

## Chapter 1.14

### UNIFORM APPEAL PROCEDURE OF ADMINISTRATIVE DECISIONS OF PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DIRECTORS

Sections:

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#### **1.14.010 Applicability.**

This chapter and the procedure herein shall apply to the appeal of all administrative decisions, as defined in PTMC 1.14.020, made by the planning and community development department (PCD) and public works directors of the city which may now or hereafter be provided for by ordinance of the city. All administrative decisions not specifically made appealable under this chapter shall be governed by Chapter 20.01 PTMC. (Ord. 3287 § 5, 2022; Ord. 3026 § 1 (Exh. A-1), 2010; Ord. 2892 § 1, 2005; Ord. 2585 § 1, 1997; Ord. 2506 § 1, 1996; Ord. 2275 § 1, 1991).

#### **1.14.020 Definitions.**

A. “Administrative decision,” for the purposes of this chapter, shall mean the following decisions:

1. All appealable Type I-A, Type IA-S, ~~and~~ Type II and Type II-S land use decisions as defined in Chapter 20.01 PTMC, and as provided in applicable land use codes;
2. All SEPA threshold decisions, as provided by Chapter 19.04 PTMC;
3. All appealable decisions of the public works director as provided in PTMC Title 12;
4. All appealable decisions of the public works director as provided in PTMC Title 13; and
5. All decisions of the PCD director and the public works director in any code enforcement matter made appealable pursuant to Chapter 1.20 PTMC.

B. “Director” means the PCD director of the city, or his or her designee, or the public works director of the city, or his or her designee.

C. “Land use codes” includes PTMC Title 12, Streets and Sidewalks; Title 13, Water, Sewer and Stormwater; Title 16, Buildings and Construction; Title 17, Zoning; Title 18, Land Division; and Title 19, Environmental Protection, and Shoreline Master Program Development Regulations.

D. “Hearing examiner” means the official appointed by the city council pursuant to Chapter 2.14 PTMC to serve as the city’s hearing examiner. (Ord. 3287 § 5, 2022; Ord. 3026 § 1 (Exh. A-1), 2010; Ord. 2952 § 1, 2008; Ord. 2892 § 1, 2005; Ord. 2698 § 1, 1999; Ord. 2585 § 1, 1997; Ord. 2506 § 1, 1996; Ord. 2275 § 2, 1991).

#### **1.14.030 Administrative appeal process.**

A. Appealable Decisions. Any applicant or any person who participated in an appealable administrative decision as defined in PTMC 1.14.020 and as provided in applicable land use codes may appeal an appealable administrative decision of a director. Appeals shall be filed with the applicable department.

B. Content of Appeal. The appellant shall submit to the applicable department a notice of appeal containing a concise statement identifying and including the following:

1. The decision being appealed;
2. The name and address of the appellant and his/her interest in the matter;
3. The specific reasons why the appellant believes the decision is wrong. ~~The appellant shall bear the burden of proving the decision was wrong, identifying whether the perceived error is factual or legal in nature. If the appellant believes that the decision is legally erroneous, the appellant must clearly identify the legal errors, including citation to all applicable plans, codes and regulations;~~
4. The desired outcome or changes to the decision; and
5. The appeal fee in the amount set forth in Chapter 3.36 PTMC (for public works decisions) or Chapter 20.09 PTMC (for PCD decisions).

Any notice of appeal not in full compliance with this section shall not be considered.

C. Time Limitation for Appeals. Any such appeal must be filed with the PCD or public works department no later than 14 calendar days ~~(or 21 days if SEPA appeal filed concurrently)~~ following the date on which the administrative decision of the director was issued. For the purposes of this chapter, the date on which a land use decision is deemed “issued” is three days after a written decision is mailed by the city or, if not mailed, the date on which the city provides notice that a written decision is publicly available.

D. Assignment of Appeal to Hearing Examiner – Scheduling of Hearing. The PCD or public works department shall transmit the statement of appeal to the city clerk, who shall schedule a hearing before the hearing examiner on the appeal and cause notice of the hearing to be mailed to the applicant and to the appellant no later than 14 calendar days prior to the date of hearing. The notice shall be mailed by first class mail, postage fully prepaid, and proof of mailing shall be by affidavit or declaration under penalty of perjury of the person mailing the same.

E. Conduct of Hearing – Decision of Hearing Examiner. During the hearing, the hearing examiner shall consider the record of the decision of the director, together with any and all information relied upon by the director in making its decision. The hearing examiner shall also consider testimony at the hearing and any other written submissions made at or prior to the appeal hearing. Following the hearing, the hearing examiner shall make a written decision either affirming, reversing or modifying the decision of the director. The hearing examiner shall make findings of fact and conclusions in support of the decision. The hearing examiner’s decision shall represent the final decision of the city.

F. Hearing Examiner Decision – When Issued. The hearing examiner’s decision shall be issued not more than 14 calendar days after the hearing; provided, however, in the event the hearing examiner is unable to issue the decision within the 14-day period, prior to the expiration of the 14-day period the hearing examiner shall mail (by regular mail) a notification to all parties of record advising the parties of the delay and stating the date when the hearing examiner will issue the decision. Delay in issuance of the hearing examiner’s decision shall not be grounds for reversal. (Ord. 3287 § 5, 2022; Ord. 3026 § 1 (Exh. A-1), 2010; Ord. 2892 § 1, 2005; Ord. 2585 § 1, 1997; Ord. 2506 § 1, 1996; Ord. 2275 § 3, 1991).

#### **1.14.040 Standard of review.**

During all appeal hearings subject to this chapter, the appellant shall carry the burden of proof. The hearing examiner shall reverse or modify the administrative decision of the director only upon the appellant demonstrating that the decision appealed was clearly erroneous and/or contrary to law. In making this decision, in reviewing discretionary decisions and issues of code interpretation and application, the hearing examiner shall accord substantial deference to the special expertise of the director as an official charged with administering city plans, ordinances and codes. (Ord. 3026 § 1 (Exh. A-1), 2010; Ord. 2585 § 1, 1997).

#### **1.14.050 Judicial appeal.**

Any judicial appeal of the hearing examiner’s decision must be filed and served within 21 calendar days of the issuance of the land use decision, as further set forth in Chapter 36.70C RCW. (Ord. 3026 § 1 (Exh. A-1), 2010; Ord. 2585 § 1, 1997).