



Legislation Details (With Text)

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Title: BILL (for introduction) - Amending Section 1-407 of the Fresno Municipal Code to require the advance deposit of fines at the time of filing an administrative appeal
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Date	Ver.	Action By	Action	Result
3/5/2015	1	City Council	introduced and laid over	Pass

REPORT TO THE CITY COUNCIL

March 5, 2015

FROM: BRUCE RUDD, City Manager

BY: RENENA SMITH, Assistant City Manager

SUBJECT

BILL (for introduction) - Amending Section 1-407 of the Fresno Municipal Code to require the advance deposit of fines at the time of filing an administrative appeal

RECOMMENDATION

Staff recommends that the City Council adopt the proposed amendment to Fresno Municipal Code (FMC) section 1-407 requiring the payment of applicable fines at the time of filing a notice of appeal, and the addition of steps to qualify for a hardship waiver.

EXECUTIVE SUMMARY

The proposed amendment will require a person or entity seeking to appeal an administrative citation to deposit, at the time of requesting the appeal, the full amount of the penalty applicable to the violation. If, after a hearing, it is determined that the person or entity charged with the violation was not responsible for the violation or that there was no violation, the deposit shall be refunded. The

proposed amendment also sets forth grounds pursuant to which the Director of the department issuing the citation may waive the deposit requirement upon a showing of hardship.

BACKGROUND

Section 1-407 of Article 4, Chapter 1 of the FMC allows the filing of an appeal by a person who has been cited for a violation of the FMC. The proposed amendment will add the requirement of an advance deposit of the full penalty at the time of filing an appeal. Adoption of this amendment will streamline the appeal process.

A recipient of an administrative citation who is financially unable to deposit the administrative fine at the time of filing an appeal may apply for an advanced deposit hardship waiver. The Director may waive the requirement of an advance deposit, in part or in full, only if the person requesting the waiver provides proof, under penalty of perjury, of actual financial inability to pay the full amount of the citation in advance of the hearing. The grounds for proving financial inability shall be as set forth in the Government Code, and analogous to the elements necessary for a waiver of court fees in state court. A hardship waiver shall not be available for any penalty less than \$200.00, or for any recipient of a citation who is not a natural person.

The proposed amendment also requires the employee or officer who issued the citation, order, decision or determination to prepare a hearing packet that forms the basis of the citation, order, decision or determination.

ENVIRONMENTAL FINDINGS

This is not a project for the purposes of CEQA.

LOCAL PREFERENCE

Local preference does not apply to the adoption of an amended ordinance.

FISCAL IMPACT

There is no fiscal impact to the City. City costs related to the collection and disbursement of the appeal is offset by the administrative and hard costs for issuing and prosecuting the violation of the citation.

Attachment:

Proposed Amendment to Municipal Code Section 1-407