

ORDINANCE NO. 20-10

**AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, AMENDING CHAPTERS
1.12 AND 1.16 OF THE MAMMOTH LAKES MUNICIPAL CODE REGARDING
PENALTIES AND ISSUANCE OF CITATIONS**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”); and

WHEREAS, the Mono County Health Officer on March 15, 2020 declared a local health emergency due to the imminent and proximate threat to public health of the introduction of a novel coronavirus (COVID-19) in Mono County; and

WHEREAS, the Mono County Board of Supervisors ratified the County Health Officer’s declaration of emergency on March 17, 2020; and

WHEREAS, the Town Council declared a local emergency regarding COVID-19 on March 18, 2020, and the conditions constituting an emergency remain in effect; and

WHEREAS, the County Health Officer also serves as the Town’s Health Officer, and has the statutory authority to issue orders to protect public health, which orders have been useful and necessary during the COVID-19 emergency; and

WHEREAS, the Town has worked closely with Mono County and the County Health Officer in dealing with the COVID-19 emergency, and it is anticipated that the Town will work closely with Mono County and the Health Officer regarding any future public health orders; and

WHEREAS, California Health & Safety Code Section 101029 authorizes Town peace officers to enforce orders of the Health Officer, and Health & Safety Code Section 120175.5(b) allows the Health Officer to require the Town to take measures to ensure compliance with such orders, and Health & Safety Code Section 120295 specifies that any person violating a Health Officer order is guilty of a misdemeanor; and

WHEREAS, California Government Code Section 53069.4 authorizes the Town to make violations of any ordinance enacted by the Town subject to administrative fines or penalties; and

WHEREAS, Chapter 1.12 of the Mammoth Lakes Municipal Code provides that violations of the Code may be cited either as misdemeanors or infractions, which provides flexibility to Town staff to adjust the cited offense to suit the severity of a particular violation, allowing the Town to avoid misdemeanor charges and penalties for relatively minor violations; and

WHEREAS, there is an urgent need for Town personnel to have similar discretion to issue infraction citations for violations of Health Officer orders, and for violations of Health Officer orders to also be violations of the Municipal Code, as this will facilitate enforcement of Health

Officer orders, in order to protect the public peace, health, and safety of Mammoth Lakes residents and visitors in light of the emergency declared by the State and Town regarding the COVID-19 pandemic; and

WHEREAS, California Government Code Sections 36934 and 36937 authorize the Town Council to adopt by four-fifths (4/5) vote, without a second reading and with immediate effect, an ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency.

THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1: RECITALS INCORPORATED

The recitals above are incorporated herein.

Section 2: AMENDMENT TO MUNICIPAL CODE SECTION 1.12.010

Section 1.12.010 of the Mammoth Lakes Municipal Code is hereby amended to read as follows:

1.12.010 – Violations a misdemeanor or infraction

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. No person shall violate any provision or fail to comply with any of the requirements of this Code, other Codes adopted by the Town, or any order of the County Health Officer. Every such person shall be guilty of a separate and distinct offense for each and every day, or any portion thereof, of which any violation of any provision of this Code is committed, continued or permitted by such person, and shall be punished accordingly. Every act prohibited, declared unlawful, or declared substandard or unsafe and every failure to perform an act made mandatory shall constitute either a misdemeanor or an infraction, at the discretion of the town attorney or district attorney, as applicable. Except as expressly provided otherwise in this Code or other applicable law, no act or omission constituting a violation of this Code shall be made lawful or otherwise permitted due to the Town's intentional or unintentional failure to prosecute, cite, or otherwise address such violation.

Section 3: AMENDMENT TO MUNICIPAL CODE SECTION 1.12.020

Section 1.12.020 of the Mammoth Lakes Municipal Code is hereby amended to read as follows:

1.12.020 - Infraction.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of: (i) this Code, including its adopted Codes; or (ii) an order of the county health officer which is applicable within the Town, may be prosecuted for an infraction. Any person convicted of an infraction under the provisions of this Code shall be punished according to the fine schedule listed below:

- A. One hundred dollars for a first violation;
- B. Two hundred dollars for a second violation of the same provision (other than a building and safety code provision) within one year, and five hundred dollars for a violation of a building and safety code provision;
- C. Five hundred dollars for each additional violation of the same provision (other than a building and safety code provision) within one year, and one thousand dollars for a violation of a building and safety code provision.

Section 4: RENAMING OF MUNICIPAL CODE CHAPTER 1.16

Chapter 1.16 of the Mammoth Lakes Municipal Code is hereby renamed “Authority of Town Officers and Employees to Cite for Violations”.

Section 5: AMENDMENT TO MUNICIPAL CODE SECTION 1.16.020

Section 1.16.020 of the Mammoth Lakes Municipal Code is hereby amended to read as follows:

1.16.020 – Town officers authorized to issue notice to appear.

Pursuant to Penal Code Sections 853.5 and 836.5, officers or employees of the Town are authorized to issue notices to appear, subject to the limitations hereinafter provided, where there is reasonable cause to believe that the person cited has violated a statute, ordinance, or order which such officer or employee, or his/her designee, has the duty or authority to enforce.

Section 6: DECLARATION OF URGENCY AND EFFECTIVE DATE

The Town Council hereby finds, determines, and declares that this urgency ordinance is necessary to promote the immediate preservation of the public peace, health and safety by facilitating enforcement of Health Officer orders issued for the protection of public health. This ordinance shall take effect immediately as an urgency ordinance, and the effectiveness of the provisions of this ordinance shall be retroactive to March 4, 2020.

Section 7: AUTHORITY FOR ADOPTION

The Town Council hereby enacts this urgency ordinance by not less than a four-fifths vote, and in light of the findings set forth herein, under the authority granted to it by Sections 36934 and 36937(a) of the California Government Code, which allow the Town to adopt an urgency ordinance, in order to protect the public peace, health, or safety.

Section 8: POSTING

The Town Clerk shall, within fifteen (15) days after the passage of this Ordinance, cause it to be posted at the duly designated posting places established by resolution of the Town Council, published once in a newspaper of general circulation, and entered in the Book of Ordinances of the Town.

Section 9: SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

PASSED, APPROVED, AND ADOPTED on the 2nd day of September, 2020.



BILL SAUSER, Mayor

ATTEST:



JAMIE GRAY, Town Clerk

STATE OF CALIFORNIA)
COUNTY OF MONO)
TOWN OF MAMMOTH LAKES) ss.

I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 20-10, which was introduced and adopted at a meeting of the Town Council on September 2, 2020 by the following vote:

AYES: Councilmembers Hoff, Stapp, Wentworth, Mayor Pro Tem Salcido, and Mayor Sauser

NOES: None

ABSENT: None

DISQUALIFICATION: None



JAMIE GRAY, Town Clerk

STATE OF CALIFORNIA)
COUNTY OF MONO)
TOWN OF MAMMOTH LAKES) ss.

AFFIDAVIT
OF PUBLISHING
AND POSTING

JAMIE GRAY, being first duly sworn, deposes and says: That she is the duly appointed Town Clerk of the Town of Mammoth Lakes; that in compliance with State laws of the State of California, Ordinance No. 20-10, being:

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, AMENDING CHAPTERS 1.12 AND 1.16 OF THE MAMMOTH LAKES MUNICIPAL CODE REGARDING PENALTIES AND ISSUANCE OF CITATIONS.

was published in full in The Sheet newspaper on September 11, 2020 and was posted at the Town Administrative Offices.



JAMIE GRAY, Town Clerk