

ORDINANCE NO. 4051-A

AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES BY AMENDING CHAPTER 1, GENERAL PROVISIONS; SECTION 1-14, GENERAL PENALTIES; CONTINUING VIOLATIONS; ESTABLISHING MAXIMUM FINE AND COSTS FOR SPEED LIMIT VIOLATION OF 10 OR LESS; PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.

AN EMERGENCY ORDINANCE

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

Section 1. Section 1-14, General Penalties; continuing violations of Chapter 1, General Provisions, of the City of Muskogee Code of Ordinances is hereby amended as follows:

SEC. 1-14. - GENERAL PENALTIES; CONTINUING VIOLATIONS.

- (a) In this section, the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) In this section, the general penalties are determined as follows:
 - (1) The council has the power to prescribe fines or imprisonment, not exceeding 60 days, or both the fine and imprisonment, as well as associated court costs.
 - (2) The maximum fine or deferral fee in lieu of a fine for speeding or illegal parking shall not exceed \$200.00; provided, however, any person convicted of a speeding violation of one (1) to ten (10) miles per hour over the speed limit shall be punished by a fine of not more than five dollars (\$5), nor assessed costs in excess of Ninety-Five Dollars (\$95.00), with revenue from the same apportioned in accordance with Title 47, Section 11-801, Oklahoma Statutes as may be amended from time to time.
 - (3) The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed \$800.00.

- (4) All other offenses shall be limited to a maximum fine or deferral fee in lieu of a fine of \$750.00.
 - (5) No penalty, including fine and costs, shall be greater than that established by statute for the same offense.
 - (6) A person convicted of a violation of this Code pertaining to the pretreatment of wastewater or regulating stormwater discharges shall be punished by a fine not exceeding \$1,000.00 and costs or imprisonment not exceeding 90 days, or both such fine and imprisonment.
 - (7) A person who is charged with such an offense that carries a possible imprisonment penalty shall have a right to a jury trial.
- (d) Except as otherwise provided by law or ordinance:
- (1) As to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) As to other violations, each act is a separate offense.
 - (3) The specific penalty or punishment shall be determined by a schedule, adopted by the city council and maintained in the offices of the city clerk and the municipal court clerk, which shall provide the prescribed punitive measures for violations of this Code.
- (e) Any person fined for a violation of this Code who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the city, subject to the direction of the city manager, at the minimum rate allowed by statute for useful labor, or at a rate prescribed by ordinance, until the fine or costs are satisfied.
- (f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.
- (h) The city shall not have authority to enact any ordinance making unlawful any act or omission declared a felony by state statute.
- (i) The city shall not levy a fine or deferral fee in lieu of a fine over \$50.00 until it has compiled and published its penal ordinances as required by state statute.
- (j) The city shall not levy a fine of more than \$10.00 nor court costs of more than \$15.00 for exceeding the posted speed limit by no more than ten miles per hour upon any portion of the national system of interstate and defense highways, federal-aid primary highways, and the state highway system which are located on the outskirts of the municipality as determined by state statute.

Section 2. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 3. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 4. EMERGENCY. This ordinance being designated to protect the public health, safety and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE,
OKLAHOMA, THIS ____ DAY OF JULY, 2018.

CITY OF MUSKOGEE

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

(seal)

Approved as to form and legality this 23rd day of July, 2018.

ROY TUCKER, CITY ATTORNEY