

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> November 19, 2012
	<b>Agenda Item No.</b> 32 <b>Roll Call No.</b> <u>12-1784</u> <b>Communication No.</b> <u>12-583</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Allowing removal of encroachments from City property using the administrative appeals process.

**SYNOPSIS:**

The ordinance will allow City departments the option of posting a notice of unauthorized encroachment on city property with parties being granted the right to an administrative hearing process.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

Homeless camps and personal property are occasionally being located on City owned property. The advent of propane fueled heating devices; camp fires, recent fires and the proximity to propane fuel tanks create a safety concern for these citizens and the City fire department personnel. Staff needs a clear and effective method to deal with the encroachments.

Chapter 102 of the Municipal Code provides for lease of City property and the removal of materials and encroachments if the lease is not in affect. The City has experienced some encroachments that occur without a lease or any implied right of the party to be on the City property. The ordinance was designed to deal with newsstands, signs and other areas where the City may elect to allow encroachments for a length of time by a lease. These provisions provide for notice and hearing in front of the City Council should the lease expire and the material which caused the encroachment not be removed.

The ordinance was not intended to deal with those who moved materials onto City property without any lease and with intent to stay on the City property for an extended length of time.

The proposed ordinance allows any department that is charged with enforcement to post a notice on the property that indicates the existence of the encroachment, the intent of the City to remove the encroachments if they are not removed y, and their due process rights. This includes removal of personal property, structures, junk, debris and other materials located on City property. The persons affected by the notice are granted the right to appeal the sufficiency of the notice through the City’s administrative hearing process. Should the City remove materials from City property and the hearing officer finds the materials should not have been removed and disposed of, the hearing officer shall refer the matter to the Legal Department to process a claim for reimbursement.

The affect of the changes will allow staff and the citizens a clear path for notice and appeals of a finding that they and/or their property were illegally encroaching on City property. This simplifies the current process and allows staff to deal with enforcement and provide a necessary administrative hearing.

**PREVIOUS COUNCIL ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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