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CITY OF FRESNO  
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**Regular Council Meeting  
January 27, 2022**

**FRESNO CITY COUNCIL**



**Email / eComment Report**

The Following item(s) were commented on:

**File ID 22-200, 1-C**

Ordinance (for introduction) - Amending Administrative Abatement, FMC section 10-616, to clarify limits on access to restricted areas where abatements are taking place.

**Total number of emails: 4**

**Item(s)**

**Supplemental Information:**

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

**Americans with Disabilities Act (ADA):**

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

**Amanda Martin**

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**From:** Law Offices of Anthony Prince [REDACTED]  
**Sent:** Thursday, January 27, 2022 2:14 PM  
**To:** Clerk  
**Subject:** Contact City Clerk Form submitted on City Clerk

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**First Name** Law Offices of Anthony  
**Last Name** Prince  
**Email** [REDACTED]  
**Subject** Amendment to Code re Nuisance Abatement

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**Message** Dear City Clerk:

As you are aware, during the public comment portion of today's City Council Meeting several speakers read portions of a letter from this office that was sent via email to all members of the City Council. The text of the letter appears below. I would appreciate if you could make it part of the record for today's proceedings. I will also a hard copy of the letter.

If you have any questions or concerns regarding this request, please do not hesitate to contact m at [REDACTED]

Thank you.

California Homeless Union  
Statewide Organizing Council  
Office of the General Counsel, Law Offices of Anthony D. Prince  
[REDACTED]  
[REDACTED]

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Statement on the proposed amendment to Section 10-616 of the Fresno Municipal Code  
January 26, 2022

To: Members of the Fresno City Council and To Whom It May Concern:  
As General Counsel for the California Homeless Union/Statewide Organizing Council, I write on behalf of our entire organization as well as on behalf of our affiliated local, the Fresno County Homeless Union.  
Time  
does not permit a fully briefed presentation on the dangers of enacting the constitutionally infirm proposed amendment to Section 10-616 of the Fresno Municipal Code. Nevertheless, this is to advise that should the Ordinance pass as proposed, we will pursue all available legal remedies, including application for a

temporary

restraining order and preliminary injunction barring its enforcement.

We also anticipate that a broad spectrum of community homeless support organizations and individuals, advocates, service providers, charitable and religious institutions, and members of the press and other media

will join us in seeking injunctive relief and a declaratory judgment that the Ordinance, if passed, violates on

its face the First, Fourth, Eighth and Fourteenth Amendments to the Constitution of the United States as well as

applicable provisions of the California State Constitution.

The cordoning off of areas broadly described as “public or private property where an abatement is taking place,” will result in restricting access of those who need or wish to closely observe administrative abatements

so as to assist persons whose property may be at risk of seizure and destruction and who may themselves be

subject to physical abuse, arrest, ejection and deprivation of due process. Kept at what could be considerably

more than “arm’s length” distance from such “abatements” - - commonly known as homeless “sweeps” – legal

observers, members of the media, independent journalists, representatives of those being “swept” and interested

members of the community would be unable to observe, let alone provide assistance or representation.

In addition, the amendment essentially deputizes civilian employees and private entities to perform what would essentially be a law enforcement functions further increasing the risk of arbitrary deprivation of constitutionally protected rights to would-be witnesses, documentarians and legal representatives.

To the extent that individual members of the Fresno City Council may believe that a legislative privilege shields them from individual liability, such immunity only applies when members are performing a legitimate

legislative function. In our view, the proposed ordinance is a barely disguised effort to conceal and avoid accountability during the performance of a public function, be it legitimate or pre-textual, i.e., the abatement of

an alleged public nuisance. We do not consider consideration and enactment of the proposed amendment to be a

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legitimate legislative function and we will hold both the City of Fresno and individual elected officials—who,

unlike public entities, may be liable for punitive damages should a jury determine they are appropriate.

Again, this letter is only the first and not the last word we will have on this matter. The recent sweeps laid bare the danger of police excessive force, unwarranted seizure and destruction of personal property belonging to our members and others in the homeless community and a wide range of other illegal abrogations

of essential rights. To pass the proposed amendment to Fresno City Code Section 10-616 will only

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compound,  
ratify and “codify” such misconduct and will make the City of Fresno, the City Council and the individual members of the Council liable for all harms resulting therefrom  
Accordingly, we urge the members of the City Council to reject the proposed amendment.  
Very Truly Yours,  
Anthony D. Prince,  
General Counsel  
California Homeless Union/Statewide Organizing Council  
Attorney for Fresno County Homeless Union

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**IP Address**



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**User-Agent  
(Browser/OS)**

Google Chrome 97.0.4692.99 / Windows

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**Referrer**

<https://www.fresno.gov/cityclerk/contact-clerk/>

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- How can advocates help protect people’s rights and ensure the safety of unsheltered folks if they cannot oversee abatement procedures?
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- Is the City using “safety concerns” or “emergency procedures” that are codified in CA or local law? If so, what code? If not, what’s the criteria for determining what constitutes a “safety concern” or “emergency procedure”?
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- Who is considered “persons authorized to provide services”?
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- What is the City’s criteria for determining who will be included as “persons authorized to provide services”?
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- What is considered “reasonable time” to make contact?
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- How will advocates be notified before abatement procedures take place?
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- **There are far too many unanswered questions for any reasonable person to vote yes on these amendments.**
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- Are you each aware that a misdemeanor charge could get someone up to a year of jail time?
- Do you fully understand the ramifications of your vote here today?
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- If you vote yes to these amendments, then you’re saying that it’s acceptable for people to go to jail for peacefully advocating and supporting people in our community.
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- The City of Fresno is clearly targeting homeless advocates and criminalizing Fresno residents
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- At a moment when Fresno residents are calling for greater transparency, accountability and collaboration with City officials,
- these amendments give the City and its agents the ability to carry out abatement procedures without the supervision of Fresno residents and advocates; this is outrageous and unjust.
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- There's been tremendous public outcry, especially since the historic Black Lives Matter rally in downtown Fresno in 2020 to
- reimagine public safety. Thousands of Fresno residents have been calling on the City to invest in community-based approaches, but these amendments move us toward more criminalization.
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- I urge you to do the right thing and vote no.

Janine Nkosi,

Regional Advisor, Faith in the Valley

## Amanda Martin

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**From:** Clerk  
**Sent:** Wednesday, January 26, 2022 8:14 AM  
**To:** Amanda Martin  
**Subject:** FW: Public comment- 1-C

**From:** Brandi Nuse-Villegas  
**Sent:** Tuesday, January 25, 2022 9:34 PM  
**To:** Clerk  
**Subject:** Public comment- 1-C

**External Email:** Use caution with links and attachments

Dear council,

I have reviewed the updated proposed change to the abatement ordinance. I appreciate that there have been efforts to look into this ordinance, but I do ask you to oppose this ordinance amendment. I understand that you as a council are concerned with safety. I don't believe that this ordinance amendment, even with the changes made in the last week, will accomplish that goal and would do more harm to the unhoused occupants and keep advocates from providing needed assistance.

There is no wording or guarantee in this ordinance that unhoused occupants would be allowed the time to leave and would be completely vacated before an abatement. The City Attorney said that non-workers should not be in the area during an abatement due to safety. It should be the case that unhoused occupants are allowed to leave with their belongings before the abatement starts. However, that has not been the practice of the city of Fresno and heavy equipment and crushers are often moving through an encampment while people are there (and those who at the beginning have less time to move their belongings before being forced to move because the crusher was moving through). This goes against what Spees told us, that people would be given the time to move during clean-ups, and I would ask that he ensure that they do get the time they need to move. If the city doesn't follow these safety issues, however, then advocates could be prevented from accessing and assisting unhoused occupants that are still on the grounds.

There is mention that advocates and service providers who are authorized can assist before an abatement, and, as I said, there is no guarantee that unhoused would not still be present during the abatement. As well, due to the wording of this ordinance, an advocate could be deemed "unauthorized" at the discretion of the authority in charge according to the wording. A city employee or other authority should not determine the advocacy needs of an unhoused individual and this encroaches on their needs and rights to have assistance for the reasons I had mentioned last meeting, such as impairment during PTSD and anxiety, disability, among other issues.

This could also give those in charge the authority to cite, arrest, and fine unhoused people during an abatement for not leaving soon enough. This creates a greater burden for the unhoused that they already endure, as having misdemeanors for actions pertaining to being homeless like this would interfere with their efforts to escape homelessness.

I am aware that this ordinance was created in response to altercation between a city employee and an advocate, according to Spees to one advocate, and this must be considered. However, as I noted, I know that this brings up concerns about safety. Please consider the harm this ordinance could do for those who are unhoused, as it interferes with their ability to get the care they need during



these situations and that it doesn't address the safety issues concerned with abatement that the City Attorney voiced and that you may have.

Thank you

 Virus-free. [www.avast.com](http://www.avast.com)

## Amanda Martin

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**From:** carol kim <carol.kim@att.net>  
**Sent:** Wednesday, January 26, 2022 5:54 PM  
**To:** Clerk  
**Subject:** 1-C

External Email: Use caution with links and attachments

I am writing in strong opposition to the Abatement ordinance proposal.

As a community member, unhoused people advocate volunteer and a licensed clinical social worker, I find this potential Ordinance very dangerous, misguided, unnecessary and authoritarian. Of all the members of our community, the unhoused people are among the most vulnerable, disenfranchised, and emotionally and physically at risk. Their ranks include children, disabled, mentally ill, developmentally disabled. Most of them are undernourished and exhausted from trying to survive and deal with the elements. Our black and brown brothers and sisters, who experience systemic and direct discrimination and racism are over represented. You're telling me that you are going to deny all of these people access to the those who wish to help them, inform them of their rights, call out mistreatment by authorities (which we all know happens regularly), be witness to police/city staff actions and the agencies that cannot be totally objective because they are beholden to the city via contract/financial support? You must vote NO. This ordinance not only goes to far it is not necessary. It seems to me the true reason it is being proposed is the "HART" team and City want to avoid getting caught breaking the rules and want to punish both the unhoused and their advocates. That is the impression it gives and also would be the result. The City Council needs to acknowledge the shortcomings of the City's ability to deal with the crisis of homelessness and part of that acknowledgment is to allow us as community members, including and especially the homeless, to witness, prevent and speak the truth of mistakes, crimes, inactions and actions by City personnel and contractors that further compromise the homeless people.

Carol Kim

Sent from my iPhone