

ORDINANCE NO. Final Adoption (CM)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE AMENDING SECTION 1-2.01 AND ADDING VARIOUS NEW SECTIONS TO CHAPTER 2 (PENALTY PROVISIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE WATSONVILLE MUNICIPAL CODE RELATING TO VIOLATIONS AND RECOVERY OF ENFORCEMENT COSTS FOR VIOLATIONS OF THE MUNICIPAL CODE

WHEREAS, the City of Watsonville enforces the provisions of its Municipal Code to ensure the health and safety of the community and compliance with local standards and regulations; and

WHEREAS, Code Enforcement staff has recently identified various sections to Chapter 2 of Title 1 of the City's Municipal Code that requires clarification and/or improvement to allow for a more streamlined process for enforcement activities; and

WHEREAS, additional language relating to the City's ability to recover attorneys' fees and costs is necessary so that the City may recover all of its costs relating to enforcement activities, including legal costs, if the City is deemed the prevailing party.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Section 1-2.01 of Chapter 2 (Penalty Provisions) of Title 1 (General Provisions) of the Watsonville Municipal Code is hereby amended to read in words and figures as follows:

CHAPTER 2 PENALTY PROVISIONS

Sec. 1-2.01 Violations of Code.

No person shall violate any provision or 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 mandatory requirements of this Code shall be guilty of an infraction, unless a Code section specifically provides for a violation to be a misdemeanor. The City Attorney, however, shall have the discretion to file a criminal complaint, designating a violation an infraction although the Code specifically provides for the violation to be a misdemeanor. An infraction shall not be punishable by imprisonment, but any person convicted of an infraction under the provisions of this Code shall be punishable by a fine of not more than Five Hundred and no/100ths (\$500.00) Dollars. Any violation which would otherwise be an infraction shall be a misdemeanor if a defendant has been convicted of one or more violations of this Code within the six (6) month period immediately preceding the commission of the offense, and such prior convictions are admitted by the defendant or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than One Thousand and no/100ths (\$1,000.00) Dollars, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.

In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code or any approval, order, ordinance, permit, license, rule or regulation issued or adopted by any duly authorized body, officer or agent of the City in the manner provided by law shall be deemed a public nuisance

and may be abated as such by the City; and each day such violation or condition continues shall constitute a new and separate offense.

Chapter 2 (Penalty Provisions) of Title 1 (General Provisions) of the Watsonville Municipal Code is hereby amended by adding new Sections 1-02.11, 1-02.12, 1-02.13, 1-02.14, and 1-02.15 to read in in words and figures as follows:

Sec. 1-02.11 Inspection authority.

City enforcement officials are authorized to enter upon any property or premises to ascertain whether the provisions of this Code or applicable state codes are being obeyed, and to make any examinations, inspections and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations and surveys shall be conducted in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the enforcement official may seek an administrative inspection warrant pursuant to the applicable procedures provided for in the California Code of Civil Procedure.

Sec. 1-02.12 Responsibility for violation.

(a) The occupant of any premises upon which a violation of any provision of this Code exists, the owner of any object or material placed or remaining anywhere on the premises in violation of any provision of this Code, or the occupant of any premises where an excavation was made or a structure erected in violation of any provision of this Code shall be deemed prima facie responsible for the violation and subject to the penalties provided therefor.

(b) The owner of any property, building or structure within the City has the responsibility for keeping such property, building or structure free of violations related to

its use or condition. The owner(s) of such property, building or structure are separately liable for violations committed by tenants or occupants relative to the use or condition of the property.

Sec.1-02.13 Legal action authorized.

In addition to any of the remedies, penalties and other methods of enforcement provided in this Code, the City Attorney is authorized to institute such legal proceeding or suit in equity as may be deemed necessary to abate, remove, remedy, enjoin or restrain any violation of this Code, and may apply to any court with jurisdiction to grant such relief as may be appropriate to abate, remove, remedy, enjoin or restrain such violation or to impose civil penalties as set forth in this chapter. Any provision of this Code may be enforced by injunction issued by the Superior Court of the State of California upon a suit brought by the City.

Sec.1-02.14 Attorneys' fees and costs.

In any action, administrative proceeding, or special proceeding brought to abate a public nuisance or enforce any provision of this Code, the prevailing party will be entitled to recover attorneys' fees, provided that attorneys' fees will only be available in those actions or proceedings in which the City elects at the initiation of any action or proceeding to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. The City may seek its attorneys' fees and costs incurred after adoption of this section, for any action or administrative proceeding or special proceeding that is pending upon adoption of this section, provided that the City makes the election to seek its attorneys' fees and costs.

Sec.1-02.15 Remedies not exclusive.

The remedies provided in this chapter shall be cumulative and not exclusive.”

SECTION 2. RECITALS.

The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 3. SEVERABILITY.

The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. If any provision of this Ordinance is held to be inapplicable, the provisions of this Ordinance shall nonetheless continue to apply with respect to all other covered development projects and developers and/or owners. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Prior to adopting this Ordinance, the City Council independently finds and determines that this action is exempt from CEQA (California Environmental Quality Act) pursuant to CEQA Guidelines sections 15060(c)(2), 15061(b)(3) (general rule), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 5. PUBLICATION.

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall be in force and take effect thirty (30) days after its final adoption.
