



Office of the Hearing Examiner

Rules of Procedure

Issued pursuant to Chapter 2.15 Shoreline Municipal Code

Effective Date: October 8, 2019

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Chapter 1 GENERAL PROVISIONS

A. Hearing Examiner Authority.

The Hearing Examiner's authority is set forth in Chapter 2.15 of the Shoreline Municipal Code. These Hearing Examiner Rules of Procedure ("Rules") are adopted pursuant to that Chapter.

B. Jurisdiction.

The Hearing Examiner's jurisdiction is limited to issuing recommendations or decisions to those matters specifically identified in the Shoreline Municipal Code, by ordinance, or those matters that the City Manager is authorized to refer to the Hearing Examiner. The Hearing Examiner has no authority to address constitutional or equitable claims.

C. Applicability.

These Rules supplement the Shoreline Municipal Code for matters within the Hearing Examiner's jurisdiction and govern administrative practice and procedures before the Hearing Examiner. In the case of conflict between these Rules and any provision of the Shoreline Municipal Code or applicable law, the Shoreline Municipal Code or applicable law shall control.

D. Interpretation.

The Hearing Examiner shall interpret these Rules and determine their application. When questions of practice or procedure arise that are not addressed by these Rules, the Hearing Examiner shall determine the procedure most appropriate and consistent with providing fair treatment and due process. In making such interpretations and determinations, the Hearing Examiner may look to the Washington State Superior Court Civil Rules or the Rules on Appeal, depending on the type of case, for guidance.

E. Hearing Examiner Independence.

The Hearing Examiner shall be free of any supervision or other influence from the city manager or any official or employee of the City of Shoreline with respect to any decision or recommendation made by the Hearing Examiner on a specific case, issue, or permit. Nothing in this section shall be construed to prohibit the city manager or any employee or official of the city from appearing before or submitting written information to the Hearing Examiner in the normal process of conducting public hearings for the City.

Chapter 2 DEFINITIONS

For the purpose of these Rules, the following definitions apply unless the context or subject matter clearly indicates that another meaning is required. If a word is not defined, it shall be assigned the definition provided for in the applicable chapter of the Shoreline Municipal Code or, its usual and customary meaning.

"Appeal" means any request to review a decision or action for which appellate jurisdiction is assigned to the Hearing Examiner under the Shoreline Municipal Code.

“Appellant” means a person, partnership, corporation, association, organization, or other public or private entity, or authorized representative who files a complete and timely appeal of a decision or other appealable action.

“Applicant” means a person, partnership, corporation, association, organization, or other public or private entity who files an application or otherwise formally requests a permit or other type of action that is the subject of an appeal or other review by the Hearing Examiner.

“Business Day(s)” or “Working Day(s)” means weekdays; Monday through Friday, excluding City recognized holidays.

“City” means the City of Shoreline, Washington.

“City Council” means the City Council of the City of Shoreline.

“Clerk” means the Clerk of the Hearing Examiner.

“Closed Record Hearing” means a hearing in which only the record compiled by the City in making its decision or taking action will be considered by the Hearing Examiner.

Day(s) means calendar day(s) unless specifically stated otherwise in these Rules or in the Shoreline Municipal Code.

“Department” means the applicable department of the City that is responsible for the decision or other action subject to appeal or other review by the Hearing Examiner.

“Director” means the head of the Department responsible for the decision or action that is subject to appeal or other review by the Hearing Examiner.

“Ex parte communication” means written or oral communications between any participant in a hearing and the Hearing Examiner about a matter pending before the Hearing Examiner made outside of a public hearing and in the absence of other participants.

“Hearing Examiner” means the City’s duly appointed Hearing Examiner and any Hearing Examiners Pro Tem.

“Hearing” means the two basic types of hearings for which the Hearing Examiner has recommendation or decision authority:

Hearing Type	Description
Pre-Decision Hearing	An open record public hearing held before a decision has been made on an application or other request for City action in order to gather information and create a record upon which a decision can be based. Participation is open to all members of the public. Depending on the type of application or action, after the hearing the Hearing Examiner will either make a final decision or make a recommendation to the City Council.

Appeal Hearing	<p>An open or closed record public hearing held after the City has made a decision on an application or other request for City action or has taken code enforcement action. An appeal hearing allows the applicant, licensee, violator, or others with an interest to challenge the decision or action.</p> <p>While open to the public, participation is limited to the Parties and witnesses called by the Parties.</p> <p>Types of appeal hearings: appeals of application decisions, including licensing; appeals of tax assessments, and appeals of code enforcement actions.</p> <p>After the hearing, the Hearing Examiner will issue a final decision.</p>
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“Interested Person” means any person, partnership, corporation, association, organization, or other public or private entity significantly affected by, or interested in, a proceeding before the Hearing Examiner or, identified by the SMC under which the proceeding is brought as having a right to participate.

“Intervenor” means any person, partnership, corporation, association, or other public or private entity who by motion has sought and been granted the right to participate in a matter for which the Hearing Examiner has discretion.

“Issued” means the date the Hearing Examiner’s recommendation or decision is mailed to the Parties of Record to the hearing.

“Land Use Application” means any application for a land use action undertaken in accordance with the Shoreline Municipal Code.

“Land Use Decision” means a final determination by the City as defined by the Land Use Petition Act, chapter 36.70C RCW.

“Motion” means a written or oral request made to the Hearing Examiner for an order or other ruling.

“Notice of Appeal Hearing” means the written order of the Hearing Examiner setting forth the schedule for the hearing, including deadlines for motions and the filing of documents.

“Open Record Hearing” means a public hearing where all Parties of Record and Interested Persons may, subject to any limitations set forth in the SMC, submit written or oral evidence to the Hearing Examiner so as to develop the record.

“Order” means the official decision on a matter before the Hearing Examiner. Orders may be written or oral, depending on the purpose of the Order.

“Party” or “Party of Record” means:

Type of Hearing	Party/Party of Record
Pre-Decision Hearing	The Applicant; The property owner, if different than the Applicant; The applicable City Department(s); and Any Interested Person or public agency that submitted written comments and/or testified at an open record hearing.
Appeal Hearing	The Appellant; The applicable City Department(s); and Any Intervenor allowed to join as a party.

“Principal Party” means and is limited to the Applicant and property owner, if different than the Applicant; Appellant; applicable City Department(s); or Intervenor in a matter pending before the Hearing Examiner.

“Pre-Hearing Conference Order” means that written order issued by the Hearing Examiner subsequent to a pre-hearing conference that sets forth the schedule for the hearing, including deadlines for filing motions and documents.

“Representative” means the person designated by a Party to be the official contact and to speak for the Party in a proceeding; also includes attorneys duly licensed to practice law in Washington State. When a Party consists of more than one person, the Party shall designate one member to act as the Representative.

“Rules” means the Hearing Examiner Rules of Procedure.

“Scheduling Order” means the written order issued by the Hearing Examiner setting forth the schedule for the hearing, including deadlines for filing motions and documents.

“SMC” means the Shoreline Municipal Code.

“Tax Code” means the City of Shoreline Tax Administrative Code, chapter 3.23 SMC

Chapter 3 RULES OF GENERAL APPLICATION

These rules of general application apply to all types of hearings before the Hearing Examiner so as to provide a fair and efficient process.

A. Hearing Examiner as Presiding Official.

1. The Hearing Examiner shall preside over all hearings.
2. The Hearing Examiner shall have the authority and duties granted by chapter 2.15 SMC and any other provisions of the SMC or state law.
3. Duties of the Hearing Examiner include but are not limited to:
 - a. Ensure a fair and impartial hearing;
 - b. Take all necessary action to avoid undue delay in the proceedings;

- c. Gather facts necessary for making the decision or recommendation;
- d. Administer oaths and affirmations;
- e. Examine witnesses;
- f. Rule upon offers of proof;
- g. Receive evidence and request additional evidence;
- h. Conduct discovery procedures including interrogatories and depositions;
- i. Issue summons/subpoena for, and compel the appearance of witnesses or the production of documents;
- j. Regulate the course of the proceedings and the conduct of the Parties and others so as to maintain order and provide for a fair hearing;
- k. Hold conferences for the settlement, simplification of the issues, or for any other purpose;
- l. Dispose of procedural requests or other similar matters;
- m. Make such decisions or recommendations for matters presented to the Hearing Examiner; and
- n. Take any other action authorized by the SMC.

B. Rights of Parties.

- 1. Every Principal Party in any proceeding before the Hearing Examiner shall have a right to:
 - a. Due notice;
 - b. Presentation of evidence;
 - c. Objection;
 - d. Motion;
 - e. Argument;
 - f. Rebuttal;
 - g. Cross-examination; and
 - h. Any other right essential to a fair hearing.
- 2. Every Party or Party of Record in any proceeding before the Hearing Examiner shall have a right to:
 - a. Presentation of evidence, including direct testimony and witnesses, and
 - b. Any other right essential to a fair hearing.
- 3. Every Party, whether or not a Principal Party, has the right to be represented by an attorney. However, legal representation is not required. See, Rule 3(I) Representation.

C. Notice.

- 1. The Clerk of the Hearing Examiner shall ensure that Notice of Public Hearing is provided in the time and manner required by the SMC, applicable law, or by these Rules. The Clerk shall calendar the all hearings, pre-decision and appeal, on the City's website calendar.
- 2. For pre-decision hearings, the City Department requesting the hearing shall provide notice of the public hearing as required by the SMC for the type of matter.
Notice of any pre-decision public hearing before the Hearing Examiner shall be given not less than fourteen (14) calendar days before the date of the hearing, unless a different notice period is mandated by the SMC, applicable law, or by these Rules.

3. For appeal hearings, the Clerk of the Hearing Examiner shall provide notice to the Principal Parties.
4. The Notice of a Pre-Decision Hearing shall contain, at the minimum:
 - a. Date, time, and place of the hearing;
 - b. Applicant Name;
 - c. Application Reference Number;
 - d. Location of subject property (vicinity map as needed);
 - e. General description of proposal;
 - f. City staff contact information;
 - g. A statement encouraging participation at the public hearing;
 - h. A statement advising that materials are available for review on the Hearing Examiner's City webpage;
 - i. A statement of reasonable accommodation
5. The Notice of an Appeal Hearing shall contain, at the minimum:
 - a. Date, time, and place of the hearing;
 - b. Appellant Name;
 - c. Location of subject property (if applicable);
 - d. Nature of Appeal;
 - e. City reference number for decision or action under appeal;
 - f. A statement that the hearing is closed record and participation is limited to the Principal Parties of record for an appeal;
 - g. A statement advising that materials are available for review on the Hearing Examiner's City webpage;
 - h. A statement advising of reasonable accommodation requests;
 - i. A statement advising of interpretation requests

D. Time and Location for Hearings.

1. Pre-Decision Hearings will normally be scheduled no earlier than 6:00 p.m. on regular business days. However, the Hearing Examiner shall have discretion to schedule hearings earlier in the day, particularly when the number of Parties and witnesses is limited or when the hearing is likely to be lengthy.
2. Appeal Hearings may be scheduled at any time during regular business hours.
3. Unless otherwise noted in writing, hearings shall be held in the City Council Chamber at Shoreline City Hall, 17500 Midvale Avenue N, Shoreline, WA.

E. Accessibility and Accommodations.

Proceedings before the Hearing Examiner are conducted at Shoreline City Hall, which is accessible to those individuals with disabilities. Any person requiring an accommodation pursuant to the Americans With Disabilities Act should contact the Clerk of the Hearing Examiner at the earliest possible time but at least two (2) business days prior to the hearing.

F. Computation of Time.

Computation of any period of time for matters before the Hearing Examiner begins with the first day after the day on which the act or event that started the time period occurred and

concludes at 5:00 pm local time on the last day of the time period, except for the filing of documents (other than the original appeal) which is 4:00 pm local time. When the last day of the time period is a Saturday, Sunday, or City-recognized holiday, the time period extends to the end of the next business day.

G. Ex Parte Communication.

1. Except for communications regarding procedural matters, such as scheduling, no Party or person shall communicate or attempt to communicate ex parte directly or indirectly with the Hearing Examiner concerning the merits or facts of any matter assigned to or under consideration by the Hearing Examiner.
2. If ex parte communication is made to or by the Hearing Examiner, such communication shall be disclosed at the public hearing or, if there is no public hearing, to the Parties of record as soon as reasonably possible.

H. Recusal of Hearing Examiner.

1. In the event of personal bias, prejudice, financial interest, or other reason substantially affecting the Hearing Examiner's objectivity, a Hearing Examiner should recuse themselves from hearing a matter and a different Hearing Examiner assigned as soon as reasonably possible.
2. The fact that a Hearing Examiner has considered the same or a similar issue or proposal in another matter or has made a ruling adverse to the interests of a Party is not a basis for disqualification.
3. As soon as reasonably possible but at least five (5) business day prior to a hearing, a Party who reasonably believes that the Hearing Examiner assigned to a matter cannot remain objective in the hearing may request, by written motion, that a different Hearing Examiner be assigned to the matter. The request shall set forth the reasons the moving Party believes that the Hearing Examiner cannot remain objective.
4. The Hearing Examiner decision on recusal shall be by written order and is not subject to administrative appeal.

I. Representation.

1. Representation by legal counsel is not required at a hearing before the Hearing Examiner. However, if a Party is represented by legal counsel, then a notice of appearance shall be filed with the Hearing Examiner and served on all Parties at the earliest possible time but no later than fourteen (14) business days prior to a hearing.
2. When a Party consists of more than one person or is an organization or other type of entity, the Party shall designate an individual to be its representative for all proceedings, to present the Party's case, and to receive all documents related to the matter.

J. Site Visit.

1. The Hearing Examiner may view the property that is the basis of a matter prior to the close of the record when it would assist the Hearing Examiner in clarifying or understanding the facts or issues, PROVIDED that the Hearing Examiner shall not enter onto private property without permission of the landowner or landowner's representative.

2. Unless otherwise provided by the Hearing Examiner, site visits do not include interested Parties or persons.
3. Failure to conduct a site visit will not render the decision or recommendation void.
4. A site visit, including any notes taken by the Hearing Examiner, is not part of the Record. HOWEVER, if the Hearing Examiner conducted a site visit prior to the public hearing or intends to prior to the close of the Record, the Hearing Examiner shall disclose the visit at the public hearing.

K. Conduct of Public Hearing.

1. Format of Hearings.

- a. Public Hearings before the Hearing Examiner are informal in nature and provide the Parties with the opportunity to present evidence relevant to the proceeding.
- b. All hearings will be recorded to provide a verbatim record of the proceedings. All persons giving testimony will be required to speak into a microphone and to state their name and affiliation for the record.

2. Expected Conduct of all persons at a Public Hearing.

- a. All persons involved in and/or attending a public hearing must conduct themselves with civility and courtesy to all persons involved in the hearing.
- b. Any person engaging in any form of disruptive behavior, such as profanity; degrading, irrelevant questions or testimony; or aggressive behavior may be removed from the hearing room. Removal may be temporary or permanent at the discretion of the Hearing Examiner.
- c. The Hearing Examiner may limit or prohibit the use of posters, flags, or other types of visual or audio demonstrations as necessary to maintain order and security in the hearing room.

3. Testimony.

- a. Regardless of the type of hearing – pre-decision or appeal, all testimony before the Hearing Examiner shall be given under oath or affirmation to tell the truth.
- b. Any interpreter shall swear to make a true interpretation of the person testifying and to repeat the person's statements, in English, to the best of the interpreter's skill and judgment.
- c. The Hearing Examiner may impose reasonable limitations on the nature and length of testimony to facilitate orderly and timely conduct of the hearing.
- d. The Hearing Examiner may ask questions of a Party or a witness at any time during their testimony to seek clarification or elaboration of testimony given or to request submittal of additional information.
- e. All Principal Parties may cross-examine another witness. However, the scope of the cross-examination is within the discretion of the Hearing Examiner, who may limit the number of Parties that may cross-examine an individual witness. A Principal Party may seek re-direct testimony after cross-examination, but such re-direct testimony shall be limited to the statements made under cross-examination. Re-cross examination after re-direct testimony shall not be allowed.
- f. Rebuttal testimony may only be offered by the Principal Party who bears the burden of proof in a matter.

4. Continuation.

- a. The Hearing Examiner may continue proceedings *sua sponte* if in the opinion of the Hearing Examiner, more information is necessary to make a decision or recommendation, or there is insufficient time scheduled to hear all of the testimony on the matter.
- b. Any Party may seek a continuation by written motion stating reasonable grounds for the continuance.
- c. Notice of the continuation shall be announced at the public hearing and shall specify the date, time, and place where the proceedings will commence. No further notice is required.

L. Official Case Record.

1. All hearings shall be electronically recorded, either by audio or video.
2. The Clerk of the Hearing Examiner shall be responsible for maintaining written documents submitted and accepted into the official case record; assigning exhibit numbers; cataloguing orders issued by the Hearing Examiner; and maintaining the audio or video recording of the hearing proceedings, all of which shall be part of the official case record. If the recording of the hearing is transcribed by a qualified court reporter retained by the City, the transcript shall be included in the official case record.
3. Copies of the recording or written documents in the record may be obtained by any Interested Person. The cost of copying shall be paid by the requestor according to chapter 3.01 SMC Fee Schedule EXCEPT, the requestor shall be solely responsible for the actual cost of transcription of the hearing unless previously prepared by the City.
4. The Record of the Hearing will be retained by the City pursuant to chapter 40.14 RCW.

M. Public Records Act.

The decision or recommendation of the Hearing Examiner, once issued, is a public record and will be made available for public review on the City's website, at City Hall, or through a public records request. The supporting exhibits shall also be available. The Hearing Examiner's working notes and drafts are exempt from public disclosure.

N. Filing and Service of Documents.

1. Filing with the Hearing Examiner.

- a. Except for the original filing of an appeal, all documents may be filed with the Hearing Examiner by electronic mail (e-mail) or by a hardcopy filing not later than 4:00 pm local time by the date due.
- b. An appeal shall be filed in hard copy, with the associated fee, no later than 5:00 pm local time by the deadline established in the applicable provision of SMC.
- c. Electronic mail filings shall be sent to the Hearing Examiner at: hearingex@shorelinewa.gov.
- d. Hardcopy filing may be accomplished by hand delivery, by 1st class registered or certified U.S. mail, or commercial courier delivery. Hardcopy filing shall be sent to:

City of Shoreline - Office of the Hearing Examiner
17500 Midvale Ave N
Shoreline, WA 98133-4905

- e. Unless otherwise permitted by the Hearing Examiner, for documents filed by electronic mail that exceed ten (10) pages in length, including exhibits, a hard copy shall also be submitted to the Hearing Examiner.
- f. All filings shall be deemed filed on the date of actual receipt by the City. All hardcopy filings accomplished by U.S. mail, hand delivery, or courier shall be made during the City's regular business hours.
- g. Filings made by electronic mail shall be deemed filed based on the date and time indicated by the City's receiving computer.
- h. Except for the original filing of an appeal, all filings are due no later than 4:00 pm local time. Any filing, whether in-person, by U.S. mail, by courier, or by electronic mail, not completed before 4:00 pm local time will be stamped received on the following business day.

2. Service on Parties.

- a. Principal Parties shall serve copies of all filings on all other named Parties on or before the date filed with the Hearing Examiner. Service may be personal, by 1st class registered or certified U.S. mail, commercial courier delivery, or by electronic email (e-mail).
- b. Principal Parties are encouraged to agree to accept service of documents by electronic mail in lieu of a hard copy.
- c. Service is accomplished when the document is personally received, delivered by courier, or transmitted by electronic means. Unless otherwise provided in the SMC for a specific type of hearing, service by mail is deemed complete on the third day after deposit in the United States mail as evidenced by postmark.

O. Format of Documents.

- 1. All Staff Reports, legal briefs or memoranda, and other written documents should be legible. Written documents should have a font size of no less than 12, be printed on 8.5 x 11 size paper, and clearly denote the name of the matter and City reference number. If the Hearing Examiner determines that the length of any document should be limited, the Hearing Examiner shall provide the limitation in the Scheduling Order or Pre-Hearing Conference Order.
- 2. The Staff Reports, supporting exhibits, and legal briefs or memoranda shall be tabbed and indexed with separate exhibit numbers. Maps, pictures, and drawings should be provided in color.

P. Evidence.

1. Burden of Proof.

Unless otherwise provided for in the SMC or these Rules, the burden of proof for matters before the Hearing Examiner is:

Type of Hearing	Burden of Proof
Pre-Decision Hearings	Applicant
Appeals (except code enforcement)	Appellant
Code Enforcement Appeals	City of Shoreline

2. Admissibility.

- a. Hearings before the Hearing Examiner, whether a pre-decision hearing or an appeal hearing, are designed to be accessible to the public without the need for legal representation. Therefore, the hearing generally will not be conducted in strict adherence to Rules of Evidence. However, the rules of privilege, including attorney-client privilege, still apply.
- b. Any relevant, reliable, and material evidence, including hearsay evidence, may be admitted at the discretion of the Hearing Examiner if it possesses probative value such as would be commonly accepted by reasonably prudent persons in the conduct of their affairs. The Hearing Examiner may exclude irrelevant, inflammatory, immaterial, unreliable, unduly repetitive, or privileged evidence.
- c. The Hearing Examiner may limit testimony or the number of witnesses as necessary to facilitate orderly and timely conduct of the hearing. Repetitious testimony is discouraged.
- d. Documentary evidence may be received in the form of copies or excerpts. Upon request of a Party, the Parties shall be given an opportunity to examine and compare the copy with the original. If an excerpt is used, the complete document from which the excerpt came shall be made available for inspection by all Parties.
- e. A Party seeking to admit photographs as exhibits should provide, in writing; the subject matter, date taken, and name of the individual who took the photograph along with the photograph itself.

3. Official Notice.

In the absence of conflicting evidence, the Hearing Examiner may take official notice of the following:

- a. Federal, state, and local laws;
- b. Legislatively-adopted ordinances, resolutions, and plans;
- c. General business customs and practices;
- d. Notorious or general facts;
- e. Technical or scientific facts within the Hearing Examiner's specialized knowledge.

4. Demonstrative Exhibits.

- a. Demonstrative exhibits (e.g. large-sized reproductions of maps, photographs, or other documents; dimensional models, videos, slide presentations (e.g. PowerPoint or other materials) are not required but may be used to support testimony.
- b. If technology is necessary for demonstrative exhibits, Parties shall contact the Clerk of the Hearing Examiner at least two (2) business days prior to the hearing about their need for technological equipment. The City Council Chamber has laptops available for presentations via a thumb drive, video screens, and microphones.
- c. If a Party desires to submit a demonstrative exhibit into the Record at the public hearing, the following apply:
 - i. Large-size exhibit must be reduced in scale/size no larger than legal paper sizing – 11 inches by 14 inches.
 - ii. A printed color copy of a PowerPoint slide presentation must be provided.
 - iii. A color copy/photograph of a dimensional model.

- iv. Two (2) copies must be provided; a working copy for the Hearing Examiner and an official copy for the Record.
- d. Any videos shown at a public hearing shall be no longer than five (5) minutes and contain only relevant information.
- e. Parties are required to provide their own display stands for exhibits.

5. Discovery.

- a. The Hearing Examiner may permit appropriate prehearing discovery, including written interrogatories, production of document requests and depositions upon oral and written examination, when relevant to the subject matter involved in the hearing. The Scheduling Order, Notice of Appeal Hearing, or Prehearing Conference Order will provide for a deadline by which discovery is to be completed and the parameters for discovery.
- b. In response to a motion, or on the Hearing Examiner's own initiative, the Hearing Examiner may compel discovery or may prohibit or limit discovery when the Hearing Examiner determines that it is unduly burdensome, harassing, or unnecessary under the circumstances.
- c. Parties shall not file discovery documents with the Hearing Examiner. Parties may subsequently utilize these documents as exhibits for the hearing.

6. Subpoena.

- a. Pursuant to SMC 2.15.070(B), the Hearing Examiner is authorized to issue summons for, and compel the appearance of, witnesses, or production of documents upon the request of a City Officer or any Party, or upon the Hearing Examiner's own volition.
- b. A motion may be made in writing for the Hearing Examiner to issue a subpoena to require a person to appear and testify at a deposition or hearing or, for a person to produce specified documents or other physical exhibits. Motions shall be filed no later than fourteen (14) calendar days prior to the hearing date.
- c. Any subpoena issued shall be in the form set forth in Superior Court Civil Rule 45.
- d. The Party requesting the subpoena shall be responsible for serving it. Service shall be accomplished no later than seven (7) calendar days prior to the date the appearance or production of documents is ordered.
- e. An affidavit or declaration of service shall be filed with the Hearing Examiner and a copy served on all Parties of Record.
- f. Civil Rule 45 shall also guide response to a subpoena, including a motion to quash or modify the subpoena except that such a motion shall be filed with the Hearing Examiner no later than three (3) calendar days prior to the date the appearance or production of documents is ordered.

7. Pre-Filed Exhibits.

- a. Principal Parties shall pre-file exhibits to be used at the hearing. The Scheduling Order, the Notice of Appeal Hearing, or the Prehearing Conference Order shall set forth the deadlines for filing and service of such exhibits. In no case, shall such exhibits be filed and served any later than seven (7) calendar days prior to the hearing.
- b. For appeal hearings, Principal Parties shall pre-file all technical or scientific documents, materials, studies, reports, or analysis, photographs, or other evidence that

a Principal Party intends to rely upon as part of its case in chief on appeal or in defense of an appeal.

- c. Pre-filed exhibits will be admitted into evidence by the Hearing Examiner at the start of a hearing.
- d. A Party shall mark each exhibit with a consecutive exhibit number and provide an index of the exhibits.

8. Pre-Filed Disclosure of Witnesses.

- a. Disclosure of witnesses, both lay (non-expert) and expert, is mandatory for appeal hearings.
- b. The Scheduling Order, the Notice of Appeal Hearing, or the Prehearing Conference Order shall set forth the deadlines for filing and service of witness lists. In no case shall such a list be filed and served any later than seven (7) calendar days prior to the hearing.
- c. The witness list shall provide the name of all witnesses a Principal Party intends to call at the hearing and the subject matter on which the witness is expected to testify. In the case of an expert witness, the list shall also provide a summary of qualifications (or include an attached resume/curriculum vitae).
- d. The Hearing Examiner may impose reasonable limitations on the number of witnesses and the nature and length of their testimony.

9. Exhibits Offered During a Hearing.

- a. If a Party seeks to admit an exhibit into evidence for the first time at the hearing, that Party shall provide a sufficient number of copies to provide a copy to all Principal Parties. The Party shall also provide two (2) copies to the Hearing Examiner, one (1) for the Record and one (1) as a working copy for the Hearing Examiner.
- b. The Hearing Examiner may limit admission of such evidence unless the Party seeking to admit the exhibit shows good cause why the evidence was not pre-filed.

Q. Pre-Hearing Procedures.

1. Scheduling of Hearings.

It is the policy of the City of Shoreline that, to the extent feasible and consistent with requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings, the Hearing Examiner, City staff, and all Parties or their agents, shall make every effort at each stage of a proceeding to avoid delay.

2. Scheduling of Pre-Decision Hearings.

- a. Pre-Decision Hearings will normally be scheduled no earlier than 6:00 p.m. However, the Hearing Examiner shall have discretion to schedule hearings earlier in the day, particularly when the number of Parties and witnesses results in the potential for a hearing to be lengthy.
- b. City staff, in consultation with the applicant, shall send a request to the Clerk of the Hearing Examiner for the scheduling of a hearing, suggesting specific dates. If the suggested dates cannot be accommodated by the Hearing Examiner, the Clerk shall provide alternative hearing dates.
- c. The Hearing Examiner shall provide a Scheduling Order to the Clerk of the Hearing Examiner who will distribute it to the Parties. The Scheduling Order shall set forth the date, time, and place for the public hearing. This order shall include the case

schedule including deadlines for the filing of pre-hearing briefs and a website link to these Rules.

3. Scheduling of Appeal Hearings.

- a. Appeal Hearings may be scheduled at any time during regular business hours.
- b. Appeals shall be heard as expeditiously as possible. An appeal conducted pursuant to SMC 20.30 Subchapter 4 shall be heard and decided within 90 days from the date the appeal is filed unless jointly waived by all Parties.
- c. Upon receipt of an appeal, the Clerk of the Hearing Examiner shall forward a copy of the appeal to the applicable City Department(s). The Clerk shall also request potential hearing dates from the Appellant and City Staff. If the suggested dates and/or times cannot be accommodated by the Hearing Examiner, the Clerk shall provide additional hearing dates.
- d. Unless the Hearing Examiner determines that the appeal is vague, ambiguous, or does not clearly set forth the Appellant's objections as provided for in Rule 4(B)(4)(c), the Hearing Examiner shall provide a written Notice of Appeal Hearing to the Clerk of the Hearing Examiner who will distribute it to the Parties. The Notice of Appeal Hearing shall set forth the date, time, and place for the public hearing within ten (10) calendar days following the timely filing of a complete appeal. This notice shall include the case schedule including deadlines for filing motions, discovery, disclosure of witnesses, and pre-hearing briefs.

4. Pre-Hearing Conference.

- a. Pre-hearing conferences are designed to promote efficient case management of complex cases by providing an informal process for such things as the clarifying or limiting issues, procedural matters, establishing a case schedule, disclosure of witnesses, and discussion of settlement possibility.
- b. A pre-hearing conference may be requested in writing by a Party or jointly by all Parties, or when the Hearing Examiner finds a pre-hearing conference is necessary. If by a Party, the request must be filed no later than twenty (20) days prior to the scheduled hearing date.
- c. In consultation with the Parties, the Hearing Examiner shall set the date, time, and place for the pre-hearing conference and notify the Parties in writing. A pre-hearing conference may be held in person, telephonically, or by any other manner acceptable to the Parties. All Parties shall attend the pre-hearing conference unless a Party has waived the right to be present and has been excused by the Hearing Examiner.
- d. Pre-hearing conferences are not recorded.
- e. Based upon the pre-hearing conference, the Hearing Examiner may issue a written Pre-Hearing Conference Order memorializing the matters discussed at the pre-hearing conference and setting the final case schedule. If no Pre-Hearing Conference Order is warranted, the Hearing Examiner shall issue a Scheduling Order setting the final case schedule. The Hearing Examiner shall provide the Order to the Clerk of the Hearing Examiner who will distribute it to the Parties. Regardless of the type of order, it shall be issued within ten (10) calendar days of the conference.
- f. The Pre-Hearing Conference Order is not subject to appeal.

R. Motions.

1. General Requirements.

- a. A motion is a request for an order or ruling. Any Party to a matter may file a substantive or procedural motion.
- b. Every motion shall be in writing, unless made during the public hearing, and provide a concise statement of the factual and legal basis for the motion and the relief or order sought.
- c. Any written motion shall be filed with the Hearing Examiner and served on all Parties.
- d. The deadline for filing motions and responses and replies will be set forth in the Scheduling Notice, Notice of Appeal Hearing, and/or in a Pre-Hearing Conference Order.
- e. A motion and any response shall not exceed fifteen (15) pages in length without the prior permission of the Hearing Examiner. The moving Party may file a reply brief not exceeding ten (10) pages in length. Font size shall be no less than 12 and exhibits tabbed and indexed with separate numbers. Double spacing is preferred for readability.
- f. The Hearing Examiner may issue an order on a written motion without oral arguments or, the Hearing Examiner may call for oral arguments before ruling on the motion.
- g. The Hearing Examiner's decision on a motion, unless made at a public hearing, shall be set forth in an Order on Motion. If made at a hearing, the Hearing Examiner's final decision shall denote any substantive rulings.
- h. The Hearing Examiner's Order on Motion is a final decision for the purpose of judicial review and is not subject to a subsequent motion.

2. Motions for Intervention – Appeal Hearings.

- a. Any person may file a motion to intervene in an appeal.
- b. Intervention is not a substitute means of appealing a decision for those who could have appealed but failed to do so.
- c. The motion shall state the person's interests relating to the subject matter action, how disposition of the action may impair those interests, and whether those interests are adequately represented by existing Parties. The motion shall also state which issues the intervenor seeks to address. An intervenor may not raise new issues.
- d. The motion shall be filed as soon as possible but no later five (5) calendar days before the date set forth in the Scheduling Order, Notice of Appeal Hearing, or the Pre-Hearing Conference Order for the Appellant's opening brief.
- e. The Hearing Examiner may grant intervention subject to any conditions necessary to ensure that intervention does not impair the orderly and prompt conduct of the proceedings. The decision of the Hearing Examiner shall be by a written Order on Intervention and issued prior to the deadline for Appellant's opening brief.
- f. Hearing briefs of an intervenor shall be filed and served in accordance with the deadlines applicable to the Party whose position the intervenor supports.

3. Dispositive Motions.

- a. A Principal Party may move to dismiss an appeal, in whole or in part, if:

- i. An Appellant lacks standing to appeal the decision or action challenged;
 - ii. The appeal was not timely filed;
 - iii. The Hearing Examiner lacks subject matter jurisdiction, in whole or in part, over the matter; or
 - iv. The appeal is frivolous on its face.
- b. If a Principal Party anticipates filing a dispositive motion, this shall be disclosed at the pre-hearing conference, if one is held, so that the Pre-Hearing Conference Order can provide deadlines for filing. If no pre-hearing conference was held, then the Hearing Examiner's Scheduling Order or Notice of Appeal Hearing shall set forth filing deadlines for dispositive motions.
- c. Since the purpose of public hearings is to provide a non-technical hearing process, summary judgment motions are disfavored by the Hearing Examiner. Such motions may be filed when the relevant matters primarily involve legal interpretations based on facts that are either uncontested or can be expeditiously determined.

4. Motions for Withdrawal and Dismissal of Appeal.

- a. Withdrawal.
 - i. An appeal may be withdrawn at any time prior to the close of the record of the appeal hearing. An appeal may only be withdrawn by the Appellant, or the Appellant's representative, in writing.
 - ii. An Appellant's request to withdraw shall be granted as a matter of right and the appeal dismissed by written order of the Hearing Examiner. The Order on Withdrawal shall be with prejudice.
 - iii. If the decision or action being appealed is withdrawn by the issuing City Department, the City shall file notice of the withdrawal with the Hearing Examiner as soon as possible. The Hearing Examiner shall dismiss the appeal as moot.
 - iv. If a matter is withdrawn pursuant to this section, the appeal fee is non-refundable.
- b. Dismissal.
 - i. An appeal may be dismissed without a hearing if the Hearing Examiner determines that it is untimely; fails to state a claim for which the Hearing Examiner has jurisdiction to grant relief; or that the appeal is without merit on its face, frivolous, or brought merely for the purpose of delay.
 - ii. Any Principal Party may seek dismissal of all or part of an appeal by motion.
 - iii. The Hearing Examiner may make a ruling on a motion to dismiss based upon written arguments or may call for oral arguments.
 - iv. The Hearing Examiner's Order of Dismissal shall be in writing. Unless otherwise stated in the Order of Dismissal, the dismissal is with prejudice.
 - v. If a matter is dismissed pursuant to this section, the appeal fee is non-refundable.

5. Motions for Reconsideration, Clarification, or to Correct a Scrivener's Error.

- a. After issuance of a final decision of the Hearing Examiner, any Party may file a written motion for reconsideration, clarification, or to correct a scrivener's error.

- b. The deadline for filing and service of such a motion is as follows:

Type of Motion	Filing Deadline*
Reconsideration	10 calendar days
Clarification	5 calendar days
Correction of Scrivener's Error	5 calendar days
*Following the date of the Hearing Examiner's final decision	

- c. A motion for reconsideration shall specify the points of fact or law that the moving Party contends the Hearing Examiner misinterpreted, state a procedural error, present newly discovered evidence of a material nature which could not, with reasonable diligence, have been produced at the hearing.
- d. A motion for clarification shall specify which aspects of the final decision the Party is requesting clarification on and the basis for clarification.
- e. A motion for correction of scrivener errors shall cite to the page, finding, or conclusion in which the error can be found and provide the proposed correction. The Hearing Examiner may *sua sponte* correct scrivener errors and issue a corrected final decision.
- f. Unless requested by the Hearing Examiner, no response to a motion filed pursuant to this section may be filed.
- g. Within ten (10) business days of the filing of a motion, the Hearing Examiner shall issue a written Order on Motion. The Order on Motion may deny the motion, modify the final decision, provide clarification, correct errors, and/or reopen the public hearing.
- h. No further motion may be filed on the Hearing Examiner's Order on Motion.
- i. Unless otherwise provided by applicable law, a timely motion for reconsideration filed pursuant to this section does not stay the effectiveness of the Hearing Examiner's final decision or alter the time period provided for judicial appeal.

S. Post-Hearing Procedures.

1. Record Held Open for Submittal of Additional Evidence.

- a. The Hearing Examiner shall not consider any evidence submitted after a hearing unless, at the hearing, the Hearing Examiner granted additional time to submit such evidence.
- b. The Hearing Examiner shall state on the record that the Record was left open for submittal of specifically identified evidence, including legal briefs or closing statements, and establish a deadline for submittal.
- c. Unless authorized by the Hearing Examiner, no rebuttal evidence or argument is permitted on the additional evidence.

2. Submittal of Additional Evidence after Close of the Record.

- a. After the Hearing Examiner has closed the Record, additional evidence is not permitted absent a motion based on new evidence not reasonably available at the time of the hearing.

- b. The moving Party shall serve the motion and the proposed additional evidence on all Parties to the matter. The non-moving Parties shall have five (5) calendar days to file a rebuttal unless the Hearing Examiner, by written order, grants otherwise.
- c. If a motion for additional evidence is filed, the required date for issuance of the Hearing Examiner's decision set forth in Rule S(4)(a) shall commence on the date of the Hearing Examiner's ruling on the motion.

3. Reopening of a Hearing.

- a. After closing the Record, the Hearing Examiner may re-open the hearing for good cause at any time prior to the issuance of a decision or based on a Motion for Reconsideration.
- b. If the public hearing is reopened, the Hearing Examiner, in consultation with the Parties, shall set a date and notice shall be sent to all Parties by the Hearing Examiner. Notice of the date for the reopened hearing shall be provided in the same manner as the original notice for the hearing and no less than fourteen (14) days prior to the hearing date.

4. Hearing Examiner Final Decision.

- a. For all matters, the Hearing Examiner shall issue a written decision within ten (10) working days of the close of the record unless extended by mutual agreement of the Parties.
- b. The decision, whether a recommendation to the City Council or a final decision, shall be based on the whole Record and supported by findings of facts and conclusions of law based on the specific provisions of the law applicable to the matter.
- c. Depending on the context of the decision, the Hearing Examiner may affirm, modify, reserve, or remand the City's recommendation, decision, or action.
- d. As soon as practicable, but no later than one (1) business day after issuance, the Clerk shall mail the Hearing Examiner's final decision to all Parties of Record. Mailing may be accomplished by electronic mail (e-mail), first-class registered or certified U.S. mail, or by commercial parcel delivery company. If accomplished by e-mail, the Clerk may provide a link by which a Party can access the Hearing Examiner's final decision on-line.
- e. The Clerk shall also post the Hearing Examiner's final decision to the Hearing Examiner's page of the City's website no later than one (1) business day after issuance.

5. Motions for Reconsideration, Clarification, or to Correct a Scrivener's Error.

See Rule 3(R)(5).

T. Termination of Jurisdiction.

The jurisdiction of the Hearing Examiner in a matter shall terminate upon the issuance of the Hearing Examiner's final decision or Order on a Motion for Reconsideration or Clarification unless the Hearing Examiner expressly retains jurisdiction.

U. Judicial Appeal of Final Decision.

- 1. The Hearing Examiner's final decision on all land use applications, permit appeals, or code enforcement appeals is the City's final decision and may be appealed to Superior Court by the filing of a Land Use Petition within twenty-one (21) days of the date the final decision

was issued as provided in chapter 36.70C RCW. Pursuant to RCW 36.70C.020, if a timely motion for reconsideration has been filed, the date of final decision is the date a decision is entered on the motion for reconsideration.

2. The Hearing Examiner's decision on all tax or licensing appeals is the City's final decision and may be appealed to Superior Court by the filing of an appeal within the time period set forth in the applicable SMC provision.

Chapter 4 Hearings

A. Pre-Decision Hearings.

In addition to the Rules of General Application (Chapter 3) and any Supplemental Rule (Chapter 5), the following rules shall govern review of matters where the Hearing Examiner is to conduct hearings, prepare a record, enter written findings and conclusions, and issue a recommendation to the City Council or issue a final decision on a permit application or other action for which approval is being sought, and for which the SMC designates the Hearing Examiner as the review authority.

1. Each pre-decision matter requires a City Staff Report and an Applicant Report. Unless otherwise provided for in an Order of the Hearing Examiner, these reports, along with any legal briefs or memoranda a Party will be relying on for the public hearing, shall be filed with the Hearing Examiner and served on the other Party(ies) by 4:00 pm local time a minimum of seven (7) calendar days prior to the public hearing.
2. The Clerk shall make these filings available to the public by posting on the City's website no later than the next working day after the filing.
3. The Clerk shall consolidate all filings into the hearing file, tabbed and indexed with separate exhibit numbers, and provide the file to the Hearing Examiner a minimum of seven (7) calendar days prior to the public hearing.
4. Any documents received after these filings but prior to the public hearing shall be subsequently appended to the hearing file by the Clerk. The Clerk shall assign the next sequential exhibit number and provide the Hearing Examiner with the document as soon as reasonably possible.
5. The Clerk may prepare an agenda for the hearing denoting the order of presentation.
6. **Content of Reports.**
 - a. The City Staff Report shall include, at the minimum, the items shown below:
 - i. Application/Reference number;
 - ii. Name of Applicant;
 - iii. Summary of Request;
 - iv. General Information;
 - v. The names and addresses of the applicant(s), and the owner(s) if not the applicant(s), of the subject property;
 - vi. Applicant/owner representative (if applicable);
 - vii. Date application filed/deemed complete;
 - viii. Location (street address);
 - ix. Legal description of the subject property;

- x. Square footage of subject property;
 - xi. Project Description;
 - xii. Background of proposal;
 - xiii. Comprehensive Plan Land Use Designation;
 - xiv. Zoning designation;
 - xv. Site Characteristics (topography, critical areas, shorelines, access);
 - xvi. Present use of subject property;
 - xvii. Neighborhood characteristics (surrounding land uses, compatibility);
 - xviii. Relevant maps of the subject property;
 - xix. Deviations/departures administratively granted (if applicable);
 - xx. State Environmental Policy Act Review:
 - Issuance dates for environmental documents (EIS, DNS, MDS);
 - Basis for exemption.
 - xxi. Public Notice;
 - xxii. Dates and types of public notice: mailing, on-site posting, publication, and/or website;
 - xxiii. Public and Agency Comment:

A summary of comments received from the public and/or agencies in regard to the project;
 - xxiv. Department Analysis and Conclusions:
 - Criteria for review/approval of the application;
 - Applicable laws, regulations, and policies:
 - City of Shoreline Comprehensive Plan;
 - City of Shoreline Unified Development Code;
 - Other applicable federal, state, or local regulations.
 - xxv. Department Recommendation and Recommended Conditions (if any);
 - xxvi. A table of contents for the exhibits, with the exhibits attached.
- b. The Applicant's Report is to be similar to the Staff Report but should focus on the proposal from the Applicant's perspective. The Applicant's Report shall include, at the minimum, the items shown below:
- i. Application/Reference number;
 - ii. Name of Applicant;
 - iii. Address of Subject Property;
 - iv. Background of proposal;
 - v. Response to public and agency comments;
 - vi. Applicant's Analysis and Conclusion:
 - Consistency with criteria for review/approval of the application;
 - Consistency with applicable laws, regulations, and policies.
 - vii. Applicant's request;
 - viii. A table of contents for exhibits, with the exhibits attached.
- c. For Street Vacation applications, the City Staff Report and Applicant's Report shall also include a Right-of-Way Present and Future Needs Analysis.

7. Conduct of Pre-Decision Hearing.

- a. A Pre-Decision Hearing is open to the public and any person has the right to provide oral and written testimony subject to limitations imposed by the Hearing Examiner.
- b. The order of presentation at a Pre-Decision Hearing is generally as follows:
 - i. Examiner’s introductory statement;
 - ii. City Department presentation;
 - iii. Applicant’s presentation;
 - iv. Public and Agency Comment;
 - v. Response to comments by City and/or Applicant;
 - vi. Examiner’s questions and closing statement.
- c. The order of presentation may be modified by the Hearing Examiner or upon agreement of the Parties.
- d. The burden of proof is on the applicant unless otherwise provided by the SMC or these rules.

8. Final Decision of Hearing Examiner.

Unless otherwise agreed to by the Parties, the Hearing Examiner shall issue a written decision within ten (10) working days of the close of the record. See Rule 3(S)(4)(a).

B. Appeal Hearings.

In addition to the Rules of General Application and any Supplemental Rule, the following rules shall govern review of matters where the Hearing Examiner is to conduct hearings, prepare a record, enter written findings and conclusions, and issue a final decision for any appeal for which the SMC designates the Hearing Examiner as the appeal authority.

1. Filing of Appeal Statement

- a. No appeal shall be considered by the Hearing Examiner unless the appeal statement is timely filed in accordance with the applicable provision of the SMC and is accompanied by the required appeal fee as established in chapter 3.01 SMC Fee Schedule.
- b. To be considered timely filed, an appeal statement must be received in the City Clerk’s Office no later than 5:00 pm on the last day of the appeal period.
- c. The appeal fee is non-refundable.

2. Content of Appeal Statement.

An appeal statement must be in writing and contain, at the minimum, the following:

- a. Identification of the City decision or action being appealed, including a copy of the decision or action;
- b. Name, address, phone, and email address for the Appellant or Appellant’s representative;
- c. A brief statement as to how the Appellant is specifically affected or interested in the matter being appealed;
- d. A brief statement of the Appellant’s issues on appeal, noting Appellant’s specific objections;
- e. The requested relief, such as reversal or modification; and
- f. Signature of Appellant or Appellant’s representative.

3. Issues on Appeal.

Unless the Hearing Examiner grants an amendment as provided in Rule 4(B)(4)(c) below, matters or issues raised in the appeal statement shall define and limit the issues the Hearing Examiner considers.

4. Amendment of Appeal Statement.

- a. An appeal statement may not be amended as a matter of right after the appeal deadline.
- b. An Appellant may request in writing to amend an appeal statement. The request shall be filed within five (5) calendar days of the date the original appeal statement was filed. The request shall include the proposed amended appeal. In determining whether to grant the request, the Hearing Examiner shall consider whether other Parties will be prejudiced.
- c. If the Hearing Examiner determines that the appeal is vague, ambiguous, or does not clearly set forth the Appellant’s objections, then the Hearing Examiner may send a Notice to Amend requesting that the Appellant amend the appeal. The Appellant shall have seven (7) calendar days from the date of the Notice to Amend to file a response. If no response is filed, then the Hearing Examiner may dismiss the appeal.

5. Consolidation

- a. If more than one appeal is filed for an action, the appeals should be consolidated when, at the Hearing Examiner’s sole discretion, such consolidation will expedite disposition and avoid duplication of evidence and agreement.
- b. If consolidated, the 90-day requirement of SMC 20.30.230(A) shall be based on the filing date of the last appeal filed.

6. Withdrawal and Dismissal.

- a. An appeal may be withdrawn or dismissed by motion as provided in Rule 3(R)(4).

7. Dispositive Motions.

- a. A Principal Party may file a dispositive motion as provided in Rule 3(R)(3).

8. Filing of Pleadings, Briefs, and Supporting Evidence.

- a. The Parties shall file all pleadings, briefs, and supporting evidence pursuant to the schedule set forth in the Hearing Examiner’s Scheduling Order, Notice of Appeal Hearing, or the Pre-hearing Conference Order.
- b. The following briefs may be filed:

Party	Type of Brief
Appellant	Opening Brief and Reply Brief
City Department(s)	Response Brief
Intervenor	Based on party supporting

- c. Content of a brief:

- i. Unless otherwise provided in the Scheduling Order, Notice of Appeal Hearing, or Pre-Hearing Conference Order, a brief shall be concise and, except with permission of the Hearing Examiner, be no greater than 25 double-spaced pages in length with a font size of no less than 12.
- ii. All supporting exhibits shall be tabbed and organized with separate exhibit numbers. Maps, pictures, and drawings should be provided in color.

- d. Unless otherwise provided for in an Order of the Hearing Examiner any legal briefs or memoranda a Party will be relying on for the public hearing, shall be filed with the Hearing Examiner and served on the other Party(s) by 4:00 pm local time a minimum of fourteen (14) calendar days prior to the public hearing.
- e. The Clerk shall consolidate all filings into the hearing file, tabbing and indexing with separate exhibit numbers, and provide to the Hearing Examiner a minimum of seven (7) calendar days prior to the public hearing.
- f. Any documents received after these filings but prior to the public hearing shall be subsequently appended to the hearing file by the Clerk. The Clerk shall assign the next sequential exhibit number and provide the Hearing Examiner with the document as soon as reasonably possible.

9. Conduct of Appeal Hearing.

- a. The Appellant's attendance at an appeal hearing is mandatory. If an Appellant fails to appear at the hearing, the Hearing Examiner may issue an Order of Default, affirming the City's decision or action, imposing appropriate penalties, and directing the service of the Order of Default on the Appellant.
- b. An appeal hearing is open to the public, however, only the Appellant(s), the City, the applicant (if not Appellant(s)) and identified witnesses may participate in the appeal proceedings.
- c. Interpreters. If a non-English speaking Party requires an interpreter in order to fully and fairly participate in an appeal hearing, that Party should contact the Clerk who can assist in obtaining a fair and impartial interpreter. The Clerk should be contacted at the earliest possible time but no later than a minimum of two (2) business days prior to the hearing. The cost of the interpreter's services at the appeal hearing will be borne by the City.
- d. The order of presentation at an appeal hearing is generally as follows:
 - i. Examiner's introductory statement;
 - ii. Appellant's presentation of evidence and argument;
 - iii. City's presentation of evidence and argument;
 - iv. Applicant's presentation of evidence and argument (if not Appellant);
 - v. Appellant's rebuttal;
 - vi. Examiner's questions; and
 - vii. Examiner's closing statement.
- e. At the Hearing Examiner's discretion, opening and closing statements of the Parties may be provided.
- f. The order of presentation may be modified by the Hearing Examiner or upon agreement of the Parties.
- g. Except for code enforcement appeals, the burden of proof is on the Appellant. For code enforcement appeals, the burden of proof is on the City.

10. Final Decision of Hearing Examiner.

Unless otherwise agreed to by the Parties, the Hearing Examiner shall issue a written decision within ten (10) working days of the close of the record. See Rule 3(S)(4)(a).

Chapter 5 Supplemental Rules for Specific Categories of Cases

The following supplemental rules each apply to a specific category of case. These rules supplement and are in addition to the general rules in the Rules of Procedure set forth above. If there is a conflict between a general rule and a supplemental rule, the supplemental rule shall apply. These supplemental rules are based on the identified provisions of the SMC. Parties or Appellants should review those provisions to ensure compliance.

A. Tax Appeal: Chapter 3.23 Tax Administration Code.

The following rules are based on SMC 3.23.140(B) which sets forth procedures for the appeal of any fee, tax, interest, or penalty due under chapter 3.22 Business & Occupation Tax; chapter 3.32 Utility Tax; and chapter 3.30 Gambling Tax.

1. Deadline for filing tax appeals with Hearing Examiner:

SMC Provision	Deadline for appeal*
SMC 3.23.140(B)	30 Calendar days
*Following the date on which the determination was mailed to taxpayer.	

2. Additional procedures applicable to all tax appeals:
 - a. As soon as practicable after the timely filing of an appeal, the Hearing Examiner shall fix a time and place for the appeal hearing and shall provide a Notice of Appeal Hearing to the Clerk of the Hearing Examiner who will provide to the Appellant and other Parties of Record.
 - b. The Hearing Examiner may, by subpoena, require attendance of any person at the hearing and may require such person to produce pertinent books and records. The subpoena shall state the time and place for the person's attendance and that the person's testimony may be taken under oath.
 - c. The decision of the Hearing Examiner shall be based on a preponderance of the evidence with the burden of proof on the taxpayer that the City's determination was erroneous.
 - d. The Hearing Examiner shall issue a written decision, supported by findings and conclusions and stating the correct amount of fee, tax, interest, or penalty owing, within 14 working days of the hearing or the close of the record, whichever occurs last, unless extended by mutual agreement of the Parties.
 - e. The Hearing Examiner's final decision may be appealed to Superior Court within twenty-one (21) calendar days of the date of the Hearing Examiner's Decision.

B. Business Licensing Appeals: Title 5 Business Licenses and Regulations.

The following rules are based on SMC Sections 5.05.090, 5.07.060, 5.07.090, 5.10.060, and 5.15.090 which set forth procedures for the appeal of business license denial, suspension, or revocation.

1. Deadline for filing business license appeals with Hearing Examiner:

SMC provision	Deadline for Appeal*
SMC 5.05.090 General License	14 calendar days
SMC 5.07.060/5.07.090 Regulatory License	14 calendar days
SMC 5.10.060 Adult Cabaret License	14 calendar days
SMC 5.15.090 Panoram License	10 calendar days
*Refer to the relevant SMC provision for the commencing date of the appeal period	

2. Additional procedures applicable to all business licensing appeals:

- a. The Hearing Examiner shall set a date for the hearing within thirty (30) calendar days of the receipt of the appeal statement or notice of appeal, unless otherwise extended by mutual agreement of the Parties or for good cause shown. The Hearing Examiner shall provide a Notice of Appeal Hearing setting forth the date and time to the Clerk of the Hearing Examiner who will provide to the Appellants and other Parties of Record.
- b. The standard of review shall be *de novo*.
- c. The final decision of the Hearing Examiner shall be based on a preponderance of the evidence with the burden of proof on the City.
- d. The Hearing Examiner’s decision shall be mailed to the Appellant and to the City. Mailing may be accomplished by electronic mail (e-mail), first-class registered or certified mail, by commercial parcel delivery company, or by fax with same-day mailing.
- e. The Hearing Examiner’s final decision may be appealed to Superior Court in the manner and time provided by the applicable provision of the SMC for the license. See e.g. SMC 5.07.060; SMC 5.10.60; or SMC 5.15.090 providing for a fourteen (14) calendar day appeal period.

C. Filmmaking Appeal: Chapter 5.25 Filmmaking Regulations.

SMC 5.25.080 sets forth procedures for the appeal of a denial, suspension, revocation, violation, or penalty due under chapter 5.25 Filmmaking Regulations.

1. Deadline for filing filmmaking appeals with Hearing Examiner:

SMC Provision	Deadline for appeal*
SMC 5.25.080(B)	14 Calendar days
*Following the date of the City’s decision	

2. Additional procedures applicable to all filmmaking appeals:

- a. Appeal hearing shall be a closed record hearing based on the record developed by the City.
- b. Standard of Review is *de novo*.
- c. The burden of proof is on the City to show, by a preponderance of the evidence, that the challenged action was warranted.
- d. The Hearing Examiner’s decision is final.

- e. The Hearing Examiner’s final decision may be appealed to Superior Court within fourteen (14) calendar days.

D. Rules for Street Vacations: Chapter 12.17 Street Vacations

The following rules are based on chapter 12.17 SMC which sets forth procedure for the vacation of public right-of-way and easements.

1. Property Owner Petition for Street Vacation.

- a. The City shall promptly notify the Hearing Examiner that a Petition has been filed by owners of at least two-thirds interest in property abutting the public right-of-way and ensure Hearing Examiner availability.
- b. The City Council, by resolution, will set the date and time for a hearing not more than sixty (60) days nor less than twenty (20) days from the passage of the resolution. The Hearing Examiner shall conduct an open record public hearing at the date and time set by the City Council.
- c. The Hearing Examiner shall issue a written recommendation, supported by findings and conclusions, to the City Council based on the criteria set forth in Chapter 12.17 Street Vacation and on planning and engineering staff recommendations within ten working days of the close of the record unless extended by mutual agreement of the Parties.

2. City Council Resolution for Street Vacation.

- a. The City shall notify the Hearing Examiner that the City Council is proposing to vacate right-of-way by resolution to ensure Hearing Examiner availability.
- b. The City Council, by resolution, will set the date and time for a hearing not more than sixty (60) days nor less than twenty (20) days from the passage of the resolution.
- c. Unless at least 50 percent of the abutting property owners object to the vacation, the Hearing Examiner shall conduct an open record public hearing at the date and time set by the City Council.
- d. The Hearing Examiner shall issue a written recommendation, supported by findings and conclusions, to the City Council based on criteria set forth in Chapter 12.17 Street Vacation and on planning and engineering staff recommendations within ten (10) business days of the close of the record unless extended by mutual agreement of the Parties.

E. Commute Trip Reduction (CTR): Chapter 14.10 SMC.

The following rules are based on chapter 14.10 SMC which set forth procedures for the appeal of the City’s final decision on a CTR Program or requested exemption.

1. Deadline for filing appeals:

SMC Provision	Deadline for Appeal*
SMC 14.10.110(B)	20 calendar days
*After the employer receives notice of a final decision	

2. Additional procedures applicable to all CTR Program appeals:
 - a. The decision of the Hearing Examiner shall be based on whether the decision being appealed is consistent with the applicable provision of chapter 70.94 RCW and implementing regulations.

F. State Environmental Policy Act (SEPA) Appeals: SMC 20.30.680.

The following rules are based on SMC 20.30.680 which sets forth procedures for the appeal of a threshold determination or the conditions or denial of a requested action.

1. Deadline for filing SEPA appeals:

SMC provisions	Deadline for Appeal*
SMC 20.30.680(A)(3) Determination of Significance (DS)	14 days
SMC 20.30.680(A)(4) Determination of Non-Significance (DNS)	14 days**
*Following the date of issuance of a DS or date of notice of the DNS	
**May extend for an additional seven (7) days if a Type A or B action issued concurrent with final decision	

2. Additional procedures applicable to all SEPA appeals:
 - a. Only one administrative appeal of each threshold determination shall be allowed.
 - b. Procedural SEPA appeals shall be consolidated with substantive SEPA appeals, if any, for decisions to approve, condition, or deny an action with the public hearing on the appeal, if any, of the proposal except for appeals of a DS.
 - c. The Hearing Examiner’s decision on all procedural SEPA determinations is a final decision.
 - d. The Hearing Examiner’s final decision may be appealed to Superior Court pursuant to the Land Use Petition Act, chapter 36.70C RCW.

G. Code Enforcement Appeals: SMC 20.30, Subchapter 9 Code Enforcement.

The following rules are based on SMC 20.30.790 which sets forth procedures for the appeal of a Code Enforcement Notice and Order.

1. Deadline for filing code enforcement appeals with Hearing Examiner:

SMC provisions	Deadline for Appeal*
SMC 20.30.780(A)(1)	14 days
*Following the date of service of the Notice and Order	

2. Additional procedures applicable to all code enforcement appeals:
 - a. Any person named in the Notice and Order or the owner of the property where the violation occurred may file an appeal.
 - b. Notice of Appeals shall comply with SMC 20.30.220 in regard to form, content, and service requirements.
 - c. An appeal hearing shall be heard and decided within ninety (90) days from the date the appeal is filed unless jointly waived by all Parties.

- d. The decision of the Hearing Examiner shall be based on a preponderance of the evidence with the burden of proof on the City.
- e. The Hearing Examiner may affirm, modify, or reverse the Notice and Order. The Hearing Examiner's decision is final.
- f. Judicial appeal is pursuant to the Land Use Petition Act, chapter 36.70C RCW.