

ORDINANCE NO.

13-07
Series of 2013

TITLE: A BILL FOR AN ORDINANCE AMENDING SEVERAL PROVISIONS OF THE TOWN OF HUDSON MUNICIPAL CODE TO PROVIDE FOR THE IMPOSITION OF THE MAXIMUM FINE ALLOWED BY STATE LAW

WHEREAS, the Colorado General Assembly has passed House Bill 13-1060 raising the maximum fine available under state law for violations of municipal ordinances;

WHEREAS, Governor Hickenlooper signed House Bill 13-1060 into law on April 18, 2013, effective immediately; and

WHEREAS, the Board of Trustees of the Town of Hudson desires to amend the Town of Hudson Municipal Code to allow for an increase of the maximum fine amount available thereunder to correspond with the maximum fine amount available under state law.

Section 1. Section 1-51 of the Hudson Municipal Code is hereby amended as set forth below:

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Sec. 1-51. Fines and penalties.

Whenever by any ordinance of the town any act is prohibited or declared to be unlawful, any offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful, an offense or misdemeanor:

(1) Where a specific criminal or civil penalty is provided therefor, or such ordinance or the chapter or article of this code within which such ordinance provision is contained provides, a criminal or civil penalty for any violation of the provisions of such ordinance, chapter or article, it shall be punished as therein provided.

(2) Where no specific criminal penalty is provided therefor, any person who is either convicted of or pleads nolo contendere to violating any such provision of the ordinances of the town hereafter enacted, or who is convicted of or pleads nolo contendere to violating any rule or regulation adopted pursuant to such ordinances, shall be punished by a fine of not more than two thousand six hundred fifty dollars (\$2,650.00) or imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. The maximum fine amount set forth herein shall be adjusted for inflation on January 1, 2014, and on January 1 of each year thereafter, as provided by Section 31-16-101, C.R.S. (2013).

Section 2. Section 2-221(a) of the Hudson Municipal Code is hereby amended as set forth below:

(a) It is a misdemeanor for any person or persons, in any way at any time, to disturb or injury any portion of the cemetery, any lot, any decoration, monument or other type of fixed or unfixed remembrance placed upon such lots or within such cemetery regardless of the ownership of the lots, land or any type of property therein. Conviction of this offense is punishable by a fine of not more than the amount set forth in Section 1-51 or by imprisonment in jail up to one (1) year, or both such fine and imprisonment

Section 3. Section 2-222 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 2-222. Littering prohibited.

It is a misdemeanor to leave litter upon the cemetery of a kind that is trash. Conviction of this offense is punishable by a fine of not more than the amount set forth in Section 1-51 or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

Section 4. Section 2-223 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 2-223. Alcoholic beverages prohibited.

It is a misdemeanor to consume any alcoholic beverages on the premises of the cemetery. Conviction of this offense is punishable by a fine of not more than the amount set forth in Section 1-51 or by imprisonment in jail up to one (1) year, or by both such fine and imprisonment.

Section 5. Section 2-224 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 2-224. Entry after hours prohibited.

It is a misdemeanor to enter or remain on the grounds of the cemetery without the written permission of the mayor or the mayor's designee. Conviction of this offense is punishable by a fine of not more than the amount set forth in Section 1-51 or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

Section 6. Section 5-114 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 5-114. Penalty clause.

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this article shall fail, neglect or refuse to make or file the annual statement of accounts provided in section 5-112 above, said officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than the amount set forth in Section 1-51; provided that each day after said statement shall become delinquent during which said officer, agent, manager or person shall fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense.

Section 7. Section 6-105(a) of the Hudson Municipal Code is hereby amended as set forth below:

(a) If any person fails or refuses to obey or comply with or violates any of the criminal provisions, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed the amount set forth in Section 1-51. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation shall be considered as a separate offense.

Section 8. Section 6-191(c) of the Hudson Municipal Code is hereby amended as set forth below:

(c) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises, signs to be furnished by the town clerk's office, which signs shall be in the following forms:

(1) "Warning! Hudson police must be notified of all disturbances in this establishment and on the grounds, which are part of the establishment."

(2) "Warning! A mandatory fine of two thousand six hundred fifty dollars (\$2,650.00) and imprisonment of up to one (1) year may be levied on any person convicted of carrying or possessing any dangerous or deadly weapon, including firearms or knives with over three-and-one-half-inch blades, into or onto any public property, any organized public gathering, or any establishment licensed for the sale of alcoholic or fermented malt beverages."

Section 9. Section 6-191(f) of the Hudson Municipal Code is hereby amended as set forth below:

(f) Any person who violates any provision of this section, upon conviction thereof, shall be fined not more than the amount set forth in Section 1-51 and/or shall be imprisoned for not more than one (1) year.

Section 10. Section 7-37(f) of the Hudson Municipal Code is hereby amended as set forth below:

(f) Other remedies. In addition to the remedies set forth herein, the town shall also be entitled to exercise all other remedies authorized by law for violations of this section, including the following:

(1) Bringing an action in the municipal court pursuant to the provisions of section 7-24 of this article; and/or

(2) Seeking a fine for the violation of this section in the amount of set forth in Section 1-51. Each day that any such violation continues shall be a separate and distinct offense; provided however, that the town shall not be authorized to seek imprisonment in the county for any such violation; and/or

(3) The town shall be authorized in accordance with the provisions of section 7-25 of this article to assess the costs associated with the illegal parking or storing of vehicles by filing any such costs as a lien against any property upon which the removal of any such vehicles was performed.

Section 11. Section 7-81 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 7-81. Penalties – Animals.

(a) Any person who is found guilty of a violation of section 7-72 and section 7-77 of this article shall be punished by a fine of not less than forty dollars (\$40.00) nor more than two hundred dollars (\$200.00) for the first violation, a fine of not less than sixty dollars (\$60.00) nor more than four hundred dollars (\$400.00) for the second violation, and a fine of not less than seventy-five dollars (\$75.00) nor more than the amount set forth in Section 1-51 for a third violation within any twenty-four month period of time.

(b) Any person who violates any other provision of this article shall be punished by a fine not exceeding the amount set forth in Section 1-51 or by a jail sentence of not more than ninety (90) days or both such fine and imprisonment. In addition to the above penalties, the court shall impose such costs as may be appropriate and shall order the payment of restitution to any aggrieved person or entity as may be appropriate in the court's discretion.

Section 12. Section 13-110 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 13-110. Enforcement.

(a) Civil penalties. Any user who is found to have violated an order of the control authority or who has willfully or negligently failed to comply with any provision of this article and the orders, rules, regulations and permits issued hereunder, shall be assessed a civil penalty of not more than the amount set forth in Section 1-51 for each violation. Each day on which any user

permits, allows or causes any violation or noncompliance to occur or continue shall be deemed a separate and distinct violation subject to civil penalties pursuant to this subsection. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) Criminal prosecutions. Any person who willfully, knowingly or negligently violates any provision of this article or any orders or permits issued under this article shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed the amount set forth in Section 1-51 per day of violation, or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.

(c) Public nuisance. Any violation of this article, a wastewater discharge permit or any order issued pursuant to this article is hereby declared a public nuisance and may be corrected or abated by the director. Any person creating such a public nuisance may be subject to the provisions of this code governing nuisances, including the provision requiring reimbursement to the town for its costs of abatement. The director may initiate, on behalf of the town, an action in any court of competent jurisdiction concerning the abatement of any public nuisance created or caused by a violation of this article. In any such action, the director may request any legal or equitable relief, including injunctive relief, and civil damages, as provided by law.

(d) Other remedies. The remedies provided in this section are not exclusive remedies. Nothing in this section shall be construed to prevent the town from pursuing any or all of the remedies provided in those sections against users or persons involved in violations of this article. In addition to the civil or criminal penalties provided herein, the town may recover reasonable attorney fees, court costs, court reporter's fees and other expenses of litigation by appropriate action at law against the person found to have violated this article or the orders, rules, regulations and permits issued hereunder. In any action involving an award of civil damages in favor of the town, the town shall also recover interest on such damages as specified in Section 5-12-102, C.R.S.

(e) Tenant responsibility. Where an owner of a property leases a premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible, jointly or severally, for compliance with the provisions of this article.

Section 13. Section 16-33(b) of the Hudson Municipal Code is hereby amended as set forth below:

(b) Penalties.

(1) Any person, firm or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this chapter shall be fined an amount not to exceed the amount set forth in Section 1-51 for each such violation, such fine to inure to the town. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

(2) Any person, firm or corporation who, with respect to any land located within a subdivision, transfers or agrees to sell any land by references to or exhibition of or by use of a plat of a subdivision, before such plat has been approved by the board of trustees and recorded or filed in the office of the county clerk and recorder, shall forfeit and pay a penalty not to exceed the amount set forth in Section 1-51 for each lot or parcel so transferred or sold or agreed to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transactions from such penalties or from the remedies provided in this chapter. The board of trustees may enjoin such transfer, sale or agreement by action for injunction brought in any court of competent jurisdiction or may recover the penalty in any court of competent jurisdiction, including the municipal court. These remedies shall be additional and cumulative to any remedies provided by the Colorado Revised Statutes.

Section 14. Section 16-183(b) of the Hudson Municipal Code is hereby amended as set forth below:

(b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this article or of the conditions and requirements of the oil and gas Use by Special Review may be punished by a fine of not more than the amount set forth in Section 1-51 or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.

Section 15. Section 18-18 of the Hudson Municipal Code is hereby amended as set forth below:

Sec. 18-18. Fire code violation; penalty.

In addition to the penalty provisions contained in the International Fire Code, 2006 Edition, any person who violates any of the provisions of the International Fire Code, 2006 Edition, as adopted by reference by the town, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined the sum of not more than the amount set forth in Section 1-51 for each such violation. Each day in which such a violation occurs or continues shall constitute a separate violation.

Section 16. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 17. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 18. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this 5th day of June, 2013.



ATTEST:

Linnette Barker, CMC, Town Clerk

TOWN OF HUDSON, COLORADO

Neal Pontius, Mayor

PASSED ON SECOND AND FINAL READING this 17th day of July, 2013, AND ORDERED PUBLISHED ONCE IN FULL.



ATTEST:

Linnette Barker, CMC, Town Clerk

TOWN OF HUDSON, COLORADO

Neal Pontius, Mayor

APPROVED AS TO FORM:

Corey Y. Hoffmann, Town Attorney