

ORDINANCE NO. 20170413-002

AN ORDINANCE AMENDING CITY CODE CHAPTER 2-13(ADMINISTRATIVE ADJUDICATION OF VIOLATIONS) RELATING TO THE HEARING PROCESS AND PENALTIES; AND AMENDING EXHIBIT A TO ORDINANCE NO. 20160914-003 TO REVISE THE FISCAL YEAR 2016-2017 AUSTIN CODE DEPARTMENT FEE SCHEDULE TO ADD AN ADMINISTRATIVE HEARING COSTS FEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 2-13-21 (*Hearing for an Administrative Citation*) is amended to amend Subsections (C) and (K) to read as follows:

§2-13-21 HEARING FOR AN ADMINISTRATIVE CITATION.

- (C) The hearing officer shall hear and consider:
- (1) evidence presented by the person charged;
 - (2) presumptions and prima facie evidence established by this chapter or other applicable law; ~~[and]~~
 - (3) evidence presented by the issuing officer, if required to attend the hearing; ~~and[-]~~
 - (4) evidence presented by individuals who attend the hearing.
- (K) The hearing officer's order shall ~~[may]~~ be filed with the City Clerk in a separate index and file. ~~[The order may be recorded using microfilm, microfiche, or other data processing techniques.]~~

PART 2. City Code Section 2-13-23 (*Establishing a Penalty*) is amended to amend Subsections (A) and (B); and to add new Subsections (D) through (I) to read as follows:

§2-13-23 ESTABLISHING A PENALTY.

- (A) Except as provided in Subsections (D) and (G), t[F]he penalty range that may be assessed against a violator found liable under this chapter shall be no more than \$1,000 [per-day] and:
- (1) not less than \$250.00 ~~[20.00]~~ for a first violation;
 - (2) not less than \$500.00 ~~[250.00]~~ for a second violation; and
 - (3) not less than \$750.00 ~~[500.00]~~ for a third or subsequent violation.

- (B) In addition to the penalty assessed, the hearing officer ~~must~~ [may] require the violator found liable under this chapter to pay costs set by separate ordinance.
- (D) Except as provided in Subsection (G), the penalty range that may be assessed against a violator found liable under this chapter for violating Chapter 25-2 (Zoning) of the City Code shall be no more than \$1,000 and:
- (1) not less than \$500.00 for a first violation;
 - (2) not less than \$750.00 for a second violation; and
 - (3) not less than \$1,000.00 for a third or subsequent violation.
- (E) A violator who has been found liable for a violation may assert a financial inability to pay the penalty. If a violator asserts a financial inability to pay the penalty, the hearing officer must make a determination of financial inability to pay. The determination must be made based on documentary evidence provided to the hearing officer.
- (F) A violator claiming a financial inability to pay the penalty must have an income that does not exceed 60 percent of the United States Department of Housing and Urban Development (HUD) median family income (MFI) in the Austin-Round Rock-San Marcos area and must be a resident of the property or premises subject of the administrative citation and the sole owner of the property or premises, except that a violator may be a co-owner of the property or premises if all other co-owners cannot be located or are financially unable to pay the penalty.
- (G) If the hearing officer determines that the violator does not have the financial ability to pay the penalty, the hearing officer must make the finding in writing and must reduce the penalty to an amount that is within the violator's ability to pay.
- (H) A violator cannot appeal the hearing officer's determination related to the violator's financial inability to pay.
- (I) A violator who has been found liable for a violation may request to pay the penalty in equal installments during the six months from the date the hearing officer issues an order. A violator must request to pay the penalty in installments within 20 calendar days from the date the hearing officer issues the order and must waive the appeal described in Section 2-13-31 (Appeal From a Hearing). The Code Official is

authorized to grant a request to pay the penalty as described in this subsection.

PART 3. The 2016-2017 Fee Schedule, attached as Exhibit "A" to Ordinance No. 20160914-003, is amended to add a fee associated with "Administrative Hearings" to read as follows:

Austin Code Department

	FY 2015-16	FY 2016-17	Note	Change
<u>Administrative Hearing Costs</u> <u>(Chapter 2-13)</u>	<u>\$0.00</u>	<u>\$80.00</u>	<u>if violator is liable</u>	<u>New</u>

PART 4. The penalty range established in Part 2 and the fee set in Part 3 are only applicable to an administrative citation issued after the effective date of this Ordinance.

PART 5. This ordinance takes effect on April 24, 2017.

PASSED AND APPROVED

_____ April 13 _____, 2017 §
§
§ _____
Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Janhette S. Goodall
City Clerk