

OKANOGAN COUNTY COMMISSIONERS

ORDINANCE NO. 2014 - 12

An Ordinance amending Okanogan County Code 15 Buildings and Construction to create a process for the appeal of administrative decisions.

WHEREAS: The Okanogan Board of County Commissioners finds that a process for aggrieved parties to appeal the decisions made by county staff pursuant to the codes they administer benefits the public process, and

WHEREAS: Current Okanogan County Code has different processes for OCC 16 Subdivisions versus OCC 17 Zoning and that OCC 15 Buildings and Construction has no locally adopted process for administrative appeals, and

WHEREAS: In 2014 the Okanogan Board of County Commissioner opted to utilize the Office of Hearing Examiner for the review and decision of certain land use applications and appeal processes as authorized in OCC 2.65 adopted in 1994, and

WHEREAS: The Okanogan Board of County Commissioners finds that creating a process for the appeal of administrative decisions that is consistent for OCC 15, OCC 16, and OCC 17 and is compliant with Washington State law benefits the public process and enhances the public health, safety, and welfare be it therefore

THEREFORE BE IT ORDAINED: The Okanogan Board of County Commissioners adopts the following amendment to Okanogan County Code 15 Buildings and Construction:

15.02.090 Appeals

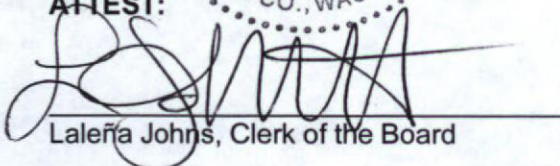
Administrative decisions made by department staff in the enforcement of the provisions of this section may be appealed in accordance with OCC 2.67 Administrative Appeals.

BE IT FURTHER ORDAINED: The Okanogan Board of county Commissioners adopts attachment A findings of fact and attachment B conclusions of law attached hereto.

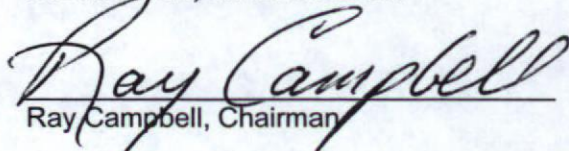
DATED at Okanogan, Washington this 29 day of September, 2014.

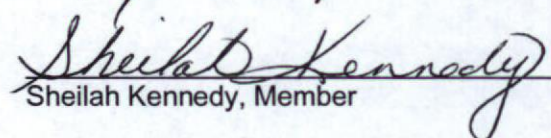


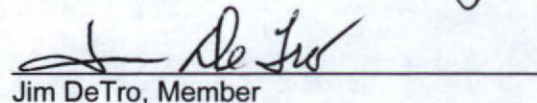
ATTEST:


Laleña Johns, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**


Ray Campbell, Chairman


Sheilah Kennedy, Member


Jim DeTro, Member

Ordinance 2014-12
Attachment A
Findings of Fact

- 1) Revised Code of Washington (RCW) 36.70.970 authorizes counties to adopt a Hearing Examiners system for the review of certain land use proposals and decisions.
- 2) In 1994 Okanogan County adopted ordinance 94-15 creating the Office of Hearing Examiner as an alternative process for the review of land use applications. The ordinance was codified as Okanogan County Code (OCC) 2.65.
- 3) Beginning in 2014 The Okanogan Board of County Commissioners (BOCC) elected to utilize the Office of Hearing Examiner for certain land use applications and administrative appeals.
- 4) Staff review of OCC 2.65 discovered inconsistencies with the duties assigned to the Hearing Examiner (HE) by local code versus the duties the BOCC wanted the HE to perform. The language of OCC 2.65 as adopted in 1994 was outdated and inconsistent with applicable state statutes and other local codes such as OCC 16 Subdivisions and OCC 17 Zoning.
- 5) When the BOCC was made aware of the inconsistencies found in OCC 2.65 they ordered staff from the planning department, working with the Chief Civil Deputy to propose amendments to correct the inconsistencies and bring OCC 2.65 up to date.
- 6) During the course of review of OCC 2.65 staff determined a new code for processing the appeal of administrative decisions should be proposed concurrent with the review of OCC 2.65. After consultation with the BOCC staff created OCC 2.67 Administrative Appeals for consideration.
- 7) During the course of review of OCC 2.65 and the subsequent creation of new section OCC 2.67 staff determined the appeal process for OCC 14.04.220 Environmental Policy should remain a separate process from the appeal of other administrative decisions due to the nature of the SEPA process and the direction found in RCW 43.21C and WAC 197-11 for the processing of SEPA decisions. After consultation with the BOCC staff prepared amendments to OCC 14.04.220 Appeals for consideration.
- 8) Staff determined that amendments to OCC 15 Building and Construction, OCC 16 Subdivisions, and OCC 17 Zoning were necessary to make the appeal of administrative

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Attachment A continued

decisions made pursuant to the enforcement of these codes consistent with the administrative appeals process proposed in new section OCC 2.67. Staff prepared amendments for consideration.

- 9) The SEPA Responsible Official for Okanogan County reviewed the proposed amendments and determined they were categorically exempt from SEPA review in accordance with WAC 197-11-800 (19) Procedural Actions.
- 10) A public notice was published on September 10, 2014 which scheduled a public hearing for September 22, 2014 to consider the proposed amendments to OCC 2.65, OCC 14.04.220, OCC 16, and OCC 17. The notice included the proposed new section OCC 2.67 and a new section to OCC 15.
- 11) The BOCC conducted the public hearing as scheduled at which the proposed amendments, staff report, and written comments submitted prior to the hearing were placed into the record. Testimony was taken from those present and wishing to be heard. Some submitted additional written comments.
- 12) The BOCC considered the verbal and written information placed into the record.
- 13) The BOCC finds that RCW 36.32.330 directs that decisions of the BOCC are appealed to Superior Court subject to applicable statutes.
- 14) The BOCC finds that RCW 36.70C Land Use Petition Act directs the process by which local land use final decisions are appealed to Superior Court.
- 15) The BOCC finds that RCW 36.70B.050 directs that each local government shall provide by ordinance or resolution for review of permit applications to achieve the following objectives:
 - 1) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permits, and
 - 2) Except for the appeal of a determination of significance as provided in RCW 43.21C.075 provide for no more than one open record hearing and one closed record appeal.
- 16) The BOCC voted to approve the amendments as proposed, noting a correction to OCC 2.67, and directed staff to prepare enabling documents.
- 17) The BOCC continued the public hearing to September 29, 2014 to consider and adopt this ordinance, to make amendments to OCC 14.04, OCC 15, OCC 16, OCC 17 and new section OCC 2.67.

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Attachment B
Conclusions of Law

- 1) Okanogan County is authorized by the Revised Code of Washington (RCW) 36.70 Planning Enabling Act, RCW 58.17, RCW 36.70B and other applicable statutes to adopt land use controls and regulatory processes by which those controls are enforced.
- 2) Okanogan County is authorized by law to provide a process for the appeal of administrative decisions made by department staff in the course of enforcing the codes under their purview and concludes the availability of these processes promote the public health safety and welfare.
- 3) Okanogan County has authorized the appeal of administrative decisions made pursuant to Okanogan County Code (OCC) 16 Subdivisions and OCC 17 Zoning.
- 4) The Board of Okanogan County Commissioners has concluded it promotes the review of land use applications hence the public health, safety, and welfare to provide a consistent process for the appeal of administrative decisions made by department staff in the course of enforcing OCC 15 Building and Construction, OCC 16 Subdivisions, and OCC 17 Zoning.
- 5) At the direction of the BOCC staff prepared amendments to the aforementioned Okanogan County codes to create a consistent process for the appeal of administrative decisions.
- 6) On September 22, 2014 the BOCC conducted a properly noticed public hearing to consider amendments to OCC 15, OCC 16, and OCC 17 citing by reference a proposed new code section OCC 2.67 Administrative Appeals.
- 7) At the conclusion of the public hearing and after considering the public testimony and other information presented ordered the preparation of ordinances adopting the proposed amendments.
- 8) At a continued public hearing held on September 29, 2014 the BOCC adopted by ordinance amendments to OCC 15, OCC 16, and OCC 17 and adopted a new section OCC 2.67 to provide a consistent process that is compliant with Washington State law for the appeal of administrative decisions.