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Title: ***BILL No. 2 (Intro'd 1/27/2022) (For Adoption) - Amending Administrative Abatement, FMC section 10-616, to clarify limits on access to restricted areas where abatements are taking place (Subject to Mayor's Veto).

Sponsors: City Attorney's Office

Indexes:

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Attachments: 1. 22-200 Ordinance, 2. Supplement_Feb10th_22-247_AmendingAdminAbatement_PublicComments

Date	Ver.	Action By	Action	Result
2/10/2022	1	City Council	APPROVED AS AMENDED	Pass

REPORT TO THE CITY COUNCIL

FROM: DOUGLAS SLOAN, City Attorney
City Attorney's Office, Code Enforcement

SUBJECT

***BILL No. 2 (Intro'd 1/27/2022) (For Adoption) - Amending Administrative Abatement, FMC section 10-616, to clarify limits on access to restricted areas where abatements are taking place (Subject to Mayor's Veto).

RECOMMENDATION

Staff recommends adopting amendments to FMC section 10-616 related to safety during administrative abatements.

EXECUTIVE SUMMARY

The Code Enforcement Abatement Team and City retained contractors regularly conduct abatements of junk, rubbish, weeds, and other materials from privately owned property. Interference by the public puts the safety of the public and Code Enforcement staff at risk. These amendments would allow Code Enforcement staff to designate the work site as a restricted area and erect barriers to prevent public interference, while still allowing advocates and service providers to assist those in need. Violators would be provided a verbal warning to vacate the area. Violations would be punishable as a misdemeanor or by administrative citation.

BACKGROUND

Code Enforcement duties include abating public nuisances on privately owned property. These nuisances include junk, rubbish, tall grass, weeds, and other hazards. To abate, the Code Enforcement abatement team or a retained contractor uses equipment to include skid steer, tractor (with front loader, disc, or box blade), dump truck and trailers, saws, drills, and grinders. This equipment requires focus by staff to operate, and it can be dangerous if used improperly or if an unauthorized person enters the work site.

The Abatement Team's primary goal during abatements is to maintain the safety of employees and the public. Requirements promulgated by the California Division of Occupational Safety and Health (CAL/OSHA) obligate the City to provide its employees with a safe working environment. In addition, the City may be subject to liability for unauthorized persons harmed during the abatement.

Prior to an abatement taking place at an occupied location, advocates and other service providers would be allowed to enter the property to provide the occupants services and assist with removal of property. After a reasonable time, the proposed amendments would allow staff to designate a restricted area by erecting a barrier or cordoning off an area with caution tape. The violator will be given a verbal warning and an opportunity to comply. However, noncompliance after the opportunity to comply has elapsed shall be punishable either as a misdemeanor or as an administrative citation, at the election of the City Attorney.

ENVIRONMENTAL FINDINGS

This item is not a project as defined by the California Environmental Quality Act.

LOCAL PREFERENCE

N/A.

FISCAL IMPACT

There is no fiscal impact.

Attachment: Ordinance