Clerk of the Board


John Roskelley

By 
Deputy Clerk


Steve Hasson

ATTACHMENT "A"

COUNTY OF SPOKANE, WASHINGTON
HEARING EXAMINER ORDINANCE

Section 1 - Purpose. The purpose of this chapter is to establish a Hearing Examiner system.

Section 2 - Creation of Hearing Examiner. Pursuant to Chapter 36.70 RCW and Chapter 58.17 RCW, the office of Spokane County Hearing Examiner, hereinafter referred to as "Examiner," is hereby created. Unless the context requires otherwise, the term Examiner as used herein shall include Deputy Examiners and Examiners Pro Tempore.

Section 3 - Appointment and Terms. The Board of County Commissioners shall appoint a chief Hearing Examiner and any deputy Examiners as are necessary to perform the duties assigned as set forth herein, and such Examiners shall serve for term(s) which shall initially expire one (1) year following the date of original appointment and thereafter expire four (4) years following the date of each reappointment. The appointment shall be selected from a list of not less than three (3) names submitted by the Chief Administrative Officer in consultation with the Director of the Division of Building and Planning.

The Board may also appoint for terms and functions deemed appropriate one or more Examiners Pro Tempore who shall serve during the absence, disqualification, or inability to timely process the volume of applications. The qualifications of the Examiner Pro Tempore shall be the same as for the Examiner.

Section 4 - Qualifications. Examiners shall be appointed with regard to their qualifications for the duties of their office as established by the Board of County Commissioners. Examiners shall hold no other elective or appointive office or position in county government which is incompatible with the duties set forth herein.

Section 5 - Removal. The Examiner, and any deputies, serve at the pleasure of the Board of County Commissioners and may be removed from office without cause prior to expiration of a term by the affirmative vote of a majority of the Board of County Commissioners.

Section 6 - Duties and Organization. The Office of the Examiner shall be under the administrative supervision of the Chief Examiner and shall be separate and not part of the Department of Public Works. Administrative oversight of the office shall come from the Chief Administrative Officer.

The Chief Examiner shall have the following duties in addition to those duties assigned the Examiner elsewhere in this ordinance:

- a) Administrative responsibility over deputy and pro tempore Hearing Examiners which shall include the assignment of cases;
- b) The promulgation of procedures to be followed by the Hearing Examiner; PROVIDED, such procedures shall become effective only upon approval by the Board of County Commissioners and; PROVIDED FURTHER, that such rules are consistent with all applicable ordinances and statutes.

To expedite the implementation of the hearing examiner system, interim procedures to be followed by the Hearing Examiner may be adopted by the Board of County Commissioners. Such procedures may provide for a transition period from existing hearing systems to this hearing examiner system. The procedures shall be in effect until the Hearing Examiner promulgates procedures as set forth in Section 6 'b)' for not more than one year following the date of adoption of this ordinance.

The procedures, in as much as possible, shall provide for a timely, efficient and effective hearing process in keeping with the purpose of this Ordinance.

- c) Annually the chief Examiner shall produce a written report which shall contain:
1. A summary of decisions made within the Hearing Examiner system since the previous report;
 2. Recommendations for improving the Hearing Examiner system.
 3. Other observations and recommendations pertaining to land use policies or legislation.

The Examiner shall meet annually with the Board of County Commissioners, Director of Public Works, and the Director of the Division of Building and Planning for the purpose of discussing the report and generally reviewing the administration of the County's land use policies and regulatory ordinances.

Section 7 - Powers. The Examiner shall receive and examine available information, including environmental documents, conduct public hearings and prepare a record thereof, and enter findings and conclusions for decisions on:

- a) Appeals from any decision of the Department of Public Works, Division of Building and Planning in the administration or enforcement of the Zoning Code or other land use code or regulation including;
- b) Applications for conditional use permits;
- c) Applications for variances;
- d) Preliminary plat approvals and change of conditions;
- e) Appeals of State Environmental Policy Act determinations;
- f) Plat vacations and alterations;
- g) Applications for shorelines permits;
- h) Applications for any other identified land use regulatory permits which may be required by ordinance; and,
- i) Applications for zone changes or amendments to the classification of specific parcels of land.

The hearing by the Examiner, as provided for in Section 10, items 'a)' through 'i)' above, shall constitute the single open public hearing allowed under Section 36.70B.050 RCW. The Examiner's decision on Items 'a)' through 'h)' above shall be given the effect of a final decision of the Board of County Commissioners.

Decisions on Item 'i)' shall be given the effect of an administrative decision appealable to the Board of County Commissioners as set forth herein.

- j) Such other matters as the Board of County Commissioners may from time-to-time refer.

Section 8 - Applications. Applications for permits or approvals within the jurisdiction of the Hearing Examiner shall be presented to the Department of Public Works, Division of Building and Planning. The Department shall accept such applications only if complete. The Department shall be responsible for setting a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the statute or ordinance governing the application.

Section 9 - Report of Department of Public Works, Division of Building and Planning. The Department of Public Works, Division of Building and Planning shall coordinate and assemble the comments or recommendations of other county departments and governmental agencies having an interest in the application and shall prepare a report summarizing the factors involved and the department's findings and recommendations. At least seven (7) calendar days prior to the scheduled hearing the report shall be filed with the Examiner and made available for public inspection. The report shall be in a format as mutually agreed to between the Examiner and the Director of the Division of Building and Planning.

Section 10 - Public Hearing. Prior to rendering a decision on any application, the Examiner shall hold one open record hearing. Notice of the time and place of the public hearing shall be given as required by law for the particular action. If no notice provisions are established for the action, notice of the time and place of the hearing shall be as provided for in Section 14.402.160(2) of the Spokane County Zoning Code.

Section 11 - Examiner's Decision. When the Examiner renders a decision, the Examiner shall make and enter written findings of fact and conclusions of law based on the record to support such decision.

The findings and conclusions for land use decisions shall set forth the manner in which the decision carries out and conforms to Spokane County's Comprehensive Plan and development regulations. The decision may be to grant, deny, or grant with such conditions, modifications and restrictions as the Examiner finds necessary to make the application compatible with Spokane County's Comprehensive Plan and development regulations.

All decisions of the Examiner shall be in writing and rendered within ten (10) working days following the conclusion of all testimony and hearings (a longer period of time may be taken if mutually agreed to in writing by the applicant and the Examiner).

The Examiner's decision is final and conclusive, except as otherwise set forth herein.

Section 12 - Notice of Examiner's Decisions. Not later than three (3) working days following the rendering of a written decision, copies thereof shall be mailed by certified mail to the applicant and by first class mail to other parties of record in the case. "Parties of record" shall be as defined by applicable ordinance.

Section 13 - Appeals. The Examiner's decision on Section 7, items 'a' through 'i', are final and conclusive unless within twenty-one (21) days from the issuance of the Examiner's decision, a party with standing files a land use petition in superior court pursuant to Chapter 36.70C RCW, provided that appeals of Hearing Examiner decisions on preliminary plats being processed concurrently and in

conjunction with a rezone application shall be processed in the same manner as appeals of decisions on zone changes or amendments to the classification of specific parcels of land.

The Examiner's decision on item 'i' is final and conclusive unless within ten (10) days a party of record files an appeal with the Board of County Commissioners. The Board shall hold a closed record hearing under procedures to be adopted by the Board. Following the closed record hearing, the Board may affirm, reverse, modify, or remand the matter to the Hearing Examiner.

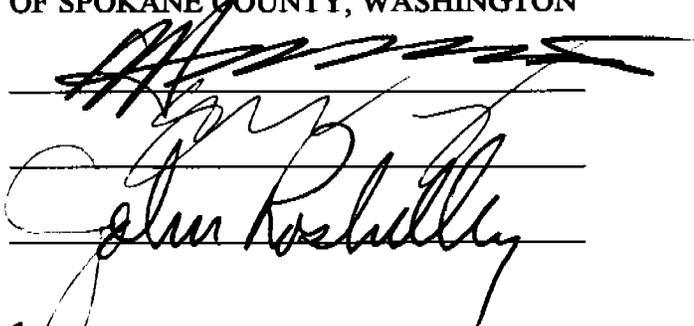
Section 14 - Interlocal Agreements. The Examiner may provide services similar to those prescribed herein for other municipalities when authorized by interlocal agreement.

Section 15 - Severability. If any provision of this Ordinance, or the application of the provisions to any person or circumstances is declared invalid, the rest of the Ordinance, or the application of the provision to the other person or circumstances is unaffected, and thereby, shall remain in full force and effect.

Section 16 - Conflicting Ordinances. This ordinance shall take precedence over any and all ordinances or parts of ordinances in conflict herewith.

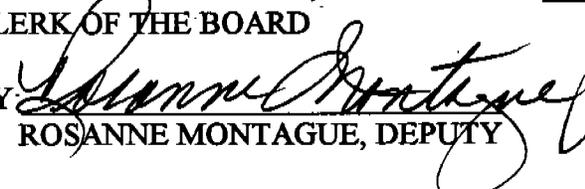
APPROVED this 13 day of February, 1996.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON



Two handwritten signatures are present on lines provided for the Board of County Commissioners. The first signature is a stylized, cursive name. The second signature is also cursive and appears to be 'John R. Schilly'.

ATTEST:
WILLIAM E. DONAHUE,
CLERK OF THE BOARD

BY: 
ROSANNE MONTAGUE, DEPUTY

SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY

In the

ADOPTED
ESTABLISHED
EXAMINED

STATE

County

the PUBLIC
newspaper
hereinafter
Spokane
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Spokane
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Decision of the Board of...
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Board of...
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County of Spokane...
Commissioner...
Section 10...
Section 11...
Section 12...
Section 13...
Section 14...
Section 15...
Section 16...
Section 17...

No. 96-0078

AFFIDAVIT OF PUBLISHING
NOTICE

SR, being first duly sworn on oath deposes and says that he is
Valley Herald, a weekly newspaper. That said newspaper is a legal
been for more than six months prior to the date of the publication
in the English language continually as a weekly newspaper in
and it is now and during all of said time was printed in an office
of publication of said newspaper, which said newspaper had been
of order of the Superior Court of the State of Washington in and for
is a true copy of a public notice as it was published in regular issues
January, 1996, and ending on the 1 day of February, 1996, both dates
was regularly distributed to its subscribers during all of said

Clark E. Hager, Sr.

SUBSCRIBED and SWORN to before me
this 1 day of February, 1996.

State of Washington
County of Spokane

I certify that I know or have satisfactory evidence
that Clark E. Hager, Sr. is the person who appeared
before me, and said person acknowledged that he
signed this instrument and acknowledged it to be
his free and voluntary act for the uses and purposes
mentioned in the instrument.

Mary L. Nelson
Mary L. Nelson, A.C.E.
Title: Notary Public
My appointment expires: 6-8-98