

14.12.160 Financial Hardship and Lien Procedure.

A. Any owner who claims financial hardship from the imposition of a penalty under this chapter, and who is financially unable to make the penalty payment may, in lieu of making the payment, file a request for imposition of a lien upon the real property where the tree or trees were located. This process shall include a hardship waiver which shall include a sworn declaration as described in subsection (C) below.

B. The request shall be filed on a hardship waiver application form, available from the City Clerk's office, submitted within twenty-one days of the determination of penalty.

C. The City may waive the requirement of an immediate payment of penalty, issue the hardship waiver and record a lien only if the cited party submits to the City a sworn declaration, together with any supporting documents or materials, demonstrating to the satisfaction of the City Manager or his/her designee the person's actual financial inability to pay the penalty immediately. In determining the cited party's financial ability or inability to pay the penalty immediately, the City Manager or his/her designee shall consider the amount of the penalty imposed, the income of the cited party, the expenses of the cited party, and any other factors that are reasonably related to the cited party's ability to pay the penalty amount. The cited party shall execute a notarized document establishing the lien on their real property at the time of application for the hardship waiver lien.

D. The requirement of immediately paying the full amount of the penalty shall be stayed until the City makes a determination on whether to record the lien and issue a hardship waiver lien. The City must make its determination within a reasonable period of time, taking into account the complexity of the data pertinent to the application.

E. If the City makes a determination to deny the hardship waiver lien application, a written determination listing the reasons for the denial shall be issued. The written determination to deny the hardship waiver shall be final.

F. The written determination of the City's denial of the hardship waiver lien shall be served by mail upon the person who applied for the waiver.

G. The lien shall remain in effect until all of the amounts due are paid in full. (Ord. 2092, (part), 2012)

14.12.170 Appeal.

A. Any recipient of a penalty under this chapter may, within ten business days from the date of that penalty, contest that there was a violation or that he or she is the party responsible for committing the violation by filing an appeal with the City Clerk for the matter to be heard by the City Manager or his/her designee. Any appeal not timely filed shall be rejected.

B. All appeals shall be in writing and shall contain the following information:

1. Name(s) of each appellant;
2. A copy of the violation notice;
3. A brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant;
4. A brief statement in ordinary and concise language of the relief sought and the reasons why the penalty should be rescinded, modified or otherwise set aside; and
5. The signatures of all parties named as appellants and their mailing addresses.

C. Any recipient of the penalty must submit to the City Clerk an advance deposit of the total fine amount or an advance deposit hardship waiver application form as described in Section 1.10.080. Any appeal filed without payment of the advance deposit or submittal of the advance deposit waiver application shall be deemed incomplete.

D. The person requesting the appeal shall be notified in writing of the determination of the City Manager.

E. If the Tree/Right of Way Supervisor submits an additional written report concerning the appeal to the City Manager for consideration, then a copy of this report also shall be mailed to the appellant.

F. Enforcement of any penalty shall be stayed during the pendency of an appeal which is properly and timely filed.

1.10.080 Advance Deposit Hardship Waiver.

A. Any person who intends to request a hearing to contest an administrative citation, and who is financially unable to make the advance deposit of the fine as required in Section 1.10.070, may file a request for an advance deposit hardship waiver which shall include a sworn affidavit as described in subsection (c) below.

B. The request shall be filed on an advance deposit hardship waiver application form, available from the city clerk's office, in conjunction with submitting the appeal.

C. The city may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited party submits to the city a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the city manager or designee the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing. In determining the cited party's financial ability or inability to deposit the full amount of the fine in advance, the city manager or designee shall consider the amount of the fine imposed, the income of the cited party, the expenses of the cited party, and any other factors that are reasonably related to the cited party's ability to deposit the full amount.

D. The requirement of depositing the full amount of the fine as described in Section 1.10.070 shall be stayed unless or until the city makes a full determination not to issue the advance deposit hardship waiver. The city must make its determination within a reasonable period of time, taking into account the complexity of the data pertinent to the application.

E. If the city makes a determination to deny the advance deposit hardship waiver application, a written determination listing the reasons for the denial shall be issued. The written determination to deny the waiver shall be final.

F. 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. (Ord. 09-2048, (part), 2009)