

The County of Yuba

Community Development and Services Agency



TO: Board of Supervisors

FROM: Community Development and Services Agency, Jeremy Strang

SUBJECT: Community Development and Services: Hold public hearing, waive second reading, and adopt an Ordinance creating Chapter 2.41 of the Yuba County Ordinance Code, establishing the Office of the County Hearing Officer. (Five minute estimate)

DATE: November 28, 2023

NUMBER: 547/2023

Recommendation:

Waive second reading and adopt an Ordinance adding Chapter 2.41, to the Yuba County Ordinance Code, creating the Office of the County Hearing Officer.

Background:

Code Enforcement's current process for appeal hearings related to property maintenance and public nuisance abatement requires the department to use an Administrative Law Judge ("ALJ") from the California State Office of Administrative Hearings ("OAH"). Staff have identified challenges and inefficiencies associated with utilizing this service.

Discussion:

The purpose of creating the Office of the County Hearing Officer is to address the current challenges and inefficiencies associated with appeal hearing process. While the use of ALJs is intended to ensure fair and impartial hearings, the requirement for using ALJs presents a few speed bumps. First, the process of scheduling, conducting, and reaching decisions on appeals before the State Office of Administrative Hearings can be time-consuming and resource-intensive. The availability of ALJs may not meet the Department's needs or statutory requirements, which affects the timeliness of hearings, as well as decisions. Second, are the costs for the services. Filing fees are in excess of \$100.00, and the current rate for an ALJ is in excess of \$350.00 per hour! The final cost of an appeal hearing can easily exceed a few thousand dollars, and the Department is responsible for paying for those costs up-front. After the hearing, if successful, the department must attempt to recover those costs. Third, the State Office of Administrative Hearings, although impartial, may lack an understanding of the unique local

issues and dynamics that may surround a particular appeal. This can lead to decisions that do not fully account for our community's needs and concerns.

These inefficiencies hamper the prompt resolution of appeals, hinder the department's ability to resolve code enforcement cases more quickly and increase the Department's out-of-pocket costs to retain those State services. By creating this Office, the department will better align with our strategic values and pillars for success, as well as meeting multiple milestones set by your Board. The Ordinance aims to provide responsive services that are convenient and more fiscally responsible. What's more, the establishment of the Office of the County Hearing Officer will address these challenges while enhancing the efficiency and effectiveness of our appeal process.

A local office staffed by experienced local attorneys, will ensure that appeals are heard by professionals who understand the nuances of our County's regulations, policies, and community dynamics. Local attorneys serving as Hearing Officers typically come at a lower cost compared to the State OAH. The proposed Ordinance provides for multiple attorneys to serve as a County Hearing Officer. Appellants will have the opportunity to select a local attorney from a list of qualified professionals to preside over their case. This choice empowers appellants and fosters a sense of fairness in the process. Lastly, local hearings are typically scheduled and conducted more swiftly compared to the state-level process. This will expedite the resolution of appeals, reduce backlogs, and ensure that citizens' concerns are addressed promptly.

Finally, the proposed Ordinance provides a process for other County Departments to utilize these same services. There is a provision that the Board of Supervisors may, by Ordinance or Resolution, delegate its authority to preside over certain hearings to the Office of the County Hearing Officer. This opportunity may provide further efficiencies and cost savings for the County on a greater scale.

In summary, the establishment of the Office of the County Hearing Officer offers many advantages:

1. **Efficiency:** By streamlining the appeal process, we can more effectively manage the department's efforts related to appeals, resulting in faster enforcement of our County's regulations and policies.
2. **Cost Savings:** The utilization of local attorneys will substantially reduce the costs associated with appeal hearings.
3. **Flexibility:** Hearing Officers may be employees of the County, independent contractors, or appointed on an ad hoc basis.
4. **Enhanced Understanding:** Local Hearing Officers will better understand and appreciate the specific issues relevant to our community ensuring decisions that are not only fair, but also align with local interests.

Establishing the Office of the County Hearing Officer is a vital step in improving the efficiency of our current appeals process, reducing costs, and ensuring local issues are properly considered during appeal hearings. This streamlined approach will lead to faster outcomes, enabling us to address citizen complaints more promptly and effectively.

Committee:

The Land Use and Public Works Committee recommends adopting the proposed Ordinance.

Fiscal Impact:

No Fiscal Impact - administrative only, staff time only; No funding commitment at this time, but has projected future costs

The cost of the hearing officer is to be determined based on whether compensation is based on a contract, or as an employee of the County. Costs for the service will be borne by the department utilizing the service.

Source of Funds: Varies by department. No additional General Funds are requested for this item.

Attachments:

547/2023- Chapter, 2.41 of the Yuba County Ordinance Code, Office of the County Hearing Officer