

1st Reading: September 22, 2016
2nd Reading: September 22, 2016

SPONSOR: BORGARD

ORDINANCE NO. 3629

BILL NO. 16-66

AN ORDINANCE AMENDING SECTION 300.010, "DEFINITIONS", SECTION 100.060 "GENERAL PENALTY", AND SECTION 215.010, "NUISANCES AFFECTING HEALTH", OF THE MUNICIPAL CODE OF THE CITY OF FENTON, MISSOURI.

WHEREAS, after the passage of Senate Bill 5 ("SB5"), enacted and signed into law as a municipal court reform measure effective August 28, 2015, the Board of Aldermen on November 19, 2015, adopted changes to the Municipal Code of the City of Fenton, Missouri ("Municipal Code") by Ordinance No. 3558 to comply with the requirements of SB5 including those relating to the "minor traffic violations" in terms of limiting fines on minor traffic violations; and

WHEREAS, in 2016, the State Legislature passed further legislation known as Senate Bill 572 ("SB572") to extend the court reforms to "municipal ordinance violations" pertaining to court fines in prosecutions of nuisance, zoning, subdivision; and

WHEREAS, SB572 includes amendments to Sections 479.353 and 479.360 of the Revised Statutes of Missouri that require certain changes to the Municipal Code specifically relating to the definition of "Minor Traffic Violation," the addition of a new definition of "Municipal Ordinance Violation," as well as further revisions to the City's general penalty provision; and

WHEREAS, SB572 also includes amendments to Section 67.398 of the Revised Statutes of Missouri affecting procedures for notice for certain nuisance violations; and

WHEREAS, the Board of Aldermen desires and finds it in the best interest of the City to amend its Municipal Code to clarify the definition of Minor Traffic Violation, to add the definition of Municipal Ordinance Violation and to amend its penalties and court procedures relating thereto all to comply with SB572.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FENTON, MISSOURI, AS FOLLOWS:

Section 1. Section 300.010 entitled "Definitions" is hereby amended by repealing the current definition of "Minor Traffic Violation" and inserting the following new definitions in lieu thereof for "Municipal Ordinance Violation" to read as follows:

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Minor Traffic Violation. A Municipal Traffic Code violation prosecuted that does not involve an accident or injury, that does not involve the operation of a commercial motor vehicle, and for which no points are assessed by the department of revenue or the Missouri Department of Revenue is authorized to assess one (1) to four (4) points to a person's driving record upon conviction. Minor Traffic Violation shall include amended charges for any Minor Traffic Violation. Minor traffic violation shall exclude a violation for exceeding the speed limit by more than nineteen (19) miles per hour or a violation occurring within a construction zone or school zone.

Municipal Ordinance Violation. A Municipal Code violation prosecuted for which penalties are authorized by statute under sections 67.398, 71.285, 89.120, and 89.490 of the Revised Statutes of Missouri. The term Municipal Ordinance Violation shall include amended charges for Municipal Ordinance Violations.

Section 2. Section 100.060 entitled "General Penalty" is hereby amended by repealing Subsection D and inserting a new Subsection D in lieu thereof and enacting a new Subsection E to read as follows:

D. *Minor Traffic Violations.* Notwithstanding anything to the contrary herein, no punishment for a minor traffic violation as defined by Section 300.010 of this Municipal Code shall:

1. Impose a fine, when combined with the amount of Court costs, that exceeds two hundred twenty-five dollars (\$225.00);
2. Be punishable by imprisonment, unless the violation involved:
 - a. Alcohol or controlled substances,
 - b. Endangered the health and welfare of others, or
 - c. Involved eluding or giving false information to a law enforcement officer.
3. Place a person convicted of a minor traffic violation in confinement for failure to pay a fine unless such nonpayment violates the terms of the person's probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court;
4. Assess Court Costs where a defendant has been found to be indigent under subsection 5 or if a case has been dismissed;
5. Assess Court Costs against a defendant who the Municipal Court finds to be indigent based on standards set by the Presiding Judge of the 21st Judicial Circuit Court of the State of Missouri; or
6. Issue an additional charge for the failure to appear on a Minor Traffic Violation.

E. *Municipal Ordinance Violations.* Notwithstanding anything to the contrary herein, no punishment for a Municipal Ordinance Violation as defined by Section 479.350 RSMo.,

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and Section 300.010 of this Municipal Code of the City of Fenton shall impose a fine, when combined with the amount of court costs that exceeds:

1. For Municipal Ordinance Violations committed within a twelve (12) month period beginning with the first violation:
 - a. two hundred dollars (\$200.00) for the first municipal ordinance violation,
 - b. two hundred seventy-five dollars (\$275.00) for the second municipal ordinance violation,
 - c. three hundred fifty dollars (\$350.00) for the third municipal ordinance violation, and
 - d. four hundred fifty dollars (\$450.00) for the fourth and any subsequent Municipal Ordinance Violations;
2. Be punishable by imprisonment, unless the violation involved:
 - a. Alcohol or controlled substances,
 - b. Endangered the health and welfare of others, or
 - c. Involved eluding or giving false information to a law enforcement officer.
3. Place a person convicted of a minor traffic violation in confinement for failure to pay a fine unless such nonpayment violates the terms of the person's probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court;
4. Assess Court Costs where a defendant has been found to be indigent under subsection 5 or if a case has been dismissed; or
5. Assess Court Costs against a defendant who the Municipal Court finds to be indigent based on standards set by the Presiding Judge of the 21st Judicial Circuit Court of the State of Missouri.

Section 3. Section 215.010 entitled "Nuisances Affecting Health" is hereby amended by amending Subsection D(1) to read as follows:

D. Abatement — Procedure Generally.

1. *Notice.*

- a. If the Director of Community Development or her designee (the "Director") has reason to believe that a nuisance is being maintained within the City, the Director shall send written notice to the person causing, maintaining or permitting the same to forthwith remove, terminate or abate such nuisance within a reasonable time, not less than ten (10) days when required by law, as determined by the Director after consideration of the nature of the nuisance and the actions necessary to remedy the situation. Such notice shall also state that upon failure to abate the condition causing the nuisance within said time period, the City shall have a hearing where all parties may be heard and present evidence as to whether the condition constitutes a nuisance.

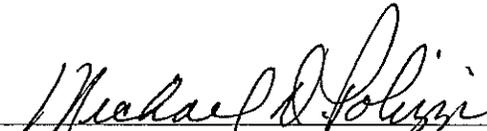
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- b. All notices hereunder shall be given by first class United States mail or by posting a copy thereof on the property involved and shall include a statement of the condition constituting such nuisance and those actions necessary to remove, terminate or abate the same. Where the property is not owner-occupied, service of the notice shall be to the owner of the property and to any occupant of the property. The notice shall specifically describe each condition of the lot or land declared to be a public nuisance and identify what action will remedy the public nuisance.
- c. The notice shall include a date, time, and place of the scheduled hearing no sooner than ten (10) days after such notice and include a statement that the hearing shall be deemed automatically canceled if the property owner abates the conditions described in the notice within the time specified in such notice and notifies the Director of such abatement prior to the hearing date.

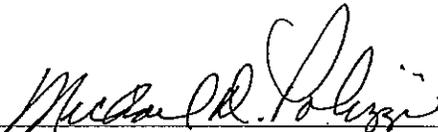
Section 4. Section 215.020 entitled "Weeds and Other Vegetation – Excessive Growth" is hereby amended by amending the reference to Section 100.060 within Subsection (K) to read in lieu thereof: Section 100.060(E)

Section 5. This Ordinance shall be in full force and effect after the date of its passage and approval.

PASSED this 22nd day of September, 2016.


MICHAEL D. POLIZZI, MAYOR

APPROVED this 22nd day of September, 2016.


MICHAEL D. POLIZZI, MAYOR

ATTEST:


Diane S. Monteleone, City Clerk

Motion to approve. Roll Call vote:

Ayes: Bade, Sobey, Maurath, Clauss, Borgard, Patton, Glick

Nays: 0

Absent: Voyles

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