

# REQUEST FOR COUNCIL ACTION

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**TITLE:** Request for Council Action – Civil Penalty Resolution

**PREFERRED AGENDA:** June 9, 2020

**SUBMITTED BY:** City Attorney, Robert Snyder

**REVIEWED BY:** City Manager, Ray Towry

**TYPE OF ACTION:** **Resolution x** Motion\_\_ Roll Call\_\_ Other\_\_

**RELEVANT CODE/POLICY:** Vision Statement: WE ASPIRE to have an effective and efficient local government.

**TOWARDS COUNCIL GOAL:** Goal 2 Section 1 Update and streamline

**ATTACHMENTS:** Proposed Resolution 14 for 2020

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## **Purpose of this RCA:**

To pass the proposed Resolution concerning civil penalties that are included as one remedy for the city to use in an enforcement action in several chapters of the Sweet Home Municipal Code (SHMC).

## **Background/Context:**

The SHMC in several chapters refers to civil penalties as one remedy for the city to use in a given enforcement action to gain compliance with the code. Where civil penalties are mentioned they are only one of the remedies that can be used and are by their very nature only used when absolutely necessary because there is a mandated process to follow before they come into play. The four code sections that refer to civil penalties are:

1. [SHMC 8.12.070](#) concerning Chronic Nuisance Property and enforcement by the Judge of the Sweet Home Municipal Court;
2. [SHMC 13.06.070](#) concerning Erosion Control and enforcement by the Public Works Director;
3. [SHMC 13.08.650](#) concerning the Sewer System and enforcement by the Public Works Director; and
4. [SHMC 15.03.010](#) concerning Various Building Codes and enforcement by the Building Official.

[SHMC 8.12.070](#) sets out an up to \$500 a day civil penalty in the code section and this proposed Resolution would make the same up to \$500 a day civil penalty apply to any other code section that refers to a civil penalty that does not have a given civil penalty therein, as is the case in [SHMC 8.12.070](#) and [SHMC 13.08.650](#) which set forth in each

code section what the civil penalty is to be.

[SHMC 13.06.070](#) and [SHMC 15.03.010](#) are the two code sections that refer to the City Council setting the civil penalty by resolution.

Please be aware that the civil penalty uses a different process and is not the same as the violation process common to most of the other code sections. The violation process uses the \$500 a day wording that can apply to a citation into Sweet Home Municipal Court.

Finally, please note that the wording is “up to \$500 a day” so that the person doing the enforcement action can bring in all elements of the matter and look at the total picture in making their decision on what is appropriate in each given case.

**The Challenge/Problem:**

Should the City Council pass the proposed Resolution to address the references in the code to a resolution by City Council setting civil penalties?

**Stakeholders:**

City Council to support the enforcement provisions of the SHMC.

Citizens of Sweet Home to help promote enforcement of safety provisions of the SHMC.

City Staff to obtain direction for the code provisions on civil penalties.

**Issues and Financial Impacts:**

There are no financial impacts to this resolution for the City.

**Elements of a Stable Solution:**

This proposed Resolution will provide a set civil penalty for the city officials to use unless another is provided by City Council or by the code itself.

**Options:**

1. Do nothing. Leave the civil penalty to be set by City Council at a later date.
2. Request staff to make additional revisions. City Council to decide if any changes to the proposed Resolution are needed.
3. Make a Motion to approve Resolution No. 14 for 2020, a resolution approving setting of civil penalties.

**Recommendations:**

Option 3: Make a Motion to move Resolution No. 14 for 2020, a resolution approving setting of civil penalties.