

ORDINANCE NO. 2015-0008

Adopted by the Sacramento City Council

April 23, 2015

AN ORDINANCE AMENDING SACRAMENTO CITY CODE SECTION 1.28.010, RELATING TO PENALTIES; REPEALING SECTION 9.04.030, RELATING TO LOITERING; REPEALING CHAPTER 9.08, RELATING TO DRUG OFFENSES; ADDING CHAPTER 9.08, RELATING TO PUBLIC CONSUMPTION OF MARIJUANA; REPEALING AND ADDING SECTION 9.44.210, RELATING TO CRIMINAL PENALTIES; AND REPEALING SECTION 9.44.270, RELATING TO THE MISTREATMENT OF ANIMALS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

A. Subsection D.2.c.iv of section 1.28.010 of the Sacramento City Code is amended to read as follows:

iv. If a violation relates to an event occurring on, or a condition existing on a property in the city, substituted service may be effected by posting the property with the administrative penalty order and mailing a copy of the order to the responsible party in violation, at the address of the property on which the violation has occurred or is occurring.

B. Except as amended by subsection A above, all provisions of section 1.28.010 remain unchanged and in full effect.

SECTION 2

Section 9.04.030 of the Sacramento City Code is repealed.

SECTION 3

Chapter 9.08 of the Sacramento City Code is repealed.

SECTION 4

Chapter 9.08 of the Sacramento City Code is added:

Chapter 9.08 PUBLIC CONSUMPTION OF MARIJUANA

9.08.010 Findings and purposes.

On November 5, 1996, the voters of the state of California approved Proposition 215 enacting Section 11362.5 of the Health and Safety Code (the "Compassionate Use Act"). That section permits, for purposes of state law, the limited use, cultivation and possession of marijuana for specified medical purposes. However, the use, cultivation and possession of marijuana for other purposes remains illegal within this state and is presently illegal under federal laws.

While recognizing the enactment of Health and Safety Code Section 11362.5, the city council believes that the open and public use of marijuana, which might otherwise be permitted by that section, is injurious to public health in many of the same ways that tobacco consumption is injurious to public health, due to exposure to second-hand smoke. Further, the open and public consumption of marijuana is potentially harmful to youths in that it sets a deleterious example regarding the use of illicit drugs. Therefore, the city council believes it is necessary to balance the uses of marijuana permitted by Section 11362.5 with the concerns for public health and safety.

9.08.020 Places where consumption of marijuana is prohibited.

A. Notwithstanding California Health and Safety Code Section 11362.5 or any preceding provisions of this chapter and Chapter 8.80 of this code, the consumption of marijuana, by or through "smoking," as defined in Section 8.80.030 of this code, is prohibited at any of the following locations to which members of the public have access:

1. Upon or within 1,000 feet of the grounds of any school or park;
2. In or within 100 feet of any building or facility to which members of the public have access, except in a health facility or clinic; or
3. Within 100 feet of any other person, other than a "primary caregiver," as that term is defined in California Health and Safety Code Section 11362.5(e).

B. As used in this section, the following definitions shall apply:

1. "School" means any institution of learning for minors, whether public or private, including any special institution of education or any nursery, elementary, middle, junior high, or senior high school. This definition does not include a vocational or professional institution of higher education, including a junior or community college, college or university.

2. "Park" means and includes all parks, parkways, malls, plazas, greenbelts, gardens, lakes and other property owned by the city and used, operated or maintained for recreational purposes.

3. "Health facility" means a facility, place or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical and mental, including convalescence and rehabilitation, or for any one of those purposes, for one or more persons, to which the persons are admitted for a twenty-four (24) hour stay or longer.

4. "Clinic" means an organized outpatient health facility which provides medical, surgical, dental, optometric, podiatric, or psychological advice, services, or treatment to patients who remain less than twenty-four hours.

9.08.030 Violation – Penalty.

A. First Violation. Any first violation of this chapter by a person shall be an infraction, and shall be subject to punishment as provided in California Government Code Section 36900(b).

B. Second and Subsequent Violations. Except as provided below, any second and subsequent violation of this chapter by a person shall be a misdemeanor, punishable by a fine not to exceed \$1,000.00, imprisonment in county jail for a term not to exceed six months, or both such fine and imprisonment.

Exception: Notwithstanding the above, a violation of this chapter is an infraction when the complaint is filed charging the offense as an infraction, in which case the violation shall be subject to and punishable as provided in California Government Code Section 36900(b).

9.08.140 Nonexclusivity.

Nothing in this chapter shall limit or preclude the enforcement of other applicable laws.

SECTION 5

Section 9.44.210 of the Sacramento City Code is repealed:

SECTION 6

Section 9.44.210 is added to the Sacramento City Code to read as follows:

9.44.210 Violation – Criminal penalties.

A. Except as otherwise specified in this chapter, any person violating any provision of this chapter is guilty of an infraction, punishable as follows:

1. A fine not exceeding \$100 for a first violation;
2. A fine not exceeding \$200 for a second violation of the same section within one year;
3. A fine not exceeding \$500 for each additional violation of the same section within one year.

B. For the purposes of subsection A of this section, multiple violations occurring at the same time are not considered subsequent violations that qualify for the increased fine amounts; however, each violation is punishable by a separate fine.

C. Any person violating section 9.44.100, 9.44.660, or 9.44.770 is guilty of a misdemeanor punishable as set forth in section 1.28.020. Any person violating section 9.44.680 is guilty of a misdemeanor punishable as set forth in that section.

D. If the person no longer possesses the animal, he or she is still responsible for any and all fines assessed.

SECTION 7

Section 9.44.270 of the Sacramento City Code is repealed:

SECTION 8

If any provision of this ordinance or its application to any person or circumstance is held invalid or ineffective by any court of competent jurisdiction, or by reason of any preemptive legislation, that invalidity shall not affect the validity of the remaining provisions of this ordinance. The city council declares that it would have passed this ordinance and each section, subsection, subdivision, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or words be declared invalid.

SECTION 9

The adoption of this ordinance is not intended to and does not affect any administrative, civil, criminal, or other actions or proceedings brought or to be brought to implement or enforce any provisions of the Sacramento City Code, as they existed prior to the effective date of this ordinance. The provisions of the Sacramento City Code as they exist prior to the effective date of this ordinance shall continue to be operative and effective with regard to any such actions or proceedings.

Adopted by the City of Sacramento City Council on April 23, 2015, by the following vote:

Ayes: Members Ashby, Carr, Hansen, Harris, Jennings, Schenirer and Warren

Noes: None

Abstain: None

Absent: Mayor Kevin Johnson

Vacant: District 6

Attest:

Shirley Concolino

Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
Clerk, email=sconcolino@cityofsacramento.org, c=US
Date: 2015.05.05 11:50:20 -07'00'

Shirley Concolino, City Clerk

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