



Legislation Text

File #: 24-500, Version: 1

Report Prepared by: Craig J. Cornwell City Attorney

SUBJECT: Introduction of an Ordinance Amending Subsection (B) of Section 1.10.030, and Amending Subsection (B) and Adding Subsection (C) to Section 1.10.150; of the Merced Municipal Code Regarding the Administrative Citations Program

REPORT IN BRIEF

Considers introducing an Ordinance amending subsection (B) of Section 1.10.030 to limit the pre-citation cure time for non-building, plumbing electrical or zoning violations and amending subsection (B) and adding subsection (C) to Section 1.10.150 providing a mechanism to transfer real property without releasing nuisance abatement liens that have not been satisfied.

RECOMMENDATION

City Council - Adopt a motion:

A. Introducing and approving the first reading of **Ordinance No. 2563**, an Ordinance of the City Council of the City of Merced, California, Amending Sections 1.10.030, "Correction Notice and Administrative Citation Issuance Procedures," and 1.10.150, "Administrative Fee; Satisfaction Of Lien" of the Merced Municipal Code; and,

B. Set the Ordinance for a second reading and adoption.

ALTERNATIVES

1. Introduce and approve first reading of the Ordinance as recommended by staff; or,
2. Provide direction on specific revisions to the Ordinance; or,
3. Request additional information; or
4. Continue the matter to a date certain; or
5. Decline to take action.

AUTHORITY

Charter of the City of Merced, Section 200.

CITY COUNCIL PRIORITIES

As provided for in the 2023-24 Adopted Budget.

DISCUSSION

1. MMC Section 1.10.030(B):

Section 1.10.030(B) requires that prior issuing an administrative citation for all matters, the City must first issue a written correction notice to the responsible party and give them ten (10) days to correct. While this makes sense for building, plumbing, electrical violations, it does not make sense for nuisance that could require abatement, and sometimes cannot wait the time for correction. It would be recommended removing the generalization that requires the correction period for all citations and limit it to building, plumbing, electrical, or similar zoning matters.

MMC Section 1.10.130 currently provides:

“(B) Before issuing an administrative citation for any violation of a building, plumbing, electrical, or similar regulation set forth in this code or in any code adopted by reference, the enforcement officer must first issue a written correction notice to the responsible party for the violation. For violations that do not constitute an immediate danger to health or safety, a reasonable time, not less than ten (10) days, shall be provided to remedy or correct the violation prior to the issuance of an administration citation and imposition of fines or penalties. In determining what is a reasonable time, the enforcement officer may consider the estimate of local professionals, including licensed contractors.”

The proposed amendment to this Section is:

“(B) Before issuing an administrative citation for any violation of a building, plumbing, electrical, or similar ~~regulation set forth in this code or in any code adopted by reference~~ structural or zoning matters that do not create an immediate danger to health or safety, the enforcement officer must first issue a written correction notice to the responsible party for the violation. ~~For violations that do not constitute an immediate danger to health or safety, a~~ A reasonable time, not less than ten (10) days, shall be provided to remedy or correct the violation prior to the issuance of an administration citation and imposition of fines or penalties. In determining what is a reasonable time, the enforcement officer may consider the estimate of local professionals, including licensed contractors.”

2. MMC Section 1.10.150

The current MMC does not have any procedures for properties that have been issued notices of violation that are in the process of being sold. It would be helpful to include a section that addresses what the City can do to assure these violations get corrected when properties change hands without code enforcement starting their process over from the beginning and/or prohibiting a sale to someone who would improve the property, such as a Declaration of Covenants, Conditions and Restrictions (“DCCR”). The DCCR notifies the prospective buyers of the issues that need to be corrected and the consequences of not correcting them that go beyond a preemptory *Lis Pendens*.

MMC Section 1.10.150 currently provides:

A. “Each responsible party against whose property an assessment is levied pursuant to this chapter shall also be assessed an administrative

fee based on the costs incurred in levying the assessment. The administrative fee shall be included in the lien amount and recorded against the responsible party's property.

B. Once the city receives full payment for outstanding principal, penalties, and costs, the finance officer, or his or her designee, will provide the responsible party or financial institution with a notice of satisfaction for recordation by the county recorder of the County of Merced. This notice of satisfaction will cancel the City's lien."

The proposed amendment to this Section is:

A. "Each responsible party against whose property an assessment is levied pursuant to this chapter shall also be assessed an administrative fee based on the costs incurred in levying the assessment. The administrative fee shall be included in the lien amount and recorded against the responsible party's property.

B. Once the city receives full payment for outstanding principal, penalties, and costs, the finance officer, or ~~his or her~~ designee, will provide the responsible party or financial institution with a ~~notice of satisfaction~~ release of lien for recordation by the county recorder of the County of Merced.

C. Prospective purchasers of real property encumbered by a lien resulting from any violation of this code shall be subject to certain covenants, conditions, and restrictions to facilitate the transfer of real property and remedy the existence of any outstanding violations and satisfaction of any costs thereof."

IMPACT ON CITY RESOURCES

No impact on budget appropriations.

ATTACHMENTS

1. Draft Ordinance No. 2563