



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.	2D
COUNCIL MEETING:	06/05/14
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

Date: June 5, 2014

FROM: DOUGLAS T. SLOAN, City Attorney
City Attorney's Office

BY: TRACY N. PARVANIEN, Deputy
City Attorney's Office

SUBJECT: Introduction of recommended amendment to Subsection (a) of Section 11-504 and Section 11-622 of the Fresno Municipal Code relating to appeals involving the Building Commission.

RECOMMENDATION

It is recommended that the City Council approve the attached ordinance amending Subsection (a) of Section 11-504 and Section 11-622 of the Fresno Municipal Code, relating to appeals involving the Building Commission.

EXECUTIVE SUMMARY

The attached ordinance amends the Fresno Municipal Code by allowing the Independent Administrative Hearing Officer the authority to hear appeals regarding (1) Housing Regulations (Chapter 11, Article 3), the Dangerous Building Ordinance (Chapter 11, Article 4), and the Fresno Flood Plain Ordinance (Chapter 11, Article 6) if appointments have not been made to create an active Building Commission.

BACKGROUND

In or around 1981, City Council passed Resolution 81-463 establishing a Building Commission which had the power and duty to hear and decide appeals regarding the vacation, repair, rehabilitation or demolition of dangerous buildings and substandard buildings. The Fresno Municipal Code thereafter incorporated the Building Commission as the sole avenue to pursue appeals of orders, decisions, or determinations made by Building Officials relative to the application and interpretation of Housing Regulations (Chapter 11, Article 3); the Dangerous Building Ordinance (Chapter 11, Article 4); and the Fresno Flood Plain Ordinance (Chapter 11, Article 6).

There has been a recent increase in the number of citations and corresponding appeals made pursuant to Housing Regulations and the Dangerous Building Ordinance. The Building Commission, however, has been inactive for over ten years and there are currently no members appointed to the Building Commission. As such, any appeal made on an order, decision, or determination pursuant to

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Recommended amendment to Subsection (a) of Section 11-504 and Section 11-622 of FMC

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the Housing Regulations or Dangerous Building Ordinance has either been substantially delayed or not heard at all. In order to remedy this situation, it is proposed that any and all appeals that would have previously been heard exclusively by the Building Commission may now be heard by the City's Independent Hearing Officer if appointments to the Building Commission have not been made.

The proposed amendments are consistent with the City's authority set forth in the California Building Code.

ENVIRONMENTAL FINDINGS

N/A

LOCAL PREFERENCE

N/A; amendments to existing ordinances only.

FISCAL IMPACT

There will be no significant fiscal impact from the proposed amendments because the Hearing Officer's compensation is currently set at a flat monthly rate based upon a minimum number of days/hours worked.

Attachment: Ordinance

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SUBSECTION (a) OF SECTION 11-504 AND SECTION 11-622 AND OF THE FRESNO MUNICIPAL CODE RELATING TO APPEALS INVOLVING THE BUILDING COMMISSION.

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

SECTION 1. Subsection (a) of Section 11-504 of the Fresno Municipal Code is amended to read as follows:

(a) General. In order to hear and decide 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), there shall be and is hereby created a Building 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 Commission but shall have no vote upon any matter before the Commission. The Building Commission shall be appointed by the governing body and shall hold office at its pleasure. Appeals to the Commission shall be processed in accordance with the provisions contained in Section 11-505 of this Article. [If appointments to

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: TNP

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the Building Commission have not been made or the Building 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.]

SECTION 2. Section 11-622 of the Fresno Municipal Code is amended to read as follows:

The Building Commission of the City of Fresno shall hear and decide appeals when it is alleged there is any error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this article. [If appointments to the Building Commission have not been made or the Building Commission is deemed to be inactive, all appeals regarding any alleged error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this article shall be heard by the Hearing Officer pursuant to Chapter 1, Article 4.]

SECTION 3. 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, 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 _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Tracy N. Parvanian Date
Deputy

TNP:prn [64631prn/ord] 05-29-14

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