

ORDINANCE NO 10578 (N.S.)

**ORDINANCE AMENDING SECTIONS OF TITLE 1 OF THE SAN DIEGO COUNTY
CODE OF REGULATORY ORDINANCES RELATED TO HEARING BOARDS AND
HEARING OFFICERS**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: Purpose. Section 27721 of the California Government Code provides that a County hearing officer may be authorized by ordinance to hear any matter that state law or local ordinance provides shall be heard by any county board, agency, commission or committee. This ordinance clarifies that this process is applicable to certain hearings under the State Housing Law. The ordinance also relieves the Clerk of the Board of responsibility to make decisions on applications for hardship waivers of appeal fees in nuisance abatement cases; those decisions will now be made by a hearing officer before a hearing is scheduled. Finally, the ordinance clarifies that a timely appeal of an order to pay an administrative civil penalty will stay the requirement to pay penalties until the hearing officer renders a decision on that appeal.

Section 2: Section 16.207 of the County Code is amended to read as follows:

SEC. 16.207. APPEAL PROCEDURE.

(a) Any owner or other person in possession of the property may appeal an abatement proceeding commenced pursuant to this chapter within the number of days allowed in the Notice and Order to Abate. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, and contain the name, address and telephone number of the appellant. The appeal shall be accompanied either by the payment of the appeal fee or by a hardship waiver application as set out in section 16.208, and shall be filed with the Clerk. Timely appeal shall stay any further abatement action until the hearing is concluded, or until the appeal is automatically denied pursuant to section 16.208(e).

(b) If the appeal fee is paid, either with the appeal or after review by a hearing officer as set out below, the Clerk shall set the matter for hearing, assign the appeal to a hearing officer and provide at least 10 days notice to the parties in writing and/or electronic mail of the date and location of the hearing.

(c) If an application for a hardship fee waiver is filed as provided in section 16.208, the Clerk shall refer the hardship fee waiver determination to a hearing officer as soon as practicable, but shall not set the matter for hearing.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10578 (N.S.), effective 12-13-18)

Section 3: Section 16.208 of the County Code is amended to read as follows:

SEC. 16.208. APPEAL FEE: DETERMINATION OF AMOUNT/WAIVER OF PAYMENT/REFUND.

(a) The amount of the appeal fee shall be determined periodically by the Board of Supervisors based upon the County's costs incurred in processing an appeal pursuant to this chapter. The calculation shall include all costs of the County Abatement Officer, Clerk, and the hearing officer, but shall exclude actual costs for any work of abatement calculated pursuant to Section 16.212.

(b) If the appellant claims an economic hardship in paying the appeal fee, the appellant may apply for a waiver of the appeal fee on forms provided by the County Abatement Officer for that purpose and served with the Notice and Order to Abate. The forms shall be substantially similar to those required of litigants initiating court proceedings in forma pauperis pursuant to Government Code section 68511.3. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein.

(c) Upon filing a timely appeal and for good cause shown, the Clerk may grant the appellant a period of time beyond expiration of the appeal period in which to complete and submit the waiver forms. In no event shall the additional time exceed two days.

(d) A hearing officer assigned to make a hardship fee waiver determination will do so within ten business days and thereafter notify the Clerk of such determination. Failure to make such determination within ten business days shall be deemed denial of the hardship fee waiver determination. The determination shall be made based solely on the information contained in the waiver forms filled by the appellant. If the appellant does not provide required information or the application is not signed under penalty of perjury, the fee waiver may be denied on those grounds. The decision of the hearing officer shall be final. If a waiver is granted the Clerk shall proceed as if an appeal fee had been paid. If a waiver is denied, the Clerk shall notify the appellant the appeal fee must be paid within five business days or the appeal will be automatically denied.

(e) If the appellant fails to submit completed waiver forms or pay the appeal fee in a timely manner, the Clerk shall automatically deny the appeal and shall notify the appellant and the County Abatement Officer of denial. Enforcement of the order to abate may then proceed as if no appeal request was submitted.

(f) If the appeal fee is paid and the hearing officer finds there is no public nuisance, the appeal fee shall be refunded to the appellant without interest.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10578 (N.S.), effective 12-13-18)

APPROVED AS TO FORM AND LEGALITY
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