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Ordinance No. 580, 1995

An ordinance establishing a new chapter of the Clallam County Code, Chapter 26.04, which creates the office of hearing examiner.

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 26.04 Clallam County Code
Clallam County Hearing Examiner

- Section 26.04.010 Authority. The Clallam County Hearing Examiner is hereby created under the authority of Chapters 36.70 and 36.70A Revised Code of Washington, as now or hereafter amended, and the Clallam County Home Rule Charter.
- Section 26.04.020 Appointment. The Hearing Examiner shall be appointed and compensated by the Board of Clallam County Commissioners and shall serve at the pleasure of the Board.
- Section 26.04.030 Organization and Business.
1. The Clallam County Planning Director or his or her representative shall serve as secretary to the Hearing Examiner.
 2. The Clallam County Department of Community Development shall serve as staff to the Hearing Examiner.
 3. The Hearing Examiner shall have the power to adopt rules for the transaction of business, to administer oaths and affirmations, and to preserve order.
 4. The Hearing Examiner shall keep with his or her staff written record of its meetings, resolutions, findings, conclusions and determinations, which shall be a matter of public record.
- Section 26.04.040 Regular Meetings.
1. The Hearing Examiner shall hold at least two regular meetings each month; provided that, if no matters over which the Hearing Examiner has jurisdiction are pending upon his or her calendar, a meeting may be canceled.
 2. Public hearings before the Hearing Examiner are scheduled by the Hearing Examiner upon consultation with his or her staff.
 3. Agendas for Hearing Examiner meetings shall be developed by the Planning director or designee in coordination with the Hearing Examiner.
- Section 26.04.050 Public Hearings.
1. The public hearing will be informal in nature, but organized so that testimony and evidence can be presented efficiently. The hearing shall include at least the following elements:
 - a. An introductory outline of the procedure by the Hearing Examiner.
 - b. Testimony by the Department of Community Development staff which shall summarize the written staff report and provide any additional

exhibits or other information the staff believes should be brought to the Hearing Examiner's attention.

- c. Testimony by the applicant and the applicant's witnesses.
- d. Testimony from other individuals or organizations wishing to be heard.
- e. Questions by the Hearing Examiner.
- f. Rebuttal witnesses (if any).

Any participant in the hearing may make all or part of his or her presentation through witnesses.

- 2. All testimony shall be taken under oath or affirmation.
- 3. Hearings shall be electronically recorded and the recordings shall be made a part of the record. Copies of the electronic recordings shall be made available upon request and payment of the costs of reproduction.
- 4. Technical rules of evidence will not be applied. The key requirements for evidence will be relevance and reliability. Relevant and reliable evidence will be admitted if it possesses probative value commonly accepted by reasonable persons in the conduct of their affairs. The credibility of witnesses and the weight of evidence are within the sole discretion of the Hearing Examiner.
 - a. Documents, photographs and physical evidence will be admitted as exhibits and each will be assigned an exhibit number. Exhibits will be retained until after a decision is rendered and all appeal proceedings, if any, have been concluded.
 - b. The staff report or staff analysis produced by the Department of Community Development will be admitted as Exhibit 1 in every hearing.
 - c. Testimony may be presented orally, in writing, or both. Persons giving oral testimony shall be subject to questioning by the Hearing Examiner. Written testimony may be presented either in advance or at the hearing. When testimony is presented only in writing, the Hearing Examiner has discretion to leave the record open for written responses by other participants.
 - d. Any decision by the Hearing Examiner on the admissibility of evidence shall be final.
- 5. The Hearing Examiner may impose reasonable limitations on the nature and length of testimony. In so doing the Examiner shall give consideration to:
 - a. The expeditious completion of the hearing.
 - b. The need to provide all parties a fair opportunity to present their cases.
 - c. Accommodating the desires of members of the public to be heard, when public testimony is taken.

At the Hearing Examiner's discretion, irrelevant or unduly repetitious testimony may be excluded. If all testimony cannot be presented in the time available, the hearing shall be continued.

- 6. Whenever the views of any formal or informal organization are to be presented, the organization shall designate a representative with authority to coordinate the presentation and to speak for the group. Any communications with the organization by the Hearing Examiner or by any party during the course of proceedings shall be through the designated representative.

7. Prior to the conclusion of a matter, including appeals therefrom, no communications with the Hearing Examiner outside of the hearing are allowed on the merits or facts of any matter which has been or will be scheduled to come before the Hearing Examiner. This prohibition includes, but is not limited to, communications with County employees, applicants and their representatives and others participating in the hearing process.
8. The Hearing Examiner has the option to visit the site before or after a hearing. If the Hearing Examiner conducts a post-hearing visit in response to a request made at the hearing by a party, the hearing record will be held open until the site visit is completed.
9. The Hearing Examiner may continue proceedings or reopen proceedings for good cause any time prior to the issuance of the decision, subject to notice requirements.
10. The Hearing Examiner may announce a decision at the hearing. The decision will be contained in a written order with supporting findings and conclusions. The order will be issued no later than 10 working days after the record closes.
11. The Department of Community Development will maintain a copy of the Hearing Examiner's decision, available for public inspection, in the official file of each application or appeal. The applicant and any appellant will receive a copy of the Hearing Examiner's decision free of charge. Any other person may receive a copy upon payment of the costs of reproduction and postage.

Section 26.04.060

Applicability. The Hearing Examiner shall take action on the following permit applications pursuant to the applicable land use regulation, until such time as the land use regulation is amended to incorporate the hearing examiner into the permit review process.

1. Permit Applications and requests pursuant to the Clallam County Zoning Code, Title 33 Clallam County Code, including:
 - a. Planned Unit Development's pursuant to Chapter 33.38 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.
 - b. Planned Recreational Community's pursuant to Chapter 33.39 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.
 - c. Conditional Use Permit applications pursuant to Chapter 33.42 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.
 - d. Variance requests pursuant to Chapter 33.43 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.
 - e. Review of the Administrator's decision pursuant to Chapter 33.44 Clallam County Code, in which the Hearing Examiner acts as the Board of Adjustment.
 - f. Cluster Development's pursuant to Chapter 33.56 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.
2. Permit Applications and requests pursuant to the Clallam County Interim Critical Areas Ordinance, Chapter 27.12 Clallam County Code, including:
 - a. Variance requests pursuant to Chapter 27.12 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.

- b. Conditional Use Permit applications pursuant to Chapter 27.12 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.
3. Land Division requests pursuant to the Clallam County Land Division, and Binding Site Plan Codes, Chapters 29.01 and 29.06 Clallam County Code, including:
 - a. Subdivision applications pursuant to Chapter 29.01 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.
 - b. Variance requests pursuant to Chapter 29.01 Clallam County Code, in which the Hearing Examiner acts as the Board of Clallam County Commissioners.
 - c. Binding Site Plan requests pursuant to Chapter 29.06 Clallam County Code, in which the Hearing Examiner acts as the Planning Commission.
4. Permit Applications pursuant to the Clallam County Shoreline Master Program and Shoreline Permit Code, Chapter 35.01 Clallam County Code, including:
 - a. Shoreline Substantial Development permits pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.
 - b. Shoreline Conditional Use permits pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.
 - c. Shoreline Variance requests pursuant to Chapter 35.01 Clallam County Code, in which the Hearing Examiner acts as the Shoreline and Sensitive Areas Committee.
5. Appeals of Building and Fire Code Interpretations pursuant to Chapter 21.01 Clallam County Code.

Section 26.04.070

Severability. If any portion of this ordinance or this chapter or any application thereof is held invalid or unconstitutional for any reason by a court of competent jurisdiction, such portion thereof or any application thereof shall not affect the validity of the remaining portions of the ordinance or its applicability to other persons or circumstances.

December 12, 1995

Section 26.04.080

Effective Date. This chapter shall take full force and effect upon appointment of a Hearing Examiner by the Board of Clallam County Commissioners through the approval of a contract for hearing examiner services, but no sooner than 10 days from the date of adoption.

1. Any permit application subject to this chapter made on or before the effective date, shall be processed by the Clallam County Board of Adjustment, Shoreline and Sensitive Areas Committee, or Planning Commission, provided that, if the applicant so stipulates, the application shall be processed by the Hearing Examiner pursuant to the procedures established by this chapter.
2. Any permit application subject to this chapter made after the effective date, shall be processed by the Hearing Examiner pursuant to the procedures established by this chapter.

ADOPTED this 12th day of December, 1995

BOARD OF CLALLAM COUNTY COMMISSIONERS

Dorothy Duncan
Dorothy Duncan, Chair

Dave Cameron
Dave Cameron

Phillip Kitchel
Phillip Kitchel

ATTEST: Heather McElroy, Deputy
Karen Flores,
Clerk of the Board

cc: Community Development
minutes
file