



## GUIDE TO CODE ENFORCEMENT APPEAL HEARINGS

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### **HOW TO APPEAL – EMC 1.20.260**

Notices of violation/orders to correct (NOVOs) and stop work orders may be appealed to the Hearing Examiner. Appeals shall be submitted no later than 14 calendar days after the NOVO or stop work order has been served. Appeals can be filed online via the code enforcement portal or can be submitted to the Hearing Clerk by mail or delivered in person.

Appeals shall use the Appeal Form provided by Code Enforcement. (See the Appeal Application Checklist for complete information.) At a minimum, appeals shall contain the following information:

- ✓ The case number designated by the city and the name of the appellant;
- ✓ The name and signature of each appellant or their authorized representative;
- ✓ The address and contact information where notices can be sent to the appellant;
- ✓ The stop work order or NOVO complained of;
- ✓ A typed letter of appeal (statement), fully explaining the errors alleged in the appeal is required.

The letter of appeal must explain how the appellant has standing (as established in EMC 1.20.250.C) and must include a clear and concise description of all errors they believe are in the NOVO or stop work order.

The appeal fee in the amount of \$500 must accompany an appeal or otherwise be paid within 14 calendar days of the notice appealed from.

The appeal fee may be refunded only in the following two circumstances: 1) if the appellant requests withdrawal of the appeal in writing at least 15 calendar days before the scheduled appeal hearing date or 2) if the Hearing Examiner rules in their favor pursuant to EMC 1.20.260(B),

The Code Enforcement Officer may administratively deny an appeal that is not timely filed or an appeal for which the appeal fee is not timely paid.

The following parties can appeal a NOVO or stop work order: the owner of the property subject to the notice, and any person cited in the notice.

In the appeal hearing, the appellant shall have the burden of proof to show that the original NOVO/stop work order was issued in error of law or that the NOVO/stop work order is not supported by substantial evidence.

### **WAIVER OF APPEAL FEE (EMC 1.20.270)**

An appellant may seek a waiver of the appeal fee on the basis of financial status. Upon submittal of the information in the box below, the Code Enforcement Officer shall consider and make a written determination of the waiver request prior to the appeal hearing. The city may schedule a hearing while the waiver request is being processed; provided, however, the city shall not conduct the hearing if a waiver request is denied until payment is made.

### **Waiver of Appeal Fee:**

A person responsible for a violation of a code may submit a written request for waiver of the appeal fee if the person can demonstrate the following requirements regarding financial status:

- The person responsible for violation of the code is currently receiving assistance under a needs-based, means-tested assistance program including (but not limited to): federal Temporary Assistance for Needy Families; state-provided general assistance for unemployable individuals; federal Supplemental Security Income; federal poverty-related veteran's benefits; or food stamps programs; or
- The person's household income is at or below 125 percent of the federal poverty guideline; or
- The person's household income is above 125 percent of the federal poverty guideline, but the applicant has recurring basic living expenses that render the person without financial ability to pay the appeal fee.

### **HEARING EXAMINER APPEAL HEARING PROCEDURES (EMC 1.20.280)**

All timely, complete appeals shall be scheduled for hearing. Notice of the appeal hearing shall be delivered to the appellant(s) at least 20 days prior to the hearing.

An appeal hearing may be canceled if the Code Enforcement Officer approves fully completed corrective action at least forty-eight (48) hours prior to the scheduled hearing date, except in the following case: repeat violations; violations that creates a situation or condition which cannot be corrected; or violations posing an immediate risk or threat to persons, property, or public safety. Accrued fines, penalties, and costs shall not be affected by cancellation of the hearing.

### **HEARING EXAMINER DECISION (EMC 1.20.290)**

Within twenty (20) days of the hearing, the hearing examiner will issue a written decision based on the complete record created through the hearing process. The decision shall be final unless appealed. Final decisions become effective on the day after the appeal period expires unless an appeal is filed. To appeal a hearing examiner decision, a person with standing to appeal must file a land use petition with the Superior Court, within twenty-one (21) days of decision issuance.

If judicial review is not granted, or an appeal to court is not successful, the hearing examiner decision shall constitute the final decision of the city. Failure to comply with the decision of the hearing examiner shall constitute a misdemeanor punishable by a fine of not more than \$1,000 or up to ninety (90) days' imprisonment, or both. In addition to criminal punishment pursuant to this subsection, the city may pursue collection, liening the property, and abatement as provided in this chapter.