

**City of Seattle**

**Office of Hearing Examiner**

**TO: Monica Martinez Simmons, City Clerk**

**FROM: Ryan Vancil, Hearing Examiner**

**DATE: March 16, 2020**

**SUBJECT: Emergency Rule re Office of Hearing Examiner Temporary Operating Rules During COVID-19**

The attached rule, entitled "Office of Hearing Examiner Operating Rules During COVID-19" ("OHE COVID-19 Temporary Operating Rules") will be adopted by the Office of Hearing Examiner ("OHE") pursuant to the Administrative Code emergency action procedures, SMC 3.02.050, and the OHE's rulemaking authority under SMC 21.60.650. The OHE COVID-19 Temporary Operating Rules applies to all users of OHE services.

This rule is being adopted to address the extraordinary public health emergency caused by COVID-19 in the City of Seattle, King County, State of Washington. The OHE COVID-19 Temporary Operating Rules will become effective immediately, for a period of sixty (60) days, or until such additional measures are required.

**Statement of Facts in Support of Emergency Action under SMC 3.02.050**

- A. On February 29, 2020, Washington State Governor Jay Inslee declared a state of emergency due to the public health emergency posed by the spread of the coronavirus disease 2020 (COVID - 19).
- B. On March 3, 2020, Seattle Mayor Jenny Durkan issued a Proclamation of Civil Emergency for the City of Seattle due to the spread of COVID-19;
- C. On March 4, 2020, Chief Justice Debra Stephens of the Washington State Supreme Court adopted Order No. 25700-8-602, granting emergency authority upon all Washington courts to adopt, modify, and/or suspend court rules and orders, and to take further actions concerning court operations, as warranted to address the current public health emergency that affects operations of trial courts in Washington State; and
- D. On March 11, 2020 the Governor imposed additional restrictions prohibiting gatherings of more than 250 people within King, Snohomish, and Pierce County due to the danger of continued spread of the virus and the increasing danger the virus presents to the health care system in the region;
- E. On March 11, 2020, Dr. Jeff Duchin, Health Officer for Public Health - Seattle and King County, issued a parallel local Health Officer Order for King County to prohibit

gatherings of fewer than 250 people unless measures are taken by event organizers to minimize risk;

- F. On March 12, 2020, Washington State Governor Jay Inslee ordered the closure of all public and private K-12 schools in King, Snohomish and Pierce counties;
- G. On March 15, 2020, officials with the CDC recommended that for the next 8 weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of 50 people or more throughout the United States;
- H. The Office of Hearing Examiner is committed to the health and safety of our staff, attorneys, service providers and the public who access OHE services; and
- I. In accordance with the latest recommendations from Public Health - Seattle and King County and the Centers for Disease Control and Prevention to implement community mitigation strategies to slow the spread of COVID-19 that include limiting large work-related gatherings, encouraging telework and implementing social distancing while meeting our obligations to provide a forum to resolve appeals and administrative review matters in a respectful, independent and impartial manner, the OHE must significantly limit OHE operations to meet both obligations.

In the interest of both public safety and public health during the COVID-19 public health crisis the City of Seattle Office of Hearing Examiner will operate under the following new rules, and amended Hearing Examiner Rules of Practice and Procedure (“HERs”):

1. The Office of Hearing Examiner is closed to access by the public. In person hearings will not occur. All hearings must occur remotely via SKYPE, or will need to be scheduled for a later date when concerns regarding COVID-19 are removed or reduced. The OHE will develop SKYPE hearing protocols, and make these available to all participants. For administrative functions please call (206) 684-0521 or email [Hearing.Examiner@seattle.gov](mailto:Hearing.Examiner@seattle.gov).
2. In person payments for citations, appeal fees etc. may not be made at the Office of Hearing Examiner during this time. Credit and debit card payments are accepted by telephone at (206) 684-0521. Checks are also accepted, payable to the Office of Hearing Examiner and mailed to PO Box 94729, Seattle, WA 98124-4729.
3. Please check the Hearing Examiner [Schedule](#), [website](#), and/or call the OHE to confirm status on the date of your hearing one hour in advance of the start time.
4. The following are temporary amendments to current Hearing Examiner Rules of Practice and Procedure (Current copy of HERs located at: [http://www.seattle.gov/Documents/Departments/HearingExaminer/HE%20Rules%20of%20Practice%20and%20Procedure\\_042414.pdf](http://www.seattle.gov/Documents/Departments/HearingExaminer/HE%20Rules%20of%20Practice%20and%20Procedure_042414.pdf))



## HER 2.05

(a) Documents may be filed with the Hearing Examiner in ~~hard copy, in~~ electronic format through the e-File page of the Hearing Examiner's website ([www.seattle.gov/examiner](http://www.seattle.gov/examiner)) or, subject to Rule 2.05(c), by electronic facsimile. ~~Unless otherwise provided by the Hearing Examiner, if an e-Filed document is more than 10 pages in length, including exhibits, a hard copy of the document must be delivered to the Hearing Examiner.~~

(b) Documents are deemed filed with the Hearing Examiner on receipt at the Office of Hearing Examiner on business days during regular business hours unless the Hearing Examiner has specified otherwise. Documents filed in any format on nonbusiness days, or outside regular business hours, are deemed filed on the next business day.

~~(c) A party may file no more than 15 pages with the Office of Hearing Examiner by electronic facsimile without the prior permission of the Hearing Examiner.~~

(d) Unless otherwise provided by law, by the Hearing Examiner, or by agreement of the parties, documents shall be served on all parties personally, by firstclass, registered, or certified mail, electronic mail, or by facsimile transmission. City agencies may serve other City agencies through the City's regular interoffice mail.

(e) Unless otherwise provided by the Hearing Examiner or by agreement of the parties, service is complete at the time documents are personally delivered, or confirmed as having been successfully transmitted by facsimile or electronic mail. Unless earlier receipt is shown, service by mail is complete on the third day after deposit in the regular facilities of the US mail of a properly stamped and addressed letter or packet unless the third day falls on a non-business day, in which case service is complete on the first business day after the third day.

(f) It is the responsibility of the sender to confirm receipt of an e-Filing or service by electronic mail. Requesting a confirmation receipt for electronic mail is recommended. It is the sender's responsibility to confirm that the Examiner can read, view, and/or listen to e-Filed materials.

## 3.01 FILING

(a) Compliance with Rules. All appeals must comply with these Rules and with the requirements established in the law under which the appeal is filed.

(b) Timeliness. To be timely, an appeal must be received in the Office of Hearing Examiner during regular business hours no later than the last day of the appeal period. (See also HER 2.04 and HER 2.05.) Appeals filed in any format after regular business hours are deemed filed on the next business day. Delivery of appeals filed by any form of USPS mail service may be delayed by several days. Allow extra time if mailing an appeal.

(c) Fee. Any filing fee required by law (see SMC 3.02.125) must accompany an appeal or be paid by credit or debit card (VISA and MASTERCARD only) by telephone, during regular business hours, no later than the last day of the appeal period. The Examiner may allow late payment of filing fees where the ability of an appellant to pay the fee is inhibited by lack of availability of Office of Hearing Examiner staff, or lack of ability of Office of Hearing staff to process the payment in a timely manner. A filing fee cannot be paid by third-party check. The Hearing Examiner may waive part or all of the required fee due to demonstrated financial hardship. A filing fee may be refunded if the Hearing Examiner determines that he or she lacks jurisdiction to hear the appeal, or otherwise determines it appropriate, in fairness to the appellant, to refund the fee.

Date: March 16, 2020

Signature: \_\_\_\_\_  
Ryan P. Vancil, Hearing Examiner