

Ordinance No. 121379

Council Bill No. 114790

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to the Hearing Examiner, amending Section 3.02.110 and 3.92.010 of the Seattle Municipal Code to modify the process for appointing the Hearing Examiner and designating persons to act as Hearing Examiner

CF No. _____

12-15-03 Pass.
CEXCLUS

Date Introduced:	<u>12-8-03</u>	
Date 1st Referred:	To: (committee)	
<u>12-8-03</u>	<u>Full Council</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>12-15-03</u>	<u>8-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>12-16-03</u>	<u>12/17/03</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/>
<u>12/22/03</u>	<u>4/18</u>	F.T. <input checked="" type="checkbox"/>
Date Vetted by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

San Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Stemberchak
Councilmember

Committee Action:

12-15-03 Passed 8-0

(Excused: Malven)

This file is complete and ready for presentation to Full Council. Committee: _____
(initial/date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

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ORDINANCE

121379

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4 AN ORDINANCE relating to the Hearing Examiner, amending Section 3.02.110 and
5 3.92.010 of the Seattle Municipal Code to modify the process for appointing the
6 Hearing Examiner and designating persons to act as Hearing Examiner;
7

8 WHEREAS, the current process for appointment of the Hearing Examiner calls for a
9 committee that includes a person serving in a King County office that no longer
10 exists; and
11

12 WHEREAS, Subsection 3.92.010A of the Seattle Municipal Code applies to determine who
13 will act as Hearing Examiner when a vacancy in that office occurs, but is inconsistent
14 with the appointment process for that office; and
15

16 WHEREAS, the City Council as the appointing body may review the Hearing Examiner's
17 performance as a department head;
18

19 Now, Therefore,
20

21 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:
22

23 **Section 1.** Section 3.02.110 of the Seattle Municipal Code is amended as follows:
24

25 **3.02.110 Office of Hearing Examiner.**
26

27 A. There is created the Office of Hearing Examiner as a separate and independent office of
28 the City for the conduct of hearings in rulemaking and contested cases as provided in this
29 chapter or other applicable ordinances. The Office of Hearing Examiner shall not be in the
30 municipal court as contemplated in RCW 35.20.205.
31

32 B. Appointment to the Office of Hearing Examiner shall be made by the City
33 Council, from among no fewer than three (3) persons recommended by a committee
34 composed of the City Personnel Director, the King County Ombudsman or equivalent King
35

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2 County officer and a private attorney selected by the Seattle/King County Bar Association
3 ((representative of the Seattle/King County Bar Association)). The Civil Service
4 Commission having filed as a permanent record in the Office of the City Comptroller its
5 recommendation that the Office of Hearing Examiner, as a professional or administrative
6 office or position similar to offices and positions designated in Article XVI, Section 11 of
7 the City Charter, and should not be included in the classified civil service, such office shall
8 not be included in the classified civil service. Each Hearing Examiner shall be appointed to
9 an initial term of one (1) year, and may thereafter be reappointed to subsequent four (4) year
10 terms, subject to removal for cause by the City Council.

11
12 C. Upon the occurrence of a vacancy in the position of Hearing Examiner, the
13 senior Deputy Hearing Examiner in the Office of Hearing Examiner shall perform, in
14 addition to his/her regular duties, the duties of the Hearing Examiner unless the President of
15 the City Council and the Chair of the committee responsible for land use legislation concur,
16 and indicate their concurrence in writing filed with the City Clerk, that the interests of the
17 City would be better served by the designation of another person to serve as acting Hearing
18 Examiner until such time as a Hearing Examiner is appointed through the process set forth
19 in subsection B of this section.

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21 D. The Hearing Examiner's performance as a department head may be reviewed annually
22 through a process developed by the Council President or his/her designee for this process,
23 or at a minimum, prior to consideration of reappointment.

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25 ((E))E. The Hearing Examiner is authorized from time to time to appoint Hearing
26 Examiners Pro Tempore to serve on a day-to-day basis during the absence, unavailability,
27 incapacity or disqualification of the Hearing Examiner.



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2 ((D))E. There is created in the Office of Hearing Examiner the position of Deputy
3 Hearing Examiner. The Civil Service Commission having filed as a permanent record in the
4 Office of the City Comptroller its recommendation that the position of Deputy Hearing
5 Examiner is a professional or administrative office or position similar to offices and
6 positions designated in Article XVI, Section 11 of the City Charter, and should not be
7 included in the classified civil service, such position shall not be included in the classified
8 civil service. Each Deputy Hearing Examiner shall be appointed by the Hearing Examiner,
9 and perform such duties as shall be required by the Hearing Examiner, and may be removed
10 at will by the Hearing Examiner.

11
12 ((E))G. Each Hearing Examiner, and each Deputy Hearing Examiner shall be an
13 attorney having training and experience for the conduct of administrative or quasi-judicial
14 hearings, or shall have such other qualifications as may be prescribed by ordinance
15 providing for the appointment of a special Hearing Examiner.

16
17 **Section 2.** Subsection 3.92.010A of the Seattle Municipal Code is amended as follows:

18
19 **3.92.010 Filling of vacant position.**

20
21 A. If any appointive Charter office to be filled by mayoral appointment or the
22 position of department or office head in any department or office created by ordinance, with
23 the exception of the Office of Hearing Examiner becomes vacant, to ensure that the
24 department or office functions and the interest of the public is protected pending the filling
25 of such vacancy under Charter Article XIX, Section 6, or applicable ordinance, the highest-
26 ranking unsubordinated officer or employee in such department or office shall perform, in
27 addition to his/her regular duties, the duties of such appointive office unless the Mayor
28 determines, and the President of the City Council and the Chair of the City Council Finance
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1
2 Committee concur, and so indicate their concurrence in writing filed with the City Clerk,
3 that the interests of the City would be better served by the designation of another person of
4 the Mayor's choosing to serve as acting head of such department or office.
5
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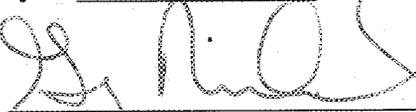
7 **Section 3.** This ordinance shall take effect and be in force thirty (30) days from and after its
8 approval by the Mayor, but if not approved and returned by the Mayor within ten (1) days
9 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
10

11 Passed by the City Council the 15th day of December, 2003, and signed by
12 me in open session in authentication of its passage this 15th day of December,
13 2003.

14 

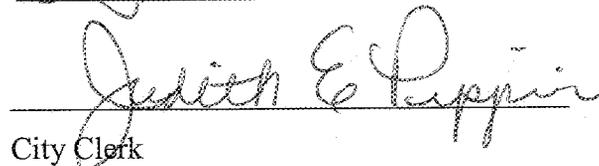
15 President of the City Council

16
17 Approved by me this 19 day of December, 2003.

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19
20 Gregory J. Nickels, Mayor

21
22 Filed by me this 22nd day of December, 2003.

23 

24
25 City Clerk

26 (SEAL)



STATE OF WASHINGTON – KING COUNTY

--SS.

166780
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

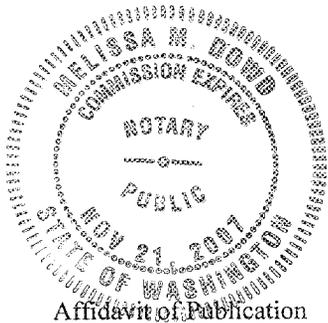
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121381 ORD IN FULL

was published on

12/30/2003



Jennifer P. [Signature]
Subscribed and sworn to before me on

12/30/2003

Melinda [Signature]
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

ORDINANCE 121381

AN ORDINANCE relating to the Hearing Examiner, amending Section 3.02.110 and 3.92.010 of the Seattle Municipal Code to modify the process for appointing the Hearing Examiner and designating persons to act as Hearing Examiner;

WHEREAS the current process for appointment of the Hearing Examiner calls for a committee that includes a person serving in a King County office that no longer exists; and

WHEREAS, Subsection 3.92.010A of the Seattle Municipal Code applies to determine who will act as Hearing Examiner when a vacancy in that office occurs, but is inconsistent with the appointment process for that office; and

WHEREAS, the City Council as the appointing body may review the Hearing Examiner's performance as a department head;

Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.02.110 of the Seattle Municipal Code is amended as follows:

3.02.110 Office of Hearing Examiner.

A. There is created the Office of Hearing Examiner as a separate and independent office of the City for the conduct of hearings in rulemaking and contested cases as provided in this chapter or other applicable ordinances. The Office of Hearing Examiner shall not be in the municipal court as contemplated in RCW 35.20.205.

B. Appointment to the Office of Hearing Examiner shall be made by the City Council, from among no fewer than three (3) persons recommended by a committee composed of the City Personnel Director, the King County Ombudsman or equivalent King County officer and a private attorney selected by the Seattle King County Bar Association (~~Association~~). The Civil Service Commission having filed as a permanent record in the Office of the City Comptroller its recommendation that the Office of Hearing Examiner, as a professional or administrative office or position similar to offices and positions designated in Article XVI, Section 11 of the City Charter, and should not be included in the classified civil service, such office shall not be included in the classified civil service. Each Hearing Examiner shall be appointed to an initial term of one (1) year, and may thereafter be reappointed to subsequent four (4) year terms, subject to removal for cause by the City Council.

C. Upon the occurrence of a vacancy in the position of Hearing Examiner, the senior Deputy Hearing Examiner in the Office of Hearing Examiner shall perform, in addition to his/her regular duties, the duties of the Hearing Examiner unless the President of the City Council and the Chair of the committee responsible for land use legislation concur, and indicate their concurrence in writing filed with the City Clerk, that the interests of the City would be better served by the designation of another person to serve as Hearing Examiner until such time as a Hearing Examiner is appointed through the process set forth in subsection B of this section.

D. The Hearing Examiner's performance as a department head may be reviewed annually through a process developed by the Council President or his/her designee for this process, or at a minimum, prior to consideration of reappointment.

(C)E. The Hearing Examiner is authorized from time to time to appoint Hearing Examiners Pro Tempore to serve on a day-to-day basis during the absence, unavailability, incapacity or disqualification of the Hearing Examiner.