

INTRODUCED BY: ALDERMAN GOSH

AN ORDINANCE AMENDING SECTION 300.010 (“DEFINITIONS”); SECTION 100.220 (“GENERAL PENALTY”) AND SECTION 210.010 (“NUISANCES AFFECTING HEALTH”); OF THE MUNICIPAL CODE OF THE CITY OF WARSON WOODS, 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 September 15, 2015, adopted changes to the Municipal Code of the City of Warson Woods (“Municipal Code”) by Ordinance No. 1561 to comply with the requirements of SB5 including those relating to the “minor traffic violations” in terms of limiting fines and not imposing an additional charge of failure to appear 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 “minor ordinance violations” pertaining to court fines in prosecutions of nuisance violations; 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 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 WARSON WOODS, MISSOURI, AS FOLLOWS:

Section One. Section 300.010 entitled “Definitions” is hereby amended by amending the current definition of “Minor Traffic Violation” and inserting the following new definition for “Municipal Ordinance Violation” to read as follows:

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 department of revenue is authorized to assess no more than 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 Two. Section 100.220 entitled “General Penalty” is hereby amended by repealing Subsection D in its entirety and adopting new Subsections D and 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 of the City of Warson Woods shall:

1. Impose a fine, when combined with the amount of court costs, that exceeds ~~three~~ 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., and Section 300.010 of this Municipal Code of the City of Warson Woods 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 Three. Subsection D of Section 210.010 entitled "Nuisances Affecting Health" is hereby amended by repealing Subsection D in its entirety and inserting a new Subsection D to read as follows:

D. *Abatement — Procedure Generally.*

1. *Notice.* If the City Clerk has reason to believe that a nuisance is being maintained within the City, the City Clerk or designee shall notify the person causing, maintaining or permitting the same to remove, terminate or abate such nuisance within a reasonable time not less than ten (10) days as determined by the City Clerk 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 the prescribed time period, the City shall hold a hearing where all parties may be heard and present evidence as to whether the condition constitutes a nuisance and should be removed. Such notices shall be given by first class United States mail, in person or by posting a copy thereof on the property involved. 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. 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.
2. *Hearing.* Should the person or persons so notified fail to remove, terminate or abate such nuisance within the time specified, the scheduled hearing shall take place. The hearing shall be before the Mayor, be under oath, which shall be administered by the Mayor, recorded, and all such parties shall have an opportunity to be heard and present evidence as to whether the condition maintained on the property constitutes a nuisance and whether the procedures of this Article were substantially complied with. After hearing all evidence, if the Mayor finds a nuisance is being maintained in violation

of this Article, he/she may order the nuisance abated within a reasonable time. The order shall be in writing specifying the grounds for the order and the time by which the nuisance must be abated and either provided at the hearing or shall be served to the affected persons in accordance with Section 210.010(D)(1). The notice shall also inform the recipients that the failure to comply with the Order shall mean that the City will abate the nuisance with costs to the owner and/or occupant.

3. *Abatement/Special Tax Bill.* Upon failure of the person to comply with the Mayor's order, the City may cause the same to be promptly removed, terminated or abated and thereafter certify the cost of such corrective action, along with proof of notice to the owner of the property, to the City Clerk, who shall cause a special tax bill to be issued in that amount against the property from which the nuisance was removed, terminated or abated, the same to be collected with other taxes assessed against the property. No mere clerical error or informality in such lien or in the proceedings leading to its issuance shall be a defense thereto. The certified costs associated with the removal, termination or abatement of such nuisance shall include all expenses incurred by the City in the removal of the nuisance including, but not limited to, the actual cost of inspecting the land or lot, the actual cost of service of notice as provided herein, the actual cost of abatement, reasonable attorneys' fees, and the actual cost of issuing and recording the tax bill. Such tax bill shall bear interest at the rate of six percent (6%) per annum if not paid within thirty (30) days after issuance. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a first lien on the property from the date the tax bill is delinquent until paid and shall be prima facie evidence of the recitals thereof and of its validity.
4. *Other Remedies.* Nothing in this Section shall limit the right of the City or the Mayor to seek any other remedy allowed by law in addition to or in lieu of the remedy specified herein.

Section Four. This Ordinance shall be in full force and effect on and after its passage and approval by the Board of Aldermen and the Mayor.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, MISSOURI, THIS ___th DAY OF AUGUST, 2016.

Laurance M. Howe, Mayor

ATTEST:

Kathy Mahany, City Clerk