

BUILDING STANDARDS APPEALS BOARD

Appeal Requested By:

Nova Surgical



Code Enforcement Case Number: 7557-1

Property Address : 4928 E. Clinton Way #101

APN: 49421003

Hearing Details:

July 7, 2026, at 1:00 p.m.

Fresno City Hall

2600 Fresno St., Council Chambers

City Presentation By:

Christina Piña, Deputy City Attorney

Brennen Henry, Senior Fire Prevention Inspector



Overview

Based on a Fire Prevention Inspection conducted on 07/23/25, Nova Surgical Center was operating outside the approved use as they perform medical outpatient services which classifies the office as a **Clinic (ambulatory care facility)** rather than a regular medical or dental office that only perform consultations, diagnosis or other personal treatment services.

Action of the BSAB

After today's hearing, the Building Standards Appeals Board (BSAB) may take one of the following actions:

1. **CONFIRM** the First Administrative Citation issued September 9, 2025; and **ORDER** Appellant to correct the confirmed violations within thirty days; OR
2. **DISMISS** the First Administrative Citation issued September 9, 2025.

Fresno Fire Department recommends the BSAB select **Option 1** above, **CONFIRM** the First Administrative Citation and **ORDER** the violations be corrected.

Case Summary

- ▶ 10/22/21: Zone Clearance Rejection – Outpatient Ambulatory Surgical Center (Appeal Packet, pg. 64)
- ▶ 11/23/21: Zone Clearance Letter – Offices Medical and Dental (Appeal Packet, pg. 65)
- ▶ 07/23/25: Fire Prevention Inspection (Appeal Packet, pg. 47)
- ▶ 09/09/25: First Administrative Citation issued (Appeal Packet, pg. 52)
- ▶ 09/11/25: Fire Prevention Inspection (Appeal Packet, pg. 53)
- ▶ 10/30/25: Fire Prevention Inspection (Appeal Packet, pg. 58)

Scope of Hearing

- ▶ Two pertinent limitations on the scope of a hearing:
 1. The order, citation, decision, or determination that was appealed;
and
 2. The grounds for relief raised by the Appellant.

FMC § 1-408(e)

Staff Analysis

- ▶ In order to confirm the First Administrative Citation, the BSAB must be satisfied by a preponderance of the evidence that:
 1. Violations of the FMC existed on the Property; and
 2. Proper notice was served on the property owner.

Standard of Proof

- ▶ The Supreme Court of the United States has established that preponderance of the evidence is met when the trier of fact believes “the existence of a fact is more probable than its nonexistence.”
 - ▶ *Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California* (1993) 508 U.S. 602, 622; citing *In re Winship*, (1970) 397 U.S. 358, 371–372, (Harlan, J., concurring) (brackets in original).
- ▶ In quantifiable terms, if the BSAB is 51% sure that a fact is true, the City has met the burden and the BSAB should find in favor of the City for that fact

Staff Analysis – Violation 1

- ▶ A Violation of the FMC Exists on the Property

Violation – Change of Use Required

- ▶ FMC 15-5022. Certificate of Occupancy required when there is a change in use
- ▶ FMC 10-50102.3. A change of use or occupancy shall comply with the requirements of this code, the Fresno Fire Code and the California Existing Building Code as applicable
- ▶ Fire Prevention Inspection 07/23/25, Inspector Deegan observed the occupancy changed (AP, pg. 11)
 - ▶ Provided 45 days to comply by initiating change of use
 - ▶ Operational Statement and Emergency Plan required per Cal Fire Code Chapter 4

Commercial Use Classifications

FMC: Hospitals and Clinics. State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons.

Clinic. A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an **out-patient basis** including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight.

Medical and Dental. Office use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners
(FMC 15-6703)

Fire Code: AMBULATORY CARE FACILITY. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less-than-24-hour basis to persons who are rendered incapable of self-preservation by the services provided or staff has accepted responsibility for care recipients already incapable.

The 2025 California Fire Code, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2024 edition of the International Fire Code as amended with necessary California amendments, and the 2024 International Fire Code, including Appendix Chapters E and F, are hereby adopted and amended by the City of Fresno... FMC 10-50100

Zone Clearance History

- ▶ **10/22/21:** Application - Proposed Use “Outpatient ambulatory surgical center” is classified as Hospitals and Clinics. Clinics require Conditional Use Permit. **Zone Clearance cannot be approved, a Conditional Use Permit (CUP) is required.** (AP, pg. 64)
- ▶ **11/23/21:** Application - **Zone Clearance “Doctor’s Office” Medical and Dental is allowed.** Zone clearance only verifies zoning allows the business described, any modifications may require additional permits or approvals. (AP, pg. 65)

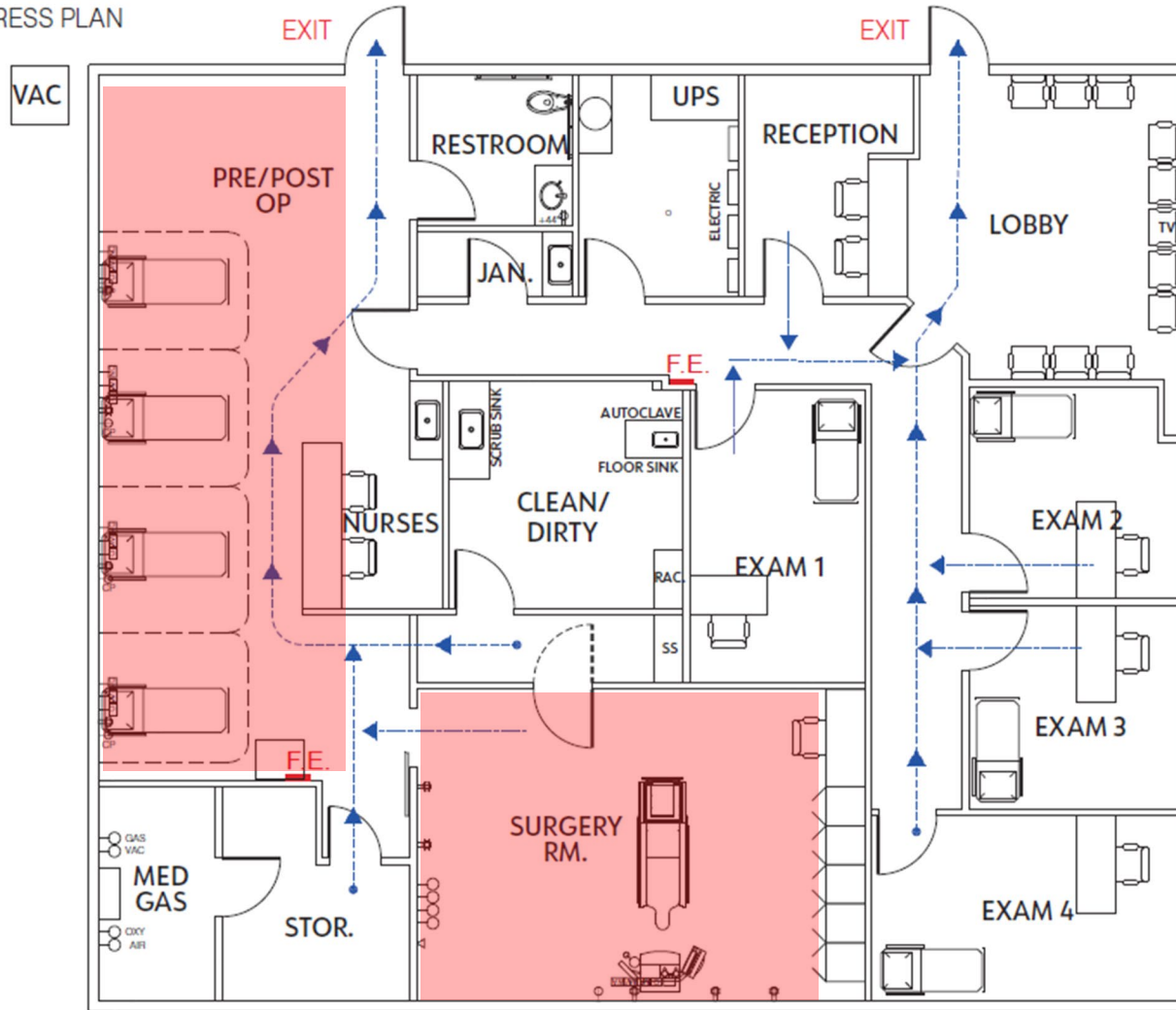
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FRESNO EMERGENCY EGRESS PLAN



PLAN VIEW

F.E. FIRE EXTINGUISHER



In Facilities, Inc.
 3835 R.E. Thousand Oaks Blvd. # 358,
 Westlake Village, CA 91362
 (805) 857-3700, (805) 230-2189
 email: kendall@infacilities.com

APPROVED	DATE
REVISED	DATE

NOVA SURGICAL CENTER
 Ground Floor
 4928 E. Clinton Ave
 Fresno, CA 93727

DRAWN:
 SCALE: NTS
 DATE: 2006
 FILE:

PROJECT:
 DRAWING NO.:

Violation 1

▶ Change of Use Required

- ▶ Nova Care Center dba New Age Pain Center **admits**
 - ▶ A certified outpatient facility **Hospitals and Clinics per FMC**
 - ▶ Performs medical procedures with minimal sedation that render patients unable to provide self-care during procedure and during recovery **Ambulatory Care Facility per Fire Code**
- ▶ **NOT just Medical and Dental**

▶ Appellant's Appeal

- ▶ NFPA (National Fire Protection Assoc) defines occupancies differently
 - ▶ **City of Fresno does not adopt NFPA in FMC**
- ▶ Change of Occupancy be permitted because alleged proposed use is less hazardous
 - ▶ **Out-patient facility that performs sedation is not less hazardous than consultation with doctor**

Staff Analysis - Notice

- ▶ Proper Notice was Served on the Property Owner
 - ▶ On September 9, 2025, the First Administrative Citation was mailed to Nova Surgical at Property address. (AP, pg. 52.)
 - ▶ The First Administrative Citation contained all necessary information required by FMC section 1-308, including clear descriptions of the violations, the code sections violated, a description of the correction for the violations, and information concerning appellants right to appeal.

Recommendation

Staff recommends the BSAB:

CONFIRM the First Administrative Citation issued and
ORDER the violation be corrected

Progress Hearing FMC § 1-406(f)

- ▶ If the BSAB determines that any of the appealed violations are currently still uncorrected:
 - ▶ The Appellant must be ordered to correct the remaining violations within 30 days of the date of the order; and
 - ▶ A progress hearing must be set within 30 to 60 days of the date of the order.
- ▶ At the progress hearing, the BSAB will determine the status of the remaining violations