

CHART COMPARING PENALTIES

	Misdemeanor	Infraction	Administrative Fine Based on Current Emeryville Municipal Code
Definition	A crime and public offense. (Pen. Code § 16.)	A crime and public offense. (Pen. Code § 16.)	Monetary penalty associated with administrative citation for violation of municipal code.
Notice Requirements Prior to Citation	None.	None.	Must first issue a Notice of Violation at least seven days in advance of administrative citation and fine. (EMC § 1-7.04.)
Arrest	Yes, if the officer believes there is probable cause the individual committed a public offense in the peace officer's presence. (Pen. Code § 836(a).)	Yes, if the officer believes there is probable cause the individual committed a public offense in the peace officer's presence. (Pen. Code §§ 19.7; 836(a).)	No.
Release After Arrest	If the person does not demand to be taken before a magistrate, then released according to procedures in Penal Code § 835.5.	Yes, if individual fails to provide proof of identity, provide a fingerprint or sign a written promise to appear. (Pen. Code § 19.7; 853.6)	Not applicable.
Right to Public Defender	Yes.	No, unless arrested and no release. (Pen. Code § 19.6)	No.
Burden of Proof	Beyond a reasonable doubt.	Beyond a reasonable doubt. (Pen. Code § 19.7)	Substantial evidence in the record must support the administrative citation.
Due process	Right to jury trial.	Right to trial by judge.	Right to have hearing officer review, with judicial review either by small claims court or writ.
Appearance Requirement	A bench warrant may issue for failure to appear.	Alameda Superior Court issues fine.	No appearance is required, unless individual appeals administrative citation. Failure to appear may result in hearing officer upholding the citation.
Imprisonment	Not to exceed 6 months in county jail. (Pen. Code § 19)	No. (Pen. Code § 19.6.)	No.

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Fine	Not to exceed \$1000. (Pen. Code § 19.)	1st Offense - \$100 2 nd Offense - \$200 3 rd Offense - \$400 (Gov. Code § 36900(b); EMC § 1-2.01(b).)	1st Offense - \$100 2 nd Offense - \$200 3 rd Offense - \$400 (CC Resolution No. 18-39.)
Failure to Pay Fine	May be subject to imprisonment if fail to pay or inability to pay fine. (Pen. Code § 1205.)	May not be subject to imprisonment if true inability to pay and avails him/her/themselves of other options such as deferred payment date, installment payments, summary probation. If defendant has means to pay and willfully ignores requirement to pay, the Court may imprison defendant for violating Court order for payment. (Pen. Code § 1205.)	Fines are collected as civil debt. (EMC § 1-7.15(c).)
Impact on Probation	Conviction may result in revocation of parole or probation.	Conviction is not grounds for suspension, revocation, or denial of a license or revocation of parole or probation. (Pen. Code §§ 17(d); 19.8.)	None at this time.