

**ORDINANCE NO. 2021 - 011**

**AN ORDINANCE OF THE CITY OF CASTROVILLE, TEXAS AMENDING CHAPTER 38 OF THE CODE OF ORDINANCES, ENTITLED "COURTS" BY CREATING ARTICLE III "CODE ENFORCEMENT"; PROVIDING FOR SEVERABILITY; PROVIDE A CUMULATIVE AND CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council, pursuant to Texas Local Government Code Chapter 51, is authorized to adopt, publish, amend, or repeal an ordinance for the good government, peace, order, and welfare of the City; and

**WHEREAS**, the City Council has previously established various municipal court regulations within Chapter 38 of the City's Code of Ordinances; and

**WHEREAS**, the City Council finds it necessary to amend the regulations related to the processing of notices of violations for city code violations; and

**WHEREAS**, the City Council finds that the adoption of the regulations herein support the health, safety and welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTROVILLE, TEXAS:**

Section 1. Chapter 38 of the Code of Ordinances is amended as shown in Exhibit "A" attached hereto and incorporated for all purposes.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

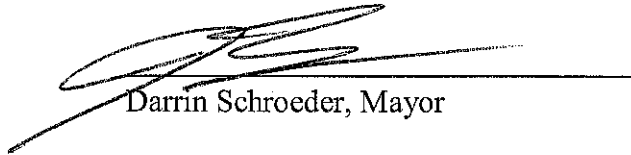
Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

**PASSED and APPROVED** this the 22<sup>nd</sup> day of **June 2021**.



Darrin Schroeder, Mayor

**ATTEST:**



Debra Howe, City Secretary

**Exhibit "A"**

**Chapter 38 - Courts**

**ARTICLE III. CODE ENFORCEMENT**

**Sec. 38-90. Short title.**

This article shall be cited as the "Notice of Violation Ordinance".

**Sec. 38-91. Purpose.**

This article provides procedural and substantive rules relating to the issuance of Notice of Violations, which informally may be referred to as citations, by non-peace officers to defendants accused of violating ordinances of the City of Castroville.

**Sec. 38-92. Application.**

This article applies to the issuance of Notice of Violation alleging criminal violations within the jurisdiction of the city's municipal court. The procedures of this article apply only to offenses alleged to occur on or after the date of adoption.

**Sec. 38-93. Definitions.**

- (a) *General.* Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code or Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.
- (b) *Specific.*

*City* means the City of Castroville, Texas.

*Notice of violation* means such form issued as set forth in section 38-96, shall also be known as a citation and shall be treated as a summons to court, and the terminology is merely to distinguish forms issued by certified peace officers.

*Person* means any individual, firm, partnership, association, business, corporation, or other entity.

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**Sec. 38-94. Relation to related laws.**

A Notice of Violation (citation) issued pursuant to this article does not relate to the issuance of a citation by a peace officer pursuant to Article 14.06(b) of the Code of Criminal Procedure or Section 543.003 of the Transportation Code.

**Sec. 38-95. Authority to issue notice of violations.**

Pursuant to this article, and the scope of their assigned duties, a Notice of Violation may be issued by any of the following individuals:

- (1) Health inspector;
- (2) City inspector;
- (3) Building inspector or official;
- (4) Code enforcement or code compliance officer;
- (5) Public works inspector;
- (6) Animal control officers; or
- (7) Any other individual authorized to enforce the city's Code of Ordinances.

**Sec. 38-96. Form and content of notice of violation.**

A Notices of Violation issued under this article must be in a form approved by the Municipal Judge and Municipal Prosecutor that includes the following information:

- (1) The name, address, date of birth, or driver's license number and physical description, and telephone number of the person cited;
- (2) The offense for which the person is charged;
- (3) The date and location of the offense;
- (4) An appearance date;
- (5) A statement requiring the person receiving the notice of violation to appear at a municipal court on or before the appearance date indicated on the notice of violation;
- (6) A statement of the person's promise to respond to the citation, pursuant to Article 27.14 of the Code of Criminal Procedure, by the appearance date indicated on the citation, including a place for the person cited to provide the person's signature; and
- (7) The signature of the person issuing the citation and
- (8) Any other information required by the Municipal Judge or Municipal Prosecutor.

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**Sec. 38-97. Pleading subsequent to issuance of a Notice of Violation.**

All pleas arising from the issuance of a Notice of Violation under this article shall be made pursuant to Article 27.14 of the Code of Criminal Procedures.

**Sec. 38-98. Issuance of notice of violation by mail.**

- (a) Notice of violation may be sent certified mail or regular mail consistent with applicable city ordinances and state law for the offense alleged.
- (b) A Notice of Violation issued by mail must be in the same form and of the same content as that contained in section 38-96 to the extent practicable.
- (c) No warrant shall be issued for failure to appear for any Notice of Violation issued under this article, unless further judicial action is taken as provided in subsection (d) or (e), below.
- (d) If the Notice of Violation is by any manner other than personal delivery where a signature is obtained, the municipal court may issue a summons for the person with a copy of the complaint attached ordering the appearance of the person to appear in person, by legal counsel, or in a manner authorized by Article 27.14 of the Texas Code of Criminal Procedure.

**Sec. 38-99. Interference or obstruction of issuance.**

A person commits an offense if the person interferes with or obstructs the issuance of a Notice of Violation under this article.

**Sec. 38-100. Penalty.**

Each violation under this article is a class C misdemeanor offense punishable upon conviction by a fine not to exceed \$500.00. Any offense under this article which constitutes a fire safety, zoning, or public health and sanitation, other than the dumping of refuse, is a class C misdemeanor offense punishable upon conviction by a fine not to exceed \$2,000.00.