

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTION 1-409 OF THE FRESNO MUNICIPAL
CODE

SECTION 1. Section 1-409 of the Fresno Municipal Code is amended to read:

SECTION 1-409. HEARING OFFICER AUTHORITY.

(a) Order of Attendance or Production. At the request of either the city or the appellant, the hearing officer or the City Clerk shall, on behalf of the city, issue orders for attendance of witnesses at the hearing, or production of documents on a date certain. In no event shall the date for the production of documents be less than ten days after the date the order was issued. Failure by a party to comply with an order of attendance or production may be considered a violation of this Code and, at the petition of a party, the hearing officer may impose a civil fine of up to one hundred dollars (\$100) at the time of the hearing and may take such failure into consideration in making his or her determination of the hearing.

(b) Subpoenas. At the request of either the city or the appellant, the hearing officer or the City Clerk shall, on behalf of the city, issue subpoenas for attendance of witnesses at the hearing or production of documents on a date certain. In no event shall the date for production of documents be less than ten days from the date the subpoena was issued. Disobedience of such subpoena or the refusal to testify, upon other than constitutional grounds, shall constitute a misdemeanor.

1 of 5

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: CR

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Ordinance No.

(c) Inspection of Premises. The hearing officer may inspect the premises involved in the hearing at any time prior to a decision, to investigate or confirm the existence of the violation(s) or conditions which are on appeal, provided that:

(1) Consent is granted by a person with the lawful right to grant consent or an inspection warrant is obtained;

(2) Reasonable notice of such inspection is given to the owner before the inspection is made;

(3) The parties are given an opportunity to be present during the inspection;

(4) The hearing officer shall place in the record the material facts and the conclusions drawn from the inspection either orally at the time of the hearing or in writing after the hearing; and

(5) Each party then shall have a right to rebut or explain the matters so stated by the hearing officer for the record either at the hearing or by filing a written statement within ten calendar days after the hearing.

(d) Oaths. The hearing officer shall have the power to administer oaths and affirmations.

(e) Procedures. The hearing officer shall have the authority to establish procedures before or during a hearing consistent with this article and the Code for purposes of efficiency and order.

(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 the owner and or occupants show at the subsequent hearing they have made substantial progress, but have not been able to complete repairs or remedy all illegal conditions for reasons beyond their control, the hearing shall be continued to a later date to allow sufficient time to complete repairs or remedy all illegal conditions as ordered. If it is shown at a subsequent hearing the record owner and or occupants have failed to fully repair or otherwise remedy the illegal conditions, the hearing officer shall order payment of double the maximum fines permitted in this code, as well as all allowable costs and fees.

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.

(g) Limitations. The hearing officer shall not have authority to waive any requirements of the Code or law. The hearing officer is required to adhere to any citation amount set in the Code or Master Fee Schedule and may not increase or decrease the amount imposed on the parties[, except in cases where the citation amount is more than \$100,000. In those cases alone, the Hearing Officer shall have authority to reduce the citation amount to a reasonable amount not below \$100,000 if, after a thorough legal analysis, the Hearing Officer finds the original citation amount is constitutionally excessive]. The parties themselves maintain the discretion to reduce citation amounts in order to independently settle the dispute.

(h) Record keeper. The city shall maintain the administrative record of the hearing and make it available upon request by either party. The record shall be maintained for two years from the date the case is closed and no further appeals are available under the Code or at law.

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.

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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 _____ 2024.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2024
Mayor Approval/No Return: _____, 2024
Mayor Veto: _____, 2024
Council Override Vote: _____, 2024

TODD STERMER, CMC
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ,
City Attorney

BY: _____
Christina Roberson Date
Assistant City Attorney