

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTION 1-407 OF THE FRESNO MUNICIPAL
CODE

SECTION 1. Section 1-407 of the Fresno Municipal Code is amended to read:

SECTION 1-407. FILING A NOTICE OF APPEAL.

(a) Standing. Only a person who has a legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from has standing and a right to appeal under this article. A notice of appeal that fails to allege standing may be rejected as defective.

(b) Notice of Appeal. A notice of appeal shall be filed in writing in duplicate with the hearing officer within fifteen calendar days after the service of the order, citation, decision, or determination appealed from. The appeal shall be addressed to the hearing officer and shall contain the following:

- (1) The name, address, and telephone numbers of the appellant;
- (2) A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the city order, citation, decision or determination sought to be appealed from;
- (3) A brief description of the specific order, citation, decision, or determination being appealed;

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

- (4) A statement of the relief sought;
- (5) The reasons why such relief should be granted;
- (6) A statement of the Appellant, "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

(c) Late Appeals. Upon a showing of good cause, the hearing officer may, in his or her discretion, permit the filing of an appeal, or an amended appeal, after fifteen calendar days, in which case the appeal shall be considered in the same manner as if it had been timely filed.

(d) Defective Notice of Appeals. If, in the opinion of the hearing officer, the appeal or an amended appeal fails to comply substantially with the requirements of this section, the hearing officer may give written notice of such insufficiency to the appellant at any time within fifteen calendar days after the appeal is presented, stating with particularity the defects or omissions therein. Failure of the appellant to file an amended appeal within fifteen calendar days of the date of service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the hearing officer to give notice of any insufficiency within fifteen calendar days shall result in the appeal being heard on its merits, without regard to any insufficiency.

(e) Notice of Hearing. Upon receipt of an appeal, or if notice of insufficiency is given in accordance with this section, upon receipt of an

amended appeal within the time specified, the hearing officer shall cause one copy to be stamped indicating the date of receipt thereof, and shall immediately forward the other copy to the officer or employee whose order, citation, decision, or determination is being appealed. The hearing officer shall set the appeal for hearing and shall give to the appellant and to the officer or employee whose order, citation, decision, or determination is being appealed not less than fifteen calendar days written notice of the date, time, and place of hearing. The hearing officer shall schedule each appeal hearing for a specific date and time. No appeal hearing shall be scheduled at the same time as any other hearing. Each party shall provide the hearing officer with a reasonable time estimate of how long it will take to present its case. Each hearing shall be timed and must be completed within the allotted amount of time, which is reasonably based on the parties' estimated time requirements. The appellant, or his/her authorized representative, may waive the fifteen calendar days written notice, so long as said waiver is in writing and received by the hearing officer. The notice of the hearing to the appellant shall include a statement as to the appellants' rights as provided in subsection 1-408(c).

~~(f) Stay of Proceedings. Unless otherwise provided by this Code, the filing of an appeal shall stay all proceedings in furtherance of the order, citation, decision, or determination appealed from until the determination of the appeal as provided herein.~~

(g[f]) Hearing Packet. Upon receipt of the copy of the notice of appeal from

the hearing officer, the employee or officer who issued the order, citation, decision or determination shall prepare a hearing packet that forms the basis of the citation, order, decision or determination. The hearing packet shall be served either within seven calendar days (if service is by mail) or five calendar days (if personally served on the appellant) of the date set for the hearing.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

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

I, TODD STERMER, 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 _____ 2022.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2022
Mayor Approval/No Return: _____, 2022
Mayor Veto: _____, 2022
Council Override Vote: _____, 2022

TODD STERMER, CMC
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Christina Roberson Date
Assistant City Attorney