

Introduced by: Assistant City Manager Chief Jackson

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF BERKELEY; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HERE IN EXPRESSLY PROVIDED; PROVIDING FOR THE PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

- Section 1.** That pursuant to Section 71.943 of the Revised Statutes of Missouri, the codification of ordinances, as set out in Titles I through VI, each inclusive, of the "Code of Ordinances of the City of Berkeley" is hereby adopted and enacted as the "Code of Ordinances of the City of Berkeley"; which shall supersede all other general and permanent ordinances of the City passed on or before June 06, 2022, to the extent provided in Section 3 hereof.
- Section 2.** That all provisions of such Code shall be in full force and effect from and after the effective date of this ordinance as set forth herein.
- Section 3.** That all ordinances of a general and permanent nature of the City adopted on final passage on or before June 06, 2022, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this ordinance, except those which may be specifically excepted by separate ordinance, and except the following which are hereby continued in full force and effect, unless specifically repealed by separate ordinance:
- a. Ordinances promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds or notes of the City or any other evidence of the City's indebtedness, or authorizing any contract or obligation assumed by the City;
 - b. Ordinances levying taxes or making special assessments;
 - c. Ordinances appropriating funds or establishing salaries and compensation, and providing for expenses;
 - d. Ordinances granting franchises or rights to any person, firm or corporation;
 - e. Ordinances relating to the dedication, opening, closing, naming, establishment of grades, improvement, altering, paving, widening or vacating of streets, alleys, sidewalks or public places;

- f. Ordinances authorizing or relating to particular public improvements;
- g. Ordinances respecting the conveyances or acceptance of real property or easements in real property;
- h. Ordinances dedicating, accepting or vacating any plat or subdivision in the City or any part thereof, or providing regulations for the same;
- i. Ordinances annexing property to the City;
- j. All zoning and subdivision ordinances not specifically repealed and not included herein;
- k. Ordinances establishing TIF districts or redevelopment districts;
- l. Ordinances relating to traffic schedules (i.e., stop signs, parking limits, etc.);
- m. All ordinances relating to personnel regulations (i.e., pensions, retirement, job descriptions and insurance, etc.);
- n. Ordinances authorizing the establishment of industrial development corporations;
- o. Ordinances establishing tax rates for the City.

That the repeal provided for in this Section shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance, which is repealed by this ordinance.

That the repeal provided for in this Section shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such date.

Section 4. That any and all additions and amendments to such Code when passed in such form as to indicate the intention of the City Council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Berkeley" shall be understood and intended to include such additions and amendments.

Section 5.

- a. **Standard Penalty.** Any person violating any provision of this Code, or any rule or regulation adopted or issued in pursuance thereof, or any provision of any Code adopted herein by reference is guilty of a misdemeanor or ordinance violation; and upon conviction, unless another penalty is specifically provided, shall be subject to a fine as set by the Municipal Judge.

- b. Each Day A Violation. Each act of violation and every day upon which a violation occurs or continues constitutes a separate offense.
- c. Applicability. The penalty provided by this Section applies to the amendment of any Section of this Code or any Code adopted herein by reference whether or not such penalty is re-enacted in the amendatory ordinance.
- d. Reference To Sections. Reference to any Section of this Code shall be understood to also refer to and include the penalty Section relating thereto, unless otherwise expressly provided.
- e. Failure of Officers to Perform Duties. The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided, or such act is declared to be unlawful.
- f. All persons convicted and sentenced by the Municipal Judge for violation of any ordinance or part thereof, whether the punishment be by fine or imprisonment or both, may be put to work and perform labor on the said public streets, highways and alleys or other public works or buildings of the City.

Section 6. That in case of the amendment by the City Council of any Section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance shall apply to the Section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another Section in the same Chapter, the penalty so provided in such other Section shall be held to relate to the Section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the City Council to make the same part of such Code when the same have been printed or reprinted in page form and to extract from such Code all provisions which from time to time may be repealed by the City Council. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That it shall be unlawful for any person to change or alter by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Berkeley to be misrepresented thereby. Any person violating this Section shall be punished as provided in Section 5 of this ordinance.

Section 9. It is hereby declared to be the intention of the City Council that the Sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or Section of this ordinance or the Code hereby adopted shall be declared unconstitutional or

otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this ordinance or the Code hereby adopted.

Section 10. This Ordinance shall be in full force and effective from and after the date of its passage.

1st Reading this _____ day of _____ 2022

2nd Reading this _____ day of _____ 2022

3rd Reading, PASSED and APPROVED, this _____ day of _____ 2022

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman Williams	Aye ____	Nay ____	Absent ____	Abstain ____
Councilman Hoskins	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman Anthony	Aye ____	Nay ____	Absent ____	Abstain ____
Councilman Hindeleh	Aye ____	Nay ____	Absent ____	Abstain ____
Councilwoman-at-Large Crawford-Graham	Aye ____	Nay ____	Absent ____	Abstain ____
Mayor Deinbo	Aye ____	Nay ____	Absent ____	Abstain ____

City of Berkeley
2021 Statutory Updates Incorporated During Supplement # 27

The following Sections of the Code have been updated with the 2021 statutory material. All revised Sections will be in effect following the City's adoption of the Code.

Section/Subsection of the Code	Description of the Revision Based on State Law Change	Pursuant to RSMo. Section
127.150	The following wording has been removed from Subsection (A) of this Section: "and persons seeking permits to purchase or possess a firearm".	610.120
140.120	Change "may, without a warrant, make arrest" to "shall, without a warrant, make arrest" to bring into alignment with 2016 Statutory amendments.	
140.251	A new Section has been added regarding charges and fees for police records.	479.162
210.830	Fixed CFR reference	
210.840	In Subsection (B)(7) of this Section, "Board of Probation and Parole" has been revised to read "Parole Board."	571.030
210.940	A new Section has been added regarding the use of laser pointers.	574.110
210.1670	Updated to align with Statutes	
210.1820	Corrected RSMo. reference	
300.020	<p>The definition of "electric bicycle" has been added to this Section.</p> <p>Provisions regarding electric bicycles have been added to the definitions of "all-terrain vehicle," "motorcycle," "motorized bicycle," "motor tricycle," "motor vehicle," and "vehicle."</p> <p>Additional organizations whose vehicles may be considered an "emergency vehicle" have been added to the definition of "emergency vehicle."</p>	300.010, 301.010, 302.010, 304.022
310.080	A new Subsection has been added setting out additional organizations whose vehicles may use fixed, flashing, or rotating lights when responding to certain emergencies.	307.175

Section/Subsection of the Code	Description of the Revision Based on State Law Change	Pursuant to RSMo. Section
340.210	Subsection (A) of this Section has been revised to include provisions regarding Head Start buses. The remainder of this Section has been updated to better reflect the statutory provisions.	304.050
365.040 and 365.050	Clean up typo from 2018 Statutory update	
380.013	A new Section has been added regarding exceptions to certain equipment and light provisions.	307.025
Chapter 385	The title of this Chapter has been changed to "Bicycles, Motorized Bicycles, and Electric Bicycles" to reflect the addition of statutory provisions regarding electric bicycles to this Chapter.	
385.010	Provisions regarding electric bicycles have been added to the definition of "motorized bicycle."	307.180
385.040	Provisions regarding electric bicycles have been added to this Section.	307.188
385.058	A new Section has been added regarding electric bicycle regulations.	307.194
395.140	Clean up statutory language from the 2020 Statutory update	
600.020	The provisions regarding Sunday sales in Subsections (B)(1), (B)(4), and (C) have been updated to allow sales between the hours of 6:00 A.M. on Sundays and 1:30 A.M. on Mondays.	311.200, 311.293
600.029	A new Section has been added regarding the sale of sale of retailer-packaged alcoholic beverages to customers for off-premises consumption.	311.202