Board and Commission
Council Committee Agenda Item Request

Name of Board or Commission: **Board of Adjustment**

Request Number: 20170410-N1

Description of Item: Interpretation Appeal application fee discussion.

Board or Commission Vote to refer item to Council: 10-1

Date of Approval of Request: April 10, 2017

Attachments: ☒ Yes ☐ No

If yes, please list the attachments: Discussion of Interpretation Appeal application fee

Attest: Leane Heldenfels

Leane Heldenfels

MAYOR'S OFFICE USE ONLY

Council Committee Assigned:

☐ Audit and Finance Committee

☐ Austin Energy Utility Oversight Committee

☐ Mobility Committee

☐ Health and Human Services Committee

☐ Housing and Planning Committee

Recommend a Fiscal Analysis be completed?

Recommend a Legal Analysis be completed?

Notes:

Mayor Signature & Date:

Item N1 – Interpretation Case Filing and Notification Fees.

Generally code interpretation cases are only filed when the public feels that the code is unclear, ambiguous, or not being applied in a reasonable way.

Code interpretations appeals do not change the code but clarify or change the way the code is being interrelated and applied via a staff determination.

The public only files such cases when they believe staff has made an incorrect determination. Such challenges are only made to alleviate an incorrect determination and to clarify unclear or ambiguous code language, which is causing the public a hardship.

The recently enacted schedule of fees creates a burden for the average citizen or citizen groups which are only trying to correct a possible flaw in the application of code. Citizens that meet all code requirements to file such an appeal should not be financially challenged from seeking such relief.

The high bar of a super majority vote of the Board insures that code interpretations corrections are only made when absolutely necessary and needed. The number of code interpretations cases in any given year is extremely small. The number of overturned staff positions is even smaller. Therefore the financial impact on the city is negligible but the fee is impeding to the public.

The cost of applying for such code interpretation appeals should not be disenfranchising due to such a burdensome fee. Therefore, code interpretation application fees should be eliminated. Notification fees should remain intact at the current posted fee but, if the appellant prevails at the Board of Adjustment and overturns a determination, notification fees should be refunded. The public should not be charged a fee when the current determination is deemed incorrect, modified or clarified by an affirmative Board of Adjustment decision.

By way of motion, the Board of Adjustment should authorized the chair to send a letter to council and the city manager requesting the changes listed above.