

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE MUNICIPAL CODE OF THE CITY OF GLADSTONE, MISSOURI REGARDING MINOR TRAFFIC VIOLATIONS AND MUNICIPAL CODE VIOLATIONS TO CONFORM TO THE PROVISIONS OF SENATE BILL NO. 572.

WHEREAS, the 98th Session of the Missouri General Assembly adopted and the Governor has approved Senate Bill No. 572 amending various provisions of the Revised Statutes of Missouri relating to the fines applicable for minor traffic violations and municipal ordinance violations, the ability of municipal courts to sentence persons to confinement, and procedures required for the abatement of nuisances; and

WHEREAS, the City Council desires to amend the Municipal Code of the City of Gladstone, Missouri ("Code") to comply with the statutory amendments made by Senate Bill No. 572.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

Section 1. That Section 1.100.140 of the Code be amended to read as follows:

Section 1.100.140. – General penalty.

- (a) Except as hereinafter provided, whenever in this Code or any other ordinance of the city or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other city ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the city or of any rule, regulation or order promulgated pursuant to such Code or other city ordinance shall be punished by a fine not exceeding \$500.00, or by imprisonment for a period of not exceeding 90 days, or by both such fine and imprisonment.
- (b) Whenever any provision of the Revised Statutes of Missouri or other statute of the state limits the authority of the city to punish the violation of any particular provision of this Code or other city ordinance or rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other city ordinance, rule, regulation or order shall be punished by the imposition of not more than the

maximum fine or imprisonment so authorized or by both such fine and imprisonment.

- (c) Each day any violation of this Code or any other city ordinance or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

- (d) Minor Traffic Violations.

- (1) Minor traffic violations are defined in Section 479.350 RSMo and include traffic ordinance violations that do not involve an accident or injury, that do not involve the operation of a commercial vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one to four points to a person's driving record upon conviction. Minor traffic violations include amended charges for any minor traffic violation. The definition of minor traffic violations does not include violations for exceeding the speed limit by more than nineteen miles per hour or a violation occurring with a construction zone or a school zone.

- (2) Fines. A person convicted of or who pled guilty to a minor traffic violation shall not be assessed a fine, if combined with the amount of court costs, totaling in excess of \$225.00 for a minor traffic violation.

- (e) Municipal Ordinance Violations.

- (1) Municipal ordinance violations are defined in Section 479.350 RSMo and include violations of Title II Chapter 110 Nuisances and Title IX Building and Construction Ordinance including, but not limited to, the penalties for violations of Sections 2.110.030-2.110.090 and the penalties authorized by Section 2.110.100, Section 9.100.050(b) and Section 9.200.060(2).

- (2) Fines. A person, general agent, occupant, lessee, or any other entity convicted of or that pled guilty to a municipal ordinance violation shall not be assessed a fine, if combined with the amount of court costs, for violations committed within a twelve-month period beginning with the first violation totaling in excess of: \$200.00 for the first violation, \$275.00 for the second violation, \$350.00 for the third violation, and \$450.00 for the fourth and any subsequent violations.

Section 2. That Section 1.125.210 of the Code be amended to read as follows:

Section 1.125.210 – Jailing of defendants.

- (a) If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail or another correctional facility. The city shall pay the board of such prisoner at the

same rate as may now or hereafter be allowed for the keeping of such prisoner in custody in the city or county jail.

- (b) The municipal judge may not sentence a defendant to confinement for failure to pay a fine for a minor traffic violation or municipal ordinance violation, as defined in Section 1.140.100(d)(1) and 1.140.100(e)(1) of this Code and Section 479.350 RSMo, unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the municipal judge.

Section 3. That Section 2.110.100 of the Code be amended to read as follows:

Section 2.110.100. - Public nuisance defined and prohibited: penalties for violations of prohibition.

- (a) It shall be unlawful for any person to cause, allow, or permit any of the following objects or conditions to exist upon property owned, leased, rented, controlled or occupied by such person, (unless such objects are within an enclosed structure; i.e.: garage) or on or along any public street, all of which are hereby declared to be public nuisances:
 - (1) Junk, as defined in this article;
 - (2) Any motor vehicle which is not immediately operable under its own power;
 - (3) Any partially dismantled motor vehicle, whether or not operable;
 - (4) Any parts or components of motor vehicles, including but not limited to tires, wheels, motor vehicle bodies, frames or parts, or motor vehicle motors and engines;
 - (5) Any motor vehicle, which is not immediately operable under its own power or which does not have displayed on it a current state registration or license plate, remaining on a street for more than 72 hours;
 - (6) Any motor vehicle parked on the unpaved surface of any property; and
 - (7) Any unlicensed motor vehicle on private property.

- (b) Every person convicted of violating this section shall be punished for a municipal ordinance violation as provided for in section 1.100.140(e)(2) of this Code.

Section 4. That Section 9.100.050 of the Code be amended to read as follows:

Section 9.100.050. - Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure or equipment regulated by this title, or cause same to be done, in conflict with or in violation of any provisions of this title, the Land and Development

Ordinance (LADO)(title VIII), the Zoning and Planning Ordinance (ZAPO)(title VII) and any other applicable federal, state or local laws, regulations, ordinances or policies.

- (b) *Violation; penalties.* Any person who violates a provision of this title or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable for a municipal ordinance violation as provided in section 1.100.140(e)(2) of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

Section 5. That Section 9.200.060 of the Code be amended to read as follows:

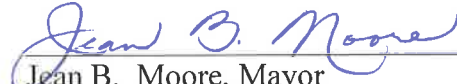
Section 9.200.060. Violations

- (1) *Unlawful Acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violations of any provisions of this chapter.
- (2) *Violation; penalties.* Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeals has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein shall severally, for each and every such violations and noncompliance respectively, be guilty of a misdemeanor, punishable for a municipal ordinance violation as provided for in section 1.100.140(e)(2) of this Code. The imposition of one penalty for violation shall not excuse the violation, or permit it to continue; and all such person shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 6. That this Ordinance shall be in full force and effect from and after its passage.

Section 7. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed

INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, ON THIS 22ND DAY OF AUGUST, 2016.


Jean B. Moore, Mayor

ATTEST:


Ruth E. Bocchino, City Clerk

First Reading: August 22, 2016

Second Reading: August 22, 2016

OFFICE OF THE CITY COUNSELOR

DATE: AUGUST 18, 2016
TO: SCOTT WINGERSON, CITY MANAGER
FROM: PADRAIC CORCORAN THROUGH CHRIS WILLIAMS, CITY COUNSELOR
RE: SENATE BILL 572 – Bill No. 16-36

At the August 8, 2016, Study Session, Padraic Corcoran provided an overview of Senate Bill 572 and answered the City Council's questions regarding its effect on the City and the Code of Ordinances. As a brief reminder, during the 2016 state legislative session; the General Assembly approved Senate Bill 572, and the Governor signed it into law with an effective date of August 28, 2016. Senate Bill 572 revises numerous state statutes to, among other things, limit fines applicable to minor traffic and municipal ordinance violations. Senate Bill 572 is a follow-up to Senate Bill 5 from the 2015 legislative session which arose from the situation in St. Louis County concerning the perceived abuses by municipalities regarding fines for minor traffic violations. Senate Bill 572 is designed in part to address what the General Assembly perceived as abuse by some cities imposing fines for municipal ordinance violations for issues related to the abatement of nuisances, building permit violations, and zoning violations.

The primary purpose of Senate Bill 572 is to cap the amount of fines a municipality may impose for minor traffic and municipal ordinance violations. Senate Bill 572 caps fines for minor traffic violations at two hundred and twenty-five dollars (\$225). It also limits the amount a municipality may fine for municipal ordinance violations to no more than two hundred dollars (\$200) for the first violation, two hundred seventy-five (\$275) dollars for the second violation, three hundred fifty (\$350) dollars for the third violation, and four hundred fifty (\$450) dollars for any subsequent violations.

Bill No. 16-36 addresses the necessary changes to the Code of Ordinances by amending Section 1.100.400 – General Penalty to adopt the statutory definitions of minor traffic and municipal ordinance violations and to reflect the cap on the amount of fines the City may impose for minor traffic and municipal ordinance violations. The Bill further amends Section 2.110.100 (abatement of nuisances), Section 9.200.060 (building permit violations), and Section 9.100.050 (zoning violations) by excising the previously allowed fine and inserting a cross reference to the applicable General Penalty language. Finally, the Bill includes statutory language limiting the ability of the Municipal Judge to sentence a defendant to confinement for failure to pay a fine for a minor traffic or municipal ordinance violation.

Additions of language to code sections shown below in **bold and double underline**; deletions of language shown in ~~strikethrough~~:

Section 1.100.140. – General penalty.

- (a) Except as hereinafter provided, whenever in this Code or any other ordinance of the city or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other city ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the city or of any rule, regulation or order promulgated pursuant to such Code or other city ordinance shall be punished by a fine not exceeding \$500.00, or by imprisonment for a period of not exceeding 90 days, or by both such fine and imprisonment.
- (b) Whenever any provision of the Revised Statutes of Missouri or other statute of the state limits the authority of the city to punish the violation of any particular provision of this Code or other city ordinance or rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other city ordinance, rule, regulation or order shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine and imprisonment.
- (c) Each day any violation of this Code or any other city ordinance or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.
- (d) **Minor Traffic Violations.**
 - (1) **Minor traffic violations are defined in Section 479.350 RSMo and include traffic ordinance violations that do not involve an accident or injury, that do not involve the operation of a commercial vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one to four points to a person's driving record upon conviction. Minor traffic violations include amended charges for any minor traffic violation. The definition of minor traffic violations does not include violations for exceeding the speed limit by more than nineteen miles per hour or a violation occurring with a construction zone or a school zone.**
 - (2) **Fines. A person convicted of or who pled guilty to a minor traffic violation shall not be assessed a fine, if combined with the amount of court costs, totaling in excess of \$225.00 for a minor traffic violation.**

(e) **Municipal Ordinance Violations.**

- (1) **Municipal ordinance violations are defined in Section 479.350 RSMo and include violations of Title II Chapter 110 Nuisances and Title IX Building and Construction Ordinance including, but not limited to, the penalties for violations of Sections 2.110.030-2.110.090 and the penalties authorized by Section 2.110.100, Section 9.100.050(b) and Section 9.200.060(2).**
- (2) **Fines. A person, general agent, occupant, lessee, or any other entity convicted of or that pled guilty to a municipal ordinance violation shall not be assessed a fine, if combined with the amount of court costs, for violations committed within a twelve-month period beginning with the first violation totaling in excess of: \$200.00 for the first violation, \$275.00 for the second violation, \$350.00 for the third violation, and \$450.00 for the fourth and any subsequent violations.**

Section 1.125.210 – Jailing of defendants.

- (a) If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail or another correctional facility. The city shall pay the board of such prisoner at the same rate as may now or hereafter be allowed for the keeping of such prisoner in custody in the city or county jail.
- (b) **The municipal judge may not sentence a defendant to confinement for failure to pay a fine for a minor traffic violation or municipal ordinance violation, as defined in Section 1.140.100(d)(1) and 1.140.100(e)(1) of this Code and Section 479.350 RSMo, unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the municipal judge.**

Section 2.110.100. - Public nuisance defined and prohibited: penalties for violations of prohibition.

- (a) It shall be unlawful for any person to cause, allow, or permit any of the following objects or conditions to exist upon property owned, leased, rented, controlled or occupied by such person, (unless such objects are within an enclosed structure; i.e.: garage) or on or along any public street, all of which are hereby declared to be public nuisances:
- (1) Junk, as defined in this article;
 - (2) Any motor vehicle which is not immediately operable under its own power;
 - (3) Any partially dismantled motor vehicle, whether or not operable;
 - (4) Any parts or components of motor vehicles, including but not limited to tires, wheels, motor vehicle bodies, frames or parts, or motor vehicle motors and engines;

- (5) Any motor vehicle, which is not immediately operable under its own power or which does not have displayed on it a current state registration or license plate, remaining on a street for more than 72 hours;
 - (6) Any motor vehicle parked on the unpaved surface of any property; and
 - (7) Any unlicensed motor vehicle on private property.
- (b) Every person convicted of violating this section shall be punished by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or by both such fine and imprisonment for a municipal ordinance violation as provided for in section 1.100.140(e)(2) of this Code.

Section 9.100.050. - Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure or equipment regulated by this title, or cause same to be done, in conflict with or in violation of any provisions of this title, the Land and Development Ordinance (LADO)(title VIII), the Zoning and Planning Ordinance (ZAPO)(title VII) and any other applicable federal, state or local laws, regulations, ordinances or policies.
- (e)
- (b) *Violation; penalties.* Any person who violates a provision of this title or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable for a municipal ordinance violation as provided in section 1.100.140(e)(2) of this Code. ~~provided in section 1.100.140 of this Code.~~ The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

Section 9.200.060. Violations.

- (1) *Unlawful Acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violations of any provisions of this chapter.
- (2) *Violation; penalties.* Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no apples has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein shall severally, for each and every such violations and noncompliance respectively, be guilty of a misdemeanor, punishable ~~as provided in~~

~~section 1.100.140 of this Code.~~ **for a municipal ordinance violation as provided for in section 1.100.140(e)(2) of this Code.** The imposition of one penalty for violation shall not excuse the violation, or permit it to continue; and all such person shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.