Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 16, 1994

Honorable Betty Denton
State Representative
Texas House Of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 94-022

Re: Whether a city council may adopt an ordinance making the failure to return library items within 40 days after the due date a class C misdemeanor, punishable by a fine of up to $200 (ID# 18193)

Dear Representative Denton:

You have asked whether a city council may adopt an ordinance making the failure to return library items within 40 days after the due date a class C misdemeanor, punishable by a fine of up to $200. As a general rule, municipalities have the authority to enact ordinances, "not contrary to the Constitution of the State, for the good government, peace and order of the City and the trade and commerce thereof." Local Gov't Code § 51.001 (as amended by Acts 1987, 70th Leg., ch. 680, § 2, at 2535). Violations of such regulations enacted for public safety and health purposes may be punishable by fines up to $2,000, but fines for violations of other kinds of ordinances are limited to $500. *Id.* § 54.001. Thus, the maximum fine posed in your question is within the limits established in the code.

Just as ordinances may not contravene the state constitution, neither may they contravene state law. *City of Wink v. Griffith Amusement Co.*, 100 S.W.2d 695 (Tex. 1937). Similarly, ordinances may not contravene the charter of the city, if it has one. *Wilder v. American Produce Co.*, 160 S.W.2d 519 (Tex. 1941). We find no constitutional or statutory provisions that would be offended by such an ordinance. The attorney general does not construe questions regarding possible conflicts between a city charter and a city ordinance.

S U M M A R Y

A city council may enact a municipal ordinance making the failure to return overdue library books a class C misdemeanor, punishable by a fine of up to two hundred dollars.

Yours very truly,

Rick Gilpin
Deputy Chief
Opinion Committee