

REQUESTED BY: COUNSEL
PREPARED BY: CLERK'S OFFICE/COUNSEL
INTRODUCTION DATE: 2/10/97
PUBLIC HEARING DATE: 2/24/97

ORDINANCE SERIAL NO. 97-13

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA AMENDING CERTAIN SECTIONS OF THE WASILLA MUNICIPAL CODE TO REDUCE THE PENALTIES TO \$250.00.

BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

SECTION I. Classification. This ordinance is of a general and permanent nature and shall become a part of the Wasilla Municipal Code.

SECTION II. Purpose. To revise penalty/enforcement provisions in certain sections of the Wasilla Municipal Code based on recent Supreme Court opinion.

SECTION III. Amendment. Sections 1.24.010(A) and (B), 5.25.130(C), 12.40.040, 13.08.050, 14.01.030(A) and 16.43.318(C) are hereby amended as follows:

1.24.010 General Penalty.

A. General Penalties. A person who violates an ordinance of the City of Wasilla, where that ordinance specifies particular penalties, punishments, or enforcement provisions, shall be subject to the penalties, punishments, or enforcement provisions so specified. By way of example, but not by way of limitation, ordinances specifying particular penalties can be found in WMC 12.05, Animal Control, WMC 14.01, Wasilla Traffic Code, WMC 13.50, Curfew, WMC 6.50, Sales Tax, and WMC 16.43, Development Code. A person who violates any other ordinance of the City of Wasilla is guilty of an infraction violation, and, unless the offense is designated as a misdemeanor or felony under state law, upon conviction is punishable by a fine of not more than ~~One Thousand Dollars (\$1,000.00)~~ Two Hundred Fifty Dollars (\$250.00).

B. Procedure on Infraction Violations. Charges of a violation of an ordinance may be, but are not required to be, subject to issuance of a citation and may be, upon the action of a City official choosing to issue a citation, subject to the following court procedures unless (1) specifically provided otherwise in a particular ordinance, and/or unless (2) the charge is subject to a penalty greater than a fine of ~~\$1,000.00~~ \$250.00 and/or unless (3) the charge is subject to the potential of a penalty of incarceration and/or unless (4) the charge is subject to the potential of the loss of a valuable license and/or unless (5) the charge is classified as a misdemeanor or felony under state law and/or unless (6) the charge is filed with the court in the form of a criminal summons and complaint rather than a citation form.

5.25.130 PENALTIES AND REMEDIES

C. Civil Action The City may file a civil action to enforce this Chapter. In such a civil action the City may request that the Court enter an order to enjoin a violator(s) from violating any provision of this Chapter. On application for injunctive relief

*Tabled pending written ruling
from Supreme Court.*

and a finding of a violation or threatened violation, the court shall grant the injunction. The civil penalty that may be imposed by the Court for each violation may be in a sum not to exceed ~~\$1,000.00~~\$250.00, payable to the City. The City may request an award of its costs and attorneys fees incurred in the course of preparing, filing and prosecuting the civil action. (Ord. 96-34 §4 1996)

12.40.040 Civil Penalty And Statutory Injunction. Pursuant to A.S. 29.25.070(b), the city may institute a civil action against any person who violates any provision of this title. In addition to injunctive and compensatory relief, a civil penalty not to exceed ~~\$1,000~~\$250.00 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of this title continues constitutes a separate violation. (Ord. 96-28 §4 1996)

13.08.050 Enforcement. Non-compliance with parks rules is an infraction and is punishable pursuant to the procedures and penalties set forth in WMC 1.24.010 (providing for fines up to ~~\$1,000.00~~\$250.00). (Ord. 95-21 §3 1995)

14.01.030 General Limitation On Penalties for Violation of Wasilla Traffic Code.

A. Pursuant to the provisions of AS 12.25.230(c), AS 45.75.133(e), and further pursuant to the terms of State of Alaska Administrative Rule 43.1 and Rule 43.6, a person charged with an offense for which a bail amount has been set by court rule can dispose of the charge (by mail or in person) by paying the bail amount and checking the "no contest plea" box on the citation form. The person may also choose to appear in court and contest the citation and, if found guilty, the maximum sentence which may be imposed is the bail amount. In any event, the maximum penalty for violation of a matter charged when cited as a violation of the City of Wasilla Traffic Code, as adopted herein, shall be no more than ~~\$300.00~~ \$250.00 or, if a bail amount has been set pursuant to court rule, the established bail amount, whichever is less. Therefore, a person charged or cited with the violation of a provision of the Wasilla Traffic Code as adopted herein, shall not be entitled to a right to a jury or to a court-appointed lawyer. A violation cited or charged pursuant to State law, rather than the City of Wasilla Traffic Code, may or may not include a right to a jury or a court-appointed lawyer depending upon the nature of the State law or regulation at issue and such matter shall be determined by the appropriate court rule and practice applicable at the time of the charge or citation issued pursuant to State law and/or regulation.

16.43.318 Penalties and Remedies

C. Civil Action. The City may file a civil action to enforce this Chapter. In such a civil action the City may request that the Court enter an order to enjoin a violator(s) from violating any provision of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the court shall grant the injunction. The civil penalty that may be imposed by the Court for each violation may be in a sum not to exceed ~~\$1,000.00~~ \$250.00, payable to the City. The City may request an award of its costs and attorneys fees incurred in the course of preparing, filing and prosecuting the civil action. (Ord. 96-29 Attachment A 1996)

SECTION IV. Effective Date. This ordinance becomes effective upon adoption by the Wasilla City Council.

ADOPTED by the Council of the City of Wasilla on this _____ day of _____, 1997.

SARAH H. PALIN, Mayor

ATTEST:

MARJORIE D. HARRIS, CMC
City Clerk