

3.68.200 Hearing examiner.

~~The purpose of this~~ This chapter ~~is to establish~~ establishes the office of hearing examiner and the authority of the hearing examiner, which shall include:

~~A. conducting~~ Conducting administrative hearings and ~~other~~ proceedings as prescribed by this code, ~~or other~~ city ordinance, administrative orders, or other valid authorization; and

~~B. , and to provide~~ Exercising the authority of the hearing body, as designated in state law and city code for land use matters, and providing an administrative land use regulatory system ~~which will best~~ to satisfy the following ~~basic~~ needs:

- ~~1. A.~~—The need to separate the city’s land use regulatory function from its land use planning function;
- ~~2. B.~~—The need to ensure and expand the principles of fairness and due process in public hearings; ~~and~~
- ~~3. C.~~—The need to provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters; ~~and~~;
- ~~4. Requirements of city code and state law.~~

~~3.68.220 Office of hearing examiner:~~

~~The hearing examiner shall exercise the authority of the hearing body, designated in Bellevue Land Use Code and Bellevue City Code for the land use matters set forth in BCC 3.68.250. Hearings held by the hearing examiner shall constitute the hearings required by state law for such land use matters. The hearing examiner shall also have any duties and related authority prescribed to the hearing examiner by this code or other city ordinance.~~

3.68.230 Appointment Selection.

The examiner shall be ~~appointed~~ selected by the city manager; ~~The selection of the~~ examiner shall be ~~appointed~~ solely with regard to qualifications for the duties of such office and the examiner shall have such training or experience as will qualify the examiner to conduct public hearings, administrative appeal hearings, civil enforcement hearings, or quasi-judicial hearings, or perform other authorized duties on land use regulatory matters. The examiner shall hold no other appointive or elective public office or position in the city government except as herein provided.

~~3.68.235 Appointment of hearing examiners pro tempore:~~

~~The city manager may appoint one or more hearing examiners pro tempore to act in the absence of the regular hearing examiner. Such appointment shall be from qualified applicants to be recommended by the hearing examiner. Hearing examiners pro tempore, when acting in such capacity, shall have all powers and duties of the hearing examiner as prescribed in this code or elsewhere.~~

3.68.240 Hearing examiner – Conflict of interest and freedom from improper influence.

- A. The examiner shall not conduct or participate in any hearing or decision in which the examiner has a direct or substantial financial interest.
- B. No councilmember, city official or any other person shall attempt to influence or in any way interfere with the examiner in the performance of their designated duties.

3.68.250 Powers.

A. The examiner shall have the authority to and shall conduct public hearings, ~~administrative appeal hearings, code enforcement hearings, and other hearings and proceedings provided by city code or state law; and~~ prepare a record thereof,; and enter written findings, ~~and~~ conclusions, recommendations ~~and/or~~ decisions ~~for the following land use matters.:~~

- ~~1. Applications for reclassifications;~~
- ~~2. Applications for conditional uses;~~
- ~~3. Applications for conditional uses in shorelines overlay districts;~~
- ~~4. Applications for planned unit developments;~~
- ~~5. Applications for plats;~~
- ~~6. Appeals of administrative short plat decisions;~~
- ~~7. Appeals of State Environmental Policy Act threshold determinations; and~~
- ~~8. Any other matter designated by this code or other city ordinance.~~

B. The examiner's decision for land use matters shall be based upon the policies of the comprehensive plan, Shorelines Management Act, State Environmental Policy Act, any applicable state law, the standards set forth in the various land use regulatory codes of the city, or any other applicable program adopted by the city council. The examiner may attach reasonable conditions ~~found that the examiner finds~~ necessary to make a project compatible with its environment and to carry out the requirements, goals and policies of ~~the city's comprehensive plan, shoreline master program or other applicable laws, codes, plans or programs~~ adopted by the city council.

Such conditions may include but are not limited to the following:

1. Exact location and nature of development, including additional building and parking area setbacks, screenings in the form of landscaped berms, landscaping, or fencing;:
2. Impact of the development upon other lands;
3. Hours of use of operation or type and intensity of activities;
4. Sequence and scheduling of development;
5. Maintenance of the development;
6. Duration of use and subsequent removal of structures;

7. Granting of easements for utilities or other purposes and dedication of land or other provisions for public facilities, the need for which the examiner finds would be generated in whole or in significant part by the proposed development;
8. Mitigation of any adverse environmental impacts; and
9. Provisions which would bring the proposal into compliance with the comprehensive plan policy.

C. The examiner shall have the authority to fix the dates and conduct public hearings required by city code or state law, including but not limited to, for the purpose of taking public comment on the sale or disposition of personal or real property. The hearing examiner shall provide a written summary of public comments submitted orally or in writing for review by the city council. The hearing examiner shall not provide any recommendations or render any decisions related to the subject of these hearings. The summary of the hearing examiner shall be final, and no portion thereof shall be subject to appeal.

D. The examiner shall have the authority to and shall conduct public hearings and prepare a record thereof, and, as needed, enter written findings and conclusions, recommendations or decisions for the following employment related matters:

1. Appeals of significant disciplinary actions and/or involuntary separation, consistent with city policy;
2. Employee grievances or grievance appeals consistent with this code and with city policy;
3. Appeals of wage overpayment determinations as provided by RCW 49.48.210; and
4. Any other matter designated or required by this code, city ordinance, or other applicable law.

~~C. The examiner shall have any duties and related authority prescribed to the hearing examiner by this code or other city ordinance.~~

~~ED. In connection with code enforcement hearings before the examiner pursuant to chapter 1.18 BCC, the examiner may retain authority to oversee, enforce, or modify issued orders or rulings as long as the matter remains within the examiner's jurisdiction and circumstances warrant continued oversight to facilitate compliance with the examiner order or ruling.~~

F. The examiner shall have the power to prescribe rules and regulations concerning procedures for hearings and other proceedings authorized herein, ~~subject to confirmation by the city council,~~ to issue summons for and compel the appearance of witnesses, to administer oaths and to preserve order. The privilege of cross-examination of witnesses shall be accorded all interested parties or their counsel in accordance with rules of the examiner.

3.68.255 Hearings under Chapter 35.72 RCW, Contracts for Street Projects.

The examiner shall have the authority to and shall conduct public hearings and prepare a record thereof, and enter written findings and conclusions, and make a recommendation to the city council whenever a property owner requests a hearing under RCW 35.72.040 regarding assessment reimbursement contracts.

3.68.260 Procedures.

The procedures of BCC 20.35.100 et seq., BCC 20.35.200 et seq., or BCC 20.35.300 et seq., as applicable, will apply to the land use matters heard by the examiner.

3.68.270 Payment of cost of transcription of verbatim written transcript.

Whenever the city is required to prepare a verbatim written transcript of any proceedings of the city in response to a writ of review or other action filed in the superior court or any other state or federal court the cost of preparing the same shall be borne by the party filing the action. Within 10 days of the service of such writ of review or other action on the city, the city clerk shall notify the party filing the action that it will be necessary for the city to prepare a verbatim written transcript of the proceedings involved. In such notice, the city clerk shall state the date and subject matter of the public meeting(s) and/or hearing(s) involved and the estimated cost of the preparation of the transcript, including copying costs. Within 10 days of the receipt of such notification, the party filing such action shall pay said estimated cost to the city clerk and the city clerk shall thereafter make provision for the preparation of the transcript.

Should the actual cost incurred by the city in preparation of the transcript exceed the amount deposited with the city clerk, the party making such deposit shall be required to reimburse the city for such additional amount within 10 days of notification that such amount is due. Should the actual cost incurred by the city be less than the estimated cost deposited, such credit due shall be reimbursed by the city to the party making the deposit.

If transcripts have previously been prepared by the city clerk as provided for under Resolution No. 5097 with regard to appeals to the city council, then there shall be no additional charge to the party filing the action, except for copying costs, and such previously prepared transcripts shall be filed with the court by the city at no additional expense to the party appealing, except for copying costs.

Any party filing an action may request waiver of the payment of cost of transcription in accordance with the requirements set forth in Section 4 of Resolution No. 5097.