



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Sarah Zárate

**SUBJECT:** SEE BELOW

**DATE:** September 26, 2022

Approved

Date

10/5/22

**SUBJECT: AMENDMENT TO THE ADMINISTRATIVE CITATION SCHEDULE OF FINES RESOLUTION**

## **RECOMMENDATION**

Adopt a resolution:

- (a) Amending the Administrative Citation Schedule of Fines for violations of the San José Municipal Code Chapter 10.32, Part 6, Section 240, to establish escalating fine amounts for first, second, third, and subsequent violations pertaining to compliance with the Gun Harm Reduction Ordinance, and
- (b) Repealing fines associated with the now repealed Chapter 11.34 of Title 11 of the San José Municipal Code – Regulation of Cruising.

## **OUTCOME**

Approval of the amendment to the Administrative Citation Schedule of Fines will (a) allow the Administration to implement previously approved City Council direction to utilize administrative citations to facilitate compliance with the Gun Harm Reduction Ordinance (GHRO), and (b) will repeal fines associated with the now repealed Chapter 11.34 of Title 11 of the San José Municipal Code (SJMC) – Regulation of Cruising.

## **BACKGROUND**

At the February 8, 2022 City Council meeting, the Mayor and City Council adopted the GHRO (Part 6, Chapter 10.32 of Title 10 of the SJMC) requiring gun owners residing in the City of San José to obtain and maintain a City-issued document showing payment of an annual \$25 Gun Harm Reduction Fee and attestation of insurance coverage of homeowners, renters, or gun liability insurance policy covering firearm-related death, injury, or property damage.

At the June 2, 2022 Public Safety, Finance, and Strategic Support Committee, as directed by City Council, staff returned with a timeline and work plan to fully implement the ordinance.<sup>1</sup>

GHRO provides that the City Manager may promulgate regulations necessary to implement the ordinance.<sup>2</sup> As part of these regulations, the City Manager may set the date on which gun owners who are not exempt from the ordinance will need to comply with the insurance requirement and the date on which they will be required to pay the Gun Harm Reduction Fee. Failure to comply with ordinance requirements may result in the issuance of administrative citations and associated fines.<sup>3</sup> Chapter 1.15 of the SJMC requires City Council to approve the citation fine amounts that will be incorporated into the Schedule of Fines. The recommended citation fine amounts for the GHRO are described below and can be found in the draft resolution.

Additionally, at the [June 28, 2022, City Council meeting](#), City Council approved an ordinance repealing Chapter 11.34 of Title 11 of the SJMC – Regulation of Cruising.<sup>4</sup> The recommended action removes associated fines from the Administrative Citation Schedule of Fines.

## **ANALYSIS**

After City Council approved the GHRO, staff provided an implementation timeline and work plan to the Public Safety, Finance, and Strategic Support Committee in June 2022. As noted in the June discussion, compliance with the ordinance will be enforced by San José Police Department with any violations being punishable by an administrative citation. San José Police Department will seek compliance before issuing citations in accordance with SJMC section 10.32.240.

### **I. FINE AMOUNT DETERMINATION**

Violations of SJMC section 10.32.240 (which is further described in sections 10.32.240, 10.32.230, 10.32.215, and 10.32.210) may result in the issuance of an administrative citation(s). Recommended fine amounts are based on a consideration of similar offense types and offense severity contained in the administrative citation schedule of fines, as well as indirect factors related to encouraging compliance. Additionally, to deter repeated violations, staff recommends an escalation of fines for repeat offenses.

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<sup>1</sup> <https://sanjose.legistar.com/LegislationDetail.aspx?ID=5663258&GUID=A4495DEB-9E79-4CC2-8CCE-1A491D92C665>

<sup>2</sup> The current City Manager Regulations for the GHRO can be accessed here: <https://www.sjpd.org/records/documents-policies/gun-ordinances-faq>

<sup>3</sup> The City is authorized to enforce responsibilities created by Chapter 10.32 of Title 10, including the issuance of administrative citations in accordance with Chapter 1.15 of the SJMC.

<sup>4</sup> Associated memorandums can be accessed here: <https://sanjose.legistar.com/LegislationDetail.aspx?ID=5697308&GUID=23C30B53-0DF2-49CF-883B-DDDED84E1AEC&Options=ID|Text|&Search=cruising>

***Proposed Fine Amounts - Enforcement***

The proposed fine for the first violation of any and all violations of Part 6 of Chapter 10.32 of the SJMC is \$250. Enforcement under 10.32.240 may relate to violations under 10.32.210 – Liability Insurance Required (failure to carry required attestation of proof of insurance or appropriate proof of exemption as defined in the GHRO and the City Manager’s Regulations), 10.32.215 – Annual Gun Harm Reduction Fee (failure to carry proof of payment that must be affixed to the required attestation form demonstrating compliance with the insurance requirement, or proof of exemption as defined in the GHRO and the City Manager’s Regulations), and 10.32.230 – Compliance (failure to demonstrate compliance with ordinance requirements or proof of exemption as defined in the GHRO and the City Manager’s Regulations).

***Escalation of Fines for Repeat Violations***

SJMC section 1.15.40 provides authority for establishing administrative citation fine amounts and escalation of fines for repeat violations of the same code section. The table below provides the escalated fines for each repeat violation:

10.32.240	Enforcement – compliance with Gun Harm Reduction Ordinance	
	First violation	\$250.00
	Second violation within a one-year period from the date of a previous violation	\$500.00
	Third and subsequent violations within one year from the date of a previous violation	\$1,000.00

**CONCLUSION**

The administrative citation process allows for the enforcement of the GHRO. The recommended fine amounts are proportional to the violation type and severity and are being set in accordance with amounts set for many other municipal code violations. San José Police Department will address violations to ensure compliance with the GHRO.

**EVALUATION AND FOLLOW-UP**

Staff will conduct additional education and outreach to gun owners following a revision of the City Manager’s Regulations for the GHRO, which shall establish the operative dates for both the liability insurance requirement and the payment date for the annual gun harm reduction fee.

**CLIMATE SMART SAN JOSE**

The recommendation in this memorandum does not affect Climate Smart San José’s energy, water, or mobility goals.

## **PUBLIC OUTREACH**

The Administration will conduct a public outreach campaign to inform gun owners and prospective gun owners of the insurance requirement and annual gun harm reduction fee requirement following a change in the City Manager's Regulations for the GHRO in the City of San José.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, San José Police Department, Finance Department, and City Manager's Budget Office.

## **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

## **FISCAL/POLICY ALIGNMENT**

There are no immediate fiscal implications associated with the actions recommended in this memorandum.

### **Gun Harm Reduction Fines**

It is anticipated that January 2023 would be the earliest that enforcement efforts could begin on the GHRO; enforcement is dependent on the City Manager issuing regulations and updating the operative dates for the various actions required of gun owners. Therefore, any collection of fines is anticipated to be minimal in the first year of implementation (fiscal year 2022-2023). The Administration is still analyzing the full cost of implementation and will bring back recommendations for future budget action if required.

### **Cruising Fines**

The impact of no longer receiving revenue from infractions associated with cruising is expected to be minimal and does not require budgetary action.

HONORABLE MAYOR AND CITY COUNCIL

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**CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.



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For questions, please contact Nora Chin, Assistant to the City Manager, at [nora.chin@sanjoseca.gov](mailto:nora.chin@sanjoseca.gov).