

BILL NO. _____

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE OF THE CITY
OF FRESNO, CALIFORNIA, AMENDING
SUBSECTION (f) OF SECTION 1-409 OF THE
FRESNO MUNICIPAL CODE RELATING TO
HEARING OFFICER AUTHORITY

WHEREAS, the current municipal regulations do not require the hearing officer to compel property owners and or tenants to repair nuisances or otherwise remedy illegal conditions on their properties; and

WHEREAS, citizens, city staff, and the City Council have repeatedly voiced concerns regarding blighted vacant homes, structural fires, and fire hazards stemming from overgrown weeds or building code violations that have been left unmonitored within the City; and

WHEREAS, this proposed amendment will require the hearing officer to order property owners and or occupants to repair or remedy all illegal conditions on properties within thirty days of the order, or else the hearing officer shall order payment of double the maximum fines permitted in the code and potentially subject the owner and or occupants to misdemeanor prosecution; and

WHEREAS, the City Council finds there is a current and immediate threat to the public health, safety, and welfare because nuisances including, but not limited to boarded up homes, building code violations in homes, and overgrown weeds contribute to criminal activities, deadly structure fires, property damage and other health and safety related issues; and

WHEREAS, pursuant to California Government Code Section 36937, in order to protect the public health, safety, and welfare, the City Council may adopt an emergency ordinance; and

WHEREAS, this emergency ordinance will take effect immediately in order to

Date Adopted: _____

Date Approved: _____

Effective Date: _____

City Attorney Approval: _____

Ordinance No. _____

avoid any currently pending or future administrative appeal matters from escaping the newly amended ordinance.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. SUBSECTION (f) of SECTION 1-409 of the Fresno Municipal Code is amended to read:

SECTION 1-409. HEARING OFFICER AUTHORITY.

(f) Review Authority. The hearing officer shall sit as the trier of fact and shall rule on questions of law and admissibility of evidence. The hearing officer may affirm, reverse, modify, or set aside the order, citation, decision, or determination appealed from or may delete or impose conditions as the facts and law warrant. The hearing officer may not increase a penalty or impose a harsher remedy beyond the penalty or remedy imposed under the order, citation, decision[,] or determination being appealed.

[If the hearing officer finds any nuisance or legal violation set forth in the citation or notice and order is continuing and remains as of the time of the hearing, the hearing officer shall order the record owner and or occupants to repair or otherwise remedy the illegal condition within thirty days from the date of the order. The hearing officer shall set a hearing to occur between thirty and sixty days after the date of the order to confirm whether the record owner and or occupants have made all repairs or remedied all illegal conditions as ordered. If it is shown at the subsequent hearing the record owner and or occupants have failed to fully repair or otherwise remedy the illegal condition, the hearing officer shall order payment of double the maximum fines permitted in this code. Additionally, the willful failure of the owner and or occupants to timely comply

with the hearing officer's order shall be deemed a criminal violation and may be prosecuted as a misdemeanor in superior court, subject to fines and or imprisonment as set forth in Section 1502 of the Charter.]

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact any one of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 3. EFFECTIVE DATE. Pursuant to Section 603 and 610 of the Charter of the City of Fresno, this Ordinance shall take effect upon passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2016.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2016
Mayor Approval/No Return: _____, 2016
Mayor Veto: _____, 2016
Council Override Vote: _____, 2016

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM
DOUGLAS T. SLOAN
City Attorney

BY: _____
TRACY N. PARVANIAN Date
Deputy

TNP:nd (71125nd/tnp) Ord. 4-14-16