

**CITY OF SEATTLE**

**ORDINANCE** 127300

**COUNCIL BILL** 121045

AN ORDINANCE relating to land use and zoning; updating timelines for City review of land use permits; amending Sections 23.76.005 and 23.76.010 of the Seattle Municipal Code; and amending Resolution 31602 to update the City Council Rules for Quasi-Judicial Proceedings.

WHEREAS, Revised Code of Washington (RCW) 36.70B.080 identifies time periods for local review of project permits; and

WHEREAS, RCW 36.70B.140 allows local governments by ordinance to exclude landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process or time periods for approval that are different from that provided in RCW 36.70B.080; and

WHEREAS, the City Council Rules for Quasi-Judicial Proceedings were last updated in 2015, since which time the City Clerk has started to accept electronic filing of documents; and

WHEREAS, filing documents electronically allows for shorter time periods for filing of responses to those filings; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 23.76.005 of the Seattle Municipal Code, last amended by Ordinance 125587, is amended as follows:

**23.76.005 Time for decisions**

A. Except as otherwise provided in this Section 23.76.005 or otherwise agreed to by the applicant, land use decisions on applications shall be made according to the following time

1 periods. If more than one land use decision is required for a project and there are multiple  
2 applicable permit review time periods for the project, the longest applicable time period for  
3 decision shall apply. References to days in this Section 23.76.005 shall be calculated by counting  
4 every calendar day.

5 1. Type I: within ((120)) 65 days after the applicant has been notified that the  
6 application is complete, except that the following decisions shall be made within 150 days:

7 a. A Type I land use decision that includes a public notice; and

8 b. A Type I land use decision for a waiver or modification of development  
9 standards for Master Use Permit applications subject to temporary design review provisions in  
10 subsection 23.41.004.E.3.

11 2. Type II: within 120 days after the applicant has been notified that the  
12 application is complete, except that the following decisions shall be made within 170 days:

13 a. A Type II design review permit decision;

14 b. A Type II SEPA determination permit decision;

15 c. A Type II Major Phased Development permit decision; and

16 d. A Type II special exception permit decision.

17 3. Type III: the Director shall issue a recommendation within 170 days. There is  
18 no time period for a final decision on a Type III permit.

19 4. Type IV: as provided in subsection 23.76.005.E.2; and

20 5. Type V: no time period for a final decision.

21 B. In determining the number of days that have elapsed ((after the notification that the  
22 application is complete)) for purposes of subsection 23.76.005.A, the following periods shall be  
23 excluded:

1                   1. All periods of time during which (~~the applicant has been requested by~~) the  
2 Director (~~(to)~~) or Hearing Examiner has requested that the applicant correct plans, perform  
3 required studies, or provide additional required information, until (~~the Director determines that~~  
4 ~~the request has been satisfied~~) the day responsive information is resubmitted by the applicant;

5                   2. Any extension of time mutually agreed upon, in writing, by the Director or  
6 Hearing Examiner and the applicant;

7                   3. Temporary suspensions of permit review requested by an applicant until such  
8 time that the applicant notifies the Director or Hearing Examiner in writing to resume permit  
9 review, provided that:

10                   a. A penalty of an additional 30 days may be added to the time period for a  
11 decision if the applicant requests the Director, in writing, to temporarily suspend the review of  
12 the project for more than 60 days; and

13                   b. A penalty of an additional 30 days may be added to the time period for  
14 a decision if the applicant is not responsive for more than 60 consecutive days after the Director  
15 has notified the applicant, in writing, that additional information is required to further process the  
16 application and that nonresponsiveness for 60 consecutive days may result in 30 days being  
17 added to the time for review. For the purposes of this subsection, “nonresponsiveness” means  
18 that an applicant is not making demonstrable progress on providing additional requested  
19 information to the City, or that there is no ongoing communication from the applicant to the City  
20 on the applicant’s ability or willingness to provide the additional information;

21                   ~~(3)~~4. For projects for which an EIS has been required, the EIS process time  
22 period established in subsection 23.76.005.~~(B)~~C<sub>2</sub>;

1                    ~~((4))~~5. Any time period for filing an appeal or request for further consideration of  
2 the land use decision to the Hearing Examiner or City Council as applicable, and the time period  
3 to consider and decide the appeal ~~((and))~~ ;

4                    ~~((5))~~6. All periods of time during which the Director has requested information  
5 from the applicant ~~((has been requested by the Director to pay))~~ that confirms payment of due or  
6 past-due ~~((permit))~~ fees related to the application, until the ~~((Director determines that the request~~  
7 ~~has been satisfied or until the permit is cancelled for failure to pay fees))~~ day the applicant  
8 submits confirmation of payment.~~((B))~~C. The time required to prepare an EIS shall be agreed to

9 by the Director and applicant in writing. Unless otherwise agreed to by the applicant, a final  
10 environmental impact statement shall be issued by the Director within one year following the  
11 issuance of a Determination of Significance for the proposal, unless the EIS ~~((consultant))~~  
12 responsible party advises that a longer time period is necessary. In that case, the additional time  
13 shall be that recommended by the ~~((consultant))~~ responsible party, not to exceed an additional  
14 year.

15                    ~~((C))~~D. The time ~~((limits))~~ period established by subsections 23.76.005.A, ~~((and))~~  
16 23.76.005.B, and 23.76.005.C do not apply if a permit application:

- 17                    1. Requires an amendment to the Comprehensive Plan or the Land Use Code;  
18 ~~((or))~~
- 19                    2. Requires the siting of an essential public facility;
- 20                    3. ~~((Is substantially revised by the applicant, in which case the time period shall~~  
21 ~~start from the date at which the revised project application is determined to be complete; or))~~
- 22                    Requires the vacation of public right-of-way;
- 23                    4. Requires a nomination for a landmark designation;

1                    5. Includes an existing designated landmark on its site

2                    6. Is for a project located within a landmark district or a historical district;

3                    7. Is subject to review under Chapter 23.66; or

4                    8. Is for approvals relating to the use of public areas or facilities.

5                    ~~((D))~~ E. Exclusions pursuant to RCW 36.70B.140(1)((-))

6                    1. Type II decisions. There is no time ~~((limit))~~ period for a decision on an  
7 application that ~~((includes))~~:

8                    a. Includes a shoreline exception or shoreline variance from the Shoreline  
9 Master Program regulations in Chapter 23.60A, or a shoreline conditional use; or

10                    b. Includes an exception from ~~((the regulations for Environmentally~~  
11 Critical Areas;)) Chapter 25.09.

12                    2. ~~((Type III decisions.~~

13                    a. ~~The Director shall issue a recommendation within 120 days as that time~~  
14 ~~is calculated pursuant to subsections 23.76.005.A, B, and C; and~~

15                    b. ~~The Hearing Examiner shall issue a decision within 90 days of issuance~~  
16 ~~of the Director's recommendation, except that in determining the time limits for Type III~~  
17 ~~decisions established in this subsection 23.76.005.D.2.b, the following periods shall be excluded:~~

18                    1) ~~The time during which a Type III decision is remanded by the~~  
19 ~~Hearing Examiner for further information or analysis. The Hearing Examiner shall set a~~  
20 ~~reasonable period for the remand after consideration of the nature and complexity of the issues,~~  
21 ~~and, if practicable, after consultation with the parties about the reasonableness of the remand~~  
22 ~~period;~~

1 ~~2) All periods of time during which the applicant has been~~  
2 ~~requested by the Director to pay past due permit fees, until the Director determines that the~~  
3 ~~request has been satisfied; and~~

4 ~~3) Any extension of time mutually agreed upon by the Hearing~~  
5 ~~Examiner and the applicant.~~

6 3.) Type IV Council land use decisions((-))

7 a. There is no time limit for decisions on Major Institution master plans.

8 b. All other Type IV Council land use decisions and any associated Type  
9 II decisions listed in subsection 23.76.006.C.2, except for the exclusions listed in subsections  
10 23.76.005.~~((D))~~EF.1 and 23.76.005.~~((D))~~EF.3.c, shall be made within the following time periods:

11 1) The Director shall issue a recommendation within ~~((120))~~ 100  
12 days as that time period is calculated pursuant to subsections 23.76.005.A, 23.76.005.B, ~~((and))~~  
13 23.76.005.C, and 23.76.005.D;

14 2) The Hearing Examiner shall issue a recommendation within 90  
15 days of issuance of the Director's recommendation; and

16 3) The Council shall issue its decision within 90 days of receipt of  
17 the Hearing Examiner recommendation, except that if a timely appeal is filed with the City  
18 Clerk, the Council shall issue its decision within 120 days of receipt of the Hearing Examiner  
19 recommendation.

20 c. In determining the time limits for Type IV Council land use decisions  
21 established in this subsection 23.76.005.~~((D))~~E, the following periods shall be excluded:

22 1) The time during which a Type IV Council land use decision is  
23 remanded by the Hearing Examiner or the Council for further information or analysis. The

Hearing Examiner or the Council shall set a reasonable period for the remand after consideration of the nature and complexity of the issues, and, if practicable, after consultation with the parties about the reasonableness of the remand period; and

2) All periods of time during which the Director has requested information from the applicant ((has been requested by the Director to pay)) that confirms payment of due or past-due ((permit)) fees related to an application, until the ((Director determines that the request has been satisfied)) day the applicant submits confirmation of payment; and

3) Any extension of time mutually agreed upon by the Hearing Examiner and the applicant or the City Council and the applicant.

~~(E)~~F. Type V Council land use decisions are legislative decisions to which no time ~~((limits))~~ periods apply.

G. If a permit application is revised by the applicant by adding or removing commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the revised application, the time period shall start over on the date the revised application is determined to be complete.

Section 2. Section 23.76.010 of the Seattle Municipal Code, last amended by Ordinance 127228, is amended as follows:

**23.76.010 Applications for Master Use Permits**

\* \* \*

C. Applications shall be accompanied by payment of the applicable filing fees, if any, as established in Subtitle IX of Title 22. Payment of applicable filing fees is required for a determination that an application is procedurally complete.

1 D. All applications shall contain the submittal information required by the applicable  
2 sections of this Title 23(~~(, Land Use Code)~~); Title 15(~~(, Street and Sidewalk Use)~~); Chapter  
3 25.05(~~(, Environmental Policies and Procedures)~~); Chapter 25.09(~~(, Regulations for~~  
4 ~~Environmentally Critical Areas)~~); Chapter 25.12(~~(, Landmarks Preservation)~~); Chapter 25.16(~~(,~~  
5 ~~Ballard Avenue Landmark District)~~); Chapter 25.20(~~(, Columbia City Landmark District)~~);  
6 Chapter 25.22(~~(, Harvard Belmont Landmark District)~~); Chapter 25.24(~~(, Pike Place Market~~  
7 ~~Historical District)~~); and other codes as determined applicable and necessary for review by the  
8 Director. All shoreline substantial development, conditional use or variance applications shall  
9 also include applicable submittal information as specified in WAC 173-27-180. The Director  
10 shall (~~(make available, in writing, a general list of)~~) outline the submittal requirements for a  
11 complete application in the permit application.

12 E. Notice of (~~(Complete Application)~~) complete application.

13 1. The Director shall determine whether an application is procedurally complete  
14 and shall notify the applicant in writing within 28 days of the date the application is filed  
15 whether the application is complete or that the application is incomplete and what additional  
16 information is required before the application will be complete. Within 14 days of receiving the  
17 additional information, the Director shall notify the applicant in writing if the application is still  
18 incomplete and what additional information is necessary. An application shall be deemed to be  
19 complete if the Director does not notify the applicant in writing that the application is incomplete  
20 by the deadlines in this subsection 23.76.010.E. A determination that the application is complete  
21 is not a determination that the application is vested.

22 2. A Master Use Permit application is procedurally complete for purposes of this  
23 Section 23.76.010 if it meets the submittal requirements (~~(established by the Director in~~





1 Section 4. This ordinance shall take effect 60 days after its approval or after being  
2 unsigned and returned by the Mayor; 60 days after the Council’s reconsidered passage after its  
3 veto by the Mayor; or if not returned by the Mayor within ten days after presentation, 75 days  
4 after its passage by the City Council.

5 Passed by the City Council the 16th day of September, 2025,  
6 and signed by me in open session in authentication of its passage this 16th day of  
7 September, 2025.

8   
\_\_\_\_\_

9 President \_\_\_\_\_ of the City Council

10  Approved /  returned unsigned /  vetoed this 24th day of September, 2025.

11   
\_\_\_\_\_

12 Bruce A. Harrell, Mayor

13 Filed by me this 24th day of September, 2025.

14   
\_\_\_\_\_

15 Scheereen Dedman, City Clerk

16 (Seal)

17 Exhibits:  
18 Exhibit A – City Council Rules for Quasi-Judicial Proceedings (2025 Rules), As Amended

**CITY COUNCIL RULES FOR QUASI-JUDICIAL PROCEEDINGS (~~(2015)~~ 2025  
Rules)**

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## **I. APPLICABILITY AND PURPOSE**

- A. The purpose of these rules is to establish procedures for quasi-judicial actions before the City Council and to implement the Appearance of Fairness Doctrine, Revised Code of Washington (RCW) Chapter 42.36.
- B. Pursuant to Seattle Municipal Code (SMC) Chapter 23.76, the following Type IV Land Use Decisions, along with any integrated decision to exercise substantive State Environmental Policy Act (SEPA) authority and any associated Type II land use decisions listed in subsection 23.76.006.C.2, are governed by these rules:
1. A Council conditional use;
  2. An amendment to the Official Land Use Map, except for an area-wide amendment or a correction of an error on the Official Land Use Map due to a cartographic or clerical mistake;
  3. Approval of a property use and development agreement (PUDA) that is required as a condition of rezone approval, or an amendment of a PUDA that represents a major departure from the terms of the prior decision, pursuant to Section 23.76.058;
  4. Major institution master plan adoption, a major amendment to a major institution master plan, or renewal of a major institution master plan development plan component pursuant to Chapter 23.69;
  5. A public project as defined in Section 23.84A.030 that requires City Council approval.
- C. The following quasi-judicial actions are also governed by these rules:
1. An amendment to a PUDA that was required as a condition of rezone approval that represents a minor departure from the terms of the PUDA, pursuant to Section 23.76.058;
  2. A request to extend a Type IV Land Use Decision pursuant to Section 23.76.060;
  3. An appeal of an individual's final assessment for a Local Improvement District pursuant to Section 20.04.090;
  4. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark pursuant to Section 25.12.630;
  5. An appeal of the Director of Housing's decision to deny an application for a multifamily housing property tax exemption pursuant to Section 5.73.060;
  6. Other action that is quasi-judicial or subject to the Appearance of Fairness Doctrine as defined in these rules.
- D. All references to Chapters and Sections in these rules are to the SMC unless stated otherwise. In case of conflict between these rules and the SMC, the SMC controls.

## II. DEFINITIONS

- A. “Appearance of Fairness Doctrine” refers to the provisions of RCW chapter 42.36.
- B. “Appellant” means a person who submits an appeal of a Hearing Examiner’s recommendation or decision on a quasi-judicial action covered by these rules, or an appeal of the Director of Housing’s decision to deny an application for a multifamily housing property tax exemption.
- C. “Certificate of Service” means a signed sworn statement that a document has been either mailed by first class mail or emailed on the date stated in the certificate to the persons named at the addresses listed in the certificate.
- D. “Committee” means the City Council committee charged with making recommendations on a quasi-judicial action.
- E. “Ex parte communication” means any direct or indirect communication between a Councilmember and a proponent, opponent, or party of record that is made outside a Council hearing or meeting considering a quasi-judicial action and that concerns the merits of the quasi-judicial action pending before the City Council.
- F. “Party of record” means:
  - 1. any person who appeals a recommendation or decision in a quasi-judicial action;
  - 2. the City agency making a recommendation, decision or determination on a quasi-judicial action and any of its employees or agents, except that the Hearing Examiner is not a party of record;
  - 3. the owner(s) of the property subject to the quasi-judicial action;
  - 4. any person who filed an application for a permit or development approval that is the basis for the quasi-judicial action;
  - 5. any person granted party status through intervention at the Hearing Examiner proceeding or during the City Council quasi-judicial proceeding; and
  - 6. for an extension of a Type IV Land Use Decision or a minor amendment to a PUDA, any person who commented to the Department of Planning and Development (DPD) on the request for extension or minor amendment.
- G. “Pending” means the period of time during which a quasi-judicial action is under consideration by the Council. For purposes of these rules, a quasi-judicial action is considered to be under consideration by the Council beginning when the matter is date-stamped by the City Clerk, which for actions based upon a Hearing Examiner recommendation is pursuant to subsection IV.E of these rules. A quasi-judicial action

remains under consideration before the Council until the final termination of all judicial appeals of the Council decision in the quasi-judicial matter.

- H. “Person” means an individual, partnership, corporation, entity, association, or public or private organization of any character.
- I. “Quasi-judicial action” or “quasi-judicial matter” means an action of the City Council that determines the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial action does not include a legislative action adopting, amending, or revising a comprehensive, community, or neighborhood plan; zoning regulation; other land use planning document; or area-wide amendment to the Official Land Use Map.
- J. “Quasi-judicial proceeding” means the procedure by which Council considers a quasi-judicial action.
- K. “Record, procedural” means the procedural and pre-hearing documents and materials filed with the City Clerk and considered by the Council that are not part of the substantive record, and the disclosures of ex-parte communications placed on the record as required by RCW chapter 42.36 and these rules.
- L. “Record, substantive” means the Hearing Examiner’s record as supplemented by the Council pursuant to these rules, including the transcript or recording or both of the hearing before the Hearing Examiner, the exhibits admitted into evidence, and the other documents in the Hearing Examiner proceeding; or, for an appeal of a denial of an application for a multifamily housing property tax exemption by the Director of Housing, the exhibits and other documents compiled by the Director of Housing in denying the application; or, for a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the materials submitted to DPD and the DPD recommendation, and any additional information used by the Council.
- M. “Valid” means submitted in compliance with all requirements of the SMC and these rules.

### **III. APPEARANCE OF FAIRNESS**

- A. While a quasi-judicial action is pending before Council, no member of the City Council may engage in an ex parte communication.
- B. If an ex parte communication occurs, then:
  - 1. The Councilmember shall, either orally or in writing, place in the procedural record the substance of any such ex parte communication; and

2. The Councilmember shall make a public announcement at each meeting or hearing on the quasi-judicial action of the content of any such ex parte communication and the right of parties of record to rebut the substance of the communication. As one means of accomplishing this, the Council may announce at each meeting or hearing that there has been an ex parte communication, that a written summary of such communication is available, and that the parties of record have an opportunity to rebut the substance of the communication.
- C. The prohibition against ex parte communication does not preclude a member of the Council from questioning the parties of record concerning matters in the record during the meetings or hearings before the Council on the quasi-judicial action.
  - D. Anyone seeking to rely on the appearance of fairness doctrine to disqualify a Councilmember from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the person. If the basis was known or reasonably should have been known prior to the issuance of a decision and was not raised prior to the issuance of the decision, it may not be relied on to invalidate the decision.
  - E. If a Councilmember is challenged for violating the appearance of fairness doctrine or for bias or prejudice, the Councilmember shall respond on the record by either:
    1. Agreeing with the challenge and disqualifying himself or herself from acting on the quasi-judicial matter. The disqualified Councilmember may not vote and may not participate in the hearing and deliberation process, even if not voting. In addition, the disqualified Councilmember should not discuss the merits of the proposal with other Councilmembers; or
    2. Disagreeing with the challenge and:
      - a. Stating on the record why the Councilmember believes that there has been no violation of the appearance of fairness doctrine; or
      - b. Stating on the record why the Councilmember believes that he or she is not biased or prejudiced.
  - F. If a challenge to a Councilmember would cause a lack of a quorum or would result in an inability to obtain a majority vote as required by law, any such challenged Councilmember is permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the Councilmember publicly discloses the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

#### IV. GENERAL PROCEDURES

- A. The Council may refer any quasi-judicial action to the appropriate Council committee to review the merits of the action and to make a recommendation to the full Council.
- B. If a committee is authorized to make a ruling or determination on a procedural matter, the committee chair may make that procedural ruling or determination, or may refer such ruling or determination to the committee for discussion and vote.
- C. A document required to be filed with the City Clerk pursuant to these rules shall be filed by hard copy or electronic means, per the City Clerk's requirements for filing documents. If the City Clerk receives a ~~((mailing-))document~~ after a deadline, even if the mailing is postmarked on the day of the deadline or the electronic transmittal is sent on the day of the deadline, the ~~((mailing-))document~~ will not be considered as having met the deadline.
- D. A notice, request, reply, or response to someone other than the City Clerk may be sent by either first class mail or electronic means, depending on the means of transmittal authorized or indicated by the recipient.
- E. If the quasi-judicial proceeding includes a Hearing Examiner recommendation or decision, the date reflected in the City Clerk's date-stamp is one of the following:
  - 1. The date notice of the application for a Type IV Land Use Decision listed in subsection I.B of these rules is filed by DPD with the City Clerk, pursuant to Section 23.76.040.
  - 2. The date the Hearing Examiner's or designated officer's decision on the final assessment roll for a Local Improvement District is filed with the City Clerk.
  - 3. The date the Landmark Preservation Board recommendation on controls and incentives for a designated Seattle landmark about which the owner and Board staff are unable to reach an agreement is filed with the City Clerk.
- F. If the last day of a period specified by these rules is a Saturday, Sunday, or federal or City holiday, the deadline runs until 5 p.m. on the next day that is not a Saturday, Sunday, or federal or City holiday.
- G. When calculating the number of days that a notice or motion must be provided prior to a committee meeting or hearing, the day after the notice or motion is provided is the first day of the period, and the day of the meeting or hearing is the last day of the period.
- H. Time requirements in these rules are strictly applied.
- I. A motion is limited to 20 double-spaced pages, excluding declarations, exhibits, attachments, and appendices.



## **V. PROCEDURES BEFORE COMMITTEE ACTION**

### **A. Appeals.**

#### **1. Who May File an Appeal**

- a. An appeal of a Hearing Examiner's recommendation on any Type IV Land Use Decision, including any associated Type II land use decision and any integrated decision to approve, condition, or deny based on substantive SEPA authority, may be filed by any person who submitted a written comment to the DPD Director or an oral or written comment to the Hearing Examiner on the matter.
- b. An appeal of an individual's final assessment for a Local Improvement District may be filed only by a party who made a timely protest at the initial hearing, pursuant to Section 20.04.090.D. Failure to file an appeal does not limit use of the judicial appeal process under RCW 35.44.200.
- c. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark may be filed only by a party of record to the Hearing Examiner process.
- d. An appeal of the Director of Housing's decision to deny an application for a multifamily housing property tax exemption may be filed only by the applicant.

#### **2. Filing Deadline for an Appeal**

- a. An appeal of the Hearing Examiner's recommendation on a Type IV Land Use Decision must be filed with the City Clerk by 5 p.m. of the 14th calendar day following the date of the Hearing Examiner's recommendation.
- b. An appeal of an individual's final assessment for a Local Improvement District must be filed with the City Clerk by 5 p.m. of the 14th calendar day following the date of the Hearing Examiner's or designated officer's decision.
- c. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark must be filed with the City Clerk and served on all other parties of record by 5 p.m. of the 14th calendar day after the Hearing Examiner's decision is served on the party appealing.
- d. An appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption must be filed with the City Clerk by 5 p.m. of the 30th calendar day following the receipt of the denial.

#### **3. Form and Content of Appeal. An appeal shall be in writing and:**

- a. Clearly identify specific objections to the recommendation or decision;
- b. Specify the relief sought;

- c. For an appeal of an individual's final assessment for a Local Improvement District, state clearly on the cover or cover page the number of the Local Improvement District and the appellant's name, and shall comply with Section 20.04.110; and
    - d. If desired, include a request to supplement the record, pursuant to subsection V.B. of these rules.
  4. Rejection or Clarification of Appeal.
    - a. The Council may reject an appeal that does not comply with the form and content requirements.
    - b. The Council may request clarification of an appeal. Council staff will provide the request for clarification to:
      - i. The parties of record for an appeal of the Hearing Examiner's recommendation on a Type IV Land Use Decision;
      - ii. The parties of record for an appeal of the Hearing Examiner's recommendation for controls and incentives for a designated Seattle landmark;
      - iii. Those persons who were provided written notice of the Director of Housing's decision for an appeal of the denial of a multifamily housing property tax exemption;
      - iv. The appellant for an appeal of an individual's final assessment for a Local Improvement District, and the City Attorney.
    - c. Any response from the appellant must be filed, along with a certificate of service, with the City Clerk and copies provided to those who received a copy of the request for clarification by 5 p.m. of the (~~10th~~) 7th calendar day after copies of the request for clarification were provided by Council staff.
  5. Circulation of appeal.
    - a. Upon receipt of a valid appeal, Council staff will provide notice of the appeal to the following persons, and shall complete a certificate of service to be included in the Clerk File for the matter:
      - i. those persons who were provided written notice of the Hearing Examiner's recommendation for an appeal of a Type IV Land Use Decision, or of the Hearing Examiner's recommendation for controls and incentives for a designated Seattle landmark;

- ii. those persons who were provided written notice of the Director of Housing’s decision for an appeal of the denial of a multifamily housing property tax exemption;
        - iii. the appellant for an appeal of an individual’s final assessment for a Local Improvement District, as well as the City Attorney.
      - b. Notice must be provided at least 21 calendar days prior to the date the committee is to consider the matter.
      - c. The notice shall include:
        - i. A copy of each appeal;
        - ii. Instructions for filing a response, including a list of the parties of record on whom any response and certificate of service must be served;
        - iii. If a request to supplement the record has been filed, a copy of the request to supplement the record and instructions for responding; and
        - iv. Notice of the first committee meeting at which the matter will be considered.
    6. Response. Only a party of record may respond to an appeal. Any response must be filed, along with a certificate of service, with the City Clerk and copies provided to the other parties of record, by 5 p.m. of the (~~10<sup>th</sup>~~) 7<sup>th</sup> calendar day after the notice of appeal was provided by Council staff.
    7. Reply. Any reply from a person who filed an appeal must be filed with the City Clerk, along with a certificate of service, and copies provided to the other parties of record, by 5 p.m. of the 7<sup>th</sup> calendar day after the response was filed with the City Clerk.
  - B. Request to Supplement the Record on an Action other than an Extension of a Type IV Land Use Decision, a Minor Amendment to a PUDA, or an Appeal of an Individual’s Final Assessment for a Local Improvement District.
    1. Filing a Request to Supplement the Record. A request to supplement the record may be filed only by a party of record or as part of a motion to intervene, and must be filed with the City Clerk, along with a certificate of service, no later than:
      - a. If an appeal has been filed, the deadline for filing a reply; or
      - b. If no appeal is filed, (~~28~~)21 calendar days after the Hearing Examiner provides copies of the recommendation or decision on the quasi-judicial action.
    2. Form and Content of a Request to Supplement the Record.
      - a. A request to supplement the record shall be in writing, and:
        - i. include a brief description of the nature of and a copy of the evidence proposed to be added; and

- ii. explain how the evidence proposed to be added meets the standard for supplementation, i.e., why it was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner, or, for an appeal of a denial of an application for a multifamily housing property tax exemption, at the time the Director of Housing denied the application for the exemption.
  - b. Testimony proposed to be added to the record must be presented by affidavit, by declaration conforming to the standards of RCW 9A.72.085, or in a transcript.
  - c. A request to supplement the record must be submitted as either:
    - i. a separate section of an appeal, a response, a reply, or a motion to intervene; or
    - ii. a separate document attached to an appeal, a response, a reply, or a motion to intervene; or
    - iii. if no appeal has been filed, a separate document.
3. Circulation of a Request to Supplement the Record.
  - a. If a request to supplement the record is filed with an appeal that is valid, Council staff will provide it together with the appeal to the same persons to whom Council staff provides notice of the appeal pursuant to subsection V.A.5.a of these rules, along with instructions for responding to the request to supplement the record.
  - b. If a request to supplement the record is filed at some other time but by the deadline provided in subsection V.B.1 of these rules, the person filing the request must also provide a copy of the request and a certificate of service to those to whom the Hearing Examiner provided copies of the recommendation or decision.
4. Response to Request to Supplement the Record. A response may be filed by a party of record or any person who filed a pending motion to intervene. Any response must be filed together with a certificate of service with the City Clerk and copies provided to the other parties of record and to any person who filed a motion to intervene, by 5 p.m. of the ~~((10th))~~ 7th calendar day after the request to supplement the record was provided as required by subsection V.B.3 of these rules.
5. Content of Response. A response to a request to supplement the record shall be in writing and address the standard for supplementation described in subsection V.B.2.a.ii of these rules.
6. Reply. Any reply must be in writing and be filed along with a certificate of service with the City Clerk and copies provided to the other parties of record and to any person who filed a motion to intervene, by 5 p.m. of the 7th calendar day after the

- response was filed. A reply must respond only to the arguments made in any response and not raise new issues.
- C. Motions in a Proceeding other than an Extension of a Type IV Land Use Decision or a Minor Amendment to a PUDA.
1. Motion to Intervene in an Action Other Than an Appeal of an Individual’s Final Assessment for a Local Improvement District.
    - a. If a valid appeal has been filed, then a person may file a motion to intervene to participate in a quasi-judicial action as a party of record. The motion may not be filed before notice of an appeal is provided according to subsection V.A.5 of these rules. The motion may be filed no later than the deadline for filing a reply to the appeal. The motion to intervene shall be in writing and be filed along with a certificate of service with the City Clerk, with copies provided to parties of record. The motion to intervene must state the basis for intervention and how the person making the request is affected by or interested in the quasi-judicial action, and must include any request to supplement the record.
    - b. In considering a motion to intervene, the committee shall consider:
      - i. whether the motion to intervene shows a substantial or significant interest in the quasi-judicial action that is not otherwise adequately represented by a party of record;
      - ii. whether intervention can be accomplished without unduly delaying the proceeding or prejudicing the rights of any party of record; and
      - iii. whether the person filing the motion either participated in the Hearing Examiner proceeding, or failed to do so because he or she was unable to do so.
    - c. If it grants a motion to intervene, the committee may limit the nature and scope of the participation, including the issues the intervenor may address.
  2. Other Motions. Any other motion may be filed by a party of record. If a valid appeal has been filed, such ((Such)) a motion shall be in writing and be filed along with a certificate of service with the City Clerk no later than 28 calendar days after the Hearing Examiner or Director of Housing provides copies of the recommendation or decision on the quasi-judicial action. If no valid appeal has been filed, such a motion shall be in writing and be filed along with a certificate of service with the City Clerk no later than 7 calendar days after Council staff has sent notice of the first Council meeting to consider the quasi-judicial action. The person filing the motion must send a copy of the motion together with a copy of the

- certificate of service to those persons who were provided written notice of the Hearing Examiner's recommendation or decision, or, for an appeal of the denial of a multifamily housing property tax exemption, of the Director of Housing's decision.
3. Response. Any response to a motion shall be in writing, and be filed by a party of record along with a certificate of service with the City Clerk, and copies provided to the other parties of record, by 5 p.m. on the ~~((10th))~~ 7th calendar day after the motion was filed. If the response is to a motion to intervene, the party filing the response shall also provide a copy of the response and certificate of service to the person who filed the motion to intervene.
  4. Reply. The person who filed a motion may file a written reply with the City Clerk along with a certificate of service, with copies provided to the other parties of record, by 5 p.m. of the 7th calendar day after the response was filed with the City Clerk. A reply must respond only to the arguments made in any response and not raise new issues.

## **VI. COMMITTEE ACTION**

- A. The committee shall schedule time at a committee meeting to consider the quasi-judicial action. For an appeal of an individual's final assessment for a Local Improvement District, the committee shall, within 15 days following the filing of the appeal with the City Clerk, set the time and place for the hearing on the appeal.
- B. Notice.
  1. Unless some other time is required by law, Council staff shall provide notice of each committee meeting at which a quasi-judicial action is to be considered to the parties of record, and to any person who filed a pending motion to intervene, as follows:
    - a. at least 21 calendar days prior to the first meeting; and
    - b. at least 7 calendar days prior to any subsequent meeting; and
    - c. at least 21 calendar days prior to the first meeting at which a DPD Director or Hearing Examiner recommendation on a remanded quasi-judicial action is discussed.
  2. For an application for a minor PUDA amendment or an extension of a Type IV Land Use Decision, Council staff shall provide notice of the committee meeting at which the action is to be considered to the applicant, those who commented to DPD on the application, and those who requested notification of Council meetings on the matter, at least 21 calendar days prior to the first meeting, and at least 7 calendar days prior to

any subsequent meeting. The notice shall state that written comments will be accepted, and that oral comments may be permitted at the first meeting.

C. Committee Consideration of the Quasi-judicial Action. At a committee meeting, the committee will take the following actions, except that subsections VI.C.1 and VI.C.2 of these rules do not apply to a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision:

1. Consider and decide any request to supplement the record. The committee, at its discretion, may permit a person who submitted a request to supplement the record, and any party of record who submitted a response, to orally address the committee concerning whether the evidence proposed to be added meets the standard for supplementation set forth in subsection V.B.2 of these rules. If the committee permits, each person generally will be allowed 5 minutes to address the committee, unless there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow. The committee may:
  - a. Deny the request to supplement the record;
  - b. Determine that the evidence proposed to be added to the record meets the standard for supplementation set forth in subsection V.B.2 of these rules, and grant the request to supplement in whole or part. If the committee votes to supplement the record:
    - i. each document or exhibit so added shall be labeled as a Council exhibit, with consecutive letters [A, B, . . . Z, AA, etc.]. The name of the party submitting the exhibit shall be noted on the label; and
    - ii. the committee shall also decide whether to recommend that the Council remand the matter to the Hearing Examiner or Director of Housing. The Council may remand the matter only if it determines that the recommending or decision-making agency should reconsider the application in light of the new evidence or material.
2. Consider and decide any motion, including a motion to intervene. In ruling on any motion, the committee may, in its discretion, permit the person who made the motion and any person who submitted a response to orally address the committee concerning the motion. If the committee permits, each such person will generally be allowed 5 minutes to address the committee, unless the committee determines there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow.

3. Consider the merits of the proposed action and vote on a recommendation to full Council.
  - a. The committee, in its discretion, may hear oral argument from:
    - i. any person who submitted an appeal;
    - ii. any person who submitted a response; and
    - iii. any person who was permitted to intervene.
  - b. For a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the committee will accept written comments, and may permit oral comments at the first meeting, from the applicant and any person who submitted comments to DPD on the proposed amendment or extension or who requested notification of Council meetings on the matter.
  - c. Oral argument or comment, if permitted, must be based on the evidence in the record.
  - d. If oral argument or comment is permitted, each person will generally be allowed 5 minutes, unless there are extraordinary circumstances, in which case the committee shall determine the amount of time to allow. The party who filed an appeal goes first and may reserve a portion of time for rebuttal. The committee may ask questions or extend the time for argument at the discretion of the committee chair.
  - e. After the oral argument or comment, if allowed, the committee may discuss the merits and vote at this meeting on its recommendation to the Council, or it may continue consideration of the matter to a subsequent committee meeting to discuss the merits and vote.
  - f. The committee may recommend:
    - i. that the Council approve, approve with conditions, modify, or deny the quasi-judicial action; or
    - ii. that the Council remand the application if it has voted to supplement the record and determines that the Hearing Examiner, DPD, Department of Neighborhoods (DON), or Director of Housing should reconsider the application in light of the new evidence; or
    - iii. that the Council remand the application for additional information or a new proposal or both, only for a major institution master plan, an amendment to a major institution master plan, or renewal of a major institution master plan development plan component.



4. Site visit. A Councilmember may visit the location of a quasi-judicial proposal to better understand the evidence in the record, but a Councilmember shall not make any findings, conclusions, or decisions based on information learned during a site visit, and shall not go onto private property without the permission of the owner. A Councilmember shall not engage in ex parte communication during a site visit.
5. Standard of Review.
  - a. In any quasi-judicial action, the Council shall apply applicable law and the decision shall, except as specified in subsection VI.C.5.b of these rules or unless otherwise specified by law, be supported by substantial evidence in the record.
  - b. For an appeal of an individual's final assessment for a Local Improvement District, the Hearing Examiner's or designated officer's decision shall be accorded substantial weight and the burden of establishing the contrary is upon the appealing party. The Council may adopt or reject, in whole or in part, the findings, recommendations, and decision of the Hearing Examiner or designated officer or make such other disposition of the matter as is authorized by RCW 35.44.100 and SMC Section 20.04.090.B.

## **VII. PREPARATION AND TRANSMITTAL OF COMMITTEE RECOMMENDATION TO COUNCIL**

- A. Preparation of Recommendation. After the committee votes on a recommendation, Council staff shall prepare:
  1. proposed findings of fact and conclusions of law and a proposed decision for Council based on the committee's recommendation;
  2. a report explaining each position, proposed alternative findings and conclusions, and a proposed decision based on the record for each position, if the committee vote is divided; and
  3. an ordinance and any related documents, if an ordinance is required.
- B. Transmittal of Committee's Recommendation to Council. Council staff shall make the documents listed in subsection VII.A of these rules available to the Council prior to any vote.
- C. Introduction of Ordinance. If an ordinance is required, it shall be introduced according to Council procedures, except that it does not require Councilmember sponsorship.
- D. Execution of PUDA. Any PUDA or amendment to a PUDA shall be executed by all legal and beneficial owners of the property that is the subject of the contract rezone prior to any Council vote.

## **VIII. COUNCIL ACTION**

- A. The Council shall make its decision based solely on the evidence in the record.
- B. No public comment addressing the merits of a quasi-judicial action is permitted at any Council meeting. If public comment does occur, the substance of the comment may not be considered by the Council in making its decision.
- C. The Council may approve, approve with conditions, modify, remand, or deny the quasi-judicial action. The Council may remand the application only if:
  - 1. the committee voted to supplement the record and determined that the Hearing Examiner, DPD, DON, or Director of Housing should reconsider the application in light of the new evidence; or
  - 2. for a major institution master plan, an amendment to a major institution master plan, or renewal of a major institution master plan development plan component, the committee determined that there is need for additional information or a new proposal or both.
- D. The Council shall adopt written findings of fact and conclusions to support its decision.
- E. Council decisions.
  - 1. Decisions on the following quasi-judicial actions are made by ordinance:
    - a. An amendment to the official land use map;
    - b. An amendment to a PUDA;
    - c. Adoption of, or a major amendment to, a major institution master plan, or renewal of a major institution master plan development plan component;
    - d. An appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark; and
    - e. An extension of a Type IV Land Use Decision originally adopted by ordinance.
  - 2. Decisions on the following quasi-judicial actions are not made by ordinance:
    - a. A Council conditional use;
    - b. A public project approval;
    - c. An appeal of an individual's final assessment for a Local Improvement District;
    - d. An appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption; and
    - e. An extension of a Type IV Land Use Decision not originally adopted by ordinance.
- F. The Council's decision on a Type IV Land Use Decision, to the extent such information is available to the Council, shall contain the name and address of the owner of the

property, of the applicant, and of each person who filed an appeal with the Council, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.

- G. If the Council remands a proposed new or amended major institution master plan or the renewal of a major institution master plan development plan component, Council staff will send to the major institution the request for additional information or a new proposal or both on the issue that was not adequately addressed.

## **IX. ACTIONS AFTER COUNCIL DECISION**

### **A. Transmittal of Council Decision.**

1. The City Clerk shall prepare a letter of transmittal to accompany the findings of fact, conclusions, and decision. The letter shall state the time and place for seeking judicial review. The Council's decision is issued, for purpose of seeking judicial review pursuant to the Land Use Petition Act, on:
  - a. the date that the Council passed the ordinance for decisions made by ordinance; or
  - b. the date three days after a copy of the decision is transmitted by the City Clerk for decisions not made by ordinance.
2. The City Clerk shall promptly provide the letter of transmittal and a copy of the Council's findings of fact, conclusions, and decision to:
  - a. For a Type IV Land Use Decision, an appeal of an individual's final assessment for a Local Improvement District, or an appeal of the Hearing Examiner's recommendation on controls and incentives for a designated Seattle landmark: the Hearing Examiner and all parties of record.
  - b. For an appeal of the Director of Housing's denial of an application for a multifamily housing property tax exemption, a minor amendment to a PUDA, or an extension of a Type IV Land Use Decision: all parties of record.

B. Shoreline Reclassification. For a shoreline environment reclassification, DPD shall file a copy of the Council's findings, conclusions, and decision with the State Department of Ecology. A shoreline environment reclassification is not effective until approved by the Department of Ecology.

C. Recording of PUDA. The City Clerk shall record any executed PUDA with the King County Recorder as soon as practicable, and no later than 30 days after the passage of the ordinance.

D. Local Improvement District. The City Clerk shall file the original Council decision in the record of the Local Improvement District.

## **X. EFFECT OF COUNCIL DECISION**

- A. The Council's decision is final and conclusive unless the Council retains jurisdiction. Unless the decision is reversed or remanded on appeal, the Director of DPD, DON, Director of Housing, and other departments are bound by the Council's decision and shall incorporate the terms and conditions of the Council's decision in any permit issued to the applicant or in approved plans.
- B. No ordinance confirming an assessment roll for a Local Improvement District shall be enacted by the Council until all appeals to the City Council about the assessment roll are decided.

## **XI. MAINTENANCE OF RECORD OF QUASI-JUDICIAL PROCEEDING**

The City Clerk shall maintain the official record of the Council's decision in a quasi-judicial matter. The following documents shall be included in the official record of a quasi-judicial Council action addressed by these rules:

- A. If there is one, the Hearing Examiner's record, including exhibits, and recordings and transcripts of hearings. However, the City Clerk shall maintain oversize exhibits only for a period of three months after the Council's decision, or, if a judicial appeal is filed, until such time as the judicial appeal is resolved. After the three months or the resolution of any judicial appeal, the City Clerk may substitute photographs of oversize exhibits for the oversize exhibits and may destroy the oversize exhibits unless the party who submitted the oversize exhibits requests that they be returned.
- B. Any evidence admitted by the Council to the substantive record as a result of a request to supplement the record;
- C. For a minor amendment to a PUDA or a request to extend a Type IV Land Use Decision, the materials submitted to DPD and the DPD recommendation, and any additional information used by the Council;
- D. The Council's procedural record; and
- E. The Council's findings, conclusions, and decision.