

Appeals and Motion for Reconsideration

What are the different types or levels of appeals?

A final decision regarding an application may be appealed to different levels depending on the type of review. A decision made by staff under a Type I or Type II review may be appealed to the county hearing examiner. A decision made by the hearing examiner under a Type III review may be appealed to Superior Court.

A motion for reconsideration may also be filed for a Type III hearing examiner’s decision. See page 2 for more information.

Who can appeal a decision regarding an application?

For **Type I reviews**, any interested party may appeal the decision. For **Type II reviews**, only those who have submitted written comments to the Responsible Official within the comment period and provided an accurate mailing address, also know as Parties of Record, may appeal the decision. For **Type III reviews**, only the applicant or Parties of Record may appeal the decision.

To qualify as a Party of Record for a **Type II Review**, you must submit written comments to the Responsible Official before the close of the public comment period and provide an accurate mailing address.

To qualify as a Party of Record for a **Type III Review**, you must submit written comments before the close of the public hearing, present testimony at the public hearing before the hearing examiner, or

sign the Sign-In Sheet at the public hearing. You must also provide an accurate mailing address.

When must the appeal be filed?

Type I and Type II decisions may be appealed only if a complete appeal application and appeal fee is submitted within 14 calendar days from the mailing of the land use decision.

Type III Hearing Examiner decisions may be appealed only if, within 21 calendar days after written notice of the decision is mailed, a written appeal is filed in the Superior Court of Clark County, pursuant to Chapter 36.70B RCW or applicable state law.

Can I submit new evidence regarding the application being appealed?

Yes. The hearing examiner will hear appeals in a public hearing and will accept new information and testimony.

What is the application process?

To appeal a **Type I** or **Type II** review decision to the hearing examiner, the appellant must submit a completed appeal application form and fees, together with four copies of the appeal letter in person to Community Development.

Public Service Center
Permit Center, first floor
1300 Franklin Street
Vancouver, WA 98660

The decision by the Land Use Hearing Examiner under a Type III review process

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Community Development
1300 Franklin Street, Vancouver, Washington
Phone: (360) 397-2375 Fax: (360) 397-2011
www.clark.wa.gov/development



For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360)397-2322
Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

will become final and conclusive unless an appeal is filed with Superior Court.

Refer to Clark County Superior Court for filing requirements.

What is required in the appeal application?

Application for an appeal must contain the following information:

- The case number designated by the county and the name of the applicant
- The name of each petitioner, the signature of each petitioner or his or her duly authorized representative, and a statement showing that each petitioner is entitled to file the appeal under CCC 40.510.020(H)(1). If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the responsible official. All contact with the responsible official regarding the petition, including notice, shall be with this contact representative
- The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error
- The appeal fee adopted by the board provided, the scheduled fee shall be refunded if the applicant files with the responsible official at least fifteen calendar days before the appeal hearing a written statement withdrawing the appeal

Who can file a Motion for Reconsideration?

Any party of record to the proceeding before the hearing examiner may file with the responsible official a motion for reconsideration of an examiner's decision within 14 calendar days of written notice of the decision.

The motion must be accompanied by the applicable fee and identify the specific authority within the code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects the rights of the moving party:

- Procedural irregularity or error, clarification, or scrivener's error, for which not fee will be charged
- Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners
- The decision is not supported by substantial evidence in the record
- The decision is contrary to law

Within 14 calendar days of the filing of a motion for reconsideration, staff and any other party of record may file with the responsible official a written response to the motion. No reply to the response is permitted.

Within 28 calendar days of the filing of a motion for consideration, the examiner shall issue a decision on the motion.

The examiner's decision on a motion for reconsideration shall state whether the motion is granted or denied, in whole or in part, and shall state the factual and/or legal reasons for the decision.

The examiner's decision on a motion for reconsideration shall be final unless a timely appeal is filed to Clark County Superior Court by party of record to the proceedings before the examiner.

Refer to Clark County Superior Court for filing requirements.

Fee schedule

The following fees are required to be paid when the application is submitted.

Appeals to the Hearing Examiner

Planning issues	\$1,166
Issuance	\$94
Engineering issues, additional	\$414
Issuance, additional	\$53

If the appellant files a written statement withdrawing the appeal at least 15 calendar days before the appeal hearing, the fee will be refunded.

Motion for reconsideration

Fees are charged at the hourly rate of the Hearing Examiner in addition to an issuance fee.

Issuance fee	\$94
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Appeals to Superior Court

Refer to Clark County Superior Court for filing and court costs.