

RESOLUTION NO. 98-153

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI  
REGARDING BURDENS OF PROOF TO BE APPLIED IN MUNICIPAL  
ADMINISTRATIVE PROCEEDINGS CONDUCTED PURSUANT TO  
§8.24.060(B) OF THE LODI MUNICIPAL CODE

WHEREAS, the City Council of the City of Lodi has undertaken and is currently conducting an ongoing legislative review and analysis of the administrative adjudicatory process provided by §8.24.060 of the Lodi Municipal Code; and

WHEREAS, the City Council is aware of proceedings which have been undertaken pursuant to §8.24.060(B) and which are currently pending before an Administrative Hearing Officer of the City of Lodi appointed by this Council; and

WHEREAS, the City Council desires further to assure the public that proceedings undertaken pursuant to §8.24.060(B) are timely and effective both in carrying out the goals and purposes of Lodi Municipal Code Chapter 8.24 to provide appropriate and timely protection of the public health, safety and environment, and in establishing an administrative procedure that is fair and adequately protective of the legal rights of the parties to those proceedings.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lodi does hereby instruct that until further formal action by the Lodi City Council, the City of Lodi Municipal Hearing Officers shall, in all proceedings conducted under §8.24.060(B)(3) of the Lodi Municipal code apply the following evidentiary burdens: (1) the Enforcing Officer shall have the initial burden of producing prima facie evidence of the facts supporting the findings necessary to uphold the relief imposed in the Abatement Action Order; and (2) upon such showing, Respondents shall have the burden of rebutting such facts as to all or any portion of the relief imposed by the Abatement Action Order by clear and convincing evidence, notwithstanding anything to the contrary in §8.24.060(B)(3)(c).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that, based on the above, the City Council of the City of Lodi does hereby instruct that this Resolution shall govern the evidentiary burdens applicable to proceedings under §8.24.060(B), until further formal action on this matter by the City Council.

Dated: October 7, 1998

I hereby certify that Resolution No. 98-153 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 7, 1998, by the following vote:

- AYES: COUNCIL MEMBERS – Johnson, Land, Mann, Pennino and Sieglock (Mayor)
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – None
- ABSTAIN: COUNCIL MEMBERS – None

  
ALICE M. REIMCHE  
City Clerk