

ORDINANCE NO. O-2019-20

AN ORDINANCE AMENDING CERTAIN CHAPTERS AND SECTIONS OF THE CODE OF ORDINANCES TO AMEND THE MAXIMUM PENALITIES TO BE IMPOSED BY THE MUNICIPAL COURT FOR MUNICIPAL ORDINANCE VIOLATIONS AND DECLARING AN EFFECTIVE DATE.

WHEREAS, recent changes to State law amended the maximum penalties that may be imposed by a municipal court; and

WHEREAS, the new law requires that the maximum jail sentence for municipal offenses be reduced from one year to three hundred sixty-four days or a fine in an amount not to exceed two thousand six hundred fifty dollars or both; and

WHEREAS, convictions that carry a penalty of one-year or more may trigger federal immigration action for offenders with otherwise legal immigrant status; and

WHEREAS, the legislature passed HB 19-1148 to address concerns and reduce risk of deportation and removal of those convicted of a lower level state and municipal crimes; and

WHEREAS, in order to bring the City Code into alignment with the current law, it is necessary to amend various chapters and sections of the Code that are impacted by this new legislation; and

WHEREAS, staff found other conflicting provisions within the Code regarding maximum penalties for adult offenses and is proposing amendments to make the Code uniform; and

WHEREAS, City Council supports these recommendations and finds the amendments to the Code appropriate; and

WHEREAS, a public hearing has heretofore been held before the City Council of the City of Durango, and the Council has determined, subsequent to said public hearing, that amendments to certain chapters and sections of the Code of ordinances amending maximum penalties imposed by the Municipal Court for

Municipal ordinance violations to comply with recent changes to State law, as set forth herein, are in the best interest of the citizens of the City of Durango; and

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. That Section 1-16 (a) and (b) of Chapter 1 of the Code of Ordinances of the City of Durango are hereby amended as follows:

Sec 1-16 General Penalty; continuing violations.

- (a) Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not to exceed two thousand six hundred fifty dollars (\$2,650.00) or imprisonment for a term not to exceed three hundred sixty-four (364) days, or by both such fine and imprisonment.
- (b) If the person convicted of a violation of any section of this Code under the age of eighteen (18) years, the penalty authorized by this section shall be limited to a fine not to exceed the sum of two thousand six hundred fifty dollars (\$2,650.00).

Section 2. That Sections 15-2, 15-6, and 15-52 of Article I of Chapter 15 of the Code of Ordinances are hereby amended to read as follows:

Sec. 15-2. Jurisdiction.

The municipal court hereby created shall have original, exclusive jurisdiction of all cases arising under the laws of the city with full power to carry the same into effect and to punish violations thereof by the imposition of such fines and penalties as in such laws provided. The court shall have power to compel attendance of witnesses and to punish for contempt of court by fine or imprisonment as provided in section 1-16 of the City Code and shall have all powers incident to a court of record in relation to same.

Sec. 15-6. Failure to respond to summons or subpoena.

Any person who shall fail to appear in response to any summons or subpoena served on him shall be guilty of a violation of this chapter and upon conviction shall be subject to the maximum penalties as provided in section 1-16 of the City Code.

Sec. 15-52. Penalties for failure to perform jury service.

A person summoned for jury service who fails to appear or to complete jury service as directed may be served with a summons, by registered or certified mail, return receipt requested, requiring him to appear or to complete jury service as directed. Should such person not appear in response thereto, he may be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons, he is guilty of criminal contempt and, upon conviction thereof, shall be subject to the maximum penalties as provided in section 1-16 of the City Code.

Section 3. That Section 16-16 of Chapter 16 of the Code is hereby deleted.

Section 4. That Section 19-58(b) of Chapter 15 of the Code is hereby deleted.

Section 5. That section 23-98 of Chapter 23 of the Code is hereby amended to read as follows:

Sec. 23-98. Penalties.

Any person who violates the provisions of this article by failure to pay the tax, to remit the proceeds thereof to the city, or to account properly for any tax proceeds pertaining thereto shall be subject to the maximum penalties as provided in section 1-16 of Chapter 1 of the Code, which penalties may be imposed for each violation of this article.

Section 6. That section 23-119 of Chapter 23 of the Code of Ordinances is hereby amended to read as follows:

Sec. 23-119. Penalties.

If any officer, agent or manager of a telephone company which is subject to the provisions of this article shall fail, neglect, refuse to make or file the annual statement of telephone exchange numbers as provided in section 23-113, the officer, agent, manager or person shall, on conviction thereof, be subject to the maximum penalties as provided in section 1-16 of the City Code, provided that each day after such statement shall become delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offence.

Section 7. That section 25-138 of Chapter 25 of the Code of Ordinances is hereby amended to read as follows:

Sec. 25-138. Violation; penalty.

Any person violating the terms of this article through the filing of a false, erroneous or fraudulent application for refund shall be guilty of a violation hereof and upon conviction therefor shall be subject to the maximum penalties, as provided in Section 1-16 of the City Code.

Section 8. That Section 26-62 (a) of Chapter 23 of the Code of Ordinances is hereby amended as follows:

Sec. 26-62. Penalties.

(a) Any person violating or failing to comply with any of the provisions of this division shall, upon conviction therefor, be subject to the maximum penalties as provided in section 1-16 of the City Code.

Section 9. The violation of any Codes adopted by reference in the City Code of Ordinances, including but not limited to, the Model Traffic Code, the International Fire and Building Codes, shall be subject to the maximum penalties as provided in section 1-16 of the City Code.

Section 10. This ordinance shall become effective ten days after its passage and final publication as provided by law.

