

## **ORDINANCE NO. 24-012**

**Ordinance Of The City Council Of The City Of Emeryville Repealing And Replacing Various Municipal Code Provisions To Eliminate Or Modify Criminal Penalties, Identified As “Group III Amendments;” Repealing Chapter 2 (“Advertising”) And Chapter 8 (“Gas, Water And Electric Meters”) Of Title 5 (“Public Welfare”) In Their Entirety; CEQA Determination: Not A Project And Exempt Pursuant To CEQA Guidelines Sections 15378(b)(5) And 15061 (b)(3)**

**WHEREAS**, on July 21, 2020, the City Council requested that staff bring forward an agenda item to eliminate some or all of the criminal penalties in the EMC following national attention to these types of penalties and their potential to disproportionately impact people of color; and

**WHEREAS**, on September 15, 2020, staff presented an overview of the different code enforcement measures and tools previously used by the City, and the Council directed staff to bring back a list of all municipal code violations that were either subject to a criminal misdemeanor or infraction penalty (or both) and proposed recommendations for code enforcement penalties; and

**WHEREAS**, on December 15, 2020, the City Council reviewed staff’s recommendations on the removal or modification of criminal penalties for certain EMC violations; and

**WHEREAS**, on December 15, 2020, the City Council determined that criminal penalties for some EMC code violations had the potential to disproportionately impact people of color and were not necessary because other code enforcements options such as administrative citations, civil remedies, or other state Penal or other state law enforcement measures were available. Accordingly, the City Council agreed with staff’s recommendations to remove or lessen the criminal penalties imposed for certain EMC violations; and

**WHEREAS**, on December 12, 2022, the City Council approved and introduced Ordinance No. 22-015 (effective January 19, 2023), in which Section 1-2.01(e) and (f) of Chapter 2 of Title 1 of the Emeryville Municipal Code (“Penalty Provisions”) was amended to eliminate or modify whether a misdemeanor or infraction penalty was available for certain EMC violations; and

**WHEREAS**, on October 3, 2023, the City Council approved and introduced Ordinance No. 23-003, in which the penalties imposed for code violations in the revised Section 1-2.01(e) and (f) of Chapter 2 of Title 1 were made consistent with those penalties included within the specific code sections, identified as “Group I Amendments” as further described below: Chapters 1 (“Business Taxes”), 3 (“Taxes”) and 7 (“Permits and Licenses”) of Title 3 (“Finance”); Chapters 2 (“Emergency Plans”), 12 (“Emergency Medical Services”) of Title 4 (“Public Safety”); Chapters 1 (“Abandoned Vehicles”), 3 (“Air Pollution”), 11 (“Massage Establishments”), 16 (“Pawnbrokers, Secondhand Jewelry Dealers”), 17 (“Alarm Systems”), 18 (“Poolrooms”), 19 (“Streets and Sidewalks”), 25 (“Hotels, Motels and Lodging Hotels”), 28 (“Cannabis”), 35 (“Certified Farmers’ Markets”), and 36 (“Irrigation Water Waste Prohibition”) of Title 5 (“Public Welfare”); Chapters 1 (“Animals

Ordinance No. 24-012

Ordinance to Eliminate or Modify Criminal Penalties for Group III Code Violations

City Council Meeting | November 19, 2024

Page 2 of 4

and Fowl”), 2 (“Dangerous and Insanitary Conditions”), 4 (“Collection of Solid Waste and Recyclables”), 5 (“Laundries”), 7 (“Rodent Harborage”), 9 (“Water Wells”), 10 (“Weed and Refuse Abatement”), 11 (“Property Maintenance”), 12 (“Operation and Maintenance of Off-Street Parking Facilities”), and 14 (“Food Service Waste Reduction”) of Title 6 (“Sanitation and Health”); Chapters 3 (“Sidewalks, Curbs and Driveways”), 7 (“Standard Specifications for Public Works Construction”), and 10 (“Urban Forestry Ordinance”) of Title 7 (“Public Works”); Chapters 18 (“Seismic Hazard Identification and Mitigation Program for Unreinforced Masonry Buildings”), 21 (“Floodplain Management”), and 26 (“Construction and Demolition Waste Requirements”) of Title 8 (“Building Regulations”); Chapters 5 (“Planning Regulations”) and 7 (“Enforcement and Revocation”) of Title 9 (“Planning Regulations”); and Chapter 1 (“Rules and Regulations for the Emeryville Marina”) of Title 10 (“Tidelands”); (hereinafter referred to as “Group I Amendments”); and

**WHEREAS**, on June 4, 2024, the City Council approved and introduced Ordinance No. 24-007, in which further amendments were made to reduce or amend the criminal penalties imposed for code violations and to bring certain EMC Chapters into compliance with recent changes to state law, as set forth in the following municipal code chapters: Chapter 1 (“Penalty Provisions”) of Title 1; Chapters 6 (“Fireworks”), and 8 (“Vehicles for Hire”) of Title 4; Chapters 14.05 (“Interfering with Free Ingress and Egress - Willful and Malicious Obstruction of Public Rights-of-Way”), 21 (“Bingo Games”), 23 (“Community Events”), 24 (“Parks”), 27 (“Sidewalk and Street Vendors”), 34 (“Signs on Public Sidewalks”) and 35 (“Certified Farmers’ Markets”) of Title 5, hereinafter referred to as “Group II Amendments”, and also repealed Chapter 11 (“Electric Personal Assistive Mobility Devices”) of Title 4 (“Public Safety”); (hereinafter referred to as “Group III Amendments”); and

**WHEREAS**, on September 9, 2024, the City Council held a Study Session meeting to study further amendments to criminal penalties for code violations for Chapter 9 (“Intoxication”) of Title 5 (“Public Welfare”), and whether certain EMC Chapters may be repealed in their entirety (Chapter 2 (“Advertising”) and Chapter 8 (“Gas, Water and Electric Meters”) of Title 5 (“Public Welfare”); and

**WHEREAS**, based on the recommendations from the City Council at the September 9, 2024 Study Session, further amendments are necessary to Chapter 9 (“Intoxication”) of Title 5 (“Public Welfare”) to allow for an infraction remedy for the first violation of EMC Section 5.9.03 (“Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto”) and a misdemeanor penalty for a subsequent violation of Section 5.9.03 occurring within ninety (90) days of the first violation; and to amend the corresponding penalty charts in Chapter 2 (“Penalty Provisions”) of Title 1 (“General Provisions”) (hereinafter referred to as “Group III Amendments”), as indicated in Exhibits 1 and 2; and

**WHEREAS**, the sign regulations included in Chapter 2 (“Advertising”) of Title 5 (“Public Welfare”) are duplicative, outdated, and may conflict with other EMC sections regulating

Ordinance No. 24-012

Ordinance to Eliminate or Modify Criminal Penalties for Group III Code Violations

City Council Meeting | November 19, 2024

Page 3 of 4

signage, including Article 16 of Title 9 (“Sign Ordinance”), Chapter 34 of Title 5 (“Signs on Public Sidewalks”), EMC 5-35.06 (“Signs for Certified Farmers’ Markets”) and Chapter 15 of Title 8 (“Signs Adjacent to Landscaped Freeways”), and is no longer necessary for enforcement; and

**WHEREAS**, as the Penal Code Section 498 provides that anyone who tampers with a utility meter is subject to a misdemeanor, Chapter 8 (“Gas, Water and Electric Meters”) of Title 5 (“Public Welfare”) is duplicative and no longer necessary for enforcement; and

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF EMERYVILLE HEREBY ORDAINS AS FOLLOWS:**

**SECTION ONE. PURPOSE AND INTENT**

The purpose and intent of this Ordinance is to repeal and replace language within the various EMC sections as set forth in the Group III Amendments, and to repeal Chapters 2 (“Advertising”) and 8 (“Gas, Water and Electric Meters”) of Title 5 of the EMC in its entirety.

**SECTION TWO. REPEALING AND REPLACING VARIOUS EMERYVILLE MUNICIPAL CODE SECTIONS TO ELIMINATE OR MODIFY THE CRIMINAL AND ADMINISTRATIVE PENALTIES, AS IDENTIFIED AS “GROUP III AMENDMENTS.”**

The EMC Chapters, identified herein as the Group III Amendments, are hereby repealed as indicated by ~~strikeout~~ and replaced with language marked in **bold**, as indicated in Exhibits 1 and 2, attached hereto and made a part hereof.

**SECTION THREE. REPEALING CHAPTER 2 (ADVERTISING) OF TITLE 5 (PUBLIC WELFARE) IN ITS ENTIRETY.**

Chapter 2 (“Advertising”) of Title 5 (“Public Welfare”) is hereby repealed in its entirety.

**SECTION FOUR. REPEALING CHAPTER 8 (GAS, WATER AND ELECTRIC METERS) OF TITLE 5 (PUBLIC WELFARE) IN ITS ENTIRETY.**

Chapter 8 (“Gas, Water and Electric Meters”) of Title 5 (“Public Welfare”) is hereby repealed in its entirety.

**SECTION FIVE. CEQA DETERMINATION**

The City Council finds that adoption of this Ordinance is not a project as defined by the California Environmental Quality Act (“CEQA”) because it is an organizational or administrative activity that will not result in direct or indirect physical changes to the environment pursuant to CEQA Guidelines 15378(b)(5) and 15061(b)(3).

**SECTION SIX. SEVERABILITY**

Ordinance No. 24-012  
Ordinance to Eliminate or Modify Criminal Penalties for Group III Code Violations  
City Council Meeting | November 19, 2024  
Page 4 of 4

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses, or phrases.

**SECTION SEVEN. EFFECTIVE DATE**

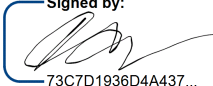
This Ordinance shall take effect thirty (30) days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 33693.

**SECTION EIGHT. CODIFICATION**


Sections Two, Three and Four of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Five, Six and Seven shall not be so codified.

This Ordinance was **INTRODUCED AND FIRST READ** by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 15, 2024, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, November 19, 2024, by the following vote:

AYES:	<u>5</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters, Kaur and Priforce
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

Signed by:  
  
73C7D1936D4A437...  
MAYOR

ATTEST:  
  
9AF9F67CE0284D8...  
CITY CLERK

APPROVED AS TO FORM:  
  
2C934D02DB55467...  
CITY ATTORNEY

## CHAPTER 9.

### INTOXICATION

Sections:

- 5-9.01 Public Places
- 5-9.02 Possession of Open Alcoholic Beverage Container
- 5-9.03 Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto

#### **5-9.01 Public Places.**

It shall be unlawful for any person to appear in any public place or place open to the public view in an intoxicated or drunken condition.

(Sec. 1, Ord. 445, thereafter codified in Sec. 15.8, E.T.C.)

#### **5-9.02 Possession of Open Alcoholic Beverage Container.**

- (a) Prohibited Conduct. No person in possession of any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or has a seal broken, or the contents of which have been partially removed, shall enter or remain on the posted premises of any retail off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code. Any person violating this provision shall be guilty of an infraction.
- (b) Posting of Signs. All retail package off-sale alcoholic beverage licensees licensed to operate in the City of Emeryville pursuant to Division 9 of the Business and Professions Code shall post such licensed premises with permanent signs which shall include language stating that possession of any opened alcoholic beverage container on the premises or on the adjacent parking lot or public sidewalk is prohibited by law. Signs required to be posted pursuant to this section shall be clearly visible to:
  - (1) Patrons of the licensed premises;
  - (2) Persons using the parking lot immediately adjacent to the licensed premises; and
  - (3) Persons on the public sidewalk immediately adjacent to the licensed premises.
- (c) Violations – Damaged Signs. Any licensee who does not acquire, post and maintain signs pursuant to this provision is guilty of an infraction. The signs shall be purchased by the licensee from the Office of Public Works, at the City Administrative Offices. Signs damaged, stolen or otherwise removed must be reported by the licensee within three (3) working days from the date of damage or removal to the Office of Public Works. Signs damaged, stolen or otherwise removed must be replaced by the licensee within ten (10) working days from the date of damage or removal.
- (d) Definitions.
  - (1) “Posted premises” means those premises which are subject to licensure under any retail off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises, and any public sidewalk immediately adjacent to the licensed premises which are posted with notices pursuant to subsection (b).
  - (2) “Parking lot immediately adjacent to the licensed premises” means any parking lot which is contiguous to the licensed premises and is utilized by the patrons of the licensed premises.

(Sec. 3, Ord. 95-003, eff. March 9, 1995)

#### **5-9.03 Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto.**

- (a) No person shall consume any alcoholic beverage:

- (1) On any public street, sidewalk, or alley, highway, City park, City recreation area, City open space, playground; or
  - (2) Within fifty (50') feet of any public street, sidewalk, or alley, highway, City park, City recreation area, City open space, playground while on private property open to public view without the permission of the owner, his agent, or the person in lawful possession thereof.
- (b) This section shall not apply to persons participating in events for which a short-term encroachment permit has been granted as provided in this Code, or a park use permit issued by the Office of Public Works, Marina Division, allowing for use of alcoholic beverages under specified conditions, and which shall contain the following conditions:
- (1) Alcoholic beverages consumed at such events or entertainment shall not be in glass or metal containers except as specified in the permit;
  - (2) Sponsors of such events shall comply with all State laws relating to the sale of alcoholic beverages;
  - (3) Sponsors of special events or entertainment shall provide toilet facilities;
  - (4) Sponsors shall comply with all other conditions as required by rules promulgated by the Chief of Police;
  - (5) Sponsors shall obtain special event insurance coverage and provide proof of such coverage when applying for a permit.
- (c) Penalties. Any person who has been found to be in violation of this section shall be subject to an infraction penalty under Chapter 2 of Title 1 of this code. Any subsequent violation of this section that occurs within ninety (90) days of the first violation shall be subject to a misdemeanor penalty under Chapter 2 of Title 1 of this code.

(Sec. 4, Ord. 95-003, eff. March 9, 1995)

## CHAPTER 2.

### PENALTY PROVISIONS

**Sections:**

- 1-2.01 Violations, Misdemeanors or Infractions
- 1-2.02 Prohibited Acts
- 1-2.03 Imposition of Penalties
- 1-2.04 Determination of Punishment
- 1-2.05 Place of Confinement
- 1-2.06 Fees, Charges, Licenses and Taxes Made a Civil Debt
- 1-2.07 Violations of Administrative Provisions
- 1-2.08 Public Nuisance
- 1-2.09 Continuing Violations
- 1-2.10 Alternate Civil Remedies

**1-2.01 Violations, Misdemeanors or Infractions.**

(a) Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code, or the provisions of any code adopted by reference by this Code, is committed, continued, maintained, or permitted by such person and shall be punishable accordingly.

(b) Any person convicted of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of not more than one hundred dollars (\$100.00), for a second conviction within a period of one (1) year by a fine of not more than two hundred dollars (\$200.00), and for a third or any subsequent conviction within a period of one (1) year by a fine of not more than five hundred dollars (\$500.00).

(1) Pursuant to Government Code Section 36900, a violation of a building and safety code determined to be an infraction is punishable by a fine not exceeding one hundred thirty dollars (\$130.00) for the first violation, a fine not exceeding seven hundred dollars (\$700.00) for a second violation of the same ordinance within one (1) year, and a fine not exceeding one thousand three hundred dollars (\$1,300.00) for each additional violation of the same ordinance within one (1) year of the first violation; a fine not exceeding two thousand five hundred dollars (\$2,500.00) for each additional violation of the same ordinance within two (2) years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

(2) Any infraction fines levied as result of a second or more violations of the same ordinance within one (1) year may be entitled to a hardship waiver. Any person seeking a hardship waiver must submit a written request within fifteen (15) days of issuance of the fine to the City Clerk's office to be reviewed by the City Manager. The hardship waiver request must include evidence that the responsible party has made a bona fide effort to comply with the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party, including evidence that the responsible party is enrolled in a State of California public assistance program, such as Medi-Cal. The City Manager shall issue a written determination on the hardship waiver request to be served by regular mail on the requesting party. The City Manager's determination on the hardship waiver is final and not subject to further appeal.

(c) In addition to the penalties provided by this section, any condition caused, maintained, or permitted to exist in violation of any of the provisions of this Code, or the provisions of any Code adopted by reference by this Code, or any subdivision, building, wiring, plumbing or other similar activity in violation of the provisions of this Code shall be deemed a public nuisance and may be summarily abated by the City in a civil action, and each day such condition continues shall be a new and separate offense.

Emeryville Municipal Code  
CHAPTER 2. PENALTY PROVISIONS

Page 2/5

(d) No person shall violate any provision or fail to comply with any of the requirements of this Code. In addition to any other legal remedies which may be pursued by the City, any violation of this Code may be subject to administrative citation as provided in Chapter 7 of this title.

(e) Notwithstanding any other provision of this Code, any person violating or failing to comply with only the following provisions of this Code shall be guilty of a misdemeanor:

Title	Chapter	Article/ Section	Chapter Description
4	2	Entire	Emergency Plans
4	11	Entire	Electric Personal Assistive Mobility Devices (EPAMD)
5	5	Entire	Card Rooms
5	9	.03 (For a subsequent violation occurring within ninety (90) days of first violation)	Intoxication; Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto
5	20	2	Weapons; Saturday Night Special/Junk Gun Sales Prohibition
5	21	.12	Bingo Games; Profits; Separate Accounts; Records; Violations; Penalties
5	30	5-30.1.18(a)	Regulation of Firearms Dealers
6	1	1.107	Animals and Fowl; Keeping of Vicious Animals Within City Prohibited
6	13	Entire	Stormwater Treatment Design, Management and Discharge Control Program
7	1	Entire	Datum Plane
7	5	.13	Grading; False Statements and Data
7	8	Entire	Wastewater Collection System
9	6	1.105	Subdivisions; Prohibitions

(f) Notwithstanding any other provision of this Code, any person violating or failing to comply with only the following provisions of this Code shall be guilty of an infraction:

Title	Chapter	Article/ Section	Chapter Description
4	2	Entire	Emergency Plans
4	5	Entire	Fire Code
4	6	Entire	Fireworks
4	8	Entire	Vehicles for Hire; Taxicabs;



Emeryville Municipal Code  
CHAPTER 2. PENALTY PROVISIONS

Title	Chapter	Article/ Section	Chapter Description
			Limousines
4	10	Entire	Parking Meters
5	4	Entire	Cabarets and Dances
5	9	Entire (Except for subsequent violation of Sec. 5.9.03 occurring within ninety (90) days is subject to misdemeanor)	Intoxication; Possession of Open Alcohol Beverage Container; Consumption of Alcoholic Beverages on Public Streets or on Private Property Adjacent Thereto
5	13	Entire	Noise
5	14	Entire	Obstructions to Streets and Sidewalks
5	20	Entire	Weapons
5	21	Entire (except Section 5-21.12)	Bingo Games
5	23	Entire	Community Events
5	24	Entire	Parks
5	29	Entire	Smoking Pollution Control
5	30	Entire	Regulation of Firearms
5	34	Entire	Signs on Public Sidewalks
5	38	Entire	Skateboard Facilities
6	2	.02 and .03	Dangerous and Insanitary Conditions; Littering and Accumulations: Public Places, Parks and Schools
6	6	Entire	Obstructions to Watercourses
6	13	Entire	Stormwater Treatment Design, Management, and Discharge Control Program
7	2	Entire	Excavations and Encroachments in the Public Right-of-Way
7	8	Entire	Wastewater Collection System
8	1	Entire	Building Code
8	2	Entire	Historical Building Code
8	3	Entire	Existing Building Code
8	4	Entire	Residential Code
8	5	Entire	Mechanical Code

Emeryville Municipal Code  
CHAPTER 2. PENALTY PROVISIONS

Title	Chapter	Article/ Section	Chapter Description
8	7	Entire	Electrical Code
8	8	Entire	Green Building Standards Code
8	9	Entire	Property Maintenance Code
8	11	Entire	Dangerous Buildings Code
10	1	Entire	Rules and Regulations for the Emeryville Marina
10	1 and 2	Entire	Tidelands: Rules and Regulations for the Emeryville Marina; Activities in the Tidelands Within the City of Emeryville

(g) The following officers and their subordinates designated in writing to the City Manager shall have and are hereby invested with the authority to cite and/or arrest any person who violates the provisions of this Code set forth in subsections (e) and (f) of this section:

**TITLE OF OFFICERS**

**Fire Chief**

**Chief Building Official**

**City Engineer**

**Police Officers**

**Community Preservation Officer**

**Director of Planning and Building**

(h) The Council shall have the power to designate by written order that particular officers or employees shall be authorized to enforce the provisions of this Code set forth in this section in addition to those officers enumerated in subsection (g) of this section. Officers or employees so designated shall have the authority to cite and/or arrest persons who violate any of said provisions.

(i) An officer or employee designated pursuant to subsection (g) or (h) of this section shall be determinative of the enforcement powers of such officer or employee, notwithstanding a designation of a different officer or employee within the particular provision of this Code referred to in subsection (g) of this section.

(Sec. 1.7, E.T.C.; Ord. 81-04, eff. Nov. 19, 1981; Ord. 82-09, eff. June 1, 1982; Ord. 91-06 § 2, eff. Sept. 5, 1991; Ord. 94-011 §§ 2-4, eff. Sept. 4, 1994; Ord. 94-012 § 2, eff. Oct. 20, 1994; Ord. 95-003 § 2, eff. Mar. 9, 1995; Secs. 4, 5, 6, Ord. 99-011, eff. Nov. 6, 1999; Sec. 3, Ord. 02-010, eff. July 6, 2002; Secs. 3, 4, Ord. 03-006, eff. June 19, 2003; Sec. 2, Ord. 04-008, eff. July 15, 2004; Sec. 3, Ord. 06-001, eff. Mar. 9, 2006; Sec. 3, Ord. 06-005, eff. May 18, 2006; Sec. 4, Ord. 06-007, eff. Aug. 17, 2006; Sec. 3 (part), Ord. 06-021, eff. Mar. 1, 2007; Sec. 3, Ord. 07-004, eff. May 3, 2007; Sec. 3, Ord. 07-015, eff. Jan. 3, 2008; Sec. 3, Ord. 08-006, eff. Oct. 2, 2008; Sec. 3, Ord. 09-003, eff. July 16, 2009; Sec. 3, Ord. 09-004, eff. July 16, 2009; Sec. 3, Ord. 10-019, eff. Jan. 20, 2011; Sec. 4, Ord. 11-005, eff. June 2, 2011; Sec. 4, Ord. 11-011, eff. Nov. 17, 2011; Sec. 4, Ord. 12-001, eff. Feb. 16, 2012; Sec. 8, Ord. 12-003, eff. Mar. 8, 2012; Sec. 4, Ord. 12-005, eff. Mar. 8, 2012; Sec. 2, Ord. 14-001, eff. Mar. 6, 2014; Sec. 4, Ord. 15-005, eff. Aug. 20, 2015; Sec. 3, Ord. 15-007, eff. Oct. 1, 2015; Sec. 3, Ord. 17-011, eff. Nov. 2, 2017; Sec. 2 (Exh. 1), Ord. 22-015, eff. Jan. 19, 2023; Sec. 2, Ord. 24-007, eff. July 18, 2024)

**1-2.02 Prohibited Acts.**

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, maintaining, or concealing the fact of such act or omission.

(Amended by Ord. 81-04, eff. Nov. 19, 1981)

**1-2.03 Imposition of Penalties.**

The provisions of this Code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence to determine and impose the punishment described.

**1-2.04 Determination of Punishment.**

Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

**1-2.05 Place of Confinement.**

Every person found guilty of violating any of the provisions of this Code and sentenced to imprisonment shall be imprisoned in the County Jail.

**1-2.06 Fees, Charges, Licenses and Taxes Made a Civil Debt.**

The amount of any fee, service charge, utility charge, license, or tax of any nature whatsoever imposed by any provision of this Code shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee, service charge, utility charge, license or tax, together with any penalties applicable thereto as prescribed by this Code. The remedy prescribed by this section shall be cumulative, and the use of an action to collect such an amount as a debt by civil action shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

**1-2.07 Violations of Administrative Provisions.**

The violation of any administrative provision of this Code by any officer or employee of the City may be deemed a failure to perform the duties or to observe the rules or regulations of the department, office, or board within the meaning of the rules and regulations of the City or of the civil service regulations of the City.

**1-2.08 Public Nuisance.**

In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code shall be deemed a public nuisance and may be summarily abated as such by the City, and each day such condition continues shall constitute a new and separate offense.

(Sec. 2 (part), Ord. 16-005A, eff. Nov. 17, 2016)

**1-2.09 Continuing Violations.**

It shall constitute a new and separate offense for each and every day during any portion of which a violation of, or failure to comply with, any provision or requirement of this Code is committed, continued or permitted by any person and shall be punished accordingly.

(Sec. 2 (part), Ord. 16-005A, eff. Nov. 17, 2016)

**1-2.10 Alternate Civil Remedies.**

In addition to the penal provisions provided in this chapter, and completely separate therefrom and cumulative thereto, at the sole discretion of the City, the City may institute appropriate civil actions or proceedings in a court of competent jurisdiction for the abatement, removal and enjoinder of any condition or activity declared by this Code to be or found to be a public nuisance.

(Sec. 2 (part), Ord. 16-005A, eff. Nov. 17, 2016)