

ORDINANCE NO. 3662 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**IMPLEMENTING FINANCIAL HARDSHIP FEE WAIVERS FOR APPEALS AND UPDATING
THE ADMINISTRATIVE CITATION ADVANCE DEPOSIT HARDSHIP WAIVER ELIGIBILITY
CRITERIA**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, on April 4, 2023, the City Council proposed a new policy to waive fees for appeals in the Community Development Department, Planning Division, and for appeals before the Appeals Hearing Board, Building and Housing Appeals Board, and the Disabled Access Appeals Board, based on the appellant's financial inability to pay the fee;

WHEREAS, in March 2020, the City Council adopted Ordinance No. 3612 to implement specific criteria to aid staff in objectively determining whether an advance deposit hardship waiver should be granted to a person requesting to challenge an administrative citation. The waiver criteria adopted was borrowed from the formula used by California courts to waive court fees and costs due to a person's financial condition, and from the California Vehicle Code which authorizes indigent persons to request an administrative hearing to review parking violations without payment of the parking penalty. (Vehicle Code sections 40215, 40220(c)(1), Government Code section 68632.) The eligible public benefits have expanded, and the determination of poverty level income has changed since the adoption of the criteria in 2020 and it needs to be updated;

WHEREAS, the City does not intend to waive fees or advance deposit requirements for any person who owns or has an interest in real property in Monterey County;

WHEREAS, the City Council intends to update and expand the existing waiver policy to encourage low-income people to fully exercise their rights under the law;

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 3: Monterey City Code, Chapter 19, Section 19-103(e) is hereby added to read as follows:

(e) Appeal Fee Waivers.

(1) Notwithstanding the percentage of costs reasonably borne set forth in Subsection (a), any person who intends to file an appeal, the cost for which is to be recovered under Subsection (a)(I)(11.) Development Services, Appeals; or Subsection (a)(VI)(27.) Administrative Services, Appeals staffed by City Attorney's Office, and who is financially unable to pay the fee as required by the Master Fee Schedule, may file a request for a Fee Waiver which shall include an affidavit as described in subsection (e)(3) below.

(2) The request shall be filed with the Finance Department on a Fee Waiver Application form, available from the Finance Department, on or before the deadline to file the appeal. Submission of a fee waiver application does not extend the deadline to file an appeal under City Code section 38-207 for Community Development Department appeals or any applicable deadline to appeal to the Appeals Hearing Board, the Building and Housing Appeals Board, or the Disabled Access Appeals Board. Failure to submit either a Fee Waiver Application form or the appeal fee on or before the deadline to file the appeal shall mean that the appeal is untimely.

(3) The City may waive the appeal fee if, in advance of the deadline to file the appeal, the appellant submits to the City a Fee Waiver Application form, signed under penalty of perjury, together with any supporting documents or materials, demonstrating the person's actual financial inability to pay the fee.

(4) An application for the advance deposit hardship waiver shall be granted under any of the following criteria:

(i) The applicant is receiving public benefits under one or more of the following programs:

(1) Supplemental Security Income (SSI) and State Supplementary Payment (SSP).

(2) California Work Opportunity and Responsibility to Kids Act (CalWORKs) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program.

(3) Supplemental Nutrition Assistance Program or the California Food Assistance Program.

(4) County Relief, General Relief (GR), or General Assistance (GA).

(5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI).

(6) In-Home Supportive Services (IHSS).

(7) Medi-Cal.

(8) California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program).

(9) Unemployment compensation.

(ii) The applicant's monthly income is two hundred (200) percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.

(iii) An applicant does not have enough income to pay for household basic needs and the advance deposit. This is verified through additional documentation regarding the person's income, household income, money, and monthly deductions and expenses.

(5) An applicant that owns or has an interest in real property in Monterey County is ineligible for a waiver under this subsection.

(6) If the City decides to deny the advance deposit hardship waiver application, a written determination listing the reasons for said denial shall be issued. The written determination to deny the waiver shall be final.

(6) The written determination of the City's denial of the advance deposit hardship waiver shall be served by mail upon the person who applied for the waiver.

SECTION 4: Monterey City Code, Chapter 1, Article 2, Section 1-9.55(C)(2)(a) is hereby amended to add after (7) Medi-Cal, the following:

(8) California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program).

(9) Unemployment compensation.

SECTION 5: Monterey City Code, Chapter 1, Article 2, Section 1-9.55(C)(2)(b) is hereby amended to read as follows:

(b) The applicant's monthly income is two hundred (200) percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.

SECTION 6: Monterey City Code, Chapter 1, Article 2, Section 1-9.55(F) is hereby recodified as Subsection (G) and a new subsection (F) is added to read as follows:

(F) An applicant that owns or has an interest in real property in Monterey County is ineligible for a waiver under this subsection.

SECTION 7: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

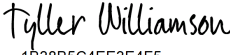
SECTION 8: This ordinance shall be in full force and effect on July 1, 2023, to be coterminous with the effective date of the Master Fee Schedule adopted by Resolution 23-036.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 16th day of May, 202_, by the following vote:


AYES:	5	COUNCILMEMBERS:	Barber, Garcia, Haffa, Smith, Williamson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

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 Mayor of said City

DocuSigned by:

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 City Clerk thereof