



Town of Huachuca City

The Sunset City

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ORDINANCE NO. 2019-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF HUACHUCA CITY, ARIZONA, AMENDING THE TOWN CODE, TITLE 8 “HEALTH AND SAFETY,” TO ALLOW FOR BOTH CIVIL AND CRIMINAL PENALTIES FOR TITLE 8 VIOLATIONS.

WHEREAS, the Town Council of the Town of Huachuca City has adopted by Resolution No. 84-002 a code known as the Town Code of the Town of Huachuca City, Arizona [the “Code”], and has amended and republished the Code from time to time, as authorized by A.R.S. section 9-240 (B) (28); and

WHEREAS, pursuant to section 1.05.110 most violations of the Code are classified as criminal misdemeanors; and

WHEREAS, the Town Council wishes to amend the Code to designate Code violations within Title 8 “HEALTH AND SAFETY” as either criminal or civil violations; and

WHEREAS, as required by the Code, section 2.25.040, this Ordinance was first read at a public meeting of the Town Council on February 28, 2019, and at a subsequent meeting on March 14, 2019.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Huachuca City, Arizona, as follows:

SECTION 1. The Code, Title 8 “HEALTH AND SAFETY,” Chapter 8.20 “REMOVAL OF LITTER,” Section 8.20.040 “Procedure to compel removal of litter,” is amended as follows, with deletions in ~~strikeout~~ and additions in underlined text:

8.20.040 Procedure to compel removal of litter.

The ~~clerk~~ Town shall enforce the provisions of Sections 8.20.020 and 8.20.030 hereby by prosecuting violators of said sections in the Huachuca City magistrate’s court pursuant to the ~~criminal~~ provisions of ~~this code~~ chapter 8.35 of this Title. If such prosecution fails to secure compliance with the provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their persons, the ~~clerk~~ Town shall compel the removal of litter by the procedure outlined in Sections 8.20.050 through 8.20.090.

SECTION 2. The Code, Title 8 “HEALTH AND SAFETY,” Chapter 8.20 “REMOVAL OF LITTER,” Section 8.20.100 “Placement of debris,” is amended as follows, with deletions in ~~strikeout~~ and additions in underlined text:

8.20.100 Placement of debris.

Any person, firm or corporation who shall place any rubbish, trash, filth or debris upon any private or public property not owned or under the control of said person, firm or corporation shall be ~~guilty of a misdemeanor~~ prosecuted pursuant to the provisions of chapter 8.35 of this Title and, in addition ~~to any fine which may be imposed for violation of any provision of this chapter,~~ shall be liable for all costs which may be assessed pursuant to this chapter for the removal of said rubbish, trash, filth or debris.

SECTION 3. The Code, Title 8 “HEALTH AND SAFETY,” Chapter 8.30 “SOLID WASTE SERVICES,” Section 8.30.70 “Penalties and fines,” is amended as follows, with deletions in ~~strikeout~~ and additions in underlined text:

8.30.070 Penalties and fines.

A violation of this chapter ~~is a class one misdemeanor. Any person who violates this chapter may be subject to a fine not to exceed \$2,500 or a term of imprisonment not to exceed six months, or both~~ shall be prosecuted pursuant to the provisions of chapter 8.35 of this Title.

SECTION 4. The Code, Title 8 “HEALTH AND SAFETY,” is amended by adding new Chapter 8.35 “VIOLATIONS AND PENALTIES,” Section 8.35.010 “Citations” and Section 8.35.020 “Penalties for Title 8 violations may be civil or criminal,” reading as follows:

**CHAPTER 8.35
VIOLATIONS AND PENALTIES**

8.35.010 Citations.

In addition to the various removal, abatement and cost recovery provisions contained throughout this Title, as well as any other remedies allowed at law, citations for civil and criminal violations of this Title may be filed in the Huachuca City Magistrate Court by the Police Department or the Town Attorney.

8.35.020 Penalties for Title 8 violations may be civil or criminal.

First offense: \$50 fine; second offense: \$100.00 fine; third and subsequent offenses: criminal class 1 misdemeanor, punishable as determined by the court, not to exceed \$2,500 fine, six months in jail and three years’ probation.

SECTION 5. All ordinances, parts of ordinances, resolutions, parts of resolutions, policies, and parts of policies in conflict with the provisions of this Ordinance, or any part hereof, are hereby repealed.

SECTION 6. If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

SECTION 7. The Town Clerk is hereby directed, pursuant to the Code, sections 2.25.080 and 2.25.090, to post this Ordinance in three or more public places within the Town, and to publish this Ordinance as required by A.R.S. 9-812 and 39-204.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, THIS 14th DAY OF MARCH, 2019.



Johann Wallace, Mayor

ATTEST:



Jennifer Fuller, Town Clerk

Approved as to Form:



Thomas Benavidez, Town Attorney