



## Legislation Details (With Text)

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**On agenda:** 3/5/2015      **Final action:**  
**Title:** BILL (For introduction) - Amending Subsection (d) of the Fresno Municipal Code, Section 1-506 of Article 5, Chapter 1 to require the conformation of costs by the Hearing Officer  
**Sponsors:** Office of Mayor & City Manager  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. 66734dlv ORD - Ord Repealing and Amending 1-506 (d) re Hearing Officers reduction of costs.pdf

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 Subsection (d) of the Fresno Municipal Code, Section 1-506 of Article 5, Chapter 1 to require the conformation of costs by the Hearing Officer

### RECOMMENDATION

Staff recommends that the City Council adopt the proposed amendment to Fresno Municipal Code (FMC) subsection (d) of section 1-506 requiring the administrative hearing officer to confirm the City's costs at the public hearing if there is sufficient evidence and the costs are not legal.

### EXECUTIVE SUMMARY

The proposed amendment will require the administrative hearing officer at the public hearing to award the costs incurred by the City. The City incurred the costs to remove or reduce nuisances which include abatement, enforcement and penalties. At the hearing the hearing officer may reduce these costs if they determine they are unnecessary or unreasonable. The proposed amendment removes this subjective standard and replaces it with the hearing officer only able to reduce the costs

if there is insufficient evidence of the costs incurred or the costs are not legally imposed.

## **BACKGROUND**

The City has the authority to determine and declare the existence of a public nuisance and has the authority to provide for the abatement. Abatement of such nuisances constitutes a municipal service, which specifically benefits the property upon which the nuisance is abated. These costs are unavoidable and necessary for the health and safety of the community. Subsection (d) of Section 1-506 of Article 5, Chapter 1 of the FMC allows a public hearing on costs, penalties or special assessment after there has already been a hearing on the under lying violation.

The hearing officer is currently allowed to reduce costs that include abatement costs, enforcement costs, or penalties if he or she determines the costs are unnecessary or unreasonable. This amendment eliminates that standard and only allows the administrative hearing officer to reduce costs when there is a finding based on evidence that the costs were not actually incurred or illegal.

## **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.

Attachment:

Proposed Amendment to Municipal Code Section 1-506 (d)