

## **Everett Violations Hearings Virtual Hearings Protocol**

After an interruption resulting from the Governor's Stay Home, Stay Healthy Order, Everett Code Enforcement Violations Hearings will resume using Microsoft Teams. The following protocol addresses the scheduling and conduct of virtual hearings. This document is a work in progress that will evolve to adopt best practices based on experience.

### **Virtual Hearings**

- Code Enforcement hearings are being conducted virtually under the Governor's Stay Home Stay Healthy order until further notice. There will be no physical gathering occurring. All participants (Respondents, City Staff, Examiner, any others) will participate via Microsoft Teams.
- City Staff and the Examiner will participate via Teams with both audio and video - they will be able to see and hear each other. Respondents and others will be able to either participate via computer with audio and video capacity, or by telephone (audio) only.
- The City is in the process of setting up a public access computer for use by Respondents at Violations Hearings. When this facility is established, this protocol will be expanded to explain how Respondents can request to use the City computer for hearing attendance.
- Each case will be heard in a separate Teams meeting, to which known interested persons will be individually invited via email and/or US mail. This includes named respondents, any witnesses they alert the City they wish to invite, and any members of the public known to Code Enforcement Staff to have an interest in participating.
- A respondent who receives a notice of violation and hearing for a hearing date they know they cannot attend by phone or video must contact the Code Enforcement Unit to request continuance to the next soonest subsequent date they can attend by phone or video.
- Contact the City as soon as possible if you will need an interpreter or other accommodation for the hearing.
- Each hearing is being recorded. The recording will be part of the legal record of the fact finding hearing in these proceedings. Anything stated during hearings becomes a matter public record.
- Aside from not gathering in person, to the extent possible hearings will be conducted exactly as they would be if we were meeting in the eighth floor conference room of the Wall Street Building in Everett.

### **Testimony**

- Because the Code Enforcement Unit has the burden of proof, they present their case first. (Burden of proof is a legal term that means Code Enforcement is the party responsible to demonstrate through evidence that the alleged violations did occur and that the correction action requested to be imposed is consistent with City Code). Code Enforcement Officers may call witnesses to present testimony. The Examiner may ask questions of City witnesses.

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- Respondents will present their case second. They may offer any testimony, exhibits, witness testimony, or any other information they like in response to the City's presentation. The Examiner may have questions for Respondent witnesses.
- Only one person can speak at a time, or their words will not be audible.
- If a party has questions or comments in response to the other party's testimony, they must wait until it is their turn to state them like in any legal proceeding.
- Like in-person hearings, only people called as witnesses by the parties will have the chance to testify. The hearings are open to be observed by the public.
- Before testifying, each witness will be required to swear or affirm that their testimony is true.

### **Exhibits**

- Before each hearing, Code Enforcement Staff will mail (by US Mail) the hearing packet to Respondents and to the Examiner. These parties will have paper copies of the packets to look at during testimony. The packet will be mailed to respondents 10 days prior to the scheduled hearing.
- If Respondents want to offer documents in evidence, they are requested to email their exhibits to [aweech@everettwa.gov](mailto:aweech@everettwa.gov) OR mail copies of these documents to Code Enforcement at 3002 Wetmore Ave, Everett, WA 98201 with a post mark not later than five days prior to their scheduled hearing.
- As in in-person hearings, the Code Enforcement exhibits include a proposed Order, prepared by Code Enforcement Staff. The proposed Order sets out the facts from Code Enforcement's point of view and the Order the City is asking the Examiner to impose.
- Changes are made to the proposed Order based on testimony and evidence offered at hearing.

### **Final Decision**

- The Examiner will issue a final Order in each item. The final Order will include the Examiner's decision as to whether the alleged code violations did occur and whether the requested enforcement action is consistent with the City's authority in the Everett Municipal Code.
- Like at in-person hearings, the Examiner may announce the final decision on the record at hearing OR may take the case under advisement and issue a written Final Order by the following Thursday, at her discretion.
- If the City proves its case, the final Order will establish a schedule for abatement of violations and impose a fine consistent with City Code (EMC Chapter 1.20).
- Respondents who fail to appear at a scheduled virtual hearing and who do not call Code Enforcement to seek a continuance or make other arrangements may have a default judgment entered against them. If the City proves its case, default Orders typically impose fines.

### **Virtual Protocol**

In addition to Violations Hearings Rules of Procedure, the following protocols apply at virtual hearings:

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- Please mute your audio when you are not testifying. The meeting moderator may mute your audio if sounds from your end are interfering with the ability for other testimony to be heard. You will be unmuted when it is your turn to speak.
- When you testify, please silence your phone and otherwise make your environment as quiet as possible.
- Please speak slowly and clearly.
- When making reference to images or graphics in your testimony, please indicate exhibit number and page number and verbally describe the information as if the recorder is your target audience.
- For those on video listening to the testimony of others, if you have trouble hearing a person who is testifying, please give a visual sign, cupping your hand behind your ear, rather than speaking up.
- If you want to speak and it is not your turn, you should “raise your hand” in Microsoft Teams by pressing the “hand” icon on the screen. This option is only available for those attendees participating via video.
- Just like an in-person hearing, anyone who behaves disruptively will be muted and/or removed from the meeting as appropriate.
- If technical difficulties or other problems arise, the Examiner may - on her own motion - continue the hearing. If this occurs, new notice of hearing date will be issued.