

MARIPOSA COUNTY ORDINANCE 640

AN ORDINANCE AMENDING SECTIONS 1.20.020 AND 1.20.030 OF CHAPTER 1.20, ENTITLED "GENERAL PENALTY" PURSUANT TO GOVERNMENT CODE SECTION 25132, PENAL CODE SECTIONS 19 AND 1464, AND OTHER SECTIONS RELATING THERETO.

THE BOARD OF SUPERVISORS of Mariposa County, a political subdivision of the State of California, in order to bring the County Ordinances into compliance with recently enacted State laws does hereby ordain as follows:

SECTION I: Pursuant to California Government Code Section 25132, Penal Code Sections 19 and 1464, and other Sections relating thereto, Sections 1.20.020 and 1.20.030 of Chapter 1.20 entitled "General Penalty" of the Mariposa County Code are hereby amended to read in their entirety as follows:

1.20.020 Fine and assessments--Jail Sentence. Except in cases where a different punishment is prescribed by any ordinance of the county, any person convicted of a misdemeanor for violation of an ordinance of the county is punishable by a fine of not more than one thousand dollars plus assessments on fines as prescribed by law, and other Sections relating thereto, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

1.20.030 Infraction--Fine and assessments. Any person convicted of an infraction for a violation of an ordinance of the county is punishable by:

A. A fine not exceeding one hundred dollars, plus assessments as prescribed by law, and other Sections relating thereto, for a first violation;

B. A fine not exceeding two hundred dollars, plus

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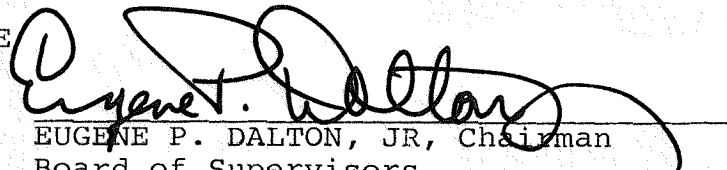
assessments as prescribed by law, and other Sections relating thereto, for a second violation of the same ordinance within one year;

C. A fine not exceeding five hundred dollars, plus assessements as prescribed by law, and other sections relating thereto, for each additional violation of the same ordinance within one year."

SECTION II: This ordinance shall become effective thirty (30) days from the date of final passage, pursuant to Government Code Section 25123.

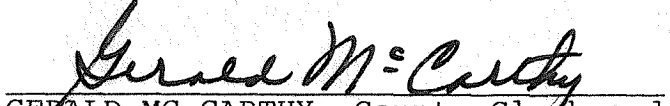
PASSED AND ADOPTED this 21st day of May, 1985, by the Board of Supervisors of Mariposa County, by the following vote:

AYES:	BARRICK, DALTON, ERICKSON, RADANOVICH, TABER
NOES:	NONE
ABSENT:	NONE
ABSTAINED.	NONE



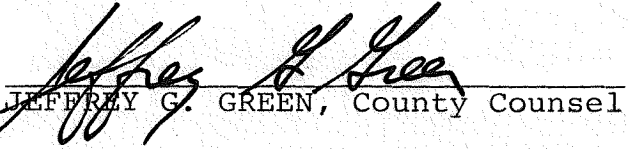
 EUGENE P. DALTON, JR, Chairman
 Board of Supervisors

ATTEST:



 GERALD MC CARTHY, County Clerk and
 Ex Officio Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



 JEFFREY G. GREEN, County Counsel

MARIPOSA COUNTY BOARD OF SUPERVISORS

MEMORANDUM

TO: MARIPOSA GAZETTE
FROM: HARRIET HANSON, DEPUTY CLERK
RE: ORDINANCE NO. 640

The following is referred to you for publication:

Ordinance No. 640, an Ordinance Amending Sections 1.20.020 and 1.20.030 to Chapter 1.20, entitled "General Penalty".

cc: Superior Court
Justice Court
District Attorney
Sheriff
Probation
File

1.16.070 Extension of calls. Wherever in this chapter a call is made to or along a road, public highway or water course, said call is extended to and along the centerline of each such road, public highway or water course. (Ord. 568 §1(part), 1981: Ord. 416 §1(part), 1976).

Chapter 1.20

GENERAL PENALTY*

Sections:

1.20.010 Violation of ordinance a misdemeanor.

* For statutory provisions making violations of county ordinances misdemeanors unless made infractions by ordinance, see Gov. Code §25132; for provisions prescribing penalties for misdemeanors of not more than six months' imprisonment or a fine of \$500.00, or both, see Penal Code §19.

Sections: (Continued)

- 1.20.020 Fine--Jail sentence.
1.20.030 Infraction--Fine.
1.20.040 Separate offense for each day of violation.

1.20.010 Violation of ordinance a misdemeanor. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the county shall be guilty of a misdemeanor unless the violation (or failure) is made an infraction by ordinance. (Ord. 467 SA, 1977).

1.20.020 Fine--Jail sentence. Except in cases where a different punishment is prescribed by any ordinance of the county, any person convicted of a misdemeanor for violation of an ordinance of the county is punishable by a fine of not more than five hundred dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment. (Ord. 467 SB, 1977).

1.20.030 Infraction--Fine. Any person convicted of an infraction for a violation of an ordinance of the county is punishable by:

- A. A fine not exceeding fifty dollars for a first violation;
B. A fine not exceeding one hundred dollars for a second violation of the same ordinance within one year;
C. A fine not exceeding two hundred fifty dollars for each additional violation of the same ordinance within one year. (Ord. 467 SC, 1977).

1.20.040 Separate offense for each day of violation. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the county is committed, continued, or permitted by such person, and he shall be punishable accordingly. (Ord. 467 SD, 1977).

adopted and published accompanied by a summary of the amended or revised ordinance prepared by an official designated by the county board of supervisors, with the names of those supervisors voting for and against the amendment. Nothing in this section shall preclude repealing or rendering inoperative by reference any section or subsection if language in the ordinance fairly identifies the subject matter of the sections or subsections which would be repealed or rendered inoperative by the ordinance.

(Amended by Stats.1984, c. 818, p. —, § 1.)

1984 Amendment. Rewrote the second sentence as now contained in second and third sentences and added the fourth sentence.

§ 25131. Waiting period for passage; exception for urgency ordinances; reading; alterations

Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting or at an adjourned regular meeting. However, an urgency ordinance may be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the supervisors present, all ordinances shall be read in full either at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section. This section shall not apply to ordinances which by statute can be passed only after notice and a public hearing.

(Added by Stats.1973, c. 441, p. 908, § 1. Amended by Stats.1974, c. 1127, p. 2413, § 1.)

Library References

Counties ⇐55.
C.J.S. Counties §§ 82, 92.
C.J.S. Zoning § 41.

ment District Act of 1951, Stats.1951, c. 1635) of state legislature, and formation act provided methods by which district was to adopt ordinances; thus, statutory procedures followed by district in adopting ordinance which increased rates and connection fees for water service within district did not deprive property owner within district of his constitutional guarantee of due process on grounds that this section and § 36934 which specify procedures which cities and towns must follow in adopting ordinances should be made applicable to special districts. Condit v. Solvang Mun. Imp. Dist. (1983) 194 Cal.Rptr. 683, 146 C.A.3d 997.

Notes of Decisions

1. Validity

Municipal improvement district was special governmental district created by special act (Solvang Municipal Improve-

§ 25132. Misdemeanor; violation reduced to infraction by ordinance; prosecution; fines for infractions

(a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. Such a violation may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.

(Added by Stats.1975, c. 716, p. 1707, § 1. Amended by Stats.1983, c. 1092, p. —, § 136, urgency, eff. Sept. 27, 1983, operative Jan. 1, 1984.)

1983 Amendment. Increased the maximum fine in subd. (b) for a first violation from \$50 to \$100; increased the maximum fine in subd. (b) for a second violation from \$100 to \$200; and increased the fine in subd. (b) for each additional violation from \$250 to \$500.

Library References

Counties ⇐21 1/2.
C.J.S. Counties § 49.
C.J.S. Zoning and Land Planning § 15 et seq.

ARTICLE 8. PUBLICATION OF NOTICE AND PROCEEDINGS

§ 25150. Statement of proceedings; copies of agendas and summaries of proceedings

(a) Except as otherwise provided in subdivision (b), within 10 days after each session of the board of supervisors, it shall cause to be published a fair statement of all its proceedings.

Asterisks * * * indicate deletions by amendment

§ 18

Note 2

maximum sentence. In re Wells (1975) 121 Cal.Rptr. 23, 46 C.A.3d 592.

Period of custody in youth authority was not governed by Penal Code section but by Welfare and Institutions Code sections, and it was therefore unnecessary to determine which Penal Code section would govern in determining punishment for offense of attempted arson. People v. Barstow (1974) 116 Cal.Rptr. 524, 42 C.A.3d 90.

3. Minimum and maximum punishment

Juvenile court judge does not have discretion to determine minor's maximum term of commitment to state youth authority, but court acted contrary to express mandate of Welf. & Inst.C. § 726 in failing to specify maximum period of confinement for vehicle theft. In re Eugene Matthew R. (1980) 166 Cal.Rptr. 219, 107 C.A.3d 605.

5. Unusual punishment

Even assuming that there was some merit to petitioner's habeas corpus contentions that four consecutive sentences

totaling some 53 years upon convictions in two separate cases of issuing checks without sufficient funds constituted cruel and unusual punishment, contentions were either moot or premature in view of enactment of § 1170.2, which would generally have retroactive application, under which such lengthy total sentence probably would have been impossible, and under which petitioner would be entitled to reconsideration of sentence by community release board. People v. Reece (1977) 135 Cal.Rptr. 754, 66 C.A.3d 96.

7. Equal protection

Defendant was not denied equal protection on basis that he was sentenced to two years in state prison whereas his separately tried coconspirator received only a suspended sentence and probation where the penalty imposed satisfied statutory sentencing requirements. People v. Rousseau (1982) 179 Cal.Rptr. 892, 129 C.A.3d 526.

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4.5. Waiver

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§§ 18a, 18b. Repealed by Stats.1976, c. 1139, p. 5089, §§ 99, 100, operative July 1, 1977

§ 19. Punishment for misdemeanor; punishment not otherwise prescribed

Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.

(Amended by Stats.1983, c. 1092, p. —, § 231, urgency, eff. Sept. 27, 1983, operative Jan. 1, 1984.)

1983 Amendment. Increased the maximum fine from \$500 to \$1,000.

Law Review Commentaries

California supreme court survey a review of decisions: July 1982–November 1982. (1983) 10 Pepperdine L.Rev. 835.

Life insurance agent fraud in California: Rebating and related misconduct. Douglas Hallett (1984) 17 Loyola L.Rev. (Calif.) 809.

Notes of Decisions

Juveniles 9

3. Fines

Imposition of \$5,000 fine on defendant's conviction for misdemeanor hit and run was not inappropriate as exceeding permissible fine limit for misdemeanor, since legislature could provide that maximum fine which could be imposed for violation of Veh.C. § 20001 would be the same whether crime was designated felony or misdemeanor. People v. Wolf (1978) 144 Cal.Rptr. 344, 78 C.A.3d 735.

4. Place of confinement

Misdemeanor offense of exhibiting a deadly weapon is punishable by imprisonment in the county jail not exceeding six months; sentence to state prison is improper. In re Kubler (1975) 126 Cal.Rptr. 25, 53 C.A.3d 799.

6. Particular statutes

Life sentence prescribed for second offense of incident exposure is so disproportionate to the crime as to violate the cruel or unusual punishment clause of Const. art. 1, § 6. In re Lynch (1972) 105 Cal.Rptr. 217, 503 P.2d 921, 8 C.3d 410.

9. Juveniles

Under Penal Code, only one third of maximum for subordinate offense or trespassing should have been imposed in delinquency proceedings in which juvenile was found to have committed trespass, second-degree burglary and automobile theft, and in which consecutive sentences were imposed. In re Maurice H. (1980) 166 Cal.Rptr. 213, 107 C.A.3d 305.

Where juvenile was committed to youth authority on bargained guilty pleas to charges of trespass and attempted petty theft and where maximum jail term to which juvenile could be sentenced on his pleas was six months, juvenile's physical confinement by the youth authority could not, as a matter of statute, exceed six or three months, respectively, for the two misdemeanor violations designated in the commitment order. In Matter of Aaron N. (1977) 139 Cal. Rptr. 258, 70 C.A.3d 931.

1/2. Validity

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Decision offenses in applicable

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§ 19a. Punishment for misdemeanor; maximum confinement

Law Review Commentaries

Making sense out of the California criminal statute of limitations. Gerald F. Uelmen (1983) 15 Pacific L.J. 35.

Notes of Decisions

Discretion 3.5 Waiver 4.5

Underline indicates changes or additions by amendment

PENAL CODE

PENAL CODE

§ 1464

§ 1463.21. Fines and forfeitures resulting from violations of bridge and highway district laws; disposition

Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, an amount equal to 85 percent of all fines and forfeitures collected during the preceding month upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified by an employee of a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code and charged with a violation of any law, including any rule, regulation or ordinance of such a district, that occurs on or about the property of such district, including parking facilities and transit facilities, shall be transferred once a month, to the district, and an amount equal to the remaining 15 percent shall be transferred into the general fund of the county.

A district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code and any county in which property under the possession or control of the district is located may, by mutual agreement, adjust the percentages of fines and forfeitures to be received by the district and county respectively under this section. In the absence of such an agreement, the percentages prescribed by this section shall apply.

(Added by Stats.1984, c. 50, p. —, § 1, urgency, eff. March 22, 1984.)

Library References
Bail ←96.
Fines ←20.

C.J.S. Bail § 109 et seq.
C.J.S. Fines § 19.

§ 1463.22. Special accounts relating to Vehicle Code §§ 16028, 16030, 16031, 16032, 16034, and 16035; deposits; disposition

(a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463 ten dollars (\$10) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and justice courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. The amount required to be deposited in a special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant to subdivision (d) of Section 16028 of the Vehicle Code or otherwise. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the department's administrative costs incurred pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering Sections 16031, 16032, 16034, and 16035 of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars (\$10) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund. The amount required to be deposited in the county's special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant to subdivision (d) of Section 16028 of the Vehicle Code or otherwise.

(Added by Stats.1984, c. 1322, p. —, § 3, operative July 1, 1985.)

Operative July 1, 1985.

§ 1464. Assessment on fines, penalties and forfeitures; assessment fund; distributions

(a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to five dollars (\$5) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the

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county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of an offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of seven hundred fifty thousand dollars (\$750,000) in any fiscal year. The remainder in excess of seven hundred fifty thousand dollars (\$750,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

(Added by Stats.1980, c. 530, § 4.1. Amended by Stats.1980, c. 1047, p. 3350, § 2; Stats.1981, c. 102, § 72, eff. June 28, 1981; Stats.1981, c. 166, § 7, eff. July 12, 1981; Stats.1981, c. 966, § 1; Stats.1981, c. 1158, § 1; Stats.1981, c. 1171, § 14; Stats.1982, c. 1437, p. 5478, § 2, operative July 1, 1983; Stats.1983, c. 1092, p. —, § 322, urgency, eff. Sept. 27, 1983, operative Jan. 1, 1984; Stats.1984, c. 726, p. —, § 8; Stats.1984, c. 1339, p. —, § 8; Stats.1984, c. 1340, p. —, § 7.)

Underline indicates changes or additions by amendment

1982 Amend (f)(5); change from January and January 1

Section 146 operative July 729, § 73; St 966, p. 3671, 1981, c. 1171, Jan. 1, 1983), by Stats.1982, operative.

Added the operative and and January 1 respectively.

1983 Amend subd. (a) "five tuted in subd substituted in ty Fund"; su "24.58 percent for "30.83 percent" for "34. of subd. (f)(5 added subds. 1

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1984 Amend and once in s Code" for " amount to be \$750,000; anc read:

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