



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: ORD 14-013, **Version:** 1

Consider adoption of an ordinance amending Chapter 1.22 relating to the Administrative Remedies for Code Enforcement to further define “Hearing Officer” which would allow the County to use an alternative hearing officer program, in addition to the Administrative Law Judge provided by the State of California Office of Administrative Hearings, as well as adding and amending sections clarifying administrative procedures for Code Enforcement.

RECOMMENDATION:

Consider adoption of an ordinance amending Chapter 1.22 relating to the Administrative Remedies for Code Enforcement to further define “Hearing Officer” which would allow the County to use an alternative hearing officer program, in addition to the Administrative Law Judge provided by the State of California Office of Administrative Hearings, as well as adding and amending sections clarifying administrative procedures for Code Enforcement.

SUMMARY/DISCUSSION:

On May 20, 2014, the Board of Supervisors introduced the Ordinance amending Chapter 1.22 relating to the Administrative Remedies for Code Enforcement to further define “Hearing Officer”, waived reading, and set June 3, 2014 to consider adoption of the ordinance.

On October 16, 2012, the Board of Supervisors directed staff to study and propose changes to Chapter 1.22 of the County Code to include the following:

1. Reduce the use of an Administrative Law Judge to play a more limited, selective role in adjudicating complex enforcement cases;
2. Create a Hearing Officer role and/or appoint an Appeals Hearing Board of qualified individuals; and
3. Implement a progressive enforcement program that would include a more diligent approach to the use of administrative citations and follow-up with collections.

Based on the Board’s direction, the Resource Management Agency Building Services Department is proposing amendments to Chapter 1.22 of the Monterey County Code.

Staff is proposing to expand the definition of “Hearing Officer”, which would allow for flexibility in the use of alternative hearing bodies and reduce the use of the Administrative Law Judge (ALJ).

The County entered into a contract with the State Department of General Services/Office of Administrative Hearings in January 2014. Upon execution of this contract, it was determined that it would take six months or longer to calendar an item for hearing. The Board had given direction to staff to consider alternatives and staff researched hearing officer programs that would comply with the Government Code requirements of Sections 27720 through 27728.

The definition would be amended to allow for the use of alternative hearing officer programs, while

maintaining the ALJ option, if necessary.

The Code Enforcement Division intends to utilize the University of the Pacific McGeorge School of Law Institute for Administrative Justice (IAJ) hearing officer services. The IAJ can provide hearing officers that would meet the needs of the County by utilizing licensed attorneys who have adjudicated administrative law disputes throughout California. IAJ has contracts with numerous municipalities and have adjudicated due process hearings for representative matters that include:

- License and Permit Applications
- Nuisance Actions
- Zoning and Code Enforcement
- Animal Control
- Parking and Traffic Ticket Adjudication
- Section-8 Housing

By utilizing the IAJ, the County would be able to render timely, clear and concise decisions, on code enforcement matters, resolving a backlog of cases. The IAJ can operate a hearing system that would relieve the burden of the County's increased caseload, which cannot be achieved by solely utilizing the ALJ.

Upon adoption of the proposed amendments, the Code Enforcement Division would establish an Administrative Hearing Officer calendar, with standing meetings to be held once a month. Additional hearings may be scheduled as needed.

The proposed amendment includes a department-level resolution process in lieu of a hearing with the Hearing Officer. Staff currently meets informally with property owners, and this amendment would codify the established process. Other minor amendments are proposed which clarify administrative procedures for Code Enforcement.

Upon approval by the Board, staff estimates that the proposed amendments and IAJ be fully implemented by early July.

FINANCING:

There is no impact to the general fund as a result of this action. There are sufficient funds available in the FY 2014-15 Recommended Budget to fund the IAJ, pending Board approval on June 24, 2014.

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Attachments: Ordinance