

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 1, CHAPTER 1.08, SECTION 1.08.010; AND AMENDING TITLE 1, CHAPTER 1.32, SECTION 1.32.050; AND AMENDING TITLE 9, CHAPTER 9.64, SECTION 9.64.090 OF THE STOCKTON MUNICIPAL CODE TO CLARIFY FINE STRUCTURES, ESTABLISH A “HARDSHIP WAIVER” PROCESS, AND RESOLVE INCONSISTENCIES IN THE CODE RELATED TO OFFENSES DEEMED AS INFRACTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. FINDINGS AND INTENT.

The City Council of the City of Stockton finds portions of the Stockton Municipal Code (SMC), Title 1, Chapter 1.08, Section 1.08.010, to be outdated and inconsistent with provisions of the California Government Code. The intent of the adoption of this ordinance is to amend the existing Municipal Code and ensure for the proper administration and enforcement of the provisions of state law as codified in the Government Code. The City Council also finds an inconsistency of existing Codes and finds a need to amend Title 1, Chapter 1.32, Section 1.32.050, to reference to Title 1, Chapter 1.08 for the proper levying of fines for infractions when issuing citations through the Administrative Citation process, and to amend Title 9, Chapter 9.64, Section 9.64.090, to be consistent with barbed wire provisions in Volume II, Title 16, of the Municipal Code.

SECTION II. AMENDMENT OF CODE.

Title 1, Chapter 1.08, Section 1.08.010 is hereby amended and shall read as follows:

1.08.010 Criminal violations—Misdemeanors and infractions.

- A. It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code. Any person violating any of the provisions, or failing to comply with any of the requirements of this code shall be guilty of a misdemeanor, except where it has been provided by State law or this code that the violator shall be guilty of an infraction. Any person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine of not more than \$1,000.00, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment.
- B. Any person convicted of an infraction, shall be punishable by a fine only as follows: ~~Upon a first conviction, by a fine not exceeding \$100.00, by a fine not exceeding \$250.00 for a second violation of the same ordinance within one year, and for a third conviction or subsequent conviction within a period of one year, by a fine not exceeding \$500.00.~~
1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 2. A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year.
 3. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.
- C. Notwithstanding any other law, a violation of local building and safety codes determined to be an infraction is punishable by the following:
1. A fine not exceeding one hundred thirty dollars (\$130) for a first violation.

2. A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year.
3. A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.
4. A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

~~C. DE.~~ Violation of any of the provisions of Title 10 of ~~this code~~ the Stockton Municipal Code shall be deemed to be an infraction unless otherwise provided in such chapters.

~~D. EF.~~ Notwithstanding the above provisions, a violation of any provision of ~~this code~~ the Stockton Municipal Code is an infraction when the prosecutor files a complaint charging the offense as an infraction.
(Prior code § 1-010)

F. Pursuant to California Government Code, section 36900, upon levying a fine in accordance with paragraphs 2 and 3 of subdivisions B and C of this section of the municipal code, the City shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

G. For consideration of a hardship waiver, when issued a Notice with a qualifying infraction, it shall be the responsibility of the cited party to petition the City no later than ten (10) days from the date the Notice was issued. All required documents for consideration of a hardship waiver shall be submitted to the City no later than thirty (30) days from the date of the hardship waiver submittal.

SECTION III. AMENDMENT OF CODE.

Title 1, Chapter 1.32, Section 1.32.050 is hereby amended and shall read as follows:

A. If the responsible person fails to correct the violation, subsequent administrative citations may be issued for the same violations. Except as provided in Chapter 1.08.010, ~~T~~the amount of the fine shall increase at a rate specified in subsection B of this section.

B. The fines assessed for each administrative citation issued for the same violations shall be as follows:

1. First administrative cite: \$200.00;
2. Second or subsequent administrative cite: \$500.00.

C. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

D. All fines assessed shall be payable to the City, unless otherwise directed on the citation.

E. The Community Development Director is authorized, under direction and upon approval of the City Manager, to establish policies and procedures for the certification, decertification and conduct of the community awareness and responsibility education classes, to establish that persons receiving a code enforcement administrative citation fine have the option of attending a certified community awareness and responsibility education class prior to the citation becoming delinquent in lieu of paying the fine. A person may not use this option more than once in any 12-month period.

F. For all delinquent, unpaid administrative citation fines there shall be a penalty imposed in the amount of 10 percent of the citation fine amount, and an additional 1% per month of the total amount of such fine for each month during the time that said fine remains unpaid after its delinquency date. The delinquency date for a code enforcement administrative citation fine shall be 60 days following the imposition of the fine, or the appeal determination of the Administrative Hearing Officer, whichever is later.

(Prior code § 1-057)

SECTION IV. AMENDMENT OF CODE.

Title 9, Chapter 9.64, Section 9.64.090 is hereby amended and shall read as follows:

9.64.090 Use of barbed wire.

It is unlawful and an infraction to use barbed wire as material for constructing, repairing or maintaining any part of any fence or adjunct thereof where said wire is placed less than ~~six~~ seven (7) feet above ground level.

(Prior code § 5-138)

SECTION V. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION VI. EFFECTIVE DATE.

This ordinance shall be in full force and take effect 30 days after its passage.

ADOPTED: _____

EFFECTIVE: _____

CHRISTINA FUGAZI
Mayor of the City of Stockton

ATTEST:

KATHERINE ROLAND, CMC, CPMC
City Clerk of the City of Stockton