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Ordinance 942

An ordinance creating a chapter in the Clallam County Code titled
Chapter 20.33, Administrative Hearing

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section 20.33.010, Availability of Voluntary Compliance Agreements, is created to read as follows:

(1) Nothing in this Chapter is intended to prevent a landowner and the County from entering into a Voluntary Compliance Agreement in accordance with Chapter 20.12 of the County Code. Should such a Voluntary Compliance Agreement be entered into by the parties the County will not establish a hearing date before the Hearing Examiner except as provided below in subsection 2.

(2) However, if a Voluntary Compliance Agreement is not completed to the satisfaction of Community Development by the agreed-upon deadline or any extension of that deadline mutually agreed upon by DCD and the landowner, then the County may either issue a stop work order pursuant to Chapter 20.24 of this Code or may establish a hearing date before the Hearing Examiner pursuant to this Chapter.

Section 2. Section 20.33.020, Administrative Hearing, is created to read as follows:

A person responsible for code compliance to whom a notice and order or stop work order (collectively to be known as a "civil code violation") may be scheduled to appear before the County's Hearing Examiner for an administrative hearing at a date not more than sixty (60) calendar days from the date of service of the civil code violation. The date for the hearing before the Hearing Examiner may be adjourned or continued to another date upon the mutual written agreement of the parties.

Section 3. Section 20.33.030, Service of Notice of Administrative Hearing, is created to read as follows:

(1) The notice of the administrative hearing shall contain the date, time, and location of the hearing, the legal authority and jurisdiction for the hearing; a copy of the civil code violation, proposed penalties and the name and telephone number of the Director.

(2) The notice of the administrative hearing shall be served on the person responsible for code compliance and, if applicable, the landowner of the subject property by personal service or by mailing a copy of the same to the last known address of each party.

(3) The person effectuating or achieving the service shall declare in writing the date and address the personal service or mailing was made. Service by mail shall be deemed effective upon the third business day following the day of mailing.

Section 4. Section 20.33.040, Correction of Civil Code Violation before Administrative Hearing, is created to read as follows:

The administrative hearing will be canceled and no monetary penalty will be assessed if the Director, or his or her designee, approves the completed corrective action by the date and time previously established for the administrative hearing."

Section 5. Section 20.33.050, Administrative Hearing Procedure, is created to read as follows:

Administrative hearings occurring in accordance with this title shall be heard by the Clallam County Hearing Examiner and shall be conducted in accordance with County Policy 921, as currently enacted or hereafter amended or replaced. The County shall have the burden of proving, by a preponderance of the evidence, that a violation has occurred and that the corrective action required by the code enforcement officer or staff is reasonably calculated to correct the violation. Formal rules of evidence shall not apply to any such hearing. Such a hearing shall not provide for public comment.

Section 6. Section 20.33.060, Administrative Hearing Orders, is created to read as follows:

In the event the Hearing Examiner determines that a civil code violation occurred or is occurring, the Hearing Examiner shall issue an order to the person responsible for code compliance which contains the following information:

- i) The decision regarding the alleged civil code violation, including findings of fact and conclusions of law based on those findings in support of the decision;
- ii) The required corrective action;
- iii) The date and time by which the correction must be completed;
- iv) The monetary penalties and costs of enforcement, which will become a personal debt of the person responsible for code compliance;
- v) A statement informing the person responsible for the civil code violation that entry of this Order does not relieve that person of the obligation to cure, remove or remedy the civil code violation; and
- vi) How the Order may be appealed.

Section 7. Section 20.33.070, Administrative Hearing Penalties, is created to read as follows:

As part of the Hearing Examiner's Order entered as a result of an Administrative Hearing, the Hearing Examiner may impose any of the penalties listed in this Code at Chapter 20.28. If applicable, and upon the Hearing Examiner determining that the County was the prevailing party, the County may calculate its direct costs incurred to enforce its code and assess same against the violator in accordance with County Code §20.20.040.

Section 8. Section 20.33.080, Administrative Hearing-Duty of the Hearing Examiner, is created to read as follows:

The Hearing Examiner shall issue his or her decision within fifteen (15) working days of the hearing, unless the Hearing Examiner determines that more time is necessary. The decision shall be mailed by first class or electronic mail or hand-delivered to the person to whom the notice of civil code violation was issued and to the code enforcement officer."

Section 9. Section 20.33.090, Administrative Hearing-Orders of Default, is created to read as follows:

- (1) If the person to whom the notice of civil code violation was issued fails to appear at the scheduled hearing, then the Hearing Examiner may issue at the County's request, or upon his or her own ruling, an Order of Default, assessing the appropriate penalty and attorney's fees in accordance with the County Code. The County must serve the Order of Default on the person responsible for code compliance.
- (2) Within ten (10) days after issuance of the Order of Default, the person against whom it was entered may file a written motion requesting that the order be vacated. The Hearing Examiner may, at his or her discretion, based upon a showing of good cause, vacate the order of default and schedule the matter for another hearing date.
- (3) In the event that the default order is vacated, the person against whom it was entered shall pay all costs attributable to his or her failure to appear.

Section 10. Section 20.33.100, Administrative Hearing-Reconsideration Motions, is created to read as follows:

- (1) A motion for reconsideration of any Order entered by the Hearing Examiner in accordance with this Chapter must be filed with the Director no later than close of business on the tenth (10th) business day after the date of the Order for which reconsideration is sought.
- (2) The Hearing Examiner will contact the Director and/or the Code Enforcement Officer(s) if (s)he desires the County to provide a written response to a Motion for Reconsideration. In the absence of such a request from the Hearing Examiner, the County need not respond in writing to the Motion for Reconsideration.
- (3) The Hearing Examiner will in writing either grant or deny the Motion for Reconsideration within five (5) business days of his or her receipt of that Motion with a written "Decision Document," which need

not comply with the obligations of the Hearing Examiner mandated by Section Seven of this Ordinance but shall, if needed, provide written instruction to the party that prevails on the Motion for Reconsideration.

Section 11. Section 20.33.110, Administrative Hearing-Appeal to Superior Court, is created to read as follows:

Any appeal of an Administrative Hearing Order entered by the Hearing Examiner in accordance with this Chapter must be filed with the Superior Court not later than twenty-one (21) calendar days of the date of the issuance of the Administrative Hearing Order. If a Decision Document is issued because a party filed a Motion for Reconsideration, then the 21-day period will be measured from the date of the Decision Document."

ADOPTED this 10 day of July 2018

BOARD OF CLALLAM COUNTY COMMISSIONERS



Mark Ozias, Chair



Randy Johnson



Bill Peach

ATTEST:



Loni Gores, Clerk of the Board