



DEPARTMENT OF FINANCIAL SERVICES
Office of the City Clerk

Tel 360-473-5290
Fax 360-473-5200
345 6th Street, Suite 600
Bremerton, WA 98337-1873

Procedure for filing an Administrative Appeal with the Municipal Court Hearing Examiner

1. You must submit an appeal within seven (7) working days or seven (7) calendar days (as noted in "Code Section Establishing Appeal Rights") from notification of the contested administrative decision. Date of mailing shall be considered date of notification.
2. You must pay a \$65.00 filing fee that will be refunded if you prevail.
3. You need to submit a copy of the written administrative decision you are contesting with the appeal form and fee. Be sure you have exhausted all avenues of remedy with the concerned city department.
4. You need to file your appeal with the City Clerk's Office, 345 6th Street, Suite 600, Bremerton, WA 98337-1873. Appeal forms must be complete.
5. Your appeal must fall into one of the municipal code sections listed on the appeal form or this appeal process is not valid for hearing your complaint. Check with the City Clerk's office for guidance if you cannot find the section that applies to your circumstance.
6. Your hearing will be scheduled within sixty (60) days with the Hearing Examiner.
7. Review the attached Rules for Administrative Appeals.
8. If you have questions please contact the City Clerk's Office (360) 473-5290.

**APPEAL OF ADMINISTRATIVE DECISION
BMC 2.62**

To: Municipal Court Hearing Examiner
c/o City Clerk, City of Bremerton

Date: _____

APPELLANT NAME: _____

STREET ADDRESS: _____

CITY: _____ STATE: ____ ZIP: _____ PHONE: _____

1. NATURE OF APPEAL - Briefly describe the administrative decision being appealed and nature of relief requested.

2. WRITTEN DECISION - Attach the written decision being appealed. The decision must include Department Director or designee concurrence that no further action can be taken at the Department level.

3. CODE SECTION ESTABLISHING APPEAL RIGHTS - Circle the appropriate code section relating to your appeal. If none apply then this appeal process is not applicable.

- | | |
|--|---|
| 6.04.090 Garbage Appeals | 9.08.070 Junk Vehicle Hearing |
| 6.32.090 Noise Levels | 9.08.080 Junk Vehicle Abatement |
| 7.12.010 Potentially Dangerous Animals | 9.90.030 Graffiti |
| 7.12.020 Failure to Control Dangerous Animal | 9.92.020 Criminal Activity Nuisance |
| 7.12.030 Dangerous Animals | 10.11.050 Declaration of Nuisance Vehicle |
| 9.08.050 Vehicle Impounds | 15.08.020 Utilities Charges and Shut Off |

4. FILING DEADLINE - Appeals of Sections 7.12.010, 7.02.020 and 7.12.030 must be filed within seven (7) calendar days from the date of the appellant's notification of the Administrative Decision. Appeals of all other listed sections must be filed within seven (7) working days. Date of mailing shall be considered date of notification.

5. APPEAL must be complete and accompanied by a payment in the amount of \$65.00 to cover costs of the appeal.

6. APPEAL must be filed in the City Clerk's office.

Date Submitted

Signature

Received and verified for completion by:

City Clerk/Deputy

Date

Time

Receipt #

Amount

4190

cc: Respondent City Department
Municipal Court

**BREMERTON MUNICIPAL COURT
HEARING EXAMINER RULES FOR ADMINISTRATIVE APPEALS**

1.01 Application of Rules. These rules are promulgated pursuant to Bremerton Municipal Code 2.62.045 for the conduct of administrative appeals by the Bremerton Hearing Examiner. Administrative hearings should be informal and expeditious, and the Examiner shall have broad discretion to decide questions which may arise during the hearing process not covered by these rules.

1.02 Matters Subject to Administrative Appeal. The Hearing Examiner shall hear all contested decisions of City officials which are referred to the Hearing Examiner by City ordinance. These include:

6.04.090	Garbage Appeals	seven (7) working days
6.32.090	Noise Levels	seven (7) working days
7.12.010	Potentially Dangerous Animals	seven (7) calendar days
7.12.020	Failure to Control Animal Declared Dangerous	seven (7) calendar days
7.12.030	Dangerous Animals	seven (7) calendar days
9.08.050	Vehicle Impounds	seven (7) working days
9.08.070	Junk Vehicle Hearing	seven (7) working days
9.08.080	Junk Vehicle Abatement	seven (7) working days
9.90.030	Graffiti	seven (7) working days
9.92.020	Criminal Activity Nuisance	seven (7) working days
10.11.050	Declaration of Nuisance Vehicle	seven (7) working days
15.08.020	Utilities Charges and Shut Off	seven (7) working days

2.01 Filing Appeal. Appeals to the hearing examiner shall be made within the number of days (as noted above) from the date of the appellant's notification of the decision. Date of mailing shall be considered date of notification. Application for Appeal shall include, at a minimum:

- 1) Name, address and telephone of appellant;
- 2) A short statement of the background of the contested matter;
- 3) The decision of the City Department being appealed including a copy of the written decision and code section; and
- 4) Nature of relief requested.

2.02 Filing Fee. Appeals shall include a filing fee as adopted by City Council.

2.03 Waiver of Administrative Appeal. Failure to file a timely appeal together with the filing fee shall constitute a waiver of the administrative appeal provided by City ordinance. *Failure to appear at the scheduled hearing shall constitute a waiver of the appeal and result in the forfeiture of the filing fee.*

3.01 Hearing - Notice. Upon receipt of the appeal the Court Clerk shall schedule an administrative hearing within **sixty (60)** days (**twenty-one (21)** days for dangerous animals) unless the Examiner orders a continuance upon application of appellant or the City demonstrating good cause. A Notice of Hearing shall be sent indicating the scheduled time and place of the Appeal to the appellant, City Department Director who issued the decision and the City Attorney.

3.02 Hearing - Conduct.

(a) *Oath.* The Examiner shall place a witness under oath or affirmation before presenting testimony.

(b) *Recording*. The hearing shall be recorded electronically.

(c) *Evidence*. The Examiner shall admit and give probative effect to all relevant evidence, including hearsay evidence, if in the opinion of the Examiner, it is the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The Examiner shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The Examiner may refer to, but shall not be bound by, the Washington rules of evidence. Official/judicial notice may be taken of state and local law, business custom, and notorious facts. When a decision rests in whole or in part upon official notice of a material fact it shall be clearly stated in the decision.

(d) *Documentary Evidence*. The following documents, if relevant, are presumed admissible at the hearing, but only if the party offering the document provides a copy to the opposing party together with the name, address and telephone number of its author or maker, and files a copy with the Municipal Court Clerk, at least seven days prior to the hearing:

(1) A bill, report, chart, estimate or record prepared on business letterhead or billhead;

(2) A police, weather, or wage loss report;

(3) A photograph, x-ray, drawing, map, or blueprint;

(4) The written statement of any other witness including expert witnesses, if made by affidavit or by declaration under penalty of perjury;

(5) A document not specifically covered by the foregoing provisions but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interests of justice.

(e) *Presentation of Evidence*. Appellant shall have the burden of proof. Each party shall have an opportunity to present evidence and argument in support of their position and to ask questions of the other party. The Hearing Examiner may ask clarifying questions as necessary to understand the evidence.

(f) *Witnesses*. Either party may subpoena any witnesses with relevant testimony. A subpoena must be served at least thirty (30) days before the hearing, or such lesser time as the Hearing Examiner deems proper.

4.01 Decision. The decision of the Hearing Examiner may reverse, affirm or modify, wholly or in part, the administrative order, requirement, decision or determination appealed. The decision of the Examiner shall be final and conclusive. Each final decision shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Each decision shall be rendered within ten working days following conclusion of all testimony and hearings.

4.02 Refund of Filing Fee. If the decision by an examiner reverses or substantially modifies the administrative decision of the City, the filing fee submitted with the application for appeal may, in the discretion of the Hearing Examiner, be refunded.

5.01 Appeal. The Hearing Examiner's decision may be appealed by applying for a Writ of Certiorari in Kitsap County Superior Court within thirty (30) days. Appeals of decisions involving vehicles and/or animals shall be filed in Kitsap County District Court. The cost of preparing a verbatim transcript for appeal shall be paid by the party seeking review.