

MEMORANDUM

February 23, 2022

TO: Mayor John P. Kahl and Members of the City Council

FROM: Scott A. Brunton and Austin L. Nichols, City Attorney's Office

SUBJECT: Ordinance Amending Code Provisions Regarding Penalties for Ordinance Violations and Allowing Court Supervision

DISCUSSION:

Supreme Court of Illinois Rule 579(b) allows courts to enter a judgment for court supervision regarding ordinance violations provided that court supervision is permitted by city ordinance. The City Code is currently limited to fines and does not permit court supervision. The City has been seeking court supervision in a limited number of cases involving juveniles and other situations when appropriate, but the City Code needs to be updated to comply with the requirements of Supreme Court Rule 579.

This Ordinance revises the City Code to comply with Supreme Court Rule 579 and allows the City to seek court supervision in ordinance violation (OV) cases involving juveniles and other OV cases when deemed appropriate.

RECOMMENDATION:

Approval of this Ordinance.

ORDINANCE NO. 4635

**AN ORDINANCE AMENDING TITLE 10, CHAPTER 1, SECTION 1.4
OF THE EAST PEORIA CITY CODE AND RELATED CODE PROVISIONS
PERTAINING TO PENALTIES FOR ORDINANCE VIOLATION CASES**

WHEREAS, Supreme Court of Illinois Rule 579(b) permits courts to impose court supervision in ordinance violation cases, in addition to any fine imposed, provided that a court supervision disposition is permitted by city ordinance; and

WHEREAS, the City of East Peoria hereby finds that it is in the best interests of the City to amend the general penalties provisions of the City Code regarding ordinance violations to allow for court supervision in accordance with Supreme Court Rule 579(b);

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. Title 10, Chapter 1, Section 1.4 of the City Code of the City of East Peoria is hereby amended as follows (additions are indicated by underline; deletions by ~~strikeout~~):

10-1-1.4. Penalties.

(a) Unless otherwise specifically provided in this chapter, violations of any provision thereof shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).

(b) The court may, without entering a judgment of guilty, place such person under court supervision for any period not exceeding one (1) year. If the person completes the period of supervision without violating the conditions imposed by the court, the court shall discharge the defendant from supervision and dismiss the charge against him. If the person, while under court supervision, is convicted of any criminal offense or municipal violation in any jurisdiction and the state's attorney or municipal prosecutor, as the case may be, moves for termination of supervision, the court shall terminate the supervision and enter a judgment of guilty on the plea or finding.

Section 2. Title 1, Chapter 1, Section 14 of the City Code of the City of East Peoria is hereby amended as follows (additions are indicated by underline; deletions by ~~strikeout~~):

1-1-14 – General Penalty.

(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 exceeding seven hundred fifty dollars (\$750.00). Court supervision may be imposed for certain violations in accordance with Section 10-1-1.4 of this Code. In addition to or in lieu of a fine, any person convicted of violating any section of this Code may be required to perform a reasonable amount of public service work, or make restitution for the actual losses, damages, or injuries proximately caused by the conduct of the offender. A separate offense shall be deemed committed for each day any violation of any provision of this Code or of any ordinance shall continue.

(b) *Administrative ticket program.*

(1) *Definition.* "Administrative ticket" is defined as a ticket utilized by authorized city officers as defined in subsection (b)(2) below, to notify an individual of a violation of the Code of the City of East Peoria in lieu of a notice to abate, notice to appear, arrest and complaint.

(2) *Use.* Administrative tickets may be used for violations of the East Peoria City Code or City Ordinances and may be issued by police officers and other authorized city officers including, but not limited to, building inspectors, electrical inspectors, code enforcement officers, health inspectors and fire inspectors. Administrative tickets shall not be used for violations of any ordinance comparable to those offenses specified in Supreme Court Rule 551 of the Illinois Compiled Statutes, as now in force or hereafter amended.

(3) *Procedure.* At the discretion of the officer or agent of the City of East Peoria authorized to issue such administrative tickets, a ticket may be used in lieu of or in addition to a notice to abate, notice to appear, arrest and complaint using the following procedure:

(a) When an administrative ticket is issued by an authorized city officer, the person receiving such ticket shall be placed on notice that a violation of the East Peoria City Code has occurred and shall have seven (7) days from the date of the issuance of the ticket to

remedy the violation. If the recipient of the ticket is able to demonstrate to the proper authorized officer that the violation has been remedied and the individual is in compliance with the East Peoria City Code with such seven-day period, no further action shall be taken by the City of East Peoria with regard to enforcing the Code violation.

- (b) If the ticket recipient does not remedy the violation within the seven-day period described above, the administrative ticket (which serves as the notice to appear and complaint) shall be filed with the Clerk of the Circuit Court in Tazewell County and shall be prosecuted to the extent permitted by law. The defendant shall then be subject to the fines and penalties as set forth in the applicable provisions of this Code, including court costs.
- (c) Ordinance violations subject to the administrative ticket program. The administrative ticket procedure outlined above shall be utilized in enforcement of the following titles of the East Peoria City Code:
 - 1. Title 4: Building Regulations.
 - 2. Title 5: Zoning Regulations.
 - 3. Title 7: Public Ways and Property.
 - 4. Title 9: Health and Sanitation.

Section 3. This Ordinance is hereby ordered to be published in pamphlet form by the East Peoria City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 4. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS _____ DAY OF _____, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel