

**RESOLUTION NO. 19-05**

**A RESOLUTION OF THE NORTH CENTRAL FIRE PROTECTION DISTRICT BOARD OF DIRECTORS TO AMEND RESOLUTION NO. 11-08 ESTABLISHING PROCEDURES FOR ADMINISTRATIVE APPEAL HEARINGS**

At a regular meeting of the Board of Directors of the North Central Fire Protection District, it was moved by director FOGLIO, and seconded by director ABRAHAMIAN and duly carried that the following resolution be adopted:

**WHEREAS:** At times an individual or commercial business may receive violation notices for certain types of civil and administrative violations punishable by fine, fee, lien or other procedures allowed by law; and

**WHEREAS:** There is a need to establish written procedures to conduct appeal hearings for administrative citations and to provide an orderly forum to hear and decide the appeal based on the evidence.

**WHEREAS:** There is a need to amend Resolution No. 11-08 adopted at a regular board meeting on October 27, 2011.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the "Procedure for Administrative Appeal Hearings" presented at this meeting and attached as Exhibit "A" be adopted.

**PASSED AND ADOPTED** by the Board of Directors of the North Central Fire Protection District on this 28th day of March 2019, by the following vote:

**AYES:** Abrahamian, Belluomini, Foglio, Nonini and Souza

**NOES:**

**ABSTAIN:**

**ABSENT:**

**APPROVED**

  
\_\_\_\_\_  
Ken Abrahamian, Board Chairperson

**ATTEST:**


  
\_\_\_\_\_  
Amanda Souza, Board Secretary

**CERTIFICATE**

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

I, Amanda Souza, Board Secretary of the North Central Fire Protection District, do hereby certify the foregoing Resolution of the Board of Directors of the North Central Fire Protection District was duly passed and adopted at a Regular Meeting of the Board of Directors on March 28th, 2019.

**DATED:** March 28, 2019

  
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Amanda Souza, Board Secretary

## **EXHIBIT "A"**

### **Procedure for Administrative Appeal Hearings – North Central Fire Protection District**

#### **Background**

Certain types of civil and administrative violations are punishable by fine, fee, lien or other procedures allowed by law. At times the individual or commercial businesses receiving the violation notice (Respondent) may wish to present their case and be heard before a Hearing Officer. The standard practice is to provide an appeal hearing which will provide oversight of the enforcement actions of the North Central Fire Protection District Fire Officials. The North Central Fire Protection District Fire Chief will appoint the Hearing Officer. This document is intended to provide an overview of the procedural process for Appeal Hearings conducted for incidents within the authority and jurisdiction of the North Central Fire Protection District.

#### **Purpose of the Appeal Hearing**

The Respondent may request their case be reviewed by a Hearing Officer. The appeal hearing provides the forum to hear the case and make a ruling based on the evidence. The Hearing Officer may affirm, deny or modify the violation.

#### **Requesting an Appeal Hearing**

The respondent must submit a written request for an appeal hearing within ten (10) calendar days after receiving the notice of violation or invoice. The request from the respondent must be sent to District Headquarters addressed to the Fire Chief and state the reasons why they wish to appeal the violation. The Fire Chief will have the authority to dismiss or modify the violation if it is in the best interest of the District, prior to the hearing.

#### **Presiding Officer**

The Hearing Officer will serve as the Presiding Officer and will manage the proceedings and make determinations on behalf of the District. The Presiding Officer will ensure that each party has an opportunity to effectively participate in the appeal hearing process.

#### **Scheduling of Appeal Hearing**

The appeal hearing will be scheduled at the earliest available time the Hearing Officer and Respondent can meet. The Respondent shall schedule and meet with the Hearing Officer within 30 days of the date the Respondent's written notice is received by the District, unless otherwise both parties agree to an extension. Failure to attend a scheduled Appeals Hearing is grounds for appeal denial.

## **Appeal Hearing**

The Fire Chief or designee will issue a notice of hearing to the respondent and any others at least 14 days prior to the date of the hearing. The respondent has the burden of proving that the violation was not warranted. The Fire Chief or designee may be represented by the District's general counsel.

The Presiding Officer will manage the appeal hearing and make rulings on evidence and procedural issues. In general, the Presiding Officer will allow evidence that a reasonably prudent person is accustomed to rely upon. The formal rules of evidence shall not apply.

Each party will have the right to call and examine witnesses, present evidence, cross-examine witnesses, impeach witnesses, and represent herself or himself, or be represented by another person who is lawfully permitted to provide such representation. Persons called as witnesses must swear or affirm to testify truthfully before testifying.

### **Hearing Matrix:**

Presiding Officer or designee reads violation and respondents appeal request.

District Staff will provide testimony as to the circumstance and reason for the violation in addition to the specific code section(s).

Respondent will have an opportunity to provide testimony and cross examine District staff.

District staff will have an opportunity for rebuttal and cross examination.

Respondent will have an opportunity for rebuttal.

District staff will have an opportunity for a closing statement.

Respondent will have an opportunity for a closing statement.

Presiding Officer will have opportunity to ask questions, seek clarification at any point in the process.

The Presiding Officer will make reasonable accommodations if a party or a witness has a disability. Any party requiring an interpreter must provide their own.

Documents filed for the appeal hearing will be made available to the public for inspection and copying unless state law provides otherwise.

The record of the appeal hearing will include all documents filed, the recording of the hearing, rulings by the Presiding Officer, and the findings, conclusions and final decision of the Hearing Officer.

After the appeal hearing, the District shall provide a final order in writing to all parties involved. Either party may then appeal the final order to the District Board, which may within its discretion affirm, deny or modify the violation or portions of that violation.

### **Appeal Hearing Costs**

If the Hearing Officer finds in favor of the respondent, there is no charge for the hearing. However, if the Hearing Officer upholds any portion of the violation, the respondent may be responsible for all reasonable administrative charges as outlined in the master fee schedule. The Hearing Officer shall retain the discretion to charge the respondent the actual costs of the Appeal Hearing.