Ordinance No. 123899

Council Bill No. 117436

Relating to notice procedures in Hearing Examiner proceedings, amending Sections 3.02.090, 3.02.100, 5.55.150, 5.55.230, 6.02.290, 6.202.310, 7.20.100, 10.07.050, 10.52.032,10.52.034, 11.16.317, 14.04.180, 14.06.120, 14.08.180, 14.10.140, 14.16.080, 15.91.006, 15.91.010, 22.206.217, 22.208.050, 22.210.150, 22.220.140, 22.920.160, 23.66.030, 23.91.006, 23.91.010, 25.02.080, 25.08.930, 25.10.540, 25.16.110, 25.16.115, 25.20.115, 25.21.135, 25.22.135, and 25.24.085 to allow the option to provide notice by electronic means in specified circumstances and correct section references and format.

Related Legislation File: _____

Date Introduced and Referred: 4.2.12	To: (committee): Economic Resiliency + Regional Relations
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: June 11, 2012	Date Presented to Mayor: June 13, 2012
Date Signed by Mayor: 6.18.12	Date Returned to City Clerk: 6.19.12
Published by Title Only X Published in Full Text _____	Date Vetoed by Mayor:
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Sharon Lewis

Committee Action:

Date	Recommendation	Vote
060512	PASS	2-0 SC, RC

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
June 11, 2012	Passed as Amended	8-0 (excused: O'Brien)

Law Department

Sue Tanner; Rebecca Herzfeld
Hearing Examiner Notice Procedures ORD v8.docx
June 5, 2012
Version #8

ORDINANCE 123899

AN ORDINANCE relating to notice procedures in Hearing Examiner proceedings, amending Sections 3.02.090, 3.02.100, 5.55.150, 5.55.230, 6.02.290, 6.202.310, 7.20.100, 10.07.050, 10.52.032,10.52.034, 11.16.317, 14.04.180, 14.06.120, 14.08.180, 14.10.140, 14.16.080, 15.91.006, 15.91.010, 22.206.217, 22.208.050, 22.210.150, 22.220.140, 22.920.160, 23.66.030, 23.91.006, 23.91.010, 25.02.080, 25.08.930, 25.10.540, 25.16.110, 25.16.115, 25.20.115, 25.21.135, 25.22.135, and 25.24.085 to allow the option to provide notice by electronic means in specified circumstances and correct section references and format.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections A, C, F, and G of Section 3.02.090 of the Seattle Municipal Code, which section was last amended by Ordinance 123361, are amended as follows:

3.02.090 Hearings in contested cases((~~,~~))

A. In any contested case all parties shall be afforded an opportunity for hearing after not less than 20 days' notice in writing; provided that a hearing may be set on shorter notice where substantial injury to a party would otherwise result; provided further, that unless otherwise provided by ordinance or rule, no hearing shall be required in any case except upon the ((~~demand~~)) request of a party. ((~~Notice of~~)) A request for a hearing shall be accompanied by a filing fee as established by ordinance, which the Hearing Examiner shall ensure is received by the Director of Finance and Administrative Services.

* * *

C. Unless otherwise provided by ordinance, ((~~Notice~~)) notice shall be ((~~given in person or~~)) provided by personal service or mail to each party. Notice to City agencies may be provided through the City's interoffice mail or electronically. With the agreement of a party other than a City agency, notice may instead be provided to that party by electronic means ((~~,or may be~~

2012 CITY CLERK

~~transmitted through regular messenger service to any agency, officer, or employee of the City. Additional notice may be required by ordinance or rule~~)).

* * *

F. The record in a contested cause shall include:

1. All pleadings, motions, and intermediate rulings;

2. Evidence received or considered;

3. A statement of matters officially noticed;

4. Questions and offers of proof, objections, and the ruling thereon;

5. Proposed findings and conclusions; and

6. Any decision, opinion, or report by the examiner presiding at the hearing.

G. Oral proceedings shall be electronically recorded. When requested, the Hearing Examiner shall furnish a ((~~A~~)) copy of all or part of the ((~~record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and~~)) electronic recording upon payment of the reasonable costs ((~~thereof~~)) of providing the copy.

* * *

Section 2. Section 3.02.100 of the Seattle Municipal Code, which section was adopted by Ordinance 102228, is amended as follows:

3.02.100 Report and review of examiner's recommendation or decision in contested cases((~~,~~))

A. Within ((~~such~~)) the period ((~~as may be~~)) fixed by agency rule or applicable ordinance, the ((~~examiner presiding at the hearing in contested case~~)) Hearing Examiner shall prepare a written recommendation or decision, ((~~which shall be filed~~)) file it as a public record and provide

SEATTLE CITY CLERK

copies of it by personal service or mail ((~~copies thereof mailed~~)) to each party and to other interested persons as provided by agency rule or applicable ordinance. Copies to City agencies may be provided through the City's interoffice mail or electronically. With the agreement of a party or other interested person other than a City agency, a copy may instead be provided to that party or interested person by electronic means. The ((~~Such~~)) recommendation or decision shall contain a brief summary of the evidence considered and ((~~shall~~)) state the ((~~examiner's~~)) Hearing Examiner's findings and conclusions upon which ((~~such~~)) the recommendation or decision is based((~~, together with a brief statement of the examiner's reasons therefor~~)). If the decision is to be made by the agency, ((~~an examiner's~~)) the Hearing Examiner's recommendation shall be in the form of a proposed decision which may be adopted by the agency as its decision in the case.

B. Where a decision is to be made by an agency based upon ((~~an examiner's~~)) the Hearing Examiner's recommendation, the agency shall set a date for consideration of the ((~~examiner's~~)) Hearing Examiner's proposed decision, and shall give at least 10 days notice ((~~thereof~~)) of the date to all parties ((~~not later than ten (10) days prior to such date~~)); provided, that at the discretion of the ((~~examiner~~)) Hearing Examiner, and upon a written showing of adequate reason for the delay, evidence not previously presented may be submitted to the ((~~examiner~~)) Hearing Examiner prior to the date set for the agency's consideration of ((~~such~~))the proposed decision.((~~, and if~~ If the ((~~examiner~~)) Hearing Examiner determines to accept and consider such evidence, ((~~he~~)) the Hearing Examiner shall immediately give notice to each party of record and to the agency, which shall remand ((~~such~~)) the proposed decision to the ((~~examiner~~)) Hearing Examiner for further consideration and hearing in accordance with Section

SEA CITY CLERK

3.02.090, and for such modification of ((~~such~~)) the proposed decision as the ((~~examiner~~)) Hearing Examiner may make pursuant to ((~~such~~)) the hearing.

In connection with the consideration by the agency of any proposed decision, any party may file written exceptions to ~~such~~ the proposed decision or part thereof and may submit a proposed substitute decision ((~~together with a written argument in support thereof~~)) and supporting argument. Following consideration of ((~~such~~)) the proposed decision and any proposed substitute decision, written exceptions,((~~and/~~)) or arguments, the agency may adopt, reject, or modify ((~~such~~)) the proposed decision or any part thereof, and shall issue its decision with its written findings and reasons for any changes from the ((~~examiner's~~)) Hearing Examiner's proposed decision.

Section 3. Section 5.55.150 of the Seattle Municipal Code, which section was last amended by Ordinance 122564, is amended as follows:

5.55.150 Appeal to the Hearing Examiner((~~,~~))

A. A person electing to appeal to the Hearing Examiner pursuant to Section 5.55.140 must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided to the Director and City Attorney within the ((~~thirty (~~))30((~~)~~)) day period, and a complaint is not filed, the assessment covered by the notice shall become final and no refund request may be made for the audit period covered in that assessment.

B. The petition shall set forth the reasons why the assessment should be reversed or modified. The petition shall also include the amount of the tax, fee, interest or penalties that the taxpayer believes to be due. If the assessment is less than ((~~Fifty Thousand~~

2012 CITY CLERK

~~Dollars~~))$50,000((~~)~~))the taxpayer shall pay that portion of the assessment, if any, conceded to be due. If the appeal is from the denial of a refund, the petition shall set forth the amount of refund or credit ((~~the believes~~)) believed to be due.

C. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer thereof((~~by mail~~)). The hearing shall be conducted in accordance with the procedures for hearing contested cases in ((~~the Seattle Administrative Code (~~))Chapter 3.02((~~of the Seattle Municipal Code~~))).

D. The Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may also require him or her to produce pertinent books and records. Any person served with such a subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any matter required of him or her pertinent to the appeal; and it shall be unlawful for him or her to fail or refuse to do so. The City Attorney shall seek enforcement of a Hearing Examiner subpoena in an appropriate court.

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest or penalty due either by affirming, reversing or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this ((~~chapter~~))Chapter 5.55, or ((~~SMC~~)) Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 4. Section 5.55.230 of the Seattle Municipal Code, which section was last amended by Ordinance 123596, is amended as follows:

5.55.230 Refusal to issue, revocation of, or refusal to renew business license

2012 CITY CLERK

A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or refuse to renew any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any license issued under this chapter on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this chapter.

3. The licensee has failed to comply with any provisions of ((~~SMC~~)) Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in ((~~SMC~~)) Chapter 10.09.

6. The applicant or licensee has been convicted of theft under Section 12A.08.060.A.4 within the last ten years.

7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of RCW 49.46, 49.48, or 49.52, and the judgment was not satisfied within 30 days of the later of either:

(((~~1~~)))a. the expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order((~~,~~)); or

SEA CITY CLERK

(((~~2~~))) b. if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of RCW 49.46, 49.48, or 49.52.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington State Department of Labor and Industries for violations of RCW 49.46, 49.48 or 49.52, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee or any person (as defined in ((~~SMC~~)) Section 5.30.040.F) in which the licensee is a principal shall not again be licensed during such period.

B. Within 30 days from the date that the notice of refusal to issue, revocation or refusal to renew notice was mailed to the applicant or licensee, the applicant or licensee may appeal such refusal to issue, revocation or refusal to renew by filing a written notice of appeal ("petition") setting forth the grounds therefor with the Office of the Hearing Examiner. The applicant or licensee must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases in ((~~the Seattle Administrative Code (~~))Chapter 3.02 ((~~of the Seattle Municipal Code~~))). The Hearing Examiner shall set a date for hearing said appeal and notify the licensee ((~~by mail~~)) of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after making appropriate findings of fact and conclusions of law, affirm, modify, or overrule the refusal to issue, revocation or refusal to

2012 CITY CLERK

renew, and issue or reinstate the license. The Hearing Examiner may impose any terms upon the issuance or continuance of the license that he or she may deem advisable. No refusal to issue, revocation of, or refusal to renew a license issued pursuant to the provisions of this chapter shall take effect until 30 days after the mailing of the notice thereof by the Director, and if appeal is taken as herein prescribed, the refusal to issue, revocation or refusal to renew shall be stayed pending final action by the Hearing Examiner. All licenses that are revoked or refused to be renewed by the Director shall be surrendered to the City on the effective date of such revocation or refusal to renew. No business license shall be renewed and no new license shall be issued to the licensee or to any person (as defined by ((~~SMC~~)) Subsection 5.30.040.F) in which the licensee is a principal for a period of one year where the license has been revoked or not renewed by a decision of the Director pursuant to this Section 5.55.230. The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision of the Hearing Examiner in the Superior Court of Washington in and for King County within ((~~fourteen~~ (~~(~~))14((~~)~~)) days from the date of the decision.

C. Upon revocation of any license no portion of the license fee shall be returned to the licensee.

Section 5. Subsection F of Section 6.02.290 of the Seattle Municipal Code, which section was last amended by Ordinance 123361, is amended as follows:

6.02.290 Revocation or refusal to renew procedure((~~,~~))

* * *

F. The licensee may appeal a revocation or refusal to renew by filing a written notice of appeal ("petition"), setting forth the grounds therefor, with the Office of the Hearing Examiner.

2012 JUN 5 CITY CLERK

The licensee ((~~must~~)) shall provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The Hearing Examiner shall conduct the hearing in accordance with the procedures for hearing contested cases in Chapter 3.02 ((~~of the Seattle Municipal Code~~)). The Hearing Examiner shall set a date for hearing ((~~said~~)) the appeal and notify the licensee ((~~by mail~~)) of the time and place of the hearing. After the hearing, the Hearing Examiner shall, after issuing appropriate findings of fact and conclusions of law, affirm, modify, or overrule the revocation or refusal to renew and reinstate the license. The Hearing Examiner may impose any terms upon the continuance of the license that he or she may deem advisable.

* * *

Section 6. Section 6.202.310, of the Seattle Municipal Code, which section was last amended by Ordinance 117586 is amended as follows:

6.202.310 Hearing Examiner -- Decision final – Mandatory stay pending review.

The decision of the Hearing Examiner ((~~shall be~~)) is final when the decision has been ((~~mailed~~)) provided to the last known address of each party. The Director may stay enforcement of a ((~~decision of the~~)) Hearing Examiner decision pending a motion for reconsideration or ((~~pending~~)) judicial consideration of a stay, where the Director determines that no clear, substantial, and imminent hazard to the health, safety, welfare, privacy or property of any person would result. In the case of adult entertainment licenses governed by ((~~SMC~~)) Chapter 6.270, the Director shall stay enforcement of a ((~~decision of the~~)) Hearing Examiner decision affirming suspension or revocation of a license pending a motion for reconsideration before the Hearing Examiner and shall stay enforcement of ((~~such~~)) the decision:

((~~(~~))A((~~)~~)). if no application for judicial review is timely filed, then only until the expiration of time allowed to file such application under RCW Chapter 7.16; or

SEATTLE CITY CLERK

((6))B((9)). if an application for judicial review is timely filed, then only until a writ is issued or the application for writ has been denied

Section 7. Section 7.20.100 of the Seattle Municipal Code, which section was adopted by Ordinance 111526, is amended as follows:

7.20.100 Moorage fee increase -- Offer to moorage owner.

No later than seven (((~~7~~))) days after submitting a petition for review pursuant to Section 7.20.080, each petitioning floating home owner shall, individually or as a group, submit to the moorage owner a written offer stating the amount of increase in the moorage fee that the floating home owner or owners believe to be reasonable. The moorage owner shall, within five (((~~5~~))) days of receiving the offer, accept or reject it in writing or make a counter offer. Within three (((~~3~~))) days of receiving the counter offer the floating home owner shall deliver to the moorage owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner. The envelope containing the photographic copy shall be clearly marked "Final Offer of Floating Home Owner" and shall indicate the name of the person or persons submitting the offer. Within three (((~~3~~))) days of receiving the floating home owner's final offer the moorage owner shall deliver to the floating home owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner in an envelope clearly marked "Final Offer of Moorage Owner" and shall indicate the name of the person or persons submitting the offer. Any party who fails to submit a final offer in a timely fashion shall not be entitled to an award of attorney's fees. The Hearing Examiner shall not open the envelopes until after the written review decision has been ((~~mailed~~)) <u>provided</u> to the parties. After mailing the decision, the Hearing Examiner shall examine the offers and shall assess reasonable attorney fees: (1) against the moorage owner or operator if the moorage fee increase permitted is equal to or less than the floating home owner's offer, or (2) against the floating home

CITY CLERK

owner(s) if the permitted increase is equal to or greater than the moorage owner's offer. In all other cases each party shall bear his or her own attorney fees. The award of attorney fees shall be made in a separate decision by the Hearing Examiner. Any party who fails to pay assessed attorney fees within sixty (60) days of the Hearing Examiner's decision shall be subject to the enforcement penalties provided in Section 7.20.150.

Section 8. Subsections D, E, G, I, and K of Section 10.07.050 of the Seattle Municipal Code, which section was adopted by Ordinance 118082, are amended as follows:

10.07.050 Hearing before the Hearing Examiner((~~.~~))

* * *

D. The Hearing Examiner shall issue to the responsible party a decision and order containing the following information:

1. The decision and order regarding the alleged graffiti nuisance property, including findings of fact and conclusions in support of the decision and order;

2. Any required abatement action and the date by which the abatement must be completed;

3. Any monetary penalties assessed based on subsection F of this ((~~section~~)) Section 10.07.050 which shall be due ten (((~~10~~))) calendar days after the date of the decision and order;

4. A description of the additional civil penalties which will automatically accrue pursuant to subsection I of this ((~~section~~)) Section 10.07.050 if the responsible party fails to abate the graffiti nuisance property by the date established in the decision and order;

CITY CLERK

5. The date after which the City may abate the graffiti nuisance property pursuant to Section 10.07.070 if the required abatement is not completed; and

6. Notice that judicial review of the decision and order may be sought pursuant to subsection K of this ((~~section~~)) Section 10.07.050.

E. Monetary penalties assessed by the Hearing Examiner shall accrue in the amount up to ((~~One Hundred Dollars ()~~))$100.00((~~()~~)) per day beginning on the correction date set by the Director or on a subsequent date set by the Hearing Examiner, provided that the maximum monetary penalty shall be ((~~Five Thousand Dollars ()~~))$5,000.00((~~()~~)). In the alternative, the Hearing Examiner may choose to assess no monetary penalties.

* * *

G. The Hearing Examiner shall ((~~mail~~)) provide a copy of the decision and order to the person to whom the notice of civil violation and hearing was issued and to the Director within ten (((~~10~~))) working days of the close of the hearing record. If ((~~an~~))a mailing address ((~~for mailing~~)) cannot after due diligence be ascertained, a copy of the decision and order shall be posted conspicuously at the property.

* * *

I. If the responsible party fails to abate the nuisance as ordered by the Hearing Examiner, monetary penalties in addition to any monetary penalties already assessed by the Hearing Examiner shall automatically accrue in the amount of ((~~One Hundred Dollars ()~~))$100.00((~~()~~)) per day until the abatement is complete and shall be due immediately upon accrual.

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PMS CITY CLERK

K. Any review of the decision and order of the Hearing Examiner ((~~must~~)) shall be by land use petition filed within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the decision and order as provided in Chapter ((~~347, Laws of 1995~~))36.70C RCW.

Section 9. Section 10.52.032 of the Seattle Municipal Code, which section was adopted by Ordinance 122396, is amended as follows:

10.52.032 Response to citations((~~.~~))

A. A person must respond to a citation in one (((~~1~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~))an address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than ((~~fifteen (~~))15((~~)~~)) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. on the next business day.

Section 10. Subsection A of Section 10.52.034 of the Seattle Municipal Code, which section was adopted by Ordinance 122396, is amended as follows:

10.52.034 Mitigation hearings((~~.~~))

SEA CITY CLERK

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~)) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten (((~~10~~))) days prior to the date of the hearing.

* * *

Section 11. Subsections A, B, C, D, and E of Section 11.16.317 of the Seattle Municipal Code, which section was last amended by Ordinance 123120, are amended as follows:

11.16.317 Establishing, expanding and reducing restricted parking zones((~~,~~))

A. The Director of Transportation or the Director's designee shall consider whether a restricted parking zone (RPZ)((~~,~~)) within a designated area, would promote certain benefits or would result in adverse impacts.

1. Benefits that may lead to establishing an RPZ include, but are not limited to: increased access for area residents, reduced traffic congestion, increased traffic or pedestrian safety, reduced air or noise pollution, reduced commuter parking in neighborhoods, prevention of blighted areas, and promoting the use of alternative modes of transportation.

2. Adverse impacts that may prevent establishing and RPZ include, but are not limited to: transferring a parking problem to a different area, inability to effectively enforce program restrictions, lack of alternative transportation modes, and availability of simpler, cheaper or more effective solutions.

3. Regardless of potential benefits or adverse impacts that may result, the Seattle Department of Transportation will not install RPZs in any downtown zone, including all zones

SEA CITY CLERK

contained in Map 1A of Chapter 23.49 ((~~SMC~~)), in part because of high demand and multiple, competing needs for on-street parking.

B. The Director of Transportation may establish a new or expand an existing restricted parking zone whenever 75 percent or more of the capacity of the streets available for parking on ten contiguous blocks (and/or 20 block faces) in such designated area is generally occupied; over 35 percent of the vehicles parked on the street in the area are not owned by residents of the designated area; a strong and effective community engagement effort indicating that generally stakeholders in the designated area have reviewed and support the restricted parking zone, which could include a petition signed by a majority of the residents in the designated area in support of the restricted parking zone; and the public interest would be served. In cases where the criteria listed above are not met, the Director of Transportation is authorized to establish a restricted parking zone when, in the Director's judgment, the parking problem will be ameliorated by a restricted parking zone and the public interest would be served.

C. The Director of Transportation or the Director's designee is authorized to engage affected and interested community stakeholders to review and assist in refining any future RPZ proposals.

1. The public information and involvement program may include department presentations to business and community organizations, information distribution through the City's web site, news releases and related media, direct mailings of informational materials, facilitated meetings, sounding boards, walking tours, surveys, and other techniques as appropriate to the scale of the proposal.

SDCI CITY CLERK

2. Prior to the Director of Transportation's decision to establish, not to establish, to dissolve, to expand, or to reduce an RPZ by more than two contiguous blocks, the Seattle Department of Transportation shall hold a public hearing where it will provide interested persons an opportunity to submit written and spoken comment into the public record.

3. At least 20 days prior to the public hearing, the Seattle Department of Transportation shall mail a notice of hearing containing the hearing time and location to all owners, commercial lessees and residents of property within 300 feet of the affected restricted parking zone.

4. At least 20 days prior to the public hearing, the Seattle Department of Transportation shall publish in a local newspaper a notice of the hearing that states the hearing time and location.

D. 1. The Director of Transportation's decision to establish, not to establish, to expand, to reduce, or to dissolve a restricted parking zone is subject to reconsideration within 15 days of publication in a local newspaper. Requests for reconsideration may be initiated, in writing, by residents, business owners, or employees or volunteers in or adjacent to the proposed RPZ. On reconsideration, the Director shall designate a review officer, who shall, after reviewing the reconsideration materials and other relevant information, make a recommendation to the Director. The Director may, at the Director's discretion, stay implementation of a decision pending review. The Director shall have 30 days to issue a Decision. The Director's decision on reconsideration shall be final unless appealed to the Office of the Hearing Examiner under subsection 11.16.317.D.2. Grounds for reconsideration include the validity of any parking study or compliance with the process to establish a zone.

SMS CITY CLERK

2. The Director's decision on reconsideration may be appealed to the ((~~Office of the~~)) Hearing Examiner.

((~~i~~)))a. Time limit for initiation of an appeal. A notice of appeal shall be filed with the Hearing Examiner within 20 days following issuance of the Director's Decision on Reconsideration.

((~~ii~~)))b. Form of Appeal. The notice of appeal must contain a brief statement of the issues on appeal, the specific objections to the decision being appealed, along with supporting facts and documentation, and the relief sought. The notice of appeal must list the name of the appellant, and the signature, address, phone number, and fax ((~~or~~)) and e-mail address if available, of the person appealing.

((~~iii~~)))c. Decision. After reviewing the notice of appeal and supporting documentation and conducting a hearing, the Hearing Examiner shall issue a written decision within 30 days after the conclusion of the hearing. The written decision shall contain the reasons for the decision and the provisions for further appeal and shall be provided to the person appealing ((~~by first class mail with proof of mailing attached and a copy retained in the Examiner's files~~)) and to the Director. This decision is the final decision of the City.

E. The Director may modify hours of an existing RPZ or expand or reduce boundaries of an existing RPZ by two (((~~2~~))) contiguous blocks or less by following an administrative process that seeks to identify possible changes suggested by the community, review proposed changes to the RPZ with affected community stakeholders, and make a determination for what best serves the public interest, without holding the public hearing required by subsection 11.16.317.C.2.

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SDCI CITY CLERK

Section 12. Subsections A and C of Section 14.04.180 of the Seattle Municipal Code, which section was last amended by Ordinance 117615, are amended as follows:

14.04.180 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~))(or the Examiner and Commissioners as the case may be) shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed an unfair employment practice under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.04, and secure compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a labor organization, admittance to participation in a guidance, apprentice training or retraining program, or such other action which will effectuate the purposes of this ((~~chapter~~)) Chapter 14.04, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000.00((~~)~~)). Back pay liability shall not accrue from a date more than two (((~~2~~)))years prior to the initial filing of the charge.

SEATTLE CITY CLERK

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Section 13. Subsections A and C of section 14.06.120 of the Seattle Municipal Code, which section was adopted by Ordinance 121593, are amended as follows:

14.06.120 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner or a majority of the panel composed of the Hearing Examiner and designated Commissioners determines that a respondent has committed an unfair practice under this chapter, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice and carry out the purpose of this ((~~chapter~~)) Chapter 14.04. The Hearing Examiner may grant any relief that could be ordered by a court, including actual damages, damages for loss of the right to full enjoyment of any place of public accommodation, injunctive or equitable relief, reasonable attorney's fees and costs and any other appropriate remedy, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000.00((~~)~~)). An order may include a requirement for a report on the matter of compliance.

* * *

Section 14. Subsection A and C of section 14.08.180 of the Seattle Municipal Code, which section was last amended by Ordinance 121593, are amended as follows:

SEATTLE CITY CLERK

14.08.180 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner or a majority of the panel composed of the Hearing Examiner and Commissioners determines that a respondent has committed an unfair practice under this ((~~chapter~~)) Chapter 14.08, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.08, and secure compliance therewith, including but not limited to, rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising measures, reasonable attorney's fees and costs, or to take such other action as in the judgment of the Hearing Examiner will carry out the purposes of this ((~~chapter~~)) Chapter 14.08. The Hearing Examiner may grant any relief that could be ordered by a court, including actual damages, damages for loss of the right to be free from discrimination in real estate transactions, injunctive or equitable relief, any other appropriate remedy set forth in the federal Fair Housing Amendments Act of 1988 (42 U.S.C. §3601 et seq.), and assessment of civil penalties as set forth in ((~~SMC~~)) Section 14.08.185. An order may include the requirement for a report on the matter of compliance.

* * *

DNS CITY CLERK

Section 15. Subsections A, and C of Section 14.10.140 of the Seattle Municipal Code, which section was adopted by Ordinance 119601, is amended as follows:

14.10.140 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~)) shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department. It

* * *

C. In the event the Hearing Examiner determines that a respondent has committed an unfair contracting practice under this chapter, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this chapter, and secure compliance therewith, including but not limited to hiring, reinstatement, lost profits, attorney's fees, admittance or restoration to membership in a trade association, admittance to participation in a training, or such other action which will effectuate the purposes of this chapter including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000((~~)~~)). Lost profits shall not accrue from a date more than two (((~~(2)~~))) years prior to the initial filing of the charge. The Hearing Examiner may also disqualify the respondent from participating in contracts with the City for a period of up to five (((~~(5)~~))) years.

* * *

Section 16. Subsection I of Section 14.16.080 of the Seattle Municipal Code, which section was adopted by Ordinance 123698, is amended as follows:

SDS CITY CLERK

14.16.080 Enforcement

* * *

I. Decision and order.

1. Within 30 days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~)) (or the Examiner and Commissioners as the case may be) shall prepare a written decision and order, ((~~. The final decision shall be filed~~))file it as a public record with the City Clerk, and ((~~copies thereof mailed~~)) provide a copy to each party of record and to the Agency.

2. Such decision shall contain a brief summary of the evidence considered and shall contain findings of fact, conclusions of law upon which the decision is based, and an order detailing the relief deemed appropriate, together with a brief statement of the reasons therefore.

3. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed a violation of this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.16, and secure compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a labor organization, or such other action which will effectuate the purposes of this chapter, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed $10,000. Back pay liability shall not accrue from a date more than 2 years prior to the initial filing of the charge.

4. Respondent shall comply with the provisions of any order affording relief and shall furnish proof of compliance to the Agency as specified in the order. In the event respondent refuses or fails to comply with the order, the Director shall notify the City Attorney of the same

SEA CITY CLERK

and the City Attorney shall invoke the aid of the appropriate court to secure enforcement or compliance with the order.

Section 17. Subsection A of Section 15.91.006 of the Seattle Municipal Code, which section was last amended by Ordinance 120822, is amended as follows:

15.91.006 Response to citations.

A. A person must respond to a citation in one (((~~1~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent.

* * *

Section 18. Subsection A of Section 15.91.010 of the Seattle Municipal Code, which section was last amended by Ordinance 123659, is amended as follows:

15.91.010 Mitigation hearings

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be sent ((~~by first~~

2012 CITY CLERK

~~class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten days before the date of the hearing.

* * *

Section 19. Section 22.206.217 of the Seattle Municipal Code, which section was adopted by Ordinance 120087, is amended as follows:

22.206.217 Variances((~~,~~))

A. The Director may grant a variance from the standards and requirements of SMC Sections 22.206.010 through 22.206.140 and Section 22.206.200 if the Director determines that all of the following conditions or circumstances exist:

1. Unusual conditions exist at the subject property which were not created by the current owner, tenant or occupant;

2. The requested variance does not go beyond the minimum necessary to afford relief;

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity;

4. The literal interpretation and strict application of the applicable provisions or requirements of this Code would cause undue hardship or practical difficulties; and

5. The requested variance would be consistent with the spirit and purpose of this ((~~Code~~)) Title 22.

B. Application for and Processing of Variances.

1. The current owner or tenant of a building may request a variance on a form provided by the Department. The request must describe the standards or requirements of

2012 CITY CLERK

((~~SMC~~)) Sections 22.206.010 through 22.206.140 or of ((~~SMC~~)) Section 22.206.200 from which a variance is requested and explain how the requested variance complies with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217. A variance request must contain the address of the property, the name and address of all persons having an interest in the property, and the names and addresses of all parties affected by the condition or conditions for which a variance is requested, including all property owners and occupants. The Director shall establish by Rule submittal requirements for a variance request.

2. Upon receipt of a variance request, the Director shall contact the requestor to arrange the date and time of an inspection to view the conditions for which the variance is sought and to ascertain compliance with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217. The inspection shall be conducted within ((~~thirty (~~))30((~~)~~)) days after a variance request is received, unless a later inspection is agreed to by the requestor. The Director also shall notify in writing all other persons identified in the variance request of the request and of the opportunity to submit information or comments on the request. Comments about a variance request must be received by the Department within ((~~twenty (~~))20((~~)~~)) days after the date of mailing the notification of a variance request.

C. The Director shall decide whether to grant a variance within ((~~thirty (~~))30((~~)~~)) days after the inspection conducted pursuant to subsection 22.206.217.B. When a variance is authorized, conditions or mitigating measures may be required as deemed necessary to ensure continued compliance with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217 or to otherwise carry out the spirit and purpose of this ((~~Code~~))Title 22. The variance decision shall be ((~~mailed~~)) sent to the requestor and to all affected parties identified in the

THIS CITY CLERK

written request for a variance and other interested parties who submitted information or comments about a variance request.

D. Records. The Director shall maintain a record in Department files of all variance requests and decisions. The record shall include findings regarding compliance with the conditions of subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217 and any conditions or mitigating measures required by the Director in granting the variance.

E. Appeal of Variance Decision. Any person with an ownership interest in a building or premises for which a variance request has been made, or any tenant of such property, may appeal the Director's decision on the variance by filing an appeal with the Hearing Examiner.

1. Variance appeals shall be filed with the Hearing Examiner, with the applicable filing fee specified in ((~~SMC~~)) Section 3.02.125, by ((~~five (~~))5((~~:00~~)))p.m. of the twentieth day following the mailing of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until ((~~five (~~))5((~~:00~~)))p.m. on the next business day. An appeal shall be deemed filed when it is actually received by the Hearing Examiner's Office. The Hearing Examiner's time and date stamp shall be prima facie evidence of filing.

2. An appeal shall be in writing and shall state:

a. The name and mailing and electronic ((~~address~~)) addresses of the appellant.

b. The ownership or other interest of the appellant in the building or premises that is the subject of the variance decision;

SEAS CITY CLERK

c. The names and mailing addresses of all tenants or other occupants of the building or premises and, if the appellant is an owner of the property, of all other persons with an ownership or other interest in the building or premises;

d. The specific objections to the Director's decision;

e. The relief sought.

3. Notice of a hearing on the appeal shall be ((~~mailed~~)) provided by the Hearing Examiner at least ((~~twenty (~~))20((~~)~~)) days prior to the scheduled hearing date to the Director and to all affected parties identified pursuant to subsection ((~~E2c of SMC Section~~)) 22.206.217.E.2.c.

4. Appeals shall be considered de novo and shall be limited to objections raised in the appeal statement. The Director's decision shall be affirmed unless the Hearing Examiner finds the Director's decision to be clearly erroneous. The person requesting the variance shall have the burden of proving, by preponderance of the evidence, all elements related to justifying the variance.

5. Within ((~~thirty (~~))30((~~)~~)) days after the hearing is conducted, the Hearing Examiner shall ((~~issued~~)) issue a decision on a variance appeal ((~~the Hearing Examiner's decision shall be mailed~~)) and provide a copy to the appellant, the Director, and ((~~to~~)) other affected parties on the day it is issued.

6. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review shall be as provided by RCW 36.70C and must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

2012 CITY CLERK

Section 20. Subsections B, C, D, and G of Section 22.208.050 of the Seattle Municipal Code, which section was last amended by Ordinance 122397, are amended as follows:

22.208.050 Appeal from order of Director((.))

* * *

B. The appeal shall:

1. Be filed with the Hearing Examiner no more than ten (((~~10~~))) days after service of the Director's order;

2. Be in writing and state clearly and concisely the specific objections to the Director's order;

3. State the ownership or other interest that each appellant has in the building, premises, or portion thereof involved in the order of the Director;

4. State briefly the remedy sought; and

5. Include the signatures of all appellants and their mailing and electronic addresses.

C. The Hearing Examiner shall set a date for the hearing and provide no less than ((~~twenty (~~))20((~~)~~))) days' written notice of the hearing to the parties. Notice of the appeal and hearing shall be posted in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way.

D. The appeal hearing shall be conducted pursuant to the contested case provisions of ((~~the Administrative Code, SMC~~)) Chapter 3.02. The Hearing Examiner is authorized to promulgate procedural rules for the appeal hearing pursuant to ((~~the Administrative Code~~)) Chapter 3.02.

2012 JUN 5 CITY CLERK

* * *

G. Within ((~~fourteen ()~~))14((~~)~~)) days after the hearing the Hearing Examiner shall issue a written decision containing findings of fact and conclusions and shall ((~~mail~~)) provide copies of the decision to the parties of record. The decision of the Hearing Examiner shall be the final decision of the City and shall have the same effect as a decision of the Director issued pursuant to Section 22.206.235. The decision and order of the Hearing Examiner shall be filed by the Director with the King County ((~~Department of Records and Elections~~)) Recorder.

* * *

Section 21. Section 22.210.150 of the Seattle Municipal Code, which section was last amended by Ordinance 118839, is amended as follows:

22.210.150 Administrative appeals((~~,~~))

A. Either an owner or a tenant may request a hearing before the Hearing Examiner to appeal a determination concerning a tenant's eligibility for a relocation assistance payment. Either an owner or a tenant may request a hearing before the Hearing Examiner to resolve a dispute concerning the authority to institute unlawful detainer actions during the ((~~ninety ()~~))90((~~)~~)) day period after service of the notice required by Section 22.210.120 ((~~of this chapter~~)).

B. Appeals regarding eligibility for relocation assistance shall be filed within ten (((~~10~~))) days after receipt of the Director's notice of tenant eligibility for relocation assistance.

C. A request for a hearing relating to authority to pursue unlawful detainer actions during the relocation period shall be filed prior to issuance of the tenant relocation license.

D. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the period shall run until ((~~five ()~~))5((~~:00~~))) p.m. on the next business day.

FILED CITY CLERK

E. All requests for a hearing and appeals shall be in writing and shall clearly state specific objections and the relief sought. The appellant shall not be required to pay the Hearing Examiner filing fee set forth in Section 3.02.125 ((~~of the Seattle Municipal Code, Hearing Examiner filing fees~~)).

F. Notice of the hearing shall be ((~~mailed~~)) provided by the Hearing Examiner at least ten (((~~10~~))) days prior to the scheduled hearing date to the tenant, the owner, the Director, and any other interested parties who have requested notice.

G. A record shall be established at the hearing before the ((~~hearing examiner~~)) Hearing Examiner. Appeals shall be considered de novo. The Director shall not be a necessary party to any ((~~hearing examiner~~)) Hearing Examiner proceedings pursuant to this ((~~section~~)) Section 22.210.150.

H. On the day it is issued, the ((~~The~~)) Hearing ~~Examiner's~~ Examiner shall provide the decision on the appeal ((~~shall be mailed on the date the decision is issued~~)) to the tenant, the property owner, the Director, and ((~~to~~)) all those requesting notice.

I. The Hearing Examiner's decision shall be final and conclusive unless, within ten (((~~10~~))) calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in violation of constitutional provisions.

2012 CITY CLERK

Section 22. Section 22.220.140 of the Seattle Municipal Code, which section was last amended by Ordinance 114865, is amended as follows:

22.220.140 Appeal -- From Director's order((.))

A. Within ((~~fifteen (~~))15((~~)~~)) days from the date of service and posting of an order issued by the Director, the owner may file a written notice of appeal with the Office of the Hearing Examiner. The notice of appeal shall state the specific errors in the Director's order of proceedings and the specific grounds upon which a reversal or modification of the order is sought. The Director's decision to grant or deny administrative relief pursuant to Section 22.220.120 and the issues determined therein shall not be appealable to the Hearing Examiner. The notice of appeal shall be accompanied by a filing fee of ((~~Twenty-five Dollars (~~))$25((~~)~~)).

B. The Hearing Examiner shall consider the appeal in accordance with the procedures established by ((~~the Administrative Code of The City of Seattle (~~))Chapter 3.02 ((~~of the Seattle Municipal Code~~))) for hearing contested cases. Notice of hearing shall be provided to all parties not less than ten (((~~10~~))) days prior to the hearing. The Hearings Examiner's review shall be de novo. The Hearing Examiner may affirm the order of the Director, or may reverse or modify the order only if it is determined that the Director's decision is clearly erroneous.

C. The Hearing ((~~Examiner's~~)) Examiner shall provide the final written decision containing findings of fact and conclusions of law ((~~shall be mailed~~)) to the parties of record and ((~~filed~~)) file it with the King County ((~~Department of Records and Elections~~)) Recorder.

D. The Director's order shall not be final until the time for filing an appeal with the Hearing Examiner has expired or until the issuance of the Hearing Examiner's decision if an appeal is taken; provided that, ((~~when~~)) if the Director determines that the deficiencies noted in

2012 CITY CLERK

the complaint will cause immediate and irreparable harm, and so states in the notice and order issued, the order shall be final upon issuance by the Director.

Section 23. Subsection A of Section 22.920.160 of the Seattle Municipal Code, which section was adopted by Ordinance 123226, is amended as follows:

22.920.160 Citation mitigation hearings

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after a written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten days prior to the hearing date.

* * *

Section 24. Subsection E of Section 23.66.030 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

23.66.030 Certificates of Approval – Application, review and appeals.

* * *

E. Appeal to Hearing Examiner.

1. Any interested person may appeal the decision of the Department of Neighborhoods Director to the Hearing Examiner by filing a notice of appeal within ((fourteen ())14(())) days of the Department of Neighborhoods Director's decision. When the proposed action that is the subject of the certificate of approval is also the subject of one (((~~1~~))) or more related permit applications under review by the Department of Planning and Development, then the appellant must also file notice of the appeal with the Director of the Department of Planning and Development, and the appeal of the certificate of approval shall not be heard until all of the

CHS CITY CLERK

time periods for filing administrative appeals on the other permits or any environmental determinations have expired, except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately without being consolidated. The appeal of the certificate of approval shall be consolidated with the predecision hearing required for any Type IV Council land use decision, or if one (((~~1~~))) or more appeals are filed regarding the other permits or environmental determinations, the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals or predecision hearing, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed without being consolidated.

2. If the related permit decisions would not be appealable, and no predecision hearing is required, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

3. The applicant for the certificate of approval, not involving approval of preliminary and subsequent design phases also may elect to have the appeal proceed immediately rather than be postponed for consolidation with appeals of related permit applications or with a predecision hearing, if the applicant agrees in writing that the time period for review of those permits or approvals ~~shall be~~ is suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

4. The Hearing Examiner shall hear the appeal de novo in accordance with the standards and procedures established for Hearing Examiner appeals by Chapter 3.02 ~~of the Seattle Municipal Code~~. Appeals shall be limited to the issues cited in the notice of appeal. The

2012 CITY CLERK

decision appealed may be reversed or modified only if the Hearing Examiner finds that the Department of Neighborhoods Director's decision was arbitrary and capricious.

5. If evidence is presented to the Hearing Examiner that was not presented to the Board, or if the Hearing Examiner determines that additional information is required, then the Hearing Examiner shall remand the decision to the Department of Neighborhoods Director for consideration of the additional information or evidence.

6. The Hearing Examiner shall issue a decision not later than ~~ninety (90)~~ days after the last of any appeals of related permit decisions is filed provided that, when an appeal of a certificate of approval is consolidated with a predecision hearing, the Hearing Examiner shall issue the decision on the certificate of approval with the recommendation to the City Council on a Type IV Council land use decision, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection E3, then not later than ~~ninety (90)~~ days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications or approvals.

7. The decision of the Hearing Examiner shall be final. Copies of the Hearing Examiner's decision shall be ~~mailed~~ provided to all parties of record before the Hearing Examiner. Any judicial review must be commenced within ~~twenty-one (21)~~ days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 25. Subsection A of Section 23.91.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122407, is amended as follows:

23.91.006 Response to citations.

SEAS CITY CLERK

A. A person must respond to a citation in one (((~~1~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent.

* * *

Section 26. Subsection A of Section 23.91.010 of the Seattle Municipal Code, which section was last amended by Ordinance 121477, is amended as follows:

23.91.010 Mitigation hearings((~~,~~))

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~)) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten (((~~10~~))) days prior to the date of the hearing.

* * *

Section 27. Section 25.02.080 of the Seattle Municipal Code, which section was last amended by Ordinance 122825, is amended as follows:

25.02.080 Appeal of Director's Decision((~~,~~))

2012 CITY CLERK

A. Appealable Decisions. An affected employer that is aggrieved by any of the following decisions of the Director may appeal the decision to the Office of the Hearing Examiner pursuant to this ((~~section~~))Section 25.02.080:

1. Decisions rejecting a CTR program pursuant to Section 25.02.040.

2. Decisions rejecting a CTR program report pursuant to Section 25.02.050 for failure to include the required performance data.

3. Decisions approving a CTR program report pursuant to Section 25.02.050, but finding that the affected employer has not met its goals and targets and is therefore required to submit a revised CTR program pursuant to Section 25.02.050 and 25.02.055.

4. Decisions rejecting a revised CTR program pursuant to Section 25.02.055.

5. Decisions denying a request for an exemption or adjustment under Section 25.02.070.

B. Effect of Appeal or Failure to Appeal. If a Director's decision is timely appealed to the Hearing Examiner, any deadline imposed by that decision for submitting an initial or revised CTR program or report is tolled pending the outcome of the appeal. If the Hearing Examiner affirms the Director's decision, the Hearing Examiner shall set a new deadline for submitting an initial or revised CTR program or report. If the affected employer does not appeal a Director's decision to the Hearing Examiner, the Director's decision is final for purposes of enforcement action under Section 25.02.090.

C. Hearing Examiner Appeal Procedures. Except as otherwise provided by this ((~~section~~))Section 25.02.080, appeals of Director's decisions pursuant to this ((~~chapter~~))Chapter

SEA CITY CLERK

25.02 are governed by the Hearing Examiner's rules for contested cases adopted pursuant to Chapter 3.02((~~SMC~~)).

1. Standing. Only an affected employer subject to a decision of the Director may appeal that decision to the Hearing Examiner.

2. Filing Requirements.

a. Appeals shall be filed with the Hearing Examiner no later than ((~~five (~~))5((~~:00~~))) p.m. on the fourteenth calendar day following the date of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until ((~~five (~~))5((~~:00~~)))p.m. on the next business day. The appeal shall be accompanied by payment of the applicable filing fee set forth in Section 3.02.125((~~, Hearing Examiner filing fees~~)).

b. In form and content, the appeal shall conform to the rules of the Hearing Examiner adopted pursuant to Chapter 3.02 ((~~SMC~~)).

3. Hearing and Notice of Hearing. The Hearing Examiner shall schedule a hearing and provide notice of the hearing at least ((~~twenty (~~))20((~~)~~))days prior to the scheduled hearing date.

D. Hearing -- Scope of Review. The hearing shall be conducted de novo and in accordance with the Hearing Examiner's rules of procedure. The Hearing Examiner shall consider only those issues raised in the notice of appeal and relating to the requirements of this ((~~chapter~~))Chapter 25.02.

E. Hearing Examiner's Decision. Within ((~~thirty (~~))30((~~)~~)) days after the hearing, the Hearing Examiner shall issue a written decision that shall include findings of fact and conclusions of law in support of the decision. The Hearing Examiner may affirm, reverse,

SEATTLE CITY CLERK

remand, or modify the Director's decision. The Director and the affected employer that appealed the Director's decision shall be bound by the terms and conditions of the Hearing Examiner's decision unless the decision is reversed or remanded on judicial review.

F. Notice of Hearing Examiner Decision. On the day the Hearing Examiner issues a decision, the Hearing Examiner shall ((~~mail~~)) provide the decision to the Director and to the ((~~affected~~)) employer that appealed.

Section 28. Subsection A of Section 25.08.930 of the Seattle Municipal Code, which section was adopted by Ordinance 122614, is amended as follows:

25.08.930 Mitigation hearings((~~.~~))

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~)) days after written response to the citation requesting such hearing is received by the Hearing Examiner. The Hearing Examiner shall send notice ((~~Notice~~)) of the time, place, and date of the hearing ((~~will be sent by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ((~~ten (~~))10((~~)~~)) days prior to the date of the hearing.

* * *

Section 29. Section 25.10.540 of the Seattle Municipal Code, which section was adopted by Ordinance 116057, is amended as follows:

25.10.540 Appeals((~~.~~))

The order of the Administrator may be appealed subject to the following:

A. Any person aggrieved by an order issued by the Administrator may file an appeal in writing with the Hearing Examiner no later than 5 p.m. on ((~~within a period extending to five~~

SEATTLE CITY CLERK

~~p.m. (5:00 p.m.) of~~)) the tenth day following the date of service of the order. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until 5 p.m. on the next business day.

B. The appeal shall be accompanied by the payment of the filing fee as set forth in Section 3.02.125 ((~~of this Code which governs Hearing Examiner fees~~)).

C. The appeal shall state specifically why the appellant believes the order to be in error.

D. Upon timely notice of appeal the Hearing Examiner shall set the date for a hearing and shall ((~~mail~~)) provide notice to the appellant, to the owner or operator of the facility if different from the appellant, and to the Administrator not less than ((~~twenty (~~))20((~~)~~)) days prior to the hearing.

E. The hearing shall conform with the rules of the Hearing Examiner adopted pursuant to Chapter 3.02.

((~~E~~))F. The Hearing Examiner shall give substantial weight to the order of the Administrator and the burden of overcoming that weight shall be upon the appellant.

((~~F~~))G. The Hearing Examiner may affirm, reverse, or modify the order of the Administrator or may remand it to the Administrator for further consideration. Within ((~~fifteen (~~))15((~~)~~)) days of the close of the record the Hearing Examiner shall transmit to the parties findings of fact, conclusions of law, and a decision~~/~~ or order. The decision~~/~~ or order of the Hearing Examiner shall be final and the appellant and the Administrator shall be bound by it.

((~~G. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to SMC Chapter 3.02. Until~~

SEA CITY CLERK

~~such time as rules are promulgated, the Hearing Examiner rules of general applicability and SMC Chapter 3.02 shall apply.~~))

Section 30. Subsection E of Section 25.16.110 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.16.110 Certificate of approval – appeal if denied((~~,~~))

* * *

E. The Hearing Examiner shall issue a decision not later than ((~~ninety (~~))90((~~)~~)) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection B, then not later than ~~ninety (90)~~ days from the filing of that appeal. The decision of the Hearing Examiner shall be final. Any judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040. Copies of the decision shall be ((~~mailed~~)) provided to all parties of record and transmitted to the Director, the District Board, and the property owner if the owner is not a party of record.

Section 31. Subsection I of Section 25.16.115 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.16.115 Requests for interpretation((~~,~~))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

SEA CITY CLERK

Section 32. Subsection I of Section 25.20.115 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.20.115 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 33. Subsection I of Section 25.21.135 of the Seattle Municipal Code, which section was last amended by Ordinance 122750, is amended as follows:

25.21.135 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 34. Subsection I of Section 25.22.135 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.22.135 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of

SEA CITY CLERK

record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 35. Subsection I of Section 25.24.085 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.24.085 Requests for interpretation((~~,~~))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Commission, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 36. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 11th day of June, 2012, and signed by me in open session in authentication of its passage this 11th day of June, 2012.

President _____ of the City Council

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Approved by me this 18th day of June, 2012.

Michael McGinn, Mayor

Filed by me this 19th day of June, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

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Sue Tanner; Rebecca Herzfeld
Hearing Examiner Notice Procedures ORD v.5 docx
March 5, 2012
Version #5

Form revised: December 6, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Office of Hearing Examiner	Sue Tanner 684-0703	Not applicable

Legislation Title:
AN ORDINANCE relating to notice procedures in Hearing Examiner proceedings, amending Sections 3.02.090, 3.02.100, 5.55.150, 5.55.230, 6.02.290, 6.202.310, 7.20.100, 10.07.050, 10.52.032,10.52.034, 11.16.317, 14.04.180, 14.06.120, 14.08.180, 14.10.140, 14.16.080, 15.91.006, 15.91.010, 22.206.217, 22.208.050, 22.210.150, 22.220.140, 22.920.160, 23.66.030, 23.78.014, 23.79.012, 23.91.006, 23.91.010, 25.02.080, 25.08.930, 25.10.540, 25.16.110, 25.16.115, 25.20.115, 25.21.135, 25.22.135, and 25.24.085 to allow the option to provide notice by electronic means in specified circumstances and correct section references and format.

Summary of the Legislation:
This legislation expands the modes for providing hearing notices and copies of decisions in Hearing Examiner cases. The bill would add an option for providing notices and Hearing Examiner decisions electronically to those who wish to receive them in electronic format, update and clarify existing Code language, and correct cross-references and formatting.

Background:
Many people involved in Hearing Examiner cases ask to receive hearing notices and decisions electronically. The Office of Hearing Examiner (OHE) presently scans and sends them, but existing Code sections require that hard copies also be sent through the mail. If the requirement for sending hard copies to those who have requested electronic copies were removed, OHE could provide notices and decisions in the parties' desired format while also reducing OHE paper usage and mailing costs. The attached memo provides a more detailed summary of the proposed amendments.

Please check one of the following:

_X_ This legislation does not have any financial implications.
(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

___ This legislation has financial implications.
(If the legislation has direct fiscal impacts (e.g., appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" Section. Please delete the instructions provided in parentheses at the end of each title and question.)

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Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
Over time, the legislation could save money by allowing the use of e-mail and facsimile transmission of notices and decisions, which would reduce mailing and paper costs and staff time.

b) **What is the financial cost of not implementing the legislation?**
Not applicable.

c) **Does this legislation affect any departments besides the originating department?**
The legislation would affect all departments that issue decisions which may be appealed to the Hearing Examiner in that they would be receiving hearing notices and decisions in electronic format rather than hard copy. All affected departments were given the opportunity to comment on the legislation, and some provided helpful comments that were incorporated in it.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** Not applicable.

e) **Is a public hearing required for this legislation?**
A public hearing as required and is tentatively scheduled for June 2012.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Notice of the public hearing in the Daily Journal of Commerce is required.

g) **Does this legislation affect a piece of property?**
No.

h) **Other Issues:**
Not applicable.

List attachments to the fiscal note below:
Cover memo to Council President Clark dated February 29, 2012 with attached sample appeal form

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City of Seattle

Office of Hearing Examiner
Sue A. Tanner, Hearing Examiner
Anne Watanabe, Deputy Hearing Examiner

March 5, 2012

Honorable Sally Clark, President
Seattle City Council
CH 02-10

RE: Proposed Council Bill Allowing Option for Electronic Transmittal of Hearing Examiner Notices and Decisions

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would allow the Office of Hearing Examiner (OHE) to provide hearing notices and copies of Hearing Examiner decisions electronically to those who wish to receive them in an electronic format.

Background

OHE and DoIT have recently completed a project that allows appeals to the Hearing Examiner and most other case documents to be filed electronically, thereby reducing the amount of paper required to pursue an appeal. Many of those involved in our cases also ask to receive hearing notices and decisions electronically. We presently scan and send them, but existing Code sections require that hard copies also be sent through the mail. If the requirement for sending hard copies to those who have requested electronic copies were removed, OHE could provide notices and decisions in the parties' desired format while also reducing OHE paper usage and mailing costs.

About two-thirds of the Code sections that provide for an appeal to the Hearing Examiner either say nothing about when and how OHE is to provide notice of hearing and copies of decisions, or they simply cross-reference the procedures found in SMC 3.02.090 and .100 for contested cases before the Hearing Examine. Code sections that provide for an appeal and do include specific requirements for notice of hearing and distribution of decisions handle it in several different ways. A few, including certain tax cases and some proceedings involving abatement, require

2012 CITY CLERK

notice by certified mail. Another includes very specific requirements for all notices and other documents served on owners of landmarks. No changes are proposed for those Code sections. The rest include a requirement for "mailing" notice of hearing, or "mailing" the decision, or both, and a few specify use of the "U.S. mail". These are the Code sections we ask the Council to amend.

Proposed Amendments

The proposed revisions to SMC 3.02.090 and .100 form the foundation for the remaining amendments. These Code sections provide the default procedures for hearings and decisions in contested cases. OHE interprets longstanding case law as requiring notices "reasonably calculated under all circumstances to apprise interested parties" of hearings and decisions.[1] The procedures in SMC 3.02.090 and .100 likely meet this requirement, so OHE uses them unless other Code sections specific to particular types of cases require different procedures.

If amended as proposed, SMC 3.02.090 and .100 would state that unless otherwise provided, hearing notices and decisions "shall be provided by personal service or mail to each party," but that with the agreement of a party, notice or decisions "may instead be provided to that party by electronic means." (Notice to City agencies would be provided through interoffice mail or electronically.) The rest of the proposed amendments would remove requirements throughout the Code for mailing notices of hearings, mailing decisions, or both. OHE would then default to the procedures found in SMC 3.02.090 and .100 for providing hearing notices and decisions for these cases as we presently do for most other cases.

OHE anticipates that the terms "mail" and "electronic means" in the proposed amendments to SMC 3.02.090 and .100 are sufficiently generic to cover future developments in mail service and communications without need for frequent amendment. In the attached sample of OHE's hard copy appeal form, the first section ("Appellant Information") shows the formats that OHE would offer today for notices and decisions if the proposed amendments were adopted.

Thank you for considering this legislation. Please contact me if I can answer any questions about it.

Sincerely,

Sue A. Tanner

Sue A. Tanner
Hearing Examiner

[1] *See Mullane v, Central Hanover Bank & Trust Co.*, 339 U.S. 306, 319-20, 70 S.Ct. 652, 94 L.Ed. 864 (1950).

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APPEAL FORM

You do not have to use this form to file an appeal. However, if you do not use it, please make sure that your appeal includes all the information requested on this form. The appeal, along with any required filing fee, must reach the Office of Hearing Examiner, no later than 5:00 p.m. of the last day of the appeal period.

APPELLANT INFORMATION (Person or group making appeal)

1. **Appellant**:
   If several individuals are appealing together, list the additional names, addresses, and numbers on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate the group's name, addresses, and numbers here and identify a representative in #2 below.

   Name _____
   Address _____
   _____
   Phone: Work: _____ Home: _____

   Fax: _____ Email Address: _____

   In what format do you wish to receive documents from the Office of Hearing Examiner?

   Check One: _____ *U.S. Mail* _____ *Fax* _____ *Email Attachment*

2. **Authorized Representative**:
   Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

   Name _____
   Address _____
   _____
   Phone: Work:_____ Home:_____

   Fax: _____ Email Address: _____

   In what format do you wish to receive documents from the Office of Hearing Examiner?

   Check One: _____ *U.S. Mail* _____ *Fax* _____ *Email Attachment*

DECISION BEING APPEALED

1. **Decision appealed** (Departmental File or Reference #.): _____
2. **Address** (if any) connected to decision being appealed:

   _____

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3. **Type of issue/decision being appealed if known** (ask for assistance if unknown)**:**

_____

_____

APPEAL INFORMATION

Answer each question as completely and specifically as you can. Attach separate sheets if needed and refer to questions by number.

1. What is your interest in this appeal? (State how you are involved or affected by it)

_____

_____

_____

_____

_____

2. What are your objections to the issue being appealed? (List and describe what you believe to be the errors, omissions, or other problems and issues involved.)

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

_____

_____

_____

_____

_____

Signature _____

Date_____

Appellant or Authorized Representative _____

Attachment 1 to Hearing Examiner Letter

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Deliver or mail appeal and appeal fee to:

Mailing Address :	**City of Seattle** **OFFICE OF HEARING EXAMINER** **P.O. Box 94729** **Seattle WA 98124-4729**

Physical Address:	***SEATTLE MUNICIPAL TOWER*** ***700 5th Avenue, Suite 4000*** ***Seattle, WA 98104***

Note: ***Appeal fees may also be paid by credit or debit card over the phone (Visa or MasterCard only).***

Phone: (206) 684-0521 *Fax: (206) 684-0536* *www.seattle.gov/examiner*

Attachment 1 to Hearing Examiner Letter

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ORDINANCE _____

AN ORDINANCE relating to notice procedures in Hearing Examiner proceedings, amending Sections 3.02.090, 3.02.100, 5.55.150, 5.55.230, 6.02.290, 6.202.310, 7.20.100, 10.07.050, 10.52.032,10.52.034, 11.16.317, 14.04.180, 14.06.120, 14.08.180, 14.10.140, 14.16.080, 15.91.006, 15.91.010, 22.206.217, 22.208.050, 22.210.150, 22.220.140, 22.920.160, 23.66.030, 23.91.006, 23.91.010, 25.02.080, 25.08.930, 25.10.540, 25.16.110, 25.16.115, 25.20.115, 25.21.135, 25.22.135, and 25.24.085 to allow the option to provide notice by electronic means in specified circumstances and correct section references and format.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections A, C, F, and G of Section 3.02.090 of the Seattle Municipal Code, which section was last amended by Ordinance 123361, are amended as follows:

3.02.090 Hearings in contested cases((.))

A. In any contested case all parties shall be afforded an opportunity for hearing after not less than 20 days' notice in writing; provided that a hearing may be set on shorter notice where substantial injury to a party would otherwise result; provided further, that unless otherwise provided by ordinance or rule, no hearing shall be required in any case except upon the ((~~demand~~)) request of a party. ((~~Notice of~~)) A request for a hearing shall be accompanied by a filing fee as established by ordinance, which the Hearing Examiner shall ensure is received by the Director of Finance and Administrative Services.

* * *

C. Unless otherwise provided by ordinance, ((~~Notice~~)) notice shall be ((~~given in person or~~)) provided by personal service or mail to each party. Notice to City agencies may be provided through the City's interoffice mail or electronically. With the agreement of a party other than a City agency, notice may instead be provided to that party by electronic means ((~~, or may be~~

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~~transmitted through regular messenger service to any agency, officer, or employee of the City. Additional notice may be required by ordinance or rule~~)).

* * *

F. The record in a contested cause shall include:

1. All pleadings, motions, and intermediate rulings;

2. Evidence received or considered;

3. A statement of matters officially noticed;

4. Questions and offers of proof, objections, and the ruling thereon;

5. Proposed findings and conclusions; and

6. Any decision, opinion, or report by the examiner presiding at the hearing.

G. Oral proceedings shall be electronically recorded. When requested, the Hearing Examiner shall furnish a ((~~A~~)) copy of all or part of the ((~~record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and~~)) electronic recording upon payment of the reasonable costs ((~~thereof~~)) of providing the copy.

* * *

Section 2. Section 3.02.100 of the Seattle Municipal Code, which section was adopted by Ordinance 102228, is amended as follows:

3.02.100 Report and review of examiner's recommendation or decision in contested cases((~~,~~))

A. Within ((~~such~~)) the period ((~~as may be~~)) fixed by agency rule or applicable ordinance, the ((~~examiner presiding at the hearing in contested case~~)) Hearing Examiner shall prepare a written recommendation or decision, ((~~which shall be filed~~)) file it as a public record and provide

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copies of it by personal service or mail ((~~copies thereof mailed~~)) to each party and to other interested persons as provided by agency rule or applicable ordinance. Copies to City agencies may be provided through the City's interoffice mail or electronically. With the agreement of a party or other interested person other than a City agency, a copy may instead be provided to that party or interested person by electronic means. The ((~~Such~~)) recommendation or decision shall contain a brief summary of the evidence considered and ((~~shall~~)) state the ((~~examiner's~~)) Hearing Examiner's findings and conclusions upon which ((~~such~~)) the recommendation or decision is based((~~, together with a brief statement of the examiner's reasons therefor~~)). If the decision is to be made by the agency, ((~~an examiner's~~)) the Hearing Examiner's recommendation shall be in the form of a proposed decision which may be adopted by the agency as its decision in the case.

B. Where a decision is to be made by an agency based upon ((~~an examiner's~~)) the Hearing Examiner's recommendation, the agency shall set a date for consideration of the ((~~examiner's~~)) Hearing Examiner's proposed decision, and shall give at least 10 days notice ((~~thereof~~)) of the date to all parties ((~~not later than ten (10) days prior to such date~~)); provided, that at the discretion of the ((~~examiner~~)) Hearing Examiner, and upon a written showing of adequate reason for the delay, evidence not previously presented may be submitted to the ((~~examiner~~)) Hearing Examiner prior to the date set for the agency's consideration of ((~~such~~))the proposed decision.((~~, and if~~ If the ((~~examiner~~)) Hearing Examiner determines to accept and consider such evidence, ((~~he~~)) the Hearing Examiner shall immediately give notice to each party of record and to the agency, which shall remand ((~~such~~)) the proposed decision to the ((~~examiner~~)) Hearing Examiner for further consideration and hearing in accordance with Section

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3.02.090, and for such modification of ((~~such~~)) the proposed decision as the ((~~examiner~~)) Hearing Examiner may make pursuant to ((~~such~~)) the hearing.

In connection with the consideration by the agency of any proposed decision, any party may file written exceptions to ~~such~~ the proposed decision or part thereof and may submit a proposed substitute decision ((~~together with a written argument in support thereof~~)) and supporting argument. Following consideration of ((~~such~~)) the proposed decision and any proposed substitute decision, written exceptions,((~~and/~~)) or arguments, the agency may adopt, reject, or modify ((~~such~~)) the proposed decision or any part thereof, and shall issue its decision with its written findings and reasons for any changes from the ((~~examiner's~~)) Hearing Examiner's proposed decision.

Section 3. Section 5.55.150 of the Seattle Municipal Code, which section was last amended by Ordinance 122564, is amended as follows:

5.55.150 Appeal to the Hearing Examiner((~~,~~))

A. A person electing to appeal to the Hearing Examiner pursuant to Section 5.55.140 must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is filed with the Hearing Examiner and provided to the Director and City Attorney within the ((~~thirty (~~))30((~~)~~)) day period, and a complaint is not filed, the assessment covered by the notice shall become final and no refund request may be made for the audit period covered in that assessment.

B. The petition shall set forth the reasons why the assessment should be reversed or modified. The petition shall also include the amount of the tax, fee, interest or penalties that the taxpayer believes to be due. If the assessment is less than ((~~Fifty Thousand~~

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~~Dollars~~))$50,000((~~)~~))the taxpayer shall pay that portion of the assessment, if any, conceded to be due. If the appeal is from the denial of a refund, the petition shall set forth the amount of refund or credit ((~~the believes~~)) believed to be due.

C. The Hearing Examiner shall fix the time and place of the hearing and notify the taxpayer thereof((~~by mail~~)). The hearing shall be conducted in accordance with the procedures for hearing contested cases in ((~~the Seattle Administrative Code (~~))Chapter 3.02((~~of the Seattle Municipal Code~~))).

D. The Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may also require him or her to produce pertinent books and records. Any person served with such a subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any matter required of him or her pertinent to the appeal; and it shall be unlawful for him or her to fail or refuse to do so. The City Attorney shall seek enforcement of a Hearing Examiner subpoena in an appropriate court.

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest or penalty due either by affirming, reversing or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this ((~~chapter~~))Chapter 5.55, or ((~~SMC~~)) Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 4. Section 5.55.230 of the Seattle Municipal Code, which section was last amended by Ordinance 123596, is amended as follows:

5.55.230 Refusal to issue, revocation of, or refusal to renew business license

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A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or refuse to renew any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any license issued under this chapter on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.

2. The licensee has failed to comply with any provisions of this chapter.

3. The licensee has failed to comply with any provisions of ((~~SMC~~)) Chapters 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, or 5.52.

4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in ((~~SMC~~)) Chapter 10.09.

6. The applicant or licensee has been convicted of theft under Section 12A.08.060.A.4 within the last ten years.

7. The applicant or licensee is a person subject within the last ten years to a court order entering final judgment for violations of RCW 49.46, 49.48, or 49.52, and the judgment was not satisfied within 30 days of the later of either:

(((~~1~~)))a. the expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order((~~,~~)); or

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(((~~2~~))) b. if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of RCW 49.46, 49.48, or 49.52.

8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington State Department of Labor and Industries for violations of RCW 49.46, 49.48 or 49.52, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee or any person (as defined in ((~~SMC~~)) Section 5.30.040.F) in which the licensee is a principal shall not again be licensed during such period.

B. Within 30 days from the date that the notice of refusal to issue, revocation or refusal to renew notice was mailed to the applicant or licensee, the applicant or licensee may appeal such refusal to issue, revocation or refusal to renew by filing a written notice of appeal ("petition") setting forth the grounds therefor with the Office of the Hearing Examiner. The applicant or licensee must provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases in ((~~the Seattle Administrative Code (~~))Chapter 3.02 ((~~of the Seattle Municipal Code~~))). The Hearing Examiner shall set a date for hearing said appeal and notify the licensee ((~~by mail~~)) of the time and place of the hearing. After the hearing thereon the Hearing Examiner shall, after making appropriate findings of fact and conclusions of law, affirm, modify, or overrule the refusal to issue, revocation or refusal to

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renew, and issue or reinstate the license. The Hearing Examiner may impose any terms upon the issuance or continuance of the license that he or she may deem advisable. No refusal to issue, revocation of, or refusal to renew a license issued pursuant to the provisions of this chapter shall take effect until 30 days after the mailing of the notice thereof by the Director, and if appeal is taken as herein prescribed, the refusal to issue, revocation or refusal to renew shall be stayed pending final action by the Hearing Examiner. All licenses that are revoked or refused to be renewed by the Director shall be surrendered to the City on the effective date of such revocation or refusal to renew. No business license shall be renewed and no new license shall be issued to the licensee or to any person (as defined by ((~~SMC~~)) Subsection 5.30.040.F) in which the licensee is a principal for a period of one year where the license has been revoked or not renewed by a decision of the Director pursuant to this Section 5.55.230. The decision of the Hearing Examiner shall be final. The licensee and/or the Director may seek review of the decision of the Hearing Examiner in the Superior Court of Washington in and for King County within ((~~fourteen~~ ~~(~~))14((~~)~~)) days from the date of the decision.

C. Upon revocation of any license no portion of the license fee shall be returned to the licensee.

Section 5. Subsection F of Section 6.02.290 of the Seattle Municipal Code, which section was last amended by Ordinance 123361, is amended as follows:

6.02.290 Revocation or refusal to renew procedure((~~,~~))

* * *

F. The licensee may appeal a revocation or refusal to renew by filing a written notice of appeal ("petition"), setting forth the grounds therefor, with the Office of the Hearing Examiner.

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The licensee ((~~must~~)) shall provide a copy of the petition to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The Hearing Examiner shall conduct the hearing in accordance with the procedures for hearing contested cases in Chapter 3.02 ((~~of the Seattle Municipal Code~~)). The Hearing Examiner shall set a date for hearing ((~~said~~)) the appeal and notify the licensee ((~~by mail~~)) of the time and place of the hearing. After the hearing, the Hearing Examiner shall, after issuing appropriate findings of fact and conclusions of law, affirm, modify, or overrule the revocation or refusal to renew and reinstate the license. The Hearing Examiner may impose any terms upon the continuance of the license that he or she may deem advisable.

* * *

Section 6. Section 6.202.310, of the Seattle Municipal Code, which section was last amended by Ordinance 117586 is amended as follows:

6.202.310 Hearing Examiner -- Decision final – Mandatory stay pending review.

The decision of the Hearing Examiner ((~~shall be~~)) is final when the decision has been ((~~mailed~~)) provided to the last known address of each party. The Director may stay enforcement of a ((~~decision of the~~)) Hearing Examiner decision pending a motion for reconsideration or ((~~pending~~)) judicial consideration of a stay, where the Director determines that no clear, substantial, and imminent hazard to the health, safety, welfare, privacy or property of any person would result. In the case of adult entertainment licenses governed by ((~~SMC~~)) Chapter 6.270, the Director shall stay enforcement of a ((~~decision of the~~)) Hearing Examiner decision affirming suspension or revocation of a license pending a motion for reconsideration before the Hearing Examiner and shall stay enforcement of ((~~such~~)) the decision:

((~~(~~))A((~~)~~)). if no application for judicial review is timely filed, then only until the expiration of time allowed to file such application under RCW Chapter 7.16; or

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((6))B((9)). if an application for judicial review is timely filed, then only until a writ is issued or the application for writ has been denied

Section 7. Section 7.20.100 of the Seattle Municipal Code, which section was adopted by Ordinance 111526, is amended as follows:

7.20.100 Moorage fee increase -- Offer to moorage owner.

No later than seven (((~~7~~))) days after submitting a petition for review pursuant to Section 7.20.080, each petitioning floating home owner shall, individually or as a group, submit to the moorage owner a written offer stating the amount of increase in the moorage fee that the floating home owner or owners believe to be reasonable. The moorage owner shall, within five (((~~5~~))) days of receiving the offer, accept or reject it in writing or make a counter offer. Within three (((~~3~~))) days of receiving the counter offer the floating home owner shall deliver to the moorage owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner. The envelope containing the photographic copy shall be clearly marked "Final Offer of Floating Home Owner" and shall indicate the name of the person or persons submitting the offer. Within three (((~~3~~))) days of receiving the floating home owner's final offer the moorage owner shall deliver to the floating home owner, in writing, a final offer, a photographic copy of which shall be simultaneously delivered to the Hearing Examiner in an envelope clearly marked "Final Offer of Moorage Owner" and shall indicate the name of the person or persons submitting the offer. Any party who fails to submit a final offer in a timely fashion shall not be entitled to an award of attorney's fees. The Hearing Examiner shall not open the envelopes until after the written review decision has been ((~~mailed~~)) provided to the parties. After mailing the decision, the Hearing Examiner shall examine the offers and shall assess reasonable attorney fees: (1) against the moorage owner or operator if the moorage fee increase permitted is equal to or less than the floating home owner's offer, or (2) against the floating home

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owner(s) if the permitted increase is equal to or greater than the moorage owner's offer. In all other cases each party shall bear his or her own attorney fees. The award of attorney fees shall be made in a separate decision by the Hearing Examiner. Any party who fails to pay assessed attorney fees within sixty (60) days of the Hearing Examiner's decision shall be subject to the enforcement penalties provided in Section 7.20.150.

Section 8. Subsections D, E, G, I, and K of Section 10.07.050 of the Seattle Municipal Code, which section was adopted by Ordinance 118082, are amended as follows:

10.07.050 Hearing before the Hearing Examiner((~~.~~))

* * *

D. The Hearing Examiner shall issue to the responsible party a decision and order containing the following information:

1. The decision and order regarding the alleged graffiti nuisance property, including findings of fact and conclusions in support of the decision and order;

2. Any required abatement action and the date by which the abatement must be completed;

3. Any monetary penalties assessed based on subsection F of this ((~~section~~)) Section 10.07.050 which shall be due ten (((~~10~~))) calendar days after the date of the decision and order;

4. A description of the additional civil penalties which will automatically accrue pursuant to subsection I of this ((~~section~~)) Section 10.07.050 if the responsible party fails to abate the graffiti nuisance property by the date established in the decision and order;

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5. The date after which the City may abate the graffiti nuisance property pursuant to Section 10.07.070 if the required abatement is not completed; and

6. Notice that judicial review of the decision and order may be sought pursuant to subsection K of this ((~~section~~)) Section 10.07.050.

E. Monetary penalties assessed by the Hearing Examiner shall accrue in the amount up to ((~~One Hundred Dollars ()~~)$100.00((~~()~~)) per day beginning on the correction date set by the Director or on a subsequent date set by the Hearing Examiner, provided that the maximum monetary penalty shall be ((~~Five Thousand Dollars ()~~)$5,000.00((~~()~~)). In the alternative, the Hearing Examiner may choose to assess no monetary penalties.

* * *

G. The Hearing Examiner shall ((~~mail~~)) provide a copy of the decision and order to the person to whom the notice of civil violation and hearing was issued and to the Director within ten (((~~10~~))) working days of the close of the hearing record. If ((~~an~~))a mailing address ((~~for mailing~~)) cannot after due diligence be ascertained, a copy of the decision and order shall be posted conspicuously at the property.

* * *

I. If the responsible party fails to abate the nuisance as ordered by the Hearing Examiner, monetary penalties in addition to any monetary penalties already assessed by the Hearing Examiner shall automatically accrue in the amount of ((~~One Hundred Dollars ()~~)$100.00((~~()~~)) per day until the abatement is complete and shall be due immediately upon accrual.

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K. Any review of the decision and order of the Hearing Examiner ((~~must~~)) shall be by land use petition filed within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the decision and order as provided in Chapter ((~~347, Laws of 1995~~))36.70C RCW.

Section 9. Section 10.52.032 of the Seattle Municipal Code, which section was adopted by Ordinance 122396, is amended as follows:

10.52.032 Response to citations((~~,~~))

A. A person must respond to a citation in one (((~~1~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~))an address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than ((~~fifteen (~~))15((~~)~~)) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. on the next business day.

Section 10. Subsection A of Section 10.52.034 of the Seattle Municipal Code, which section was adopted by Ordinance 122396, is amended as follows:

10.52.034 Mitigation hearings((~~,~~))

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A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~)) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten (((~~10~~))) days prior to the date of the hearing.

* * *

Section 11. Subsections A, B, C, D, and E of Section 11.16.317 of the Seattle Municipal Code, which section was last amended by Ordinance 123120, are amended as follows:

11.16.317 Establishing, expanding and reducing restricted parking zones((~~,~~))

A. The Director of Transportation or the Director's designee shall consider whether a restricted parking zone (RPZ)((~~,~~)) within a designated area, would promote certain benefits or would result in adverse impacts.

1. Benefits that may lead to establishing an RPZ include, but are not limited to: increased access for area residents, reduced traffic congestion, increased traffic or pedestrian safety, reduced air or noise pollution, reduced commuter parking in neighborhoods, prevention of blighted areas, and promoting the use of alternative modes of transportation.

2. Adverse impacts that may prevent establishing and RPZ include, but are not limited to: transferring a parking problem to a different area, inability to effectively enforce program restrictions, lack of alternative transportation modes, and availability of simpler, cheaper or more effective solutions.

3. Regardless of potential benefits or adverse impacts that may result, the Seattle Department of Transportation will not install RPZs in any downtown zone, including all zones

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contained in Map 1A of Chapter 23.49 ((~~SMC~~)), in part because of high demand and multiple, competing needs for on-street parking.

B. The Director of Transportation may establish a new or expand an existing restricted parking zone whenever 75 percent or more of the capacity of the streets available for parking on ten contiguous blocks (and/or 20 block faces) in such designated area is generally occupied; over 35 percent of the vehicles parked on the street in the area are not owned by residents of the designated area; a strong and effective community engagement effort indicating that generally stakeholders in the designated area have reviewed and support the restricted parking zone, which could include a petition signed by a majority of the residents in the designated area in support of the restricted parking zone; and the public interest would be served. In cases where the criteria listed above are not met, the Director of Transportation is authorized to establish a restricted parking zone when, in the Director's judgment, the parking problem will be ameliorated by a restricted parking zone and the public interest would be served.

C. The Director of Transportation or the Director's designee is authorized to engage affected and interested community stakeholders to review and assist in refining any future RPZ proposals.

1. The public information and involvement program may include department presentations to business and community organizations, information distribution through the City's web site, news releases and related media, direct mailings of informational materials, facilitated meetings, sounding boards, walking tours, surveys, and other techniques as appropriate to the scale of the proposal.

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2. Prior to the Director of Transportation's decision to establish, not to establish, to dissolve, to expand, or to reduce an RPZ by more than two contiguous blocks, the Seattle Department of Transportation shall hold a public hearing where it will provide interested persons an opportunity to submit written and spoken comment into the public record.

3. At least 20 days prior to the public hearing, the Seattle Department of Transportation shall mail a notice of hearing containing the hearing time and location to all owners, commercial lessees and residents of property within 300 feet of the affected restricted parking zone.

4. At least 20 days prior to the public hearing, the Seattle Department of Transportation shall publish in a local newspaper a notice of the hearing that states the hearing time and location.

D. 1. The Director of Transportation's decision to establish, not to establish, to expand, to reduce, or to dissolve a restricted parking zone is subject to reconsideration within 15 days of publication in a local newspaper. Requests for reconsideration may be initiated, in writing, by residents, business owners, or employees or volunteers in or adjacent to the proposed RPZ. On reconsideration, the Director shall designate a review officer, who shall, after reviewing the reconsideration materials and other relevant information, make a recommendation to the Director. The Director may, at the Director's discretion, stay implementation of a decision pending review. The Director shall have 30 days to issue a Decision. The Director's decision on reconsideration shall be final unless appealed to the Office of the Hearing Examiner under subsection 11.16.317.D.2. Grounds for reconsideration include the validity of any parking study or compliance with the process to establish a zone.

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2. The Director's decision on reconsideration may be appealed to the ((~~Office of the~~)) Hearing Examiner.

((~~i~~)))a. Time limit for initiation of an appeal. A notice of appeal shall be filed with the Hearing Examiner within 20 days following issuance of the Director's Decision on Reconsideration.

((~~ii~~)))b. Form of Appeal. The notice of appeal must contain a brief statement of the issues on appeal, the specific objections to the decision being appealed, along with supporting facts and documentation, and the relief sought. The notice of appeal must list the name of the appellant, and the signature, address, phone number, and fax ((~~or~~)) and e-mail address if available, of the person appealing.

((~~iii~~)))c. Decision. After reviewing the notice of appeal and supporting documentation and conducting a hearing, the Hearing Examiner shall issue a written decision within 30 days after the conclusion of the hearing. The written decision shall contain the reasons for the decision and the provisions for further appeal and shall be provided to the person appealing ((~~by first class mail with proof of mailing attached and a copy retained in the Examiner's files~~)) and to the Director. This decision is the final decision of the City.

E. The Director may modify hours of an existing RPZ or expand or reduce boundaries of an existing RPZ by two (((~~2~~))) contiguous blocks or less by following an administrative process that seeks to identify possible changes suggested by the community, review proposed changes to the RPZ with affected community stakeholders, and make a determination for what best serves the public interest, without holding the public hearing required by subsection 11.16.317.C.2.

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Section 12. Subsections A and C of Section 14.04.180 of the Seattle Municipal Code, which section was last amended by Ordinance 117615, are amended as follows:

14.04.180 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~))(or the Examiner and Commissioners as the case may be) shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed an unfair employment practice under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.04, and secure compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a labor organization, admittance to participation in a guidance, apprentice training or retraining program, or such other action which will effectuate the purposes of this ((~~chapter~~)) Chapter 14.04, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000.00((~~)~~)). Back pay liability shall not accrue from a date more than two (((~~2~~)))years prior to the initial filing of the charge.

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* * *

Section 13. Subsections A and C of section 14.06.120 of the Seattle Municipal Code, which section was adopted by Ordinance 121593, are amended as follows:

14.06.120 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner or a majority of the panel composed of the Hearing Examiner and designated Commissioners determines that a respondent has committed an unfair practice under this chapter, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice and carry out the purpose of this ((~~chapter~~)) Chapter 14.04. The Hearing Examiner may grant any relief that could be ordered by a court, including actual damages, damages for loss of the right to full enjoyment of any place of public accommodation, injunctive or equitable relief, reasonable attorney's fees and costs and any other appropriate remedy, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000.00((~~)~~)). An order may include a requirement for a report on the matter of compliance.

* * *

Section 14. Subsection A and C of section 14.08.180 of the Seattle Municipal Code, which section was last amended by Ordinance 121593, are amended as follows:

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14.08.180 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~))) days after conclusion of the hearing, the Hearing Examiner shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department.

* * *

C. In the event the Hearing Examiner or a majority of the panel composed of the Hearing Examiner and Commissioners determines that a respondent has committed an unfair practice under this ((~~chapter~~)) Chapter 14.08, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.08, and secure compliance therewith, including but not limited to, rent refund or credit, reinstatement to tenancy, affirmative recruiting and advertising measures, reasonable attorney's fees and costs, or to take such other action as in the judgment of the Hearing Examiner will carry out the purposes of this ((~~chapter~~)) Chapter 14.08. The Hearing Examiner may grant any relief that could be ordered by a court, including actual damages, damages for loss of the right to be free from discrimination in real estate transactions, injunctive or equitable relief, any other appropriate remedy set forth in the federal Fair Housing Amendments Act of 1988 (42 U.S.C. §3601 et seq.), and assessment of civil penalties as set forth in ((~~SMC~~)) Section 14.08.185. An order may include the requirement for a report on the matter of compliance.

* * *

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Section 15. Subsections A, and C of Section 14.10.140 of the Seattle Municipal Code, which section was adopted by Ordinance 119601, is amended as follows:

14.10.140 Decision and order((.))

A. Within ((~~thirty (~~))30((~~)~~)) days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~)) shall prepare a written decision and order,((~~. The final decision shall be filed~~)) file it as a public record with the City Clerk, ((~~and copies thereof mailed~~)) and provide a copy to each party of record and to the Department. It

* * *

C. In the event the Hearing Examiner determines that a respondent has committed an unfair contracting practice under this chapter, the Hearing Examiner may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this chapter, and secure compliance therewith, including but not limited to hiring, reinstatement, lost profits, attorney's fees, admittance or restoration to membership in a trade association, admittance to participation in a training, or such other action which will effectuate the purposes of this chapter including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~Ten Thousand Dollars (~~))$10,000((~~)~~)). Lost profits shall not accrue from a date more than two (((~~2~~))) years prior to the initial filing of the charge. The Hearing Examiner may also disqualify the respondent from participating in contracts with the City for a period of up to five (((~~5~~))) years.

* * *

Section 16. Subsection I of Section 14.16.080 of the Seattle Municipal Code, which section was adopted by Ordinance 123698, is amended as follows:

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14.16.080 Enforcement

* * *

I. Decision and order.

1. Within 30 days after conclusion of the hearing, the Hearing Examiner ((~~presiding at the hearing~~)) (or the Examiner and Commissioners as the case may be) shall prepare a written decision and order, ((~~. The final decision shall be filed~~))file it as a public record with the City Clerk, and ((~~copies thereof mailed~~)) provide a copy to each party of record and to the Agency.

2. Such decision shall contain a brief summary of the evidence considered and shall contain findings of fact, conclusions of law upon which the decision is based, and an order detailing the relief deemed appropriate, together with a brief statement of the reasons therefore.

3. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed a violation of this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this ((~~chapter~~)) Chapter 14.16, and secure compliance therewith, including but not limited to hiring, reinstatement, or upgrading with or without back pay, lost benefits, attorney's fees, admittance or restoration to membership in a labor organization, or such other action which will effectuate the purposes of this chapter, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed $10,000. Back pay liability shall not accrue from a date more than 2 years prior to the initial filing of the charge.

4. Respondent shall comply with the provisions of any order affording relief and shall furnish proof of compliance to the Agency as specified in the order. In the event respondent refuses or fails to comply with the order, the Director shall notify the City Attorney of the same

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and the City Attorney shall invoke the aid of the appropriate court to secure enforcement or compliance with the order.

Section 17. Subsection A of Section 15.91.006 of the Seattle Municipal Code, which section was last amended by Ordinance 120822, is amended as follows:

15.91.006 Response to citations.

A. A person must respond to a citation in one (((~~(1)~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent.

* * *

Section 18. Subsection A of Section 15.91.010 of the Seattle Municipal Code, which section was last amended by Ordinance 123659, is amended as follows:

15.91.010 Mitigation hearings

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be sent ((~~by first~~

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~~class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten days before the date of the hearing.

* * *

Section 19. Section 22.206.217 of the Seattle Municipal Code, which section was adopted by Ordinance 120087, is amended as follows:

22.206.217 Variances((~~,~~))

A. The Director may grant a variance from the standards and requirements of SMC Sections 22.206.010 through 22.206.140 and Section 22.206.200 if the Director determines that all of the following conditions or circumstances exist:

1. Unusual conditions exist at the subject property which were not created by the current owner, tenant or occupant;

2. The requested variance does not go beyond the minimum necessary to afford relief;

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity;

4. The literal interpretation and strict application of the applicable provisions or requirements of this Code would cause undue hardship or practical difficulties; and

5. The requested variance would be consistent with the spirit and purpose of this ((~~Code~~)) Title 22.

B. Application for and Processing of Variances.

1. The current owner or tenant of a building may request a variance on a form provided by the Department. The request must describe the standards or requirements of

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((~~SMC~~)) Sections 22.206.010 through 22.206.140 or of ((~~SMC~~)) Section 22.206.200 from which a variance is requested and explain how the requested variance complies with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217. A variance request must contain the address of the property, the name and address of all persons having an interest in the property, and the names and addresses of all parties affected by the condition or conditions for which a variance is requested, including all property owners and occupants. The Director shall establish by Rule submittal requirements for a variance request.

2. Upon receipt of a variance request, the Director shall contact the requestor to arrange the date and time of an inspection to view the conditions for which the variance is sought and to ascertain compliance with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217. The inspection shall be conducted within ((~~thirty (~~))30((~~)~~)) days after a variance request is received, unless a later inspection is agreed to by the requestor. The Director also shall notify in writing all other persons identified in the variance request of the request and of the opportunity to submit information or comments on the request. Comments about a variance request must be received by the Department within ((~~twenty (~~))20((~~)~~)) days after the date of mailing the notification of a variance request.

C. The Director shall decide whether to grant a variance within ((~~thirty (~~))30((~~)~~)) days after the inspection conducted pursuant to subsection 22.206.217.B. When a variance is authorized, conditions or mitigating measures may be required as deemed necessary to ensure continued compliance with subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217 or to otherwise carry out the spirit and purpose of this ((~~Code~~))Title 22. The variance decision shall be ((~~mailed~~)) sent to the requestor and to all affected parties identified in the

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2012 CITY CLERK

written request for a variance and other interested parties who submitted information or comments about a variance request.

D. Records. The Director shall maintain a record in Department files of all variance requests and decisions. The record shall include findings regarding compliance with the conditions of subsections A.1 through A.5 of ((~~SMC~~)) this Section ((~~22.202.217~~)) 22.206.217 and any conditions or mitigating measures required by the Director in granting the variance.

E. Appeal of Variance Decision. Any person with an ownership interest in a building or premises for which a variance request has been made, or any tenant of such property, may appeal the Director's decision on the variance by filing an appeal with the Hearing Examiner.

1. Variance appeals shall be filed with the Hearing Examiner, with the applicable filing fee specified in ((~~SMC~~)) Section 3.02.125, by ((~~five (~~))5((~~:00~~)))p.m. of the twentieth day following the mailing of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until ((~~five (~~))5((~~:00~~)))p.m. on the next business day. An appeal shall be deemed filed when it is actually received by the Hearing Examiner's Office. The Hearing Examiner's time and date stamp shall be prima facie evidence of filing.

2. An appeal shall be in writing and shall state:

a. The name and mailing and electronic ((~~address~~)) addresses of the appellant.

b. The ownership or other interest of the appellant in the building or premises that is the subject of the variance decision;

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c. The names and mailing addresses of all tenants or other occupants of the building or premises and, if the appellant is an owner of the property, of all other persons with an ownership or other interest in the building or premises;

d. The specific objections to the Director's decision;

e. The relief sought.

3. Notice of a hearing on the appeal shall be ((~~mailed~~)) provided by the Hearing Examiner at least ((~~twenty (~~))20((~~)~~)) days prior to the scheduled hearing date to the Director and to all affected parties identified pursuant to subsection ((~~E2c of SMC Section~~)) 22.206.217.E.2.c.

4. Appeals shall be considered de novo and shall be limited to objections raised in the appeal statement. The Director's decision shall be affirmed unless the Hearing Examiner finds the Director's decision to be clearly erroneous. The person requesting the variance shall have the burden of proving, by preponderance of the evidence, all elements related to justifying the variance.

5. Within ((~~thirty (~~))30((~~)~~)) days after the hearing is conducted, the Hearing Examiner shall ((~~issued~~)) issue a decision on a variance appeal ((~~the Hearing Examiner's decision shall be mailed~~)) and provide a copy to the appellant, the Director, and ((~~to~~)) other affected parties on the day it is issued.

6. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review shall be as provided by RCW 36.70C and must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

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Section 20. Subsections B, C, D, and G of Section 22.208.050 of the Seattle Municipal Code, which section was last amended by Ordinance 122397, are amended as follows:

22.208.050 Appeal from order of Director((.))

* * *

B. The appeal shall:

1. Be filed with the Hearing Examiner no more than ten (((~~10~~))) days after service of the Director's order;

2. Be in writing and state clearly and concisely the specific objections to the Director's order;

3. State the ownership or other interest that each appellant has in the building, premises, or portion thereof involved in the order of the Director;

4. State briefly the remedy sought; and

5. Include the signatures of all appellants and their mailing and electronic addresses.

C. The Hearing Examiner shall set a date for the hearing and provide no less than ((~~twenty (~~))20((~~)~~))) days' written notice of the hearing to the parties. Notice of the appeal and hearing shall be posted in a place on the property conspicuous to persons entering the structure and if practical conspicuous from an abutting public right-of-way.

D. The appeal hearing shall be conducted pursuant to the contested case provisions of ((~~the Administrative Code, SMC~~)) Chapter 3.02. The Hearing Examiner is authorized to promulgate procedural rules for the appeal hearing pursuant to ((~~the Administrative Code~~)) Chapter 3.02.

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G. Within ((~~fourteen (~~))14((~~)~~)) days after the hearing the Hearing Examiner shall issue a written decision containing findings of fact and conclusions and shall ((~~mail~~)) provide copies of the decision to the parties of record. The decision of the Hearing Examiner shall be the final decision of the City and shall have the same effect as a decision of the Director issued pursuant to Section 22.206.235. The decision and order of the Hearing Examiner shall be filed by the Director with the King County ((~~Department of Records and Elections~~)) Recorder.

* * *

Section 21. Section 22.210.150 of the Seattle Municipal Code, which section was last amended by Ordinance 118839, is amended as follows:

22.210.150 Administrative appeals((~~.~~))

A. Either an owner or a tenant may request a hearing before the Hearing Examiner to appeal a determination concerning a tenant's eligibility for a relocation assistance payment. Either an owner or a tenant may request a hearing before the Hearing Examiner to resolve a dispute concerning the authority to institute unlawful detainer actions during the ((~~ninety (~~))90((~~)~~)) day period after service of the notice required by Section 22.210.120 ((~~of this chapter~~)).

B. Appeals regarding eligibility for relocation assistance shall be filed within ten (((~~10~~))) days after receipt of the Director's notice of tenant eligibility for relocation assistance.

C. A request for a hearing relating to authority to pursue unlawful detainer actions during the relocation period shall be filed prior to issuance of the tenant relocation license.

D. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the period shall run until ((~~five (~~))5((~~:00~~))) p.m. on the next business day.

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E. All requests for a hearing and appeals shall be in writing and shall clearly state specific objections and the relief sought. The appellant shall not be required to pay the Hearing Examiner filing fee set forth in Section 3.02.125 ((~~of the Seattle Municipal Code, Hearing Examiner filing fees~~)).

F. Notice of the hearing shall be ((~~mailed~~)) provided by the Hearing Examiner at least ten (((~~10~~))) days prior to the scheduled hearing date to the tenant, the owner, the Director, and any other interested parties who have requested notice.

G. A record shall be established at the hearing before the ((~~hearing examiner~~)) Hearing Examiner. Appeals shall be considered de novo. The Director shall not be a necessary party to any ((~~hearing examiner)~~) Hearing Examiner proceedings pursuant to this ((~~section~~)) Section 22.210.150.

H. On the day it is issued, the ((~~The~~)) Hearing ~~Examiner's~~ Examiner shall provide the decision on the appeal ((~~shall be mailed on the date the decision is issued~~)) to the tenant, the property owner, the Director, and ((~~to~~)) all those requesting notice.

I. The Hearing Examiner's decision shall be final and conclusive unless, within ten (((~~10~~))) calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in violation of constitutional provisions.

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Section 22. Section 22.220.140 of the Seattle Municipal Code, which section was last amended by Ordinance 114865, is amended as follows:

22.220.140 Appeal -- From Director's order((.))

A. Within ((~~fifteen (~~))15((~~)~~)) days from the date of service and posting of an order issued by the Director, the owner may file a written notice of appeal with the Office of the Hearing Examiner. The notice of appeal shall state the specific errors in the Director's order of proceedings and the specific grounds upon which a reversal or modification of the order is sought. The Director's decision to grant or deny administrative relief pursuant to Section 22.220.120 and the issues determined therein shall not be appealable to the Hearing Examiner. The notice of appeal shall be accompanied by a filing fee of ((~~Twenty-five Dollars (~~))$25((~~)~~)).

B. The Hearing Examiner shall consider the appeal in accordance with the procedures established by ((~~the Administrative Code of The City of Seattle (~~))Chapter 3.02 ((~~of the Seattle Municipal Code~~))) for hearing contested cases. Notice of hearing shall be provided to all parties not less than ten (((~~10~~))) days prior to the hearing. The Hearings Examiner's review shall be de novo. The Hearing Examiner may affirm the order of the Director, or may reverse or modify the order only if it is determined that the Director's decision is clearly erroneous.

C. The Hearing ((~~Examiner's~~)) Examiner shall provide the final written decision containing findings of fact and conclusions of law ((~~shall be mailed~~)) to the parties of record and ((~~filed~~)) file it with the King County ((~~Department of Records and Elections~~)) Recorder.

D. The Director's order shall not be final until the time for filing an appeal with the Hearing Examiner has expired or until the issuance of the Hearing Examiner's decision if an appeal is taken; provided that, ((~~when~~)) if the Director determines that the deficiencies noted in

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2012 CITY CLERK

the complaint will cause immediate and irreparable harm, and so states in the notice and order issued, the order shall be final upon issuance by the Director.

Section 23. Subsection A of Section 22.920.160 of the Seattle Municipal Code, which section was adopted by Ordinance 123226, is amended as follows:

22.920.160 Citation mitigation hearings

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after a written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten days prior to the hearing date.

* * *

Section 24. Subsection E of Section 23.66.030 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

23.66.030 Certificates of Approval – Application, review and appeals.

* * *

E. Appeal to Hearing Examiner.

1. Any interested person may appeal the decision of the Department of Neighborhoods Director to the Hearing Examiner by filing a notice of appeal within ((fourteen ())14(())) days of the Department of Neighborhoods Director's decision. When the proposed action that is the subject of the certificate of approval is also the subject of one (((~~1~~))) or more related permit applications under review by the Department of Planning and Development, then the appellant must also file notice of the appeal with the Director of the Department of Planning and Development, and the appeal of the certificate of approval shall not be heard until all of the

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time periods for filing administrative appeals on the other permits or any environmental determinations have expired, except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately without being consolidated. The appeal of the certificate of approval shall be consolidated with the predecision hearing required for any Type IV Council land use decision, or if one (((~~1~~))) or more appeals are filed regarding the other permits or environmental determinations, the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals or predecision hearing, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed without being consolidated.

2. If the related permit decisions would not be appealable, and no predecision hearing is required, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

3. The applicant for the certificate of approval, not involving approval of preliminary and subsequent design phases also may elect to have the appeal proceed immediately rather than be postponed for consolidation with appeals of related permit applications or with a predecision hearing, if the applicant agrees in writing that the time period for review of those permits or approvals ~~shall be~~ is suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

4. The Hearing Examiner shall hear the appeal de novo in accordance with the standards and procedures established for Hearing Examiner appeals by Chapter 3.02 ~~of the Seattle Municipal Code~~. Appeals shall be limited to the issues cited in the notice of appeal. The

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SEA CITY CLERK

decision appealed may be reversed or modified only if the Hearing Examiner finds that the Department of Neighborhoods Director's decision was arbitrary and capricious.

5. If evidence is presented to the Hearing Examiner that was not presented to the Board, or if the Hearing Examiner determines that additional information is required, then the Hearing Examiner shall remand the decision to the Department of Neighborhoods Director for consideration of the additional information or evidence.

6. The Hearing Examiner shall issue a decision not later than ~~ninety (90)~~ days after the last of any appeals of related permit decisions is filed provided that, when an appeal of a certificate of approval is consolidated with a predecision hearing, the Hearing Examiner shall issue the decision on the certificate of approval with the recommendation to the City Council on a Type IV Council land use decision, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection E3, then not later than ~~ninety (90)~~ days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications or approvals.

7. The decision of the Hearing Examiner shall be final. Copies of the Hearing Examiner's decision shall be ~~mailed~~ provided to all parties of record before the Hearing Examiner. Any judicial review must be commenced within ~~twenty-one (21)~~ days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 25. Subsection A of Section 23.91.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122407, is amended as follows:

23.91.006 Response to citations.

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A. A person must respond to a citation in one (((~~1~~))) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing ((~~a mailing~~)) an address to which notice of such hearing may be sent.

* * *

Section 26. Subsection A of Section 23.91.010 of the Seattle Municipal Code, which section was last amended by Ordinance 121477, is amended as follows:

23.91.010 Mitigation hearings((~~.~~))

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~))) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing ((~~will~~)) shall be sent ((~~by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ten (((~~10~~))) days prior to the date of the hearing.

* * *

Section 27. Section 25.02.080 of the Seattle Municipal Code, which section was last amended by Ordinance 122825, is amended as follows:

25.02.080 Appeal of Director's Decision((~~.~~))

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A. Appealable Decisions. An affected employer that is aggrieved by any of the following decisions of the Director may appeal the decision to the Office of the Hearing Examiner pursuant to this ((~~section~~))Section 25.02.080:

1. Decisions rejecting a CTR program pursuant to Section 25.02.040.

2. Decisions rejecting a CTR program report pursuant to Section 25.02.050 for failure to include the required performance data.

3. Decisions approving a CTR program report pursuant to Section 25.02.050, but finding that the affected employer has not met its goals and targets and is therefore required to submit a revised CTR program pursuant to Section 25.02.050 and 25.02.055.

4. Decisions rejecting a revised CTR program pursuant to Section 25.02.055.

5. Decisions denying a request for an exemption or adjustment under Section 25.02.070.

B. Effect of Appeal or Failure to Appeal. If a Director's decision is timely appealed to the Hearing Examiner, any deadline imposed by that decision for submitting an initial or revised CTR program or report is tolled pending the outcome of the appeal. If the Hearing Examiner affirms the Director's decision, the Hearing Examiner shall set a new deadline for submitting an initial or revised CTR program or report. If the affected employer does not appeal a Director's decision to the Hearing Examiner, the Director's decision is final for purposes of enforcement action under Section 25.02.090.

C. Hearing Examiner Appeal Procedures. Except as otherwise provided by this ((~~section~~))Section 25.02.080, appeals of Director's decisions pursuant to this ((~~chapter~~))Chapter

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25.02 are governed by the Hearing Examiner's rules for contested cases adopted pursuant to Chapter 3.02((~~SMC~~)).

1. Standing. Only an affected employer subject to a decision of the Director may appeal that decision to the Hearing Examiner.

2. Filing Requirements.

a. Appeals shall be filed with the Hearing Examiner no later than ((~~five~~ ~~(~~))5((~~:00~~))) p.m. on the fourteenth calendar day following the date of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until ((~~five (~~))5((~~:00~~)))p.m. on the next business day. The appeal shall be accompanied by payment of the applicable filing fee set forth in Section 3.02.125((~~, Hearing Examiner filing fees~~)).

b. In form and content, the appeal shall conform to the rules of the Hearing Examiner adopted pursuant to Chapter 3.02 ((~~SMC~~)).

3. Hearing and Notice of Hearing. The Hearing Examiner shall schedule a hearing and provide notice of the hearing at least ((~~twenty (~~))20((~~(~~)))days prior to the scheduled hearing date.

D. Hearing -- Scope of Review. The hearing shall be conducted de novo and in accordance with the Hearing Examiner's rules of procedure. The Hearing Examiner shall consider only those issues raised in the notice of appeal and relating to the requirements of this ((~~chapter~~))Chapter 25.02.

E. Hearing Examiner's Decision. Within ((~~thirty (~~))30((~~(~~))) days after the hearing, the Hearing Examiner shall issue a written decision that shall include findings of fact and conclusions of law in support of the decision. The Hearing Examiner may affirm, reverse,

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2012 CITY CLERK

remand, or modify the Director's decision. The Director and the affected employer that appealed the Director's decision shall be bound by the terms and conditions of the Hearing Examiner's decision unless the decision is reversed or remanded on judicial review.

F. Notice of Hearing Examiner Decision. On the day the Hearing Examiner issues a decision, the Hearing Examiner shall ((~~mail~~)) provide the decision to the Director and to the ((~~affected~~)) employer that appealed.

Section 28. Subsection A of Section 25.08.930 of the Seattle Municipal Code, which section was adopted by Ordinance 122614, is amended as follows:

25.08.930 Mitigation hearings((~~.~~))

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within ((~~thirty (~~))30((~~)~~)) days after written response to the citation requesting such hearing is received by the Hearing Examiner. The Hearing Examiner shall send notice ((~~Notice~~)) of the time, place, and date of the hearing ((~~will be sent by first class mail~~)) to the address ((~~provided~~)) specified in the request for hearing not less than ((~~ten (~~))10((~~)~~)) days prior to the date of the hearing.

* * *

Section 29. Section 25.10.540 of the Seattle Municipal Code, which section was adopted by Ordinance 116057, is amended as follows:

25.10.540 Appeals((~~.~~))

The order of the Administrator may be appealed subject to the following:

A. Any person aggrieved by an order issued by the Administrator may file an appeal in writing with the Hearing Examiner no later than 5 p.m. on ((~~within a period extending to five~~

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SEA CITY CLERK

~~p.m. (5:00 p.m.) of~~)) the tenth day following the date of service of the order. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until 5 p.m. on the next business day.

B. The appeal shall be accompanied by the payment of the filing fee as set forth in Section 3.02.125 ((~~of this Code which governs Hearing Examiner fees~~)).

C. The appeal shall state specifically why the appellant believes the order to be in error.

D. Upon timely notice of appeal the Hearing Examiner shall set the date for a hearing and shall ((~~mail~~)) provide notice to the appellant, to the owner or operator of the facility if different from the appellant, and to the Administrator not less than ((~~twenty (~~))20((~~)~~)) days prior to the hearing.

E. The hearing shall conform with the rules of the Hearing Examiner adopted pursuant to Chapter 3.02.

((~~E~~))F. The Hearing Examiner shall give substantial weight to the order of the Administrator and the burden of overcoming that weight shall be upon the appellant.

((~~F~~))G. The Hearing Examiner may affirm, reverse, or modify the order of the Administrator or may remand it to the Administrator for further consideration. Within ((~~fifteen (~~))15((~~)~~)) days of the close of the record the Hearing Examiner shall transmit to the parties findings of fact, conclusions of law, and a decision~~/~~ or order. The decision~~/~~ or order of the Hearing Examiner shall be final and the appellant and the Administrator shall be bound by it.

((~~G. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to SMC Chapter 3.02. Until~~

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~~such time as rules are promulgated, the Hearing Examiner rules of general applicability and SMC Chapter 3.02 shall apply.~~))

Section 30. Subsection E of Section 25.16.110 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.16.110 Certificate of approval – appeal if denied((~~.~~))

* * *

E. The Hearing Examiner shall issue a decision not later than ((~~ninety (~~))90((~~)~~)) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection B, then not later than ~~ninety (90)~~ days from the filing of that appeal. The decision of the Hearing Examiner shall be final. Any judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040. Copies of the decision shall be ((~~mailed~~)) provided to all parties of record and transmitted to the Director, the District Board, and the property owner if the owner is not a party of record.

Section 31. Subsection I of Section 25.16.115 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.16.115 Requests for interpretation((~~.~~))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

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Section 32. Subsection I of Section 25.20.115 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.20.115 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 33. Subsection I of Section 25.21.135 of the Seattle Municipal Code, which section was last amended by Ordinance 122750, is amended as follows:

25.21.135 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 34. Subsection I of Section 25.22.135 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.22.135 Requests for interpretation((.))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of

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record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 35. Subsection I of Section 25.24.085 of the Seattle Municipal Code, which section was last amended by Ordinance 120157, is amended as follows:

25.24.085 Requests for interpretation((~~,~~))

* * *

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Commission, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be ((~~mailed~~)) provided to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within ((~~twenty-one (~~))21((~~)~~)) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

Section 36. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2012, and signed by me in open session in authentication of its passage this

_____ day of _____, 2012.

_____

President _____ of the City Council

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Approved by me this ____ day of _____, 2012.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

_____

Monica Martinez Simmons, City Clerk

(Seal)

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CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

285868 No.
CITY OF SEATTLE,CLERKS OFFICE

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:123899-905 TITLE ONLY

was published on

06/29/12

The amount of the fee charged for the foregoing publication is the sum of $ 111.60, which amount has been paid in full.

Pamela Crosby

Subscribed and sworn to before me on

06/29/12

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. BORRERO NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-24-15

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on June 11, 2012, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123899

AN ORDINANCE relating to notice procedures in Hearing Examiner proceedings, amending Sections 3.02.090, 3.02.100, 5.55.150, 5.55.230, 6.02.290, 6.202.310, 7.20.100, 10.07.050, 10.52.032,10.52.034, 11.16.317, 14.04.180, 14.06.120, 14.08.180, 14.10.140, 14.16.080, 15.91.006, 15.91.010, 22.206.217, 22.208.050, 22.210.150, 22.220.140, 22.920.160, 23.66.030, 23.91.006, 23.91.010, 25.02.080, 25.08.930, 25.10.540, 25.16.110, 25.16.115, 25.20.115, 25.21.135, 25.22.135, and 25.24.085 to allow the option to provide notice by electronic means in specified circumstances and correct section references and format.

ORDINANCE NO. 123900

AN ORDINANCE relating to Hearing Examiner filing fees, amending Section 3.02.125 to increase the fees required for certain cases before the City Hearing Examiner, and amending Sections 7.20.080 and 22.220.140 to make those sections consistent with Section 3.02.125.

ORDINANCE NO. 123901

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 1227 South Jackson Street; authorizing acceptance and recording of the deed for open space, park, and recreation purposes; authorizing acquisition by condemnation; increasing appropriations to the Department of Parks and Recreation in the 2012 Adopted Budget; and ratifying and confirming certain prior acts; all by a three fourths vote of the City Council.

ORDINANCE NO. 123902

AN ORDINANCE relating to the 2012 Budget; carrying forward certain unexpended appropriations and funds for non- capital purposes from the 2011 budget of various departments; ratifying and confirming certain prior acts, all by a 3/4 vote of the City Council.

ORDINANCE NO. 123903

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with Festivals, Inc. for the presentation of annual Bite of Seattle festivals at Seattle Center.

ORDINANCE NO. 123904

AN ORDINANCE approving and confirming the plat of "Goodhue" in a portion of Section 19, Township 26 North, Range 4 East, W.M. in King County, Washington with a modified plat condition; waiving the requirement of a surety bond under subsection 23.22.070.C of the Seattle Municipal Code and approving acceptance of an irrevocable standby letter of credit to guarantee completion of required facilities and improvements; and setting a date for completion of required facilities and improvements.

ORDINANCE NO. 123905

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Publication ordered by the City Clerk

Date of publication in the Seattle Daily Journal of Commerce, June 29, 2012.

6/29(285868)