County of Monterey

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

Legislation Details (With Board Report)

File #:	12-643	**Name:**	Fee Waiver Process
Type:	General Agenda Item	**Status:**	Passed
File created:	7/3/2012	**In control:**	Board of Supervisors
On agenda:	7/10/2012	**Final action:**	7/10/2012
Title:	Consider adopting a resolution amending the Monterey County Fee Resolution to: a. Authorize the Director of Planning to consider and decide requests for waiver of land use appeal fees when the appellant is unable to afford the appeal fee due to appellant's financial condition; and b. Authorize the Appropriate Authority to hear appeals from the Director of Planning's decisions on land use fee waiver requests. (Fee Waiver Resolution/REF120049)		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Attachment A - Draft Resolution, 2. Completed Board Order & Resolution, 3. Revised Completed Board Order & Resolution		

Date	Ver.	Action By	Action	Result
7/10/2012	1	Board of Supervisors	approved	Pass

Consider adopting a resolution amending the Monterey County Fee Resolution to:
a. Authorize the Director of Planning to consider and decide requests for waiver of land use appeal fees when the appellant is unable to afford the appeal fee due to appellant's financial condition; and
b. Authorize the Appropriate Authority to hear appeals from the Director of Planning's decisions on land use fee waiver requests.
(Fee Waiver Resolution/REF120049)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution amending the Monterey County Fee Resolution to:

a. authorize the Director of Planning to consider and decide requests for waiver of land use appeal fees when the appellant is unable to afford the appeal fee due to appellant's financial condition; and
b. authorize the Appropriate Authority to hear appeals from the Director of Planning's decisions on land use fee waiver requests.

SUMMARY:

Staff is proposing a fee waiver procedure for appeals for those individuals who provide evidence that, due to their financial condition, they cannot afford the appeal fee. The process would allow the Director of Planning to consider evidence provided related to the inability of the appellant to pay the fee, such as evidence demonstrating that the individual would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632 because of his or her financial condition. This resolution will also clarify which County hearing body may consider appeals from any land use fee waiver decision made by the Director of Planning. The resolution would authorize the Appropriate Authority considering the appeal to also consider any appeal of a fee waiver decision, rather than solely the Planning Commission.

DISCUSSION:

The appeals fees were established several years ago to partially recover staff costs associated with processing appeals to the Board of Supervisors or other County hearing body from the decisions made by lower hearing bodies on applications for land use entitlements. County Land Use Departments who collect fees to partially cover staff costs processing appeals include Planning, Public Works, Environmental Health Bureau, County Counsel, and sometimes Parks, and also the Monterey County Water Resources Agency. In addition to fees to file appeals related to decisions on Inland discretionary permits, the County also has established separate lesser fees for appeals of land use fee determinations, and appeals of administrative determinations or interpretations. The Board has also adopted a fee waiver policy, whereby the Director of Planning is authorized to waive land use application fees that meet specific criteria and the Planning Commission is authorized to decide fee waiver requests that do not meet the specific criteria.

The existing fee waiver policy allows individuals who cannot afford the appeal fee to apply for a fee waiver. Staff is proposing that the fee waiver process include a more explicit exception for applicants who, due to financial condition, cannot afford the appeal fee so as to ensure that the appeal fee does not pose an insurmountable barrier to bringing an appeal. The appellant would be required to provide evidence of inability to afford the fee. The draft resolution includes one example of the type of evidence that can be submitted to qualify for the Director's fee waiver, using the statutory criteria set forth for qualification for waivers of court fees and costs (applicable generally to individuals whose income is less than 125% of the current federal poverty guideline, who receive certain types of public benefits, or who cannot pay fees without using money that would normally pay for common necessaries of life). It is proposed that the Director appeal fee waiver process would be applicable to individuals, not to organizations. Organizations would still be able to avail themselves of the existing fee waiver process. The resolution also clarifies that appeals from the Director's decision on any fee waiver request would be considered by the Appropriate Authority considering the appeal.

A more comprehensive look at land use fees, appeal fees, and fee waivers will be brought before the Board of Supervisors later this year. This recommended action will allow an interim process until that comprehensive review is completed.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has been consulted in the preparation of this report. The potentially impacted agencies have been informed of this pending Board action and are aware of potential impacts to their budgets.

FINANCING:

Funding for staff time associated with preparing this report and resolution is included in the FY12-13 Adopted Budget for the Resource Management Agency, RMA-Planning Department, and County Counsel Office. The number of appeal fee waiver requests pursuant to this new category is expected to be one or two per year, resulting in a loss of approximately $10,293 in revenue primarily to the Planning Department budget, but also affecting the Environmental Health Bureau, Public Works, County Counsel, and Monterey County Water Resources Agency budgets.

Prepared by: Mike Novo, Director, RMA-Planning, ext. 5192
Approved by: <mailto:>Benny Young, Director Resource Management Agency

cc: Front Counter Copy; Board of Supervisor's (14); County Counsel; Environmental Health Bureau; Public Works; County Counsel; Monterey County Water Resources Agency; Benny Young; Mike Novo; Project File

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Attachment A Draft resolution
Exhibit 1 Resolution 2000-342

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