

Chapter 2.25
HEARING EXAMINER

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2.25.010 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, words shall be given the meaning attributed to them by this section. The term “shall” is always mandatory and the word “may” indicates a use of discretion in making a decision. Words not specifically defined herein shall be defined by the most recent edition of the American Heritage Dictionary of the office of the Lewis County board of commissioners.

- (1) “Board” means the Lewis County board of commissioners.
- (2) “Board of Health” means the Lewis County board of health.
- (3) “Closed record appeal” means an administrative appeal on the record, following an open record evidentiary hearing on a matter, with the appeal being on the record with no or limited new evidence or information allowed to be submitted and only appeal argument being allowed.
- (3) “County” means Lewis County, Washington.
- (4) “Department” means the Lewis County departments of public works, community development or health & social services.
- (5) “Examiner” shall mean the hearing examiner for the county of Lewis or a deputy thereof.
- (6) “Land use decision” shall include matters involving application for a master project permit or other county approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations, excluding ministerial issuance of permits, approvals and

exemptions and excluding applications for business licenses; an interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and the enforcement of regarding the application to a specific property of zoning or other code sections, ordinances or rules regulating the code sections and ordinances regulating the improvement, development, modification, maintenance, or use of real property.

(7) “Master project application”, for purposes of this chapter, shall include any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area code sections, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as specified by statute.

(8) “Open record hearing” means a hearing, conducted by the examiner, that creates the official administrative record through testimony and submission of evidence and information, under procedures prescribed by the Examiner and this chapter. An open record hearing may be held prior to a decision on a project permit, to be known as an “open record predecision hearing.” An open record hearing may be held on an appeal, to be known as an “open record appeal hearing”, if no open record hearing nor predecision hearing has been held.

(9) “Party of record” shall mean for each application or appeal: (a) the applicant/appellant; (b) all persons who testified at the public hearing; (c) all persons who individually submitted written comments concerning the specific matter to the responsible county department or hearing body prior to the close of the hearing (excluding persons who have only signed petitions and opinion letters, or mechanically produced form letters); and (d) all persons who specifically request notice of a decision by personally entering their name and mailing address on a register provided for such purpose at the public hearing; provided, that a person who becomes a party of record shall remain such through subsequent county proceedings involving the same application or appeal, except that the county may cease mailing notice and other materials to any party of record whose mail is returned by the postal service as undeliverable or no longer subject to automatic forwarding.

(10) “Project permit” or “project permit application” means any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area and resource lands ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specified within this code. [Ord. 1157 & 1160, 1998; Ord. 1147 § 1.00, 1995; H96-0304 § 1.01, 1996]

2.25.020 Appointment.

The board shall appoint the Lewis County hearing examiner after solicitation and consideration of recommendations from elected officials of Lewis County, the Lewis County planning commission and the prosecutor, and consideration of such other recommendations as the board may deem useful and

necessary. The board may also appoint deputy hearing examiners as in the public interest after consideration of recommendations from the hearing examiner.

(1) The board, without solicitation and consideration of the above noted recommendations, may temporarily appoint an examiner pro tem to serve in the event of absence or inability to act of the examiner and deputy examiners. Such appointment shall be in writing and adopted by the board.

(2) Each deputy examiner shall have the same power in all respects as their principal. Such appointment shall be in writing and adopted by the board.

(3) The board, or the examiner upon approval of the board, may appoint one or more special deputy examiners upon a contract or fee basis whose authority shall be limited to the term and purposes stated in the writing signed by the board.

(a) For all proceedings subject to Chapter [17.15](#) LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making, and regulatory authority within its UGA, a special deputy examiner(s) shall be appointed, as herein provided for, to hear all matters associated therewith. [Ord. 1147A §1, 2003; Ord. 1157, 1998; Ord. 1147 § 2.01.01, 1995; H96-0304 § 2.01.01, 1996]

2.25.030 Qualifications.

The hearing examiner shall be appointed with regard to the appointee's qualifications for the duties of the office, and shall have prior training and experience in the field of administrative and quasi-judicial hearings, regulatory enactments, and statutory interpretation and application. [Ord. 1157 & 1160, 1998; Ord. 1147 § 2.01.02, 1995; H96-0304 § 2.01.01, 1996]

2.25.040 Term.

In all appointments of examiner, examiner pro tem, deputy and special deputy examiners, the terms shall initially be for not more than one year and as set by the board, with appointment terms thereafter for the examiner of three years, subject to review and approval by the board prior to the date of each reappointment. [Ord. 1157, 1998; Ord. 1147 § 2.01.03, 1995; H96-0304 § 2.01.01, 1996]

2.25.050 Report to the board and board of health.

The examiner shall annually report in writing to the board for the purpose of reviewing the administration of county planning, building and other regulating code sections, ordinances and policies, and shall report in writing to the board of health, upon request, for the purpose of reviewing the administration of health, safety and regulating health ordinances and policies. The examiner and shall meet with the board and county department heads at the request of the board, and with the involving matters of the office, and shall meet with the board of health and county health officials at the request of the board of health, involving matters of the office. The written report shall include a summary of examiner decisions during the preceding annual period, including the nature of the decisions and their particulars. [Ord. 1157 & 1160, 1998; 1147 § 2.01.04, 1995; H96-0304 § 2.01.02, 1996]

2.25.060 Removal.

An examiner may be removed from office for cause by majority vote of the board.

(1) An examiner pro tem shall answer to the board and, unless otherwise agreed to between the board and appointee, the board may revoke the appointment of the examiner pro tem at will.

(2) The hearing examiner shall be responsible for the acts of deputy and special deputy examiners and, upon prior notice to the board and unless otherwise agreed to between the board and appointee, may revoke such appointments at will. [Ord. 1157, 1998; Ord. 1147 § 2.02, 1995; H96-0304 § 2.01.02, 1996]

2.25.070 Standards of conduct–Conflicts.

(1) No person, including county officials, elective or appointive, shall attempt to influence the examiner or deputy examiner in any matter there before pending, except at a public hearing duly called for such purpose, nor shall interfere with such examiner in the performance of his or her duties in any other way; except that an official or employee of the county may, in the performance of official duties, provide information to an examiner when such action is thereafter disclosed prior to the use of such information at public hearings or meetings; provided, that this section does not prohibit the prosecuting attorney from rendering legal services to an examiner, when such services are not otherwise prohibited at law or by conflict.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner shall have a direct or indirect financial or personal interest, or has had significant prehearing contacts with proponents or opponents, or in which such conduct or participation shall violate any applicable rule of law. [Ord. 1157, 1998; Ord. 1147 § 2.03, 1995]

2.25.080 Powers.

(1) The hearing examiner shall have the authority to:

(a) Receive and examine available information;

(b) Conduct public hearings and prepare a record thereof;

(c) Administer oaths and affirmations;

(d) Examine witnesses; provided, that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law in civil litigation matters;

(e) Regulate the course of the hearing;

(f) Make and enter decisions;

(g) Hold conferences for settlement and prehearing matters;

(h) Dispose of procedural requests and similar hearing and prehearing matters;

(i) Issue summary orders as provided for under LCC [2.25.120](#) through [2.25.140](#); and

(j) Take such other action authorized or necessary to carry out this chapter.

(2) The above powers may be exercised on all matters for which jurisdiction is assigned either by county code sections, ordinance or, where appropriate, by other legal action of the county or its elected officials. [Ord. 1157, 1998; Ord. 1147 § 3.01, 1995; H96-0304 § 3.01, 1996]

2.25.090 Duties.

The examiner shall hear, make a record of, and decide matters provided in this chapter or other county code sections and ordinances.

(1) These duties for board matters include, but are not limited to, adjudication or review of all land use decisions, and the following specific matters:

(a) Matters prescribed by short subdivision/short plat and subdivision code sections;

(b) Review of preliminary plats and modifications pursuant to RCW 58.17.330 and Title 16 and 17 LCC, which shall constitute final decisions subject to the appeal provisions; ~~thereto, to serve as recommendations to the board of county commissioners;~~

(c) Preliminary plat extension requests pursuant to RCW 58.17.140 and county code section, which shall constitute final decisions subject to the appeal provisions;

(d) Plat vacations or amendments pursuant to Chapter 58.17 RCW, which shall constitute final decisions subject to the appeal provisions;

(e) Hearings under Chapter 43.21C RCW, State Environmental Protection Act (SEPA) and code sections thereto; and

(f) Hearings of Chapter 17.20 LCC, Shoreline Management.

(g) For all proceedings subject to Chapter 17.15 LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall hear all matters associated therewith.

(2) These duties for board of health matters include, but are not limited to, adjudication or review of all health ordinances of the board of health, and the following specific matters:

(a) Conduct adjudicative proceedings and appeals on matters prescribed by solid waste rules and regulations;

(b) Conduct adjudicative proceedings and appeals on matters prescribed by sewage system rules and regulations, consistent with Chs. 43.70 & 34.05 RCW, and Ch. 246-10 WAC, as amended;

(c) Conduct food services sanitation appeals under H94-0304(6)(D) and WAC 246-215-220, as amended; and

(d) Any such other quasi-judicial or appellate jurisdiction hereinafter created by adoption, application or amendment of said state and board of health regulations;

(3) Except as otherwise provided, an examiner's decision shall be final and conclusive, and may be reviewable as specified within this chapter, or within any other county code section, or statute or regulation to such other administrative appellate board or court of competent jurisdiction, as shall thereto be applicable.

(4) In computing any period of time prescribed hereunder, the day of the action from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a county legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or county legal holiday. [Ord. 1147A §2, 2003; Ord. 1157 & 1160, 1998; 1147 §3.02, 3.03, 1995; H96-0304 §3.02, 1996]

2.25.100 Master, project permit applications.

Any persons proposing an action or project which requires more than one of the permits, at both state and local levels, approvals or reviews listed in LCC [2.25.090](#) may submit a master, project permit application to the department on forms furnished by the department containing all necessary information for all project permits. The master application shall thereafter be processed by the examiner, in conjunction with the department and other appropriate county and state departments, and subject to the longest time limitations applicable to any of the required permits, approvals or review thereunder. If any of the required approvals constitute a recommendation to the board, the decision of the examiner as to all such permits, approvals and reviews shall constitute a recommendation to the board; otherwise, the decision of the examiner shall be final and subject to appeal under this chapter. [Ord. 1157 & 1160, 1998; Ord. 1147 § 3.03, 1995]

2.25.110 Administrative SEPA appeals.

Administrative SEPA appeals involving procedural issues (e.g., the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement) or substantive determinations under SEPA shall be consolidated with any appeal before the examiner on the underlying governmental action. [Ord. 1157, 1998; Ord. 1147 § 3.04, 1995]

2.25.120 Procedures for substantive hearings.

The examiner shall implement procedural rules for the conduct of hearings of substantive matters and other procedural matters related to the duties of the office in accordance with state law and county code section.

(1) Where a public hearing is required by statute, code section or ordinance, the examiner shall hold at least one open record public hearing prior to any rendering of a decision on such matter. All testimony at any such hearing shall be taken under oath. Notice of the time and place of the open record public hearing shall be given as required by statute and county code section. At the commencement of the hearing, the examiner shall give oral notice of the opportunity to become a party of record.

(2) Each person participating at a public hearing with an examiner shall have the following rights, among others:

(a) To call, examine and cross-examine witnesses (subject to content and time limitations set by the examiner in accordance with the examiner's rules of procedure) on any matter relevant to the issues of the hearing;

(b) To introduce documentary and physical evidence on any matter relevant to the issues of the hearing;

(c) To rebut evidence against him/herself; and

(d) To represent him/herself or to be represented by a lawyer licensed in Washington at his/her own expense.

(3) Where no specific provision for a report of the department or other county departments is contained within the statute, code section or ordinance governing such hearings, the department and other county departments may coordinate and assemble the reviews of other county/city departments, other state or local governmental agencies and franchised public utilities having an interest in the subject matter and prepare a report summarizing the matter involved and the department's or departments' findings and recommendations. At least seven calendar days prior to the scheduled hearing date, such report shall be filed with the examiner and copies thereof made available for public inspection and purchase.

(4) (a) Within 10 calendar days of the conclusion of the hearing, unless a longer period by written finding is determined to be necessary, the examiner shall render a written decision which shall include findings of fact and conclusions based on the record. Except as stated under LCC [2.25.090](#) and [2.25.100](#) as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision unless a petition for review is filed pursuant to LCC [2.25.130](#). Appeals of the hearing examiner's decision shall be made by closed record appeal to an examiner, or as an open record appeal when required in LCC [2.25.130](#). The examiner's decision together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the department or in the alternative with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.

(b) The decision of the examiner may grant, grant in part, return to the applicant for modification, deny without prejudice, deny or grant with conditions, modifications and restrictions as the examiner finds necessary to make the application compatible with statutory, and county and board of health policies, objectives, comprehensive planning and regulations.

(5) Unless different procedures are prescribed by statute or county code section, the department, or in the alternative the appropriate department or official, shall mail copies of the examiner's decision to the applicant by certified mail and to all other parties of record by regular mail on the date of issuance of the decision by the examiner.

(6) (a) Any party of record or department or official of the county may file a written petition for reconsideration with the examiner within 10 calendar days following the date of entry of the examiner's decision. Timely filing of a petition for reconsideration shall stay the effective date of the examiner's decision until such time as the petition has been disposed of by the examiner. The grounds for seeking reconsideration shall be limited to the following:

(i) The examiner exceeded his jurisdiction;

(ii) The examiner failed to follow the applicable procedure in reaching a decision;

(iii) The examiner committed an error of law or misinterpreted the applicable statute, county code section, ordinance or resolution, law or regulation;

(iv) The examiner's findings, conclusions or conditions are not supported by the record;

(v) Newly discovered evidence alleged as material to the examiner's decision which could not reasonably have been produced at the hearing; and

(vi) Changes to the application proposed by the applicant in response to deficiencies identified at hearing.

(b) The petition for reconsideration shall contain: specific identification of the hearing and parties involved in the order, permit, decision, determination or other action being petitioned for reconsideration (including the county's file and application number where applicable); the specific findings, conclusions, actions and conditions upon which the petitioner relies for reconsideration, including a concise statement of the factual reason for reconsideration and, as applicable, the identity and specific nature of the newly discovered evidence and its importance in the reconsideration proposed by the petitioner (in the case of reconsideration involving SEPA, shorelines and floodway hazard permits, a specific listing must be made of the sections and elements addressed by the decision); the full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any. The party(s) filing a petition for reconsideration shall certify the service of a true copy of the same upon the department, the applicant and all parties of record by regular mail in conjunction with said filing.

(c) The petition will have been deemed denied if one of the following actions has not been taken within 10 calendar days following receipt of the petition. The examiner may by written order:

(i) Deny the petition;

(ii) Grant the petition and issue an amended decision, as provided for above;

(iii) Grant the petition and give all parties of record notice of the petition and an opportunity to submit written testimony or argument within 10 calendar days;

(iv) Grant the petition and set the matter for further hearing to occur within 10 calendar days unless the examiner notices the parties by written finding that an extended hearing date setting is needed, to consider new testimony, proposed changes in the applications or to hear oral argument of the parties. Notice of such public hearing shall be mailed by regular mail to all parties of record on the same date as issuance of the examiner decision to grant the reconsideration hearing. A decision on reconsideration following such hearing shall be mailed to the applicant by certified mail, and to all other parties of record by regular mail not later than three working days following the hearing. Only the original decision of the examiner may be subject to reconsideration, and the examiner may consolidate for action, in part or in whole, multiple petitions for reconsideration of that original decision. [Ord. 1174A § 7, 2001; Ord. 1174, §7, 2000; Ord. 1157 & 1160, 1998; 1147 § 4.01, 1995; H96-0304 § 4.01, 1996]

2.25.130 Appeals with the examiner.

Administrative appeals over which the examiner has jurisdiction, unless otherwise specifically provided for by county code section, shall be subject to the following procedural requirements:

(1) (a) Appeals shall be addressed to the hearing examiner, shall be filed within 10 calendar days of the date of the action being appealed, and shall be accompanied by a filing fee of \$100.00 unless a different fee is otherwise specified for such appeal in the annual schedule of fees, in which case the latter shall control. To appeal an action taken by a department of the board of county commissioners, the appeal

shall be filed with the director of the department. To appeal an action taken by the board of health or its subordinate, the appeal shall be filed with the director of the department of public health and social services. A land use decision appeal and a board of health appeal may be consolidated by an examiner, on its own motion or motion of a party, on any appeal involving the same subject property or matter, or case or controversy, with such appeal singularly being heard before the examiner. The filing fee shall not be charged to any department or official of the county nor to other than the first-in-time petitioner. In the event that an appeal or said party to an appeal is dismissed for procedural defect prior to submission of the matter to the examiner, such as but not limited to untimely filing, lack of standing or other facial defect, such filing fee shall be refunded and the next-in-time filing party, where applicable, shall be assessed the filing fee. The failure of the appropriate next-in-time party to pay the filing fee within 10 calendar days of notice, as stated in subsection (1)(b) of this section, shall result in waiver of appellate rights by that party, as stated in subsection (2) of this section, and each nonpaying, next-in-time party in succession thereafter from the appeal.

(b) At the time of filing the appeal, a petitioner may request a waiver of the filing fee based upon economic hardship. The permittee must provide sufficient written evidence to support a claim of economic hardship in conjunction with such request for a fee waiver. The factors the examiner may consider as to whether a petitioner faces economic hardship include, but are not limited to, financial or personal distress of the permittee. A written decision granting or denying fee waiver shall be mailed by the examiner to petitioner (and in conjunction with the mailing of any notice of correction or completion, noted below). The examiner may allow not more than 10 calendar days after mailing of the decision denying fee waiver in which to receive the filing fee to perfect the appeal. The decision of the examiner is final for purposes of such determinations.

(2) (a) A written petition for appeal must contain the items set forth in this section in order to be complete and perfected, and the party appealing the decision designated as "petitioner." The examiner shall immediately examine the petition for completeness and shall immediately notify the petitioner by mail of defects in the petition requiring correction or completion. The examiner may allow not more than 10 calendar days after mailing of notification of defect in which to receive a perfected appeal for filing. A petition for appeal shall contain all of the following:

(i) Specific identification of the order, permit, decision, determination or other action being appealed (including the county's file or application number where applicable). A complete copy of the document or written decision being appealed must be filed with the appeal;

(ii) Specific identification of the county code provision which authorizes the appeal;

(iii) The specific grounds upon which the petitioner relies, including a concise statement of the factual reason for the appeal and, if known, identification of the policies, statutes, codes, or regulations that the petitioner claims are violated. In the case of appeals involving SEPA, shorelines and floodway hazard permits, a specific listing of the sections and elements alleged to be inadequately or inappropriately addressed and the reasons therefor shall be included;

(iv) The full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any;

(v) The name, mailing address, daytime phone and signature of the petitioner's attorney, if any; and

(vi) The required filing fee.

(b) The costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time associated with copying and assembling the record and preparing any records shall be borne by the petitioner (or equally by the petitioners, if more than one) for the review, with such monies being paid in advance of such transfer to the examiner.

(3) Unless otherwise specified within this code, timely filing of an appeal shall stay the effect of the order, permit, decision, determination or other action being appealed until the appeal is finally disposed of by the examiner or withdrawn; provided, that filing of an appeal from the denial of a permit shall not stay such denial. Failure to file a timely and complete appeal shall constitute waiver of all rights to an administrative appeal under county jurisdiction.

(4) No new appeal issues may be raised or submitted after the close of the time for filing of the original appeal, excepting the raising of errors affecting a constitutional right by parties to an appeal through amendment of their petition for appeal, and the appeal shall be by closed record appeal; except, an open record appeal is permitted when there has not been a previous open record hearing. New evidence and testimony may be given and received in an open record appeal only on issues and errors identified by petitioner on the appeal, except as otherwise provided for under the examiner's rules of procedure. Open record appeals shall be conducted in accordance with the examiner's rules of procedure for substantive hearings, where applicable, and shall serve to provide argument and guidance for the examiner's decision. Open record appeals shall otherwise be conducted as provided for closed record appeals.

(5) The department shall forward the petition(s) for appeal to the examiner's office within three working days of its filing.

(6) The examiner's office, within three working days of receipt of the appeal, shall send written notice of the filing of the appeal to the department or official whose decision has been appealed, which such department shall be thereafter referred to as the "respondent." The respondent, within three working days of receiving notification from the examiner's office, shall transmit to the examiner all relevant and nonprivileged public files on the order, permit, decision, determination or other action being appealed.

(7) The examiner's office, within three working days after receipt of the file from respondent, shall send written notice of the filing of a perfected appeal by certified mail, return receipt requested, to the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and to all parties of record by regular mail.

(8) The examiner may summarily dismiss an appeal in whole or in part without hearing if the examiner determines that the appeal is untimely, incomplete (having complied with subsection (2) of this section), without merit on its face, frivolous, beyond the scope of examiner jurisdiction or brought merely for the purpose of delay. The examiner may also summarily dismiss an appeal where it is found in response to a written challenge raised by the respondent or permit, etc., applicant and after allowing the petitioner five calendar days in which to reply to the challenge that the petitioner lacks legal standing to appeal or failed to perfect appeal. Except in extraordinary circumstances, summary dismissals shall be decided,

with or without oral argument at the discretion of the examiner, within five calendar days of receipt of such reply or the expiration of such time for reply, whichever is the later.

(9) Appeals shall be processed by the examiner as expeditiously as practicable, giving proper consideration to the procedural due process rights of the parties.

(a) Except as otherwise provided hereunder, no more than 30 calendar days should elapse from the date of the perfection of an appeal and the date of a closed record hearing on the appeal, and no more than 40 calendar days should elapse from the date of perfection of the appeal to the issuance of an examiner decision on the appeal.

(b) Except as otherwise provided hereunder, appeal hearings on board of health matters under LCC [2.25.090](#)(2)(a) and (b) should be set not less than 20 days nor more than 30 days following perfection of an appeal.

(c) The parties to an appeal may agree or the applicant/permittee and the county may mutually agree upon specific extensions of the date of the appeal hearing and decision. The examiner may consolidate multiple appeals of the same action for hearing and decision making purposes to facilitate expeditious and thorough consideration of the appeal, without adversely affecting the due process rights of such parties. In event of a conflict between time deadlines with consolidated appeals, the time deadlines for the last filed appeal shall control all deadlines.

(10) Notice for appeal hearings shall require that the petitioner, the person named in the order or the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section, shall be given at least seven calendar days' written notice of the date upon which the matter will be considered at public hearing. Mailing of notice shall be the responsibility of the department, or the department/official responsible for the permit, decision or other action being appealed.

(a) Notices required under this subsection shall be deemed adequate where a good-faith effort has been made by respondent to identify and mail notice to each person entitled thereto.

(b) Notices mailed pursuant to this chapter shall be deemed received by those persons named in an affidavit of mailing executed by the person designated by the examiner, the department, or department or official to mail the notices. The failure of any person to actually receive the notice shall not invalidate any action.

(11) The appeal hearing and the examiner consideration of the appeal shall be limited solely to the issues and errors identified by the petitioner in advance of hearing, and based solely on the record of proceedings, subsection (12) of this section, or upon such additional evidence as may be provided in an open record appeal, pursuant to subsection (4) of this section.

(12) (a) The examiner shall render a written decision which shall include findings of fact and conclusions based only on the record on appeal. Except as stated under LCC [2.25.090](#) and [2.25.100](#) as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision, unless a notice of appeal to the superior court is filed pursuant to LCC [2.25.140](#). The examiner's decision

together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.

(b) The examiner may issue a decision on an appeal which may, in conformity with applicable statutes and county code sections, reverse or affirm, in whole or in part, or modify the order, permit, decision, determination or other action appealed from; the examiner thereby having full authority to exercise the authority of the department or official from whom the appeal is taken on that particular issue.

(13) Unless different procedures are prescribed by statute or county code section, the department or, in the alternative, the appropriate department or official shall mail copies of the examiner's decision to the petitioner, the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section by regular mail not later than three working days following the entry of the decision by the examiner.

(14) No individual examiner shall adjudicate at both an examiner open record hearing on any matter and an open or closed record appeal on such matter through the office of the examiner.

(a) For all proceedings subject to Chapter [17.15](#) LCC, involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall adjudicate at the initial examiner hearing on any matter, whether as an open record hearing or as an appeal. [Ord. 1289 §2, 2018; Ord. 1147A §3, 2003; Ord. 1174A § 8, 2001; Ord. 1174, §8, 2000; Ord. 1157 & 1160, 1998; Ord. 1147 § 4.02, 1995; H96-0304 § 4.02, 1996]

2.25.140 Appeals from the examiner.

(1) Except as to those decisions which constitute recommendations under LCC [2.25.090](#) and [2.25.100](#), and as otherwise specified by statute or other county code section, a final decision from an appeal to the examiner may be appealed, as may be applicable and as provided for at law, to the superior court of Lewis County, Washington by one or more of the following means: (a) a land use petition pursuant to the Land Use Petition Act under Chapter [36.70C](#) RCW for "land use decisions" as therein defined; or by (b) a writ of certiorari pursuant to the provisions of Chapter [7.16](#) RCW, except as limited by the standing requirements and review standards under RCW [58.17.180](#), and by Chapters [43.21C](#) RCW and [197-11](#) WAC; or pursuant to RCW [34.05.510](#), et seq., of the administrative procedures act.

(2) For purposes of writ of certiorari review, the following shall apply:

(a) parties shall first exhaust all available administrative remedies under this chapter, including reconsideration; and

(b) such review is commenced by the filing with said court, within 15 calendar days after issuance of such decision, a writ of review which briefly states the decision appealed and describing why error is assigned to that decision, in accordance with Chapter [7.16](#) RCW;

(3) For purposes of writ of certiorari and appeals under the administrative procedures act, the costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized

documents, and of staff time associated with copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant (or equally by the applicants, if more than one) for the writ, with such monies being paid in advance of such filing with the court. [Ord. 1157 & 1160, 1998; Ord. 1147 § 4.03, 1995; H96-0304 § 4.03, 1996]

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