



King County

HEARING EXAMINER GUIDE

GENERAL GUIDE

Available in English

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Có tiếng Việt

Доступно на русском языке



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Hearing Examiner Guide

What is this guide?

This guide summarizes the hearing examiner process for applications and appeals. It is meant to help laypersons and carries no legal weight. The examiner has specific guides available for code enforcement, for-hire drivers, and animal enforcement. The examiner invites questions.

Who is the Examiner?

The examiner is appointed by the King County Council to hold hearings and issue decisions and recommendations. The examiner is a neutral decision-maker, like a judge. The examiner and staff work for the council, *not* for the executive or for any agency.

How about access?

Sign language interpretation is available, for free, by calling TDD Number (206) 296-1024. Non-English language interpreters are available, for free. For those with travel barriers, contact the examiner to discuss alternatives, like appearing by telephone. Call (206) 477-0860 or email hearingexaminer@kingcounty.gov. Please make requests early in the process.

Are there different types of hearings?

Examiners hold two broad hearing types: applications and appeals. For applications, such as subdivisions or open space property tax reductions, a hearing is held in each case, whether or not anyone files an objection. In contrast, for some agency actions, like enforcement or permits, the examiner only gets involved if a person is unhappy with the agency's action and files an appeal. Occasionally hearing involves both an application and an appeal.

How does the hearing process start?

For applications, the hearing process generally begins when the reviewing agency informs the examiner that an application is ready for consideration, and the council refers it to the examiner. The examiner then schedules a proceeding, either a hearing or a conference.

Conversely, for appeals, the process begins when someone files an appeal with the agency taking the disputed action. The following strict requirements apply to filing appeals:

1. **Timing.** Check the action you are appealing (and the code, especially KCC 20.22.070 and .080), so you understand the requirements, and/or contact the examiner's office. For

most cases, the agency must receive your appeal by 24 calendar days after the agency *issues* its order; however, check the appeal language in the agency order itself or in KCC 20.22.070, as some appeal deadlines are shorter. The clock starts ticking on the date the agency mails it or posts it on the property, not on the date you actually receive it.

2. **Delivery.** Getting your appeal to a post office by the deadline is *not* sufficient; the agency must actually *receive* your appeal by the deadline (and mail delivery often takes many days). Untimely appeals are barred—there is no flexibility. This may not seem fair, but it is the law.
3. **Fee.** Some appeals, like enforcement actions, have no fee. The fee for most other appeals is \$250. See KCC 4A.780.010.A. If a fee is required, the agency must also receive the fee by the deadline, or your appeal will be barred.
4. **Content.** Your appeal statement must include:
 - ✓ Either a copy of the agency decision(s) you are appealing or the agency file number(s) and decision date(s);
 - ✓ A description of your interest in the case;
 - ✓ The errors you think the agency made in its decision;
 - ✓ Specific reasons why you think the agency decision should be reversed or modified;
 - ✓ How the agency’s decision harms or will harm you; and
 - ✓ What outcome you seek.

While your appeal does not have to include all the evidence (like a document) you want to submit to support your appeal, it should include all the matters or issues you want to raise. If you are not sure exactly what to say, make sure you still deliver *an* appeal (even if imperfect) to the agency by the deadline, along with any required appeal fee.

If you get your initial appeal (and any required fee) to the agency on time, the examiner has authority to later allow you, before the hearing, to modify or add to the issues you originally raised. But the examiner has *no* authority to hear your appeal if your original statement did not arrive at the agency by the deadline. **Whatever you do, make sure the agency receives your appeal on time!**

Filing a timely appeal does not prevent you from resolving your case without going to a hearing. It simply preserves your right to object to an agency action. Otherwise the agency action becomes final and unchallengeable once the appeal deadline passes.

Is mediation a possibility?

Mediation may be available. First, check Examiner Rule V (see link below). To initiate mediation, make a written request early in the process.

What can you expect before a hearing?

Notice requirements vary by case type. In general, for applications, notice is typically by newspaper and by mailing parties, nearby property owners, and interested persons who have asked to be notified. For appeals, notice is typically mailed to parties and interested persons.

At least two weeks before any hearing, the examiner sends a notice. Read that notice carefully. It sets the day, time, and format (telephone, video, in-person, etc.) of the hearing. It sometimes includes descriptions of the examiner's initial interpretations of the issues for hearing and thoughts on potential resolution. It sets deadlines for any required pre-hearing submittals.

Two weeks before a hearing, the agency submits to parties, interested persons, and the examiner a report summarizing the issues. Read this carefully. Often (depending on case type), the agency provides some or all of the documents the agency intends to offer as exhibits.

The agency's case file is a public record; anyone wanting to review the entire file prior to the hearing may arrange this with the agency (by email to pd.requests@kingcounty.gov or by calling (206) 263-1977). Anyone may request examiner documents as well; examiner records are usually available electronically, typically at no cost.

For a list of King County agencies that are frequently involved in examiner cases, see <http://www.kingcounty.gov/independent/hearing-examiner/guide.aspx>.

Who can participate in the process?

Participation depends on the type of hearing. For applications, only the parties are involved in matters like (re)scheduling a conference or hearing, setting deadlines, or making or responding to motions, but anyone may provide documents and attend a hearing and offer testimony. For appeals, the public may attend, but typically may not offer input; usually, only the parties decide what documents to present and witnesses to call.

Others with an interest in the case may request "intervenor" status to become a party. Please review Examiner Rule X.B (link at end) for information on requesting this. Intervenor requests are not automatically granted, but are reviewed on a number of specific criteria.

What typically happens at a hearing?

When is the hearing?

The examiner's notice or order gives the hearing location and start time, and format (in-person, video, telephone, etc.); read that carefully. Be on time, or you may forfeit your rights. Very occasionally, a prior hearing runs overtime and delays the next hearing's start. Please enter the room quietly (proceedings are recorded), refrain from side conversations, and turn off all phones.

How will the hearing go?

Order and content depend on the type of hearing. See Examiner Rule XI for a full description. For all hearings, the examiner swears in anyone offering testimony, and any party may

question any witnesses. Any party may specifically object to any document, although examiners have a lower threshold than courts do for admitting evidence.

How can I present the best case?

Closely read the notice the examiner sends out before hearing. Effective testimony and argument often explain how a specific law applies to your case. You can present notes, written statements, photographs, documentary records, and visual aids.

Statements offered during the hearing, under oath and subject to cross examination (questioning), are generally given the most consideration. For an in-person hearing, anyone wanting to introduce a document should bring at least three copies. (Check the examiner's written notice for any pre-hearing deadlines.)

What about hearing records?

Hearings are recorded, and you may request a copy of the recording and any documents. Depending on the volume of data requested, there may be a duplication cost, although the examiner's office tries to maintain most records digitally.

What happens after the hearing?

Within ten business days (meaning weekends and holidays excluded) of the hearing's close, the examiner sends a final determination that includes findings of fact based on the hearing record and conclusions drawn from those findings. It may wholly approve the application or grant the appeal, wholly deny the application or appeal, or do something in the middle (modify conditions, reduce fines, etc.).

Examiner determinations end with general information for how to appeal. The examiner can offer no additional instruction beyond that written information. It is an appellant's responsibility to determine and meet the exact requirements for filing an appeal.

What is the proper way to communicate with the examiner's office?

You may contact the examiner's office with *procedural* questions, but any questions or statements related to the *substance* of the application or appeal should be raised at a hearing or conference, or made in writing and addressed to all parties. Examiner staff screen calls and correspondence to prevent prohibited contacts. Contacting a county councilmember to influence a quasi-judicial hearing is also prohibited. In general, email any party representative listed on the front page of the examiner notice plus hearingexaminer@kingcounty.gov.

How does the examiner ensure I have a fair hearing?

Unless required to by law, examiners do not give any deference to agency determinations. Examiners may not hear applications or appeals where they have financial interests, have pre-judged the issues, or may appear biased by a relationship to a party or property. A person with reasonable grounds to believe an examiner might be influenced by a factor outside the record should promptly bring that concern to the examiner's attention.

What rules and laws typically apply?

To participate effectively, it often helps to become familiar with standards governing the decision-making process, especially KCC chapter 20.22 and the examiner's rules:

- King County Codes: http://www.kingcounty.gov/council/legislation/kc_code.aspx
- Examiner's rules: <http://kingcounty.gov/independent/hearing-examiner/rules.aspx>

And <https://www.kingcounty.gov/independent/hearing-examiner/regulations.aspx> provides a non-exhaustive list of common regulations.

The examiner bases decisions primarily on those sources, on constitutional principles, and on appellate court decisions. You may call the examiner's office with questions.

For past examiner decisions, by type of case and year, see: <https://www.kingcounty.gov/independent/hearing-examiner/case-digest.aspx>.

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