

ORDINANCE NO. 2010-14

AMENDING CHAPTER 3.35, "CLAIMS FOR TAX REFUNDS,"
OF THE SAN MATEO MUNICIPAL CODE
BY ADDING SECTION 3.35.045,
"EXHAUSTION OF ADMINISTRATIVE REMEDIES"

WHEREAS, Article XIII, Section 32 of the California Constitution requires taxpayers to pay first before seeking judicial review of a tax in order to allow revenue collection to continue during litigation, to ensure that funds necessary for essential public services are not unnecessarily withheld and to allow local governments to predict future tax revenues; and

WHEREAS, a long line of California Court cases have applied this "pay first, litigate later" requirement to local government taxes, fees and charges; and

WHEREAS, this Ordinance updates procedures for filing claims for refunds of taxes, fees and charges against the City, in order to codify the local application of Article XIII, Section 32 of the California Constitution; and

WHEREAS, adoption of this Ordinance will protect the City from the costly fiscal impacts of having to defend against tax and fee refund litigation before the taxes and fees that are the subject of the litigation are paid; and

WHEREAS, adoption of this Ordinance is consistent with existing City policies and California Government Code Section 900;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MATEO
ORDAINS AS FOLLOWS:

Section 1. Chapter 3.35, "Claims for Tax Refunds," of the San Mateo Municipal Code is hereby amended by adding Section 3.35.045, "Exhaustion of Administrative Remedies," to read:

3.35.045 EXHAUSTION OF ADMINISTRATIVE REMEDIES. Before seeking judicial relief with respect to a dispute regarding a tax, fee, or other charge imposed by the City, an aggrieved taxpayer, fee payer, or any other person must:

- (i) exhaust any administrative remedies specified by any other provision of this code or other applicable law, and
- (ii) pay the full amount owed, including applicable penalties and interest.

Section 3. SEVERABILITY. In the event any section, clause or provision of this Chapter shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 4. CEQA. In accordance with California Environmental Act (CEQA) Guidelines section 15061(b)(3), adoption of this Ordinance is not a project subject to CEQA in that it can be seen with certainty that it will not have a significant effect upon the environment.

Section 5. PUBLICATION. This Ordinance shall be published in summary in the Examiner Peninsula Edition, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the Charter and shall be effective 30 days after the date of adoption.

I hereby certify this to be a correct copy of Ordinance 2010-14 of the City of San Mateo, California, introduced on July 12, 2010 and adopted on August 16, 2010, by the following vote of the Council:

AYES: Council Members LIM, MATTHEWS, GROTTI, ROSS and LEE

NOES: NONE

ABSENT: NONE

(SEAL) /s/ NORMA GOMEZ, City Clerk