

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 11-504 – 11-510 OF THE FRESNO
MUNICIPAL CODE

SECTION 1. Sections 11-504 – 11-510 of the Fresno Municipal Code are amended to read:

SECTION 11-504. [BUILDING STANDARDS APPEALS BOARD.]

~~BUILDING COMMISSION.~~

(a) General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official [and/or Code Enforcement] relative to the application and interpretations of the Housing Regulations (Chapter 11, Article 3) or the Dangerous Building Ordinance (Chapter 11, Article 4), there shall be and is hereby created a Building [Standards Appeals Board] ~~Commission~~ consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The Building Official shall be an ex officio member and shall act as secretary to said [Board] ~~Commission~~ but shall have no vote upon any matter before the [Board] ~~Commission~~. The Building [Standards Appeals Board] ~~Commission~~ shall be appointed by the [Mayor and ratified by the] governing body and shall hold office [in four-year terms.] ~~at its pleasure.~~ Appeals to the [Board] ~~Commission~~ shall be processed in accordance with [Chapter 1, Article 4 of this Code and any Bylaws adopted by the Building Standards Appeals

1 of 8

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: CR

Ordinance No.

~~Board.] the provisions contained in Section 11-505 of this Article. If~~
appointments to the Building [Standards Appeals Board] Commission have
not been made or the Building [Standards Appeals Board] Commission is
deemed to be inactive, all appeals of orders, decisions, or determinations
made by the Building Official relative to the application and interpretations
of the Housing Regulations (Chapter 11, Article 3) or the Dangerous
Building Ordinance (Chapter 11, Article 4) shall be heard by the Hearing
Officer pursuant to Chapter 1, Article 4.

(b) **Limitations of Authority.** The [Building Standards Appeals Board]
~~Building Commission~~ shall have no authority relative to interpretations of
the administrative provisions of this article nor shall the [Building Standards
Appeals Board] ~~Commission~~ be empowered to waive requirements of any
provisions of the Fresno Municipal Code.

~~SECTION 11-505. FILING NOTICE OF APPEAL.~~

~~(a) Any person entitled to service under subsection (b) of Section 11-
327 or 11-414 may appeal from any Notice and Order by filing at the office
of the Building Official within 15 days from the date of service of such order,
a written, dated appeal in duplicate containing:~~

~~(1) A heading in the words: "Before the Building Commission of the City
of Fresno;"~~

~~(2) A caption reading: "Appeal of _____," giving the names and
addresses of all appellants participating in the appeal;~~

~~(3) — A brief statement setting forth the legal interest of each of the appellants in the building/structure or the land involved in the Notice and Order;~~

~~(4) — A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellants;~~

~~(5) — A statement of the relief sought, and the reasons why it is claimed the protested Notice and Order, including the proposed abatement action to be taken by city if owner fails to comply, should be reversed, modified, or set aside;~~

~~(6) — The signatures of all parties named as appellants, and their official mailing addresses;~~

~~(7) — The verification by declaration under penalty of perjury of at least one appellant as to the truth of the matters stated in the appeal.~~

~~(b) — Upon a showing of good cause, the Commission may, in its discretion, permit the filing of an appeal, or an amended, later than fifteen (15) calendar days provided in subsection (a), in which case the appeal shall be considered in the same manner as if it had been timely filed.~~

~~SECTION 11-506. AMENDED APPEAL.~~

~~If in the opinion of the Commission after objection by the City or upon the Commission's own motion, an appeal or an amended appeal fails to comply with the requirements of Section 11-505 the Commission may give written~~

~~notice of such insufficiency to the appellant at any time within fifteen (15) calendar days after the appeal is presented, stating with particularity the defects or omissions therein. Failure of appellant to file an amended appeal, which complies with the requirements of Section 11-505, within fifteen (15) calendar days of the date of service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the Commission to give notice of any insufficiency within The fifteen (15) calendar day period shall result in the appeal being heard on the merits, without regard to any insufficiency.~~

~~SECTION 11-507. HEARING DATE; NOTICE.~~

~~(a) — Upon receipt at his/her office of any appeal filed pursuant to this section, the Building Official shall cause one copy to be stamped to show date of receipt and shall immediately forward that copy, together with a copy of the Notice and Order appealed from, to The person designated as secretary of the Commission, who shall file the appeal as a part of the records of the Commission and shall present it at the next regular or special meeting of the Commission.~~

~~(b) — As soon as practicable after receiving the written appeal, the secretary of the Commission shall set a date, time and place for hearing of the appeal by the Commission on a regularly scheduled meeting day of said Commission, which date shall not be less than ten days from the date the appeal was filed with the Building Official. Written notice of the date, time and place of the hearing shall be given, at least ten days prior to the date of the hearing, to each appellant by the secretary either by causing a copy of~~

~~such notice to be delivered to the appellant personally or by mailing a copy thereof, addressed to the appellant at his/her address shown on the appeal. Copies of the notice shall be delivered to the Building Official and the City Attorney.~~

~~(c) Continuances of the hearing may be granted by the Commission on motion of either party for good cause shown, or on the Commission's own motion. A request for continuance by signed stipulation of all appellants and the Building Official or their attorneys may be granted by the Chairman of the Commission.~~

~~SECTION 11-508. HEARING ON APPEAL.~~

~~(a) The hearing shall be informally conducted, and the technical rules of evidence shall not apply, except that irrelevant and unduly repetitious evidence shall be excluded. Oral evidence shall be received only on oath or affirmation. During the course of the hearing the Commission may visit and inspect any building/structure or premises involved in the proceeding, and may there receive oral testimony of any sworn witness.~~

~~(b) Rights of Parties. Each party shall have these rights, among others:~~

~~(1) To call and examine witnesses on any matter relevant to the issues of the hearing;~~

~~(2) To introduce documentary and physical evidence;~~

~~(3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;~~

~~(4) To impeach any witness regardless of which party first called the witness to testify;~~

~~(5) To rebut the evidence;~~

~~(6) To be represented by anyone who is lawfully permitted to do so.~~

~~(c) The Commission will hear evidence relevant to only those issues raised by the appellant.~~

~~(d) The hearing must proceed in the following order, unless the Commission, for special reasons otherwise directs:~~

~~(1) The appellant may state the issue and the nature of his/her case, and present an opening statement.~~

~~(2) The Building Official may then state his/her position, if he/she so wishes, or wait until after the appellant has produced his/her evidence.~~

~~(3) The appellant may then present evidence in support of his/her position.~~

~~(4) The Building Official may then open his/her case if he/she has not done so previously.~~

~~(5) The Building Official may then produce the evidence on his/her part.~~

~~(6) The parties may then respectively offer rebutting evidence.~~

~~(7) The appellant may then open his/her defense, if he/she has not done so previously.~~

~~(8) Oral arguments or summation may be given after all evidence is in, with the appellant opening and closing.~~

~~(e) At the conclusion of the hearing, the Commission shall consider the evidence presented and shall either present its finding orally or in writing, within ten (10) calendar days from the conclusion of the hearing. The written decision shall be served on all appellants and the Building Official in the manner in which the notice of hearing was served. Proof of service shall be filed with the Commissions records of the case. The decision may affirm, reverse, rescind, modify or set aside any order of the Building Official, including but not limited to the proposed administrative abatement. A majority of the members of the Commission must concur in any such decision. The decision of the Commission shall be final and not subject to review or modification by the City Council.~~

~~SECTION 11-509. STAY OF PROCEEDINGS PENDING APPEAL.~~

~~Except for vacation of building orders made by the Building Official, enforcement of any Notice and Order of the Building Official served shall be stayed during the pendency of an appeal therefrom properly and timely filed.~~

~~SECTION [11-505.] 11-540. EFFECT OF FAILURE TO APPEAL.~~

Failure of any person to file an appeal in accordance with the provisions of this article shall constitute a waiver of the right to an administrative hearing and adjudication of the Notice and Order or portion thereof. The provisions of this notice and order will become final. (Added Ord. 97-71, § 1, 1-4-98).

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 _____ 2025.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2025
Mayor Approval/No Return: _____, 2025
Mayor Veto: _____, 2025
Council Override Vote: _____, 2025

TODD STERMER, MMC
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ,
City Attorney

BY: _____
Christina Roberson Date
Assistant City Attorney