

ORDINANCE NO. 94-02

AN ORDINANCE DEALING WITH CRIMINAL PENALTIES AND SENTENCING FOR VIOLATION OF ORDINANCES OF THE CITY OF WENDOVER, TOOELE COUNTY, UTAH.

RECITALS

1. The City of Wendover is authorized to adopt and enforce lawful and reasonable ordinances to regulate, require, prohibit, govern, control or supervise activities, conduct, and conditions;

2. The City is authorized to provide criminal penalties for violation of the City's ordinances, not to exceed the maximum Class B misdemeanor fines and imprisonment; and

3. The penalty provisions of some of the City's ordinances are not consistent with current laws of the State of Utah, and the City Council deems it expedient that the provisions of the City's ordinances be consistent with the law of the State of Utah.

BE IT ORDAINED BY THE WENDOVER CITY COUNCIL:

Section No. 1. Ordinance Enacted. There is hereby enacted an Ordinance, consistent with the law of the State of Utah, governing criminal penalties for the violation of ordinances of the City of Wendover, Tooele County, Utah, to read as follows:

CRIMINAL PENALTIES

1.01. Title. This Ordinance shall be known as the Wendover City Criminal Penalty Ordinance.

1.02. Application of Ordinance. This ordinance shall govern all activities under the laws and ordinances of the City of Wendover which prescribe a criminal penalty or for which a criminal penalty is lawful. This Ordinance shall supersede and control any provision of any other ordinance of the City that is inconsistent herewith.

1.03. Interpretation. This Ordinance shall be construed liberally according to the fair import of its terms to promote justice and to effect the objects of this Ordinance, the general purposes thereof, and to be consistent with penalties imposed by the laws and statutes of the State of Utah.

1.04. Definitions. Insofar as they apply to the provisions of this Ordinance, the definitions set forth in title 76 of the Utah Code Annotated, as amended, are hereby adopted by reference as though fully set forth herein.

1.05. Misdemeanors and Infractions.

- (1) Misdemeanors are classified into two categories:
 - (a) Class B misdemeanors; and
 - (b) Class C misdemeanors.

(2) An offense designated a misdemeanor, either in this code, under the ordinances of the City of Wendover, or in another law, without specification as to punishment or category is a class B misdemeanor.

(3) Any offense which is an infraction within this code, under the ordinances of the City of Wendover, or in another law which is expressly designated, and any other offense which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

1.06. Sentencing. Insofar as they apply to the ordinances of the City of Wendover, the following provisions of law are adopted by reference as though fully set forth herein:

- (1) U.C.A. Section 76-3-201;
- (2) U.C.A. Section 76-3-201.1; and
- (3) U.C.A. Section 76-3-201.2.

1.07. Misdemeanor Conviction -- Term of Imprisonment.

A person who has been convicted of a misdemeanor may be sentenced as follows:

- (1) In the case of a Class B misdemeanor, for a term not exceeding six months;
- (2) In the case of a Class C misdemeanor, for a term not exceeding ninety days.

1.08. Infraction Conviction -- Fine, forfeiture, and Disqualification.

(1) A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture, and disqualification or any combination.

(2) Whenever any person is convicted of an infraction and no punishment is specified, the person may be fined a for a class C misdemeanor.

1.09. Imprisonment -- Custodial Authority. Persons sentenced to imprisonment shall be committed to the Tooele County Jail, or to another facility designated by the City.

1.10. Fines of Persons.

(1) A person convicted of an offense may be sentenced to pay a fine, not exceeding:

- (a) \$1,000 when the conviction is of a class B misdemeanor;
- (b) \$750 when the conviction is of a class C misdemeanor;
- (c) any greater amounts specifically authorized by statute.

(2) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

1.11. Fines of Corporations, Associations, Partnerships, or Government Instrumentalities.

(1) The sentence to pay a fine, when imposed upon a corporation, association, partnership, or governmental instrumentality, for an offense defined in any ordinance of the City for which no special corporate fine is specified shall be to pay an amount, fixed by the Court, not exceeding:

- (a) \$5,000 when the conviction is for a class B misdemeanor; and
- (b) \$1,000 when the conviction is for a class C misdemeanor.

(2) Insofar as it applies to the ordinances of the City of Wendover, U.C.A. Section 76-3-303 is adopted by reference as though fully set forth herein.

1.12. Other Provisions Relating to Sentences. Insofar as they apply to the ordinances of the City of Wendover, the following provisions of law are adopted by reference as though fully set forth herein:

- (1) U.C.A. Section 76-3-401; and
- (2) U.C.A. Section 76-3-402.

Section 2. Repealer. The penalty and sentencing provisions of any ordinance of the City inconsistent with the provisions of this Ordinance are hereby repealed.

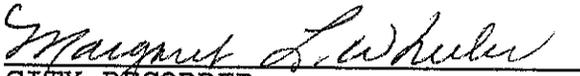
Section 3. Severability Clause. The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid or unenforceable for any reason, said invalidity or unenforceability shall not affect any other provision of this Ordinance or its application under a different circumstance.

Section 4. Effective Date. The governing body hereby declares an emergency requiring that this Ordinance become effective as soon as permissible under the law. This Ordinance shall become effective immediately after publication or posting, whichever is earlier.

PASSED AND ADOPTED BY THE WENDOVER CITY COUNCIL THIS 4th DAY OF JANUARY, 1994.


MAYOR

ATTEST:


CITY RECORDER