



Legislation Text

File #: 16-241, **Version:** 1

Report Prepared by: Janet German, Secretary III, Fire

SUBJECT: Consideration of Resolution Designating Enforcement Officers for Purposes of Issuing Administrative Citations

REPORT IN BRIEF

Update the Resolution designating “Enforcement Officers” who would be authorized to issue administrative citations under the provisions of the City’s Municipal Code. Additional fire personnel will be authorized to issue citations to gain life safety compliance, which results in the need to update the Resolution.

RECOMMENDATION

City Council - Adopt a motion adopting **Resolution 2016-45**, a Resolution of the City Council of the City of Merced, California, Designating Enforcement Officers Pursuant to Section 1.09.040 of the Merced Municipal Code.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Provide direction on specific revisions to the Resolution; or,
3. Request additional information; or,
4. Continue the matter to a date certain; or,
5. Decline to take action.

AUTHORITY

Merced Municipal Code Section 1.09.040.

CITY COUNCIL PRIORITIES

Public Safety, as provided for in the FY 16/17 budget.

DISCUSSION

In February, 2010, the City Council adopted a comprehensive code enforcement system which authorized the issuance of administrative citations, administrative penalties, and other enforcement tools by certain City employees. These new enforcement tools were made available to certain employees to utilize in carrying out the functions delegated to them under the Municipal Code. These new tools have largely replaced a heavy reliance on the criminal code enforcement process wherein misdemeanor and infraction citations were issued to alleged violators. The City Council requested that the Administrative Citation Program be developed so that staff had alternatives to using the criminal justice system for actions requiring correction by our citizens. This was the

purpose for adopting the Administrative Citation program.

Section 1.09.040 of the Merced Municipal Code requires that those officials authorized to issue administrative citations and administrative penalties be so designated by Resolution of the City Council. The Resolution was adopted as part of the original consideration of this Chapter. Since that time with the substantial downsizing and reorganization within the City, many position titles had either been re-designated or consolidated with other positions. Therefore, the Resolution was previously modified. Currently, in the Fire Department, only the Fire Chief, Fire Deputy Chief, Battalion Chiefs, Fire Marshal and Fire Inspector are authorized to issue citations. However, after seeing the benefits of the program in obtaining compliance for fire code violations, the department desires to add Fire Captains, Fire Engineers, and Firefighters to the resolution, thereby, increasing the department's effectiveness in obtaining compliance.

This Resolution does not expand or contract the authority of the City staff under the existing City Ordinances; it simply adds all sworn fire department employees with the authority granted by the City Council to enforce the fire code. It should be noted that the Fire Department has an Administrative Citation Policy and the City Attorney's Office will provide the Fire Department's staff with the necessary training to issue administrative citations.

Anyone receiving an administrative citation or administrative penalty has full due process rights and an administrative hearing. The City has a contract with Tom Lewis, an independent hearing officer. If a person cited is unhappy with the administrative determination they have the authority to contest the same in the civil court.

The benefit to the City of using the Administrative Citation Program is that any financial recovery received by the City is able to be retained by it to help support the enforcement program. If the City were to return to the heavy reliance on the criminal code enforcement process, the vast majority of the fines and penalties imposed as a result of the criminal justice system are utilized by the court system to help defray the costs of operation of the courts.

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Resolution 2016-45