

**RULES OF PROCEDURE FOR
PROCEEDINGS BEFORE THE HEARING EXAMINER
OF THE CITY OF ISSAQUAH, WASHINGTON**

NOTE: The following definitions apply to Chapters I and II of these rules. Please consult them when the following terms appear in the rules.

DEFINITIONS

"IMC" means the Issaquah Municipal Code.

"Appellant" means a person, organization, association, or other similar group who files a complete and timely appeal of a decision or other appealable action in accordance with the IMC.

"Applicant" means a person who is the owner of the subject property or the authorized representative of the owner of the subject property, and who has applied for a land use permit.

"City" means the City of Issaquah, Washington.

"Clerk to the Hearing Examiner" means a person designated by the City to assist the Hearing Examiner in his/her duties.

"Closed record appeal" means an administrative appeal on the record to the Hearing Examiner, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

"Ex parte communication" means written or oral communications to the Hearing Examiner about a matter pending before the Hearing Examiner, not included in the record and made outside of a hearing, but does not include communication of a purely procedural nature.

"Hearing Examiner" or "Examiner" means the Hearing Examiner or the Hearing Examiner Pro Tempore of the City of Issaquah.

"Interested Person" means any individual, partnership, corporation, association, or public or private organization of any character that may be affected by proceedings before the Hearing Examiner and shall include any party in a contested case. The City's administrative staff shall be considered an Interested Person and shall have the same rights as any other Interested Person.

"Motion" means an oral request during the course of a hearing or a written request made to the Hearing Examiner for an order or other ruling.

"Notice of Decision" means the written document of the Hearing Examiner that communicates a decision on an action before the Hearing Examiner.

"Open Record Appeal Hearing" means an administrative hearing that creates the record on appeal through written and oral testimony and submission of evidence and information.

“Order” means a written determination of the Hearing Examiner.

“Person” means any individual, firm, association, partnership, corporation or any entity, public or private.

"Party of record" means:

- a. A person who has testified at the open record hearing on the application and signed in at the hearing;
- b. The applicant, or applicant's representative;
- c. The subject property tax payer as identified by the records available from the King County assessor's office;
- d. A person submitting written testimony about a matter pending before the Examiner, excluding persons who have only signed petitions or mechanically produced form letters;
- e. The City's administrative staff; and
- f. A person who files a written request for Notice of Decision.

“Public Hearing” means a hearing with advance public notice, where the public is given the opportunity to provide written and oral testimony and the testimony is made part of the official project record. The hearing, conducted by the Hearing Examiner, creates the City's record through testimony and submission of evidence and information. An open record hearing may be held prior to the City's decision on a Project Permit to be known as an “open record predecision hearing.”

“Public Meeting” means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

"Record" means the oral testimony and written exhibits submitted at a hearing or the oral comments and written exhibits submitted at a meeting. The electronic recording of the proceeding shall be included as part of the record. At the discretion and order of the Hearing Examiner, the record may be supplemented after the closing of testimony.

“Staff Report” means the document prepared by the City planning staff.

“Working Day” means any day for which the City's offices are open.

CHAPTER I:
HEARINGS ON APPLICATIONS

SECTION 1.1: APPLICATION OF RULES

This Chapter applies to open record hearings on land use applications.

SECTION 1.2: JURISDICTION

The Hearing Examiner's jurisdiction is limited to those issues where ordinance or other appropriate authority grants the Hearing Examiner the authority to hold hearings, make decisions or recommendations, and issue orders.

SECTION 1.3: EX PARTE COMMUNICATION

- 1.3.1 No person, nor his or her agent, employee, or representative, who is interested in a particular petition or application currently pending before the Examiner shall communicate ex parte, directly or indirectly, with the Hearing Examiner concerning the merits of that or a related petition or application. This rule shall not prohibit ex parte communication concerning procedural matters.
- 1.3.2 The Examiner shall not communicate ex parte directly or indirectly with any interested person, nor his or her agent, employee, or representative, with regard to the merits of a petition or application that is pending before the Examiner.
- 1.3.3 If prohibited ex parte communication is made to or by the Examiner, such communication shall be publicly disclosed, and proper discretion shall be exercised by the Examiner on whether to disqualify himself or herself as Examiner for that particular hearing.

SECTION 1.4: NATURE OF PROCEEDINGS

- 1.4.1 Expeditious Proceedings
It is the policy of the Office of the Hearing Examiner that, to the extent practicable and consistent with requirements of law, hearings shall be conducted expeditiously.
- 1.4.2 Frequency
Hearings will be scheduled through the Clerk to the Hearing Examiner in coordination with the Hearing Examiner. There may be more than one case scheduled to commence at the same time, and in such event the Hearing Examiner shall have discretion in setting the agenda.
- 1.4.3 Format
The format for a hearing will be designed in such a way that the evidence and facts relevant to a particular proceeding become available to the Hearing Examiner and easily ascertainable by a reviewing body.
- 1.4.4 Record of Hearing
a. Hearings shall be electronically recorded and such recordings shall be a part of the record. No minutes of the hearing will be kept. Copies of the electronic recordings of a particular proceeding shall be made available to the public if requested. The requester shall pay the reasonable cost of such copying.

- b. Copies of any written materials in the record may be obtained by any person who shall be responsible for paying the cost of reproducing such material.

1.4.5 Computation of Time

Computation of any period of time prescribed or allowed by these rules, ordinances of the City of Issaquah, and laws of the State of Washington shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or a national, state, or City holiday, the period shall run until the end of the next following working day.

SECTION 1.5: RIGHTS AND RESPONSIBILITIES OF PARTIES

1.5.1 Rights of City

The City staff shall have the right to present evidence and testimony, object, and make motions, arguments, recommendations, and all other rights essential to a fair hearing.

1.5.2 Rights of Applicant

Every applicant shall have the right of notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing. Further, the applicant shall have the right to timely access to the City staff report.

The Hearing Examiner may limit the time allowed to parties testifying on an equal basis, may establish time limits for initial or rebuttal evidence, and may limit the number of witnesses to be heard. Cross-examination is permitted as necessary for a full disclosure of the facts, but the Hearing Examiner shall control the amount and style of cross-examination.

1.5.3 Rights of Parties of Record

Every party of record shall have the right to present evidence and testimony at hearings. The right of persons to cross-examine, object, and submit motions and arguments shall be at the discretion of the Hearing Examiner. The Hearing Examiner may impose reasonable limitations on the number of witnesses heard, and the nature and length of their testimony.

1.5.4 Responsibilities of City Staff

The City staff shall provide a report consistent with the provisions of Rule 7.6, provide notice of hearings, present materials at the hearings, and provide documentation relevant to the case. Staff reports should be available to the public at least five working days before the hearing.

1.5.5 Responsibilities of Applicant

Whenever possible the applicant shall provide the Hearing Examiner with material that supports his or her application prior to the hearing, be prepared for questions by the Hearing Examiner, and treat all who participate in these proceedings courteously. All supporting materials shall be provided to the Hearing Examiner a minimum of five working days before the hearing.

- 1.5.6 Responsibilities of All Participants, Witness and Observers
Parties, witnesses, or observers shall conduct themselves with civility and deal courteously with all who participate in the proceedings. Failure to do so will result in removal from the hearing at the discretion of the Hearing Examiner.

SECTION 1.6: PRESIDING OFFICIALS

1.6.1 Presiding Officials

- a. The Hearing Examiner shall preside over the hearings.
- b. The Hearing Examiner shall have all of the authority and duties as granted to him or her in state statutes, the IMC, and other local ordinances. Included in the duties of the Hearing Examiner are the following: to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. He or she shall have all powers necessary to perform his functions, including the following:
 1. To administer oaths and affirmations;
 2. To issue subpoenas;
 3. To rule upon offers of proof and receive evidence;
 4. To regulate the course of the hearings and the conduct of the parties and their agents;
 5. To question any party presenting testimony at the hearing;
 6. To hold conferences for settlement, simplification of the issues, or any other proper purpose;
 7. To require briefs on legal issues;
 8. To consider and rule upon all procedural and other motions appropriate to the proceedings; and
 9. To make and file recommendations or decisions.
- c. In the performance of his or her adjudicative functions, the Hearing Examiner shall not be subject to the supervision or direction of any elected official, officer, employee or agent of the City.

1.6.2 Presence of Legal Counsel at Hearings or Public Meetings

- a. All parties participating in the hearings may be represented at the hearings by legal counsel of their choice.
- b. Attorneys engaged in the representation of clients before the Hearing Examiner shall conduct themselves in accordance with all applicable Rules of Professional Conduct, including the display of courtesy to other members of the bar, witnesses, and all other persons present in the hearing room.

SECTION 1.7: CONDUCT OF HEARINGS

1.7.1 Notice Requirements of Hearings and Filings

- a. All notice, time requirements, and methods of notification shall be consistent with the provisions as set forth in the IMC, in addition to the provisions of this Section.

- b. Affidavit of Notice: An affidavit attesting to the notice given of a hearing (including dates and places of publication, and list of addressees) shall be provided by the City and made part of each record.

1.7.2 Oath or Affirmation

All testimony before the Hearing Examiner shall be given under oath or affirmation to tell the truth.

An interpreter acting on behalf of any interested person shall take an oath that a true interpretation of the interested person's testimony shall be made.

1.7.3 Content of the Record

The record of a hearing conducted by the Hearing Examiner shall include the following materials:

- a. The application or petition;
- b. The departmental staff reports;
- c. All evidence received, which shall include oral testimony given at the hearing, all exhibits, other materials admitted as evidence, and any written material submitted pursuant to Hearing Examiner order;
- d. A statement of all materials officially noticed;
- e. A decision or a recommendation containing the findings and conclusions of the Hearing Examiner;
- f. Recordings made on electronic equipment; and
- g. An environmental determination made pursuant to the State Environmental Policy Act of 1971, if applicable.

1.7.4 Development of Record

A hearing usually will follow this order of procedure:

- a. Hearing Examiner's introductory statement.
- b. A report by the departmental staff that may include introduction of the request, reference to visual aids, and a summary of the recommendation of the department;
- c. Testimony by the applicant or petitioner, and cross-examination of the witnesses;
- d. Testimony of interested parties;
- e. Opportunity for cross-examination and rebuttal; and

- f. An opportunity for questions by the Hearing Examiner.

1.7.5 Content and Form of Staff Reports

The City staff report on a land use application should include the following, if relevant to the application:

- a. A list of the names and addresses of the owner and applicant of the subject property and his/her property interest in the property that is the subject of the hearing.
- b. A brief summary of the requested action and the citation of the ordinance controlling the request.
- c. A common description of the subject property and a reference to the legal description of the subject property.
- d. A summary of the Comprehensive Plan designation and zoning designation of the subject property; the current development of the subject property and the adjoining properties; topographical information; geological and soils information; information on the vegetation on the property; and any other relevant scientific, environmental or engineering information.
- e. A history of the requested action and a history and vicinity map of the development in the surrounding properties.
- f. A summary of the reports or recommendations of any other agencies consulted.
- g. Appropriate maps of the subject property.
- h. The result of the determination pursuant to the State Environmental Policy Act.
- i. Staff's recommendations.

The staff report shall be filed with the Hearing Examiner at least five working days prior to the scheduled hearing and copies provided to the applicant and made available to the public.

1.7.6 Continuances of Hearings

a. Hearing Examiner

If the Hearing examiner finds that more information is necessary in order to make a decision or recommendation, or he or she is unable to hear all of the public comments on the matter, the hearing may be continued to a specified date. If the hearing is continued to a specific date, time, and place, at a hearing, or if notice is posted on the door of the hearing room before a noticed hearing begins, no further notice of the hearing need be given.

b. At the Request of a Party

Any party of record may request continuance of a hearing. The request, if made prior to the hearing, must be in writing and state reasonable grounds for a

continuance. If the request is made orally at the hearing it must be based on reasonable grounds. The Hearing Examiner shall have discretion to grant or deny the request for continuance.

1.7.7 Evidence

- a. Burden of proof. In each proceeding, the applicant shall have the burden of proof to show compliance with applicable laws and regulations of Washington State and the City of Issaquah.
- b. Admissibility. The hearing generally will not be conducted in strict adherence to Rules of Evidence. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Hearing Examiner shall have discretion on the admissibility of all evidence.
- c. Copies. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. It is advisable to provide extra copies of all documents to the Hearing Examiner.
- d. Occasionally, the Hearing Examiner may request a document to be filed after the close of public testimony. Only those documents referred to at the hearing may be submitted and only those specifically requested by the Hearing Examiner. Additional evidence may only be submitted upon a Request for Reconsideration based on new evidence not reasonably available at the time of the hearing. If additional evidence is submitted with a Request for Reconsideration, it will be considered only upon a showing of significant relevance and good cause for delay in its submission.

SECTION 1.8: WITHDRAWAL OF APPLICATION

1.8.1 Withdrawal Prior to Service of Notice

If a withdrawal request is made before official notice of the hearing is given, the applicant or petitioner shall notify the City of the withdrawal request and the withdrawal shall be automatically permitted.

1.8.2 Withdrawal Made Any Other Time

Withdrawal requests made at any time other than that mentioned in Sec. 1.8.1, the Clerk to the Hearing Examiner shall post a notice of withdrawal and cancellation of application hearing on the hearing room door on the date of hearing.

SECTION 1.9: DECISIONS AND RECOMMENDATIONS

1.9.1 Written Decisions or Recommendation

For permits on which the Hearing Examiner has final approval authority, a written report of findings, conclusions, and decision shall be sent to all parties of record. The Hearing Examiner's decision or recommendation shall be submitted within ten working days following the conclusion of all testimony and hearings, unless a longer period is agreed to by the Applicant.

1.9.2 Content of Decision or Recommendation

A decision or recommendation shall include a statement of:

- a. Findings. The findings shall be based exclusively on the evidence presented in the hearing and those matters officially noticed.
- b. Conclusions. Conclusions shall include a determination of whether application approval criteria have been met, and whether conditions of approval are necessary in order for an application to comply with approval criteria.
- c. The appropriate decision, recommendation or order. The decision, recommendation or order shall be based upon a consideration of the whole record and supported by substantial evidence.

1.9.3 Procedure for Reopening Hearing

At any time prior to the filing of the final decision or recommendation, the Hearing Examiner may reopen the proceeding for the reception of further evidence. All parties of record who participate at the hearing shall be given notice of the consideration of such evidence and granted an opportunity to review such evidence.

SECTION 1.10: RECONSIDERATION

1.10.1 Reconsideration of the decision may be granted by the Hearing Examiner on a showing of one or more of the following:

- a. A substantial change in circumstances affecting the subject property;
- b. Newly discovered evidence of a material nature which could not, with reasonable diligence, have been produced at hearing; and
- c. Clear mistake as to a material fact.

1.10.2 Each party is limited to one Motion for Reconsideration, even though the original decision may be subsequently reversed or modified.

1.10.3 A Motion for Reconsideration must be filed within ten working days of the date of the Hearing Examiner's decision. Unless otherwise specifically provided by the applicable ordinance(s), the filing of a Motion for Reconsideration shall not stop the period provided to appeal the Hearing Examiner's decision.

1.10.4 No party may file a response to a Motion for Reconsideration except at the request of the Hearing Examiner.

1.10.5 Reconsideration will not be granted to review prehearing orders.

SECTION 1.11: APPEALS OF DECISIONS

When the Hearing Examiner has issued a decision and all reconsideration periods and any administrative appeals have expired, the decision shall be final and may be appealed only to

King County Superior Court within twenty-one calendar days from the date of the final decision.
See, RCW 36.70C.

SECTION 1.12: CONFLICTS

These Rules of Procedure are adopted to supplement the requirements set forth in the IMC. Any conflict between the rules and the provisions of the IMC will be decided consistent with the provisions of the IMC.

CHAPTER II:
RULES OF APPEAL OF ADMINISTRATIVE DECISIONS

SECTION 2.1: APPLICATION OF RULES

This chapter applies to appeals of administrative decisions.

SECTION 2.2: JURISDICTION

The Hearing Examiner's jurisdiction is limited to those issues where ordinance or other appropriate authority grants the Hearing Examiner the authority to hold hearings, make decisions or recommendations, and issue orders.

SECTION 2.3: EX PARTE COMMUNICATION

- 2.3.1 No person, nor his or her agent, employee, or representative, who is interested in a particular petition or application currently pending before the Examiner shall communicate ex parte, directly or indirectly, with the Hearing Examiner concerning the merits of that or a related petition or application. This rule shall not prohibit ex parte communication concerning procedural matters.
- 2.3.2 The Examiner shall not communicate ex parte directly or indirectly with any interested person, nor his or her agent, employee, or representative, with regard to the merits of a petition or application that is pending before the Examiner.
- 2.3.3 If prohibited ex parte communication is made to or by the Examiner, such communication shall be publicly disclosed, and proper discretion shall be exercised by the Examiner on whether to disqualify himself or herself as Examiner for that particular hearing.

SECTION 2.4: NATURE OF PROCEEDINGS

- 2.4.1 Expeditious Proceedings
It is the policy of the Office of the Hearing Examiner that, to the extent practicable and consistent with requirements of law, hearings shall be conducted expeditiously.

SECTION 2.5: FILING

- 2.5.1 Compliance with Rules
All appeals must comply with the Rules and with the requirements established in the applicable IMC ordinance under which the appeal is filed.
- 2.5.2 Timeliness
To be considered timely, an appeal from an administrative decision must be received no later than 5:00 PM on the last day of the appeal period. Such an appeal must be filed with the clerk of the City of Issaquah.
- 2.5.3 Fee
Appeals shall be accompanied by the appropriate filing fee as required by the IMC Fee Schedule.

2.5.4 Contents

An appeal must be in writing and contain the following:

- a. A brief statement as to how the appellant is significantly affected by or interested in the matter appealed;
- b. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
- c. The specific relief requested, such as reversal or modification; and
- d. Signature, mailing and email addresses, and phone number of the appellant, and name and address of appellant's designated representative, if any.

2.5.5 Briefs

Briefs or other memoranda of law may be submitted by the parties in support of or in response to an appeal. Each party is permitted one primary brief not exceeding fifteen double-spaced pages in length. In addition, the appellant may submit a reply brief not exceeding ten pages in length. The Hearing Examiner may, at his or her discretion, waive or modify these page limits at the request of a party in order to accommodate complex legal and factual issues. Submission of briefs should be submitted by the date set out in a Pre-Hearing Order, if issued by the Hearing Examiner, or at least five days prior to the hearing. Briefs must be limited to the specific issues set forth in the appellant's statement of appeal.

2.5.6 Motions

Motions and responses to motions are not to exceed fifteen double-spaced pages in length without prior approval of the Hearing Examiner.

2.5.7 Proposed Findings and Conclusions

The Hearing Examiner may request proposed findings and conclusions to be submitted at the option of the parties.

SECTION 2.6: DISMISSAL

- 2.6.1 An appeal may be dismissed without a hearing if the Hearing Examiner determines that it fails to state a claim for which the Hearing Examiner has jurisdiction to grant relief, or it is without merit on its face, frivolous, or brought merely to secure delay.
- 2.6.2 Any party may request dismissal of all or part of an appeal as a motion by the deadline set out in the Pre-Hearing Order with notice to all parties. The Hearing Examiner may make a ruling on a motion to dismiss based upon written arguments or may call for oral arguments.
- 2.6.3 When decision or action being appealed is withdrawn by the issuing department, or when the appellant withdraws the appeal, the appeal becomes moot and shall be dismissed.

SECTION 2.7: PREHEARING CONFERENCE

- 2.7.1 The Hearing Examiner may issue prehearing orders or, with the consent of the parties, hold a conference prior to the hearing for the purpose of:
- a. Identification, clarification, and simplification of the issues;
 - b. Disclosure of witnesses to be called and exhibits to be presented;
 - c. Hearing and deciding motions; and
 - d. Other matters deemed by the Hearing Examiner appropriate for the orderly and expeditious disposition of the proceedings.
- 2.7.2 At the hearing the Hearing Examiner shall develop for the record the time, purpose and result of the conference. If any orders have been issued they will be part of the record.
- 2.7.3 Prehearing orders may not be appealed until the Hearing Examiner issues an appeal decision.

SECTION 2.8: WITHDRAWAL

- 2.8.1 Only the appellant may withdraw an appeal.
- 2.8.2 Where an appeal is made by several persons, a group, organization, corporation, or other entity, withdrawal shall be made by the person who had been designated as the party representative.
- 2.8.3 An appellant's Request to Withdraw shall be granted as a matter of right and the appeal dismissed.

SECTION 2.9: PARTY REPRESENTATIVE

When a party consists of more than one individual, or is a group, organization, corporation, or other entity, the party shall designate an individual to be its representative and inform the Clerk to the Hearing Examiner of the name, address, and telephone number of the designated representative. The rights of such an appellant shall be exercised by the person designated as the party representative. Notice or other communication to the party representative is considered to be notice or communication to party.

SECTION 2.10: NOTICE OF HEARING

2.10.1 All notice, time requirements, and methods of notification shall be consistent with the provisions set forth in the IMC. Normally, only parties to an appeal need to be notified, as there is no public comment at appeal hearings.

SECTION 2.11: PARTIES' RIGHTS AND RESPONSIBILITIES

- 2.11.1 Although appellants and applicants have the right to be represented by an attorney, representation by an attorney is not required.
- 2.11.2 Where a party has designated a representative, the representative shall exercise the rights of the party.

2.11.3 Parties, witnesses, and observers shall conduct themselves with civility and deal courteously with all who participate in the proceedings. Failure to do so will result in removal from the hearing at the discretion of the Hearing Examiner.

SECTION 2.12: DEFAULT

The Hearing Examiner may dismiss an appeal by an Order of Default where the appellant, without good cause, fails to appear or is unprepared to proceed at a scheduled and properly noticed hearing.

SECTION 2.13: HEARING FORMAT

2.13.1 Appeal hearings, although generally informal in nature, shall have a structured format and shall be conducted in a manner deemed by the Hearing Examiner to make the relevant evidence most readily and efficiently available to the Hearing Examiner and to provide the parties a fair opportunity for hearing.

2.13.2 The order of an appeal hearing will generally be as follows:

- a. Hearing Examiner's introductory statement;
- b. Appellant's argument;
- c. Department's presentation;
- d. Applicant's presentation;
- e. Rebuttal; and
- g. Closing argument of parties.

2.13.3 Notwithstanding the provisions of the IMC, the order of hearing may be modified or a different order established as the Hearing Examiner deems necessary for a clear and fair presentation. The order of the hearing may also be modified as agreed upon by the parties, with the Hearing Examiner's approval.

SECTION 2.14: HEARING EXAMINER'S DECISION

A decision of the Hearing Examiner shall normally be issued within ten working days of the appeal hearing and include the following:

- a. Findings. The individual facts that the Hearing Examiner finds relevant, credible, and requisite to the decision, based on the record of proceedings.
- b. Conclusions. Legal and factual conclusions based upon specific findings of fact.
- c. Decision. The Hearing Examiner's decision as to the outcome of the appeal (affirm, modify, or reverse) based upon a consideration of the whole record and supported by substantial evidence in the record.

SECTION 2.15: RECORD

Normally, the record of an appeal shall include:

- a. The decision being appealed;
- b. The appeal statement;
- c. All evidence received which shall include oral testimony given at the hearing, all exhibits, and other materials admitted as evidence;
- d. A decision or a recommended decision containing the findings and conclusions of the Hearing Examiner;
- e. Recordings made on electronic equipment; and
- f. An environmental determination made pursuant to the State Environmental Policy Act of 1971, if applicable.

SECTION 2.16: RECONSIDERATION

2.16.1 Reconsideration of the appeal decision may be granted by the Hearing Examiner on a showing of one or more of the following:

- a. A substantial change in circumstances affecting the subject property;
- b. Newly discovered evidence of a material nature which could not, with reasonable diligence, have been produced at hearing; and
- c. Clear mistake as to a material fact.

2.16.2 Each party is limited to one Motion for Reconsideration, even though the original decision may be subsequently reversed or modified.

2.16.3 A Motion for Reconsideration must be filed within ten working days of the date of the Hearing Examiner's decision on the appeal. Unless otherwise specifically provided by the applicable ordinance(s), the filing of a Motion for Reconsideration shall not stop the period provided to appeal the Hearing Examiner's decision.

2.16.4 No party may file a response to a Motion for Reconsideration except at the request of the Hearing Examiner.

2.16.5 Reconsideration will not be granted to review prehearing orders.