

# MEMORANDUM

July 14, 2022

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

FROM: Scott A. Brunton, City Attorney

SUBJECT: Ordinance Amending City Code to Allow Administrative Adjudication of Police Regulations (Title 10 of the City Code)

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## DISCUSSION:

The Police Department seeks to establish an administrative citation procedure for enforcing and prosecuting certain provisions of the City's Police Regulations set forth in Title 10 of the East Peoria City Code. Division 2.2 of Article 1 of the Illinois Municipal Code allows the City of East Peoria, as a non-home rule municipality, to enforce municipal ordinance violations through an administrative process provided that the violations are not a building code violation or an offense under the Illinois Vehicle Code or similar offense governing the movement of vehicles.

Currently, the East Peoria City Code provides an administrative procedure for enforcing and prosecuting violations of Title 4 (Building Regulations), Title 5 (Zoning Regulations), Title 7 (Public Ways and Property), and Title 9 (Health and Sanitation) of the City Code, as authorized under Division 31.1 of Article 11 of the Illinois Municipal Code.

This Ordinance creates new Chapter 13 of Title 1 in the City Code setting up an administrative citation procedure for enforcing and prosecuting violations of provisions of the City's Police Regulations set forth in Title 10 of the City Code. In compliance with the Illinois Municipal Code, this new administrative citation procedure will be set up independent from the current code enforcement procedures used for addressing building code, property maintenance, and zoning violations. Under this new administrative citation procedure for prosecuting violations of the City's Police Regulations, a settlement process will be set up for certain minor offenses that will allow payment of fines without having to attend an administrative hearing or court hearing to settle the case. If the fine is not timely paid, then the case will proceed through the administrative hearing process in front of a hearing officer or sent through the court adjudication process. Further, the City retains full discretion to prosecute any violations of the City's Police Regulations through the court adjudication process.

## RECOMMENDATION:

Approval of this Ordinance.

**ORDINANCE NO. 4662**

**AN ORDINANCE CREATING NEW CHAPTER 13 OF TITLE 1  
OF THE EAST PEORIA CITY CODE TO ALLOW  
ADMINISTRATIVE ADJUDICATION OF VIOLATIONS  
OF POLICE REGULATIONS IN THE EAST PEORIA CITY CODE**

**WHEREAS**, Chapter 11 of Title 1 of the East Peoria City Code currently establishes an administrative ticket program utilized by authorized city officers to notify an individual of a violation of the building regulations, property maintenance, and zoning provisions of the City Code in lieu of a notice to abate, notice to appear, and a formal court complaint; and

**WHEREAS**, City Officials and the East Peoria Police Department now seek to establish a similar administrative citation procedure for violations of the Police Regulations found at Title 10 of the East Peoria City Code, which in addition to creating procedures to provide a fair, efficient, and expedited enforcement of violations of Police Regulations, this new procedure would also allow for payment of a fine as a means to settle an administrative citation instead of requiring an appearance at a code enforcement hearing or in Tazewell County Court; and

**WHEREAS**, pursuant to Division 2.2 of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.2-1, *et seq.*), as amended from time to time, the City of East Peoria has the authority to establish an administrative citation procedure and related Code Hearing Department to expedite the prosecution of violations of Police Regulations set forth in Title 10 of the East Peoria City Code; and

**WHEREAS**, the City of East Peoria finds that it is in the best interest of the City and for the health, safety, and welfare of its citizens to hereby create new Chapter 13 of Title 1 of the East Peoria City Code as provided herein for creating the administrative citation settlement and adjudication procedures for addressing violations of the Police Regulations under Title 10 of the East Peoria City Code; and

**WHEREAS**, the City of East Peoria also finds that it is in the best interest of the City to include violations of Chapter 5 of Title 11 (Stopping, Standing and Parking [of vehicles]) under the new administrative citation settlement and adjudication procedures in new Chapter 13 of Title 1 of the East Peoria City Code; and

**WHEREAS**, the City of East Peoria further finds that it is in the best interest of the City to also amend other provisions of the East Peoria City Code to clarify and distinguish these new administrative citation procedures for addressing violations of the Police Regulations from the current administrative ticket program utilized for violations of the building regulations, property maintenance, and zoning provisions of the City Code;

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

**Section 1.** The recitals set forth above are hereby found to be accurate, true, and correct, and are hereby incorporated herein by reference.

**Section 2.** Title 1, Chapter 1, Section 14 of the East Peoria City Code is hereby amended to read 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). 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 East Peoria City Code of the City of East Peoria in accordance with Chapter 11 of Title 1 of the East Peoria City Code in lieu of a notice to abate, notice to appear, arrest, and formal court 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.

(c) Administrative citation program.

- (1) Definition. "Administrative citation" is defined as a citation utilized by authorized city officers as defined in subsection (c)(2) below to notify an individual of a violation of Title 10 of the East Peoria City Code (Police Regulations) and violations of Chapter 5 of Title 11 of the East Peoria City Code in lieu of a notice to appear, arrest, and formal court complaint.
- (2) Use. Administrative citations may be issued by police officers and other authorized city officers as authorized under Chapter 13 of Title 1 of the East Peoria City Code. Administrative citations 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 city officer authorized to issue such administrative citations, an administrative citation may be used in lieu of a notice to appear, arrest, and formal court complaint in accordance with the provisions of Chapter 13 of Title 1 of the East Peoria City Code.

**Section 3.** The title for Chapter 11 of Title 1 of the East Peoria City Code is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

Building and Property Maintenance Code Hearing Department

**Section 4.** Title 1, Chapter 11, Section 1 of the East Peoria City Code is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

The purpose of this chapter is to provide for the fair, efficient and expedited enforcement and correction of violations of Title 4 (Building Regulations) of the East Peoria City Code of the City of East Peoria, along with enforcement and correction of violations of Title 5 (Zoning Regulations), Title 7 (Public Ways and Property), and Title 9 (Health and Sanitation) of the East Peoria City Code, as may be allowed by law and directed by ordinance, through an administrative adjudication proceeding and to establish the Building and Property Maintenance Code Hearing Department ~~a code hearing department~~ and personnel.

**Section 5.** Title 1, Chapter 11, Section 2 of the East Peoria City Code is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

**1-11-2. Establishment and jurisdiction.**

- (a) There is hereby created a separate and independent department of the City of East Peoria to be known as the Building and Property Maintenance Code Hearing Department (for purposes of this Chapter, the "code hearing department"), which may be integrated into other code hearing departments of the City for addressing enforcement of violations of the East Peoria City Code.
- ~~(b) The City of East Peoria hereby adopts in its entirety, division 2.2 of article 1 of the Illinois Municipal Code. Any inconsistency between this chapter and division 2.2 of article 1 of the Illinois Municipal Code shall be resolved with respect to alleged violations to be adjudicated under authority of this subsection (b) in favor of division 2.2 of article 1 of the Illinois Municipal Code. The code hearing department shall have the power and authority under this subsection (b) and division 2.2 of article 1 of the Illinois Municipal Code to enforce any municipal~~

~~ordinance by an administrative adjudication proceeding, other than:~~

- ~~(1) Building code violations that must be adjudicated pursuant to division 31.1 of article 11 of the Municipal Code and subsection 1-11-2(b) of this chapter;~~
- ~~(2) Any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles;~~
- ~~(3) Any reportable offense under Section 6-204 of the Illinois Vehicle Code; or~~
- ~~(4) Any offense under the Misdemeanor Code found at title 10, chapter 1 of the City Code (Police Regulations); or~~
- ~~(5) As otherwise preempted by state law or by the City Code as may be amended from time to time.~~

(be) The City of East Peoria hereby adopts in its entirety, division 31.1 of article 11 of the Illinois Municipal Code. Any inconsistency between this chapter and division 31.1 of article 11 of the Illinois Municipal Code with respect to alleged violations to be adjudicated under authority of this subsection (c) shall be resolved in favor of division 31.1 of article 11 of the Illinois Municipal Code. The code hearing department shall have the power and authority under this subsection (c) and division 31.1 of the Illinois Municipal Code to enforce any municipal ordinance, law, housing or building code or zoning ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures in a municipality or any municipal ordinance that requires, after notice, the cutting of weeds, the removal of garbage and debris, the removal of inoperable motor vehicles or the abatement of nuisances from private property.

(cd) Any other provision of this chapter to the contrary notwithstanding, any officer or employee of the city who charges any person with a violation of any provision of the City Code may elect to proceed by filing a complaint in Tazewell County Circuit Court or by utilizing any other enforcement procedure authorized by the City Code rather than utilizing the procedures set forth in this chapter. Any officer or employee of the city who seeks administrative adjudication of any complaint under this chapter may at any time prior to commencement of the hearing on the merits of such complaint by the hearing

officer dismiss the complaint seeking administrative adjudication without prejudice and thereafter refile the complaint under this chapter, utilize any other enforcement procedure authorized by the City Code or refile the complaint in Tazewell County Circuit Court.

**Section 6.** New Chapter 13 is hereby added to Title 1 of the East Peoria City Code as follows:

## **CHAPTER 13. ADMINISTRATIVE CITATION CODE HEARING DEPARTMENT**

### SECTION:

- 1-13-1. Purpose and scope of chapter.
- 1-13-2. Establishment and jurisdiction.
- 1-13-3. Code hearing department personnel and duties.
- 1-13-4. Administrative citation.
- 1-13-5. Service of administrative citation.
- 1-13-6. Settlement of certain violations.
- 1-13-7. Administrative hearings.
- 1-13-8. Representation at hearings.
- 1-13-9. Default.
- 1-13-10. Review of final orders.
- 1-13-11. Enforcement of hearing officer's order.
- 1-13-12. Fines payable to the City of East Peoria Treasurer.
- 1-13-13. Post-hearing motions.
- 1-13-14. Ex parte disclosures.
- 1-13-15. Waiver, suspension or reduction of fines.
- 1-13-16. Additional rules, regulations and provisions.
- 1-13-17. Severability.

1-13-18. Savings clause.

**1-13-1. Purpose and scope of chapter.**

The purpose of this chapter is to provide for the fair, efficient, and expedited enforcement of the police regulations found at Title 10 of the East Peoria City Code and the parking and related vehicle regulations found at Chapter 5 of Title 11 of the East Peoria City Code, as may be allowed by law and directed by ordinance, through an administrative adjudication proceeding through the issuance of administrative citations and to establish the Administrative Citation Code Hearing Department for the administrative adjudication of these violations of police regulations found at Title 10 of the East Peoria City Code and violations of parking and related vehicle regulations found at Chapter 5 of Title 11 of the East Peoria City Code. The Administrative Citation Code Hearing Department may be integrated into other code hearing departments of the City for addressing enforcement of violations of the East Peoria City Code.

**1-13-2. Establishment and jurisdiction.**

The City of East Peoria hereby adopts in its entirety, Division 2.2 of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.2-1, *et seq.*), as amended from time to time. Any inconsistency between this Chapter and Division 2.2 of Article 1 of the Illinois Municipal Code shall be resolved with respect to alleged violations to be adjudicated under authority of this section 2(b) in favor of Division 2.2 of Article 1 of the Illinois Municipal Code. The Administrative Citation Code Hearing Department (for purposes of this Chapter, the "Code Hearing Department") shall have the power and authority under this section 2(b) and Division 2.2 of Article 1 of the Illinois Municipal Code to enforce any municipal ordinance by an administrative adjudication proceeding, other than the following

- (a) building code violations that must be adjudicated pursuant to Division 31.1 of Article 11 of the Municipal Code as provided in Chapter 11 of Title 1 of the East Peoria City Code, which further specifically includes any violations of Title 4 (Building Regulations), Title 5 (Zoning Regulations), Title 7 (Public Ways and Property), and Title 9 (Health and Sanitation) of the East Peoria City Code;
- (b) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles;
- (c) any reportable offense under Section 6-204 of the Illinois Vehicle Code; or
- (d) as otherwise preempted by State law or by the City Code as may be amended from time to time.



Any other provision of this Chapter to the contrary notwithstanding, any officer or employee of the City who charges any person with a violation of any provision of the City Code may elect to proceed by filing a complaint in Tazewell County Circuit Court or by utilizing any other enforcement procedure authorized by the City Code rather than utilizing the procedures set forth in this Chapter. Any officer or employee of the City who seeks administrative adjudication of any complaint under this Chapter may at any time prior to commencement of the hearing on the merits of such complaint by the Hearing Officer dismiss the complaint seeking administrative adjudication without prejudice and thereafter refile the complaint under this Chapter, utilize any other enforcement procedure authorized by the City Code or refile the complaint in Tazewell County Circuit Court.

**1-13-3. Code hearing department personnel and duties.**

The Code Hearing Department shall consist of, upon appointment by the mayor with the advice and consent of the city council and under the direct supervision of the mayor, a hearing officer, a director, and such other positions as may be approved by the City Council, with the powers and duties as hereinafter set forth. Other than the hearing officer, one person may serve more than one such position. Compensation for each of the positions shall be as approved by the City Council.

(a) Hearing Officer.

- (1) The hearing officer, prior to appointment, must be an attorney licensed to practice law for at least three (3) years in the State of Illinois. The hearing officer shall preside over all adjudicatory hearings and shall have the following powers and duties:
  - a. To administer oaths;
  - b. To hear testimony, to accept evidence that is relevant to the existence of the City Code violation and to rule upon motions, objections and the admissibility of evidence;
  - c. To issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
  - d. To preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
  - e. To issue and sign a written finding, decision and order stating whether a City Code violation exists;
  - f. To impose penalties, sanctions or such other relief

consistent with applicable City Code provisions and to assess costs upon finding a party liable for the charged violation, except however, that in no event shall the hearing officer have authority to impose a penalty of incarceration;

g. To review final determination of liability for an ordinance violation in accordance with the administrative review procedures hereinafter set forth; and

h. To hold conferences for the settlement or simplification of issues.

(2) Prior to conducting administrative adjudication proceedings under this Chapter, the hearing officer shall have successfully completed a formal training program which includes the following:

a. Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;

b. Orientation to each subject area of the code violations that he/she will adjudicate;

c. Observation of administrative hearings; and

d. Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(b) Director. The Director is authorized and directed to:

(1) Operate and manage the Code Hearing Department;

(2) Adopt, distribute and process all notices as may be required under this Chapter or as may be reasonably required to carry out the purpose of this Chapter;

(3) Collect moneys paid as fines and/or penalties assessed after a final determination of liability;

(4) Certify copies of final determinations of an ordinance violation adjudicated pursuant to this Chapter, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this Chapter;

(5) Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created;

- (6) Collect unpaid fines and penalties through private collection agencies and direct the pursuit of all post-judgment remedies available by law;
- (7) Provide input of administrative citation information;
- (8) Establish hearing dates and notice dates;
- (9) Record fine and penalty assessment and payments;
- (10) Issue payment receipts;
- (11) Issue succeeding notice of hearing dates and/or final determination of liability;
- (12) Keep accurate records of appearances and non-appearances at administrative hearings, pleas entered, judgments entered, sanctions imposed, if any, fines and penalties assessed and paid;
- (13) Effectuate any other authority as may be reasonably required for the proper administration of this Chapter; and
- (14) Designate one or more assistant Director to assist in fulfilling responsibilities hereunder.

#### **1-13-4. Administrative citation.**

The administrative adjudication of any ordinance violation shall afford a party due process of law. The administrative citation charging a violation of the City Code shall be accompanied by a summons and shall contain, but shall not necessarily be limited to, the following information:

- (a) The name and address of the defendant.
- (b) The date, time and place the violation was observed.
- (c) A citation to the ordinance violated.
- (d) A description of the act or omission which violates the ordinance.
- (e) The names of witnesses to the violation(s).
- (f) The date, time, and place of the administrative hearing at which the charge may be contested on its merits. This date shall be no less than fifteen (15) days after the date of service of the

administrative citation. A hearing may be set at a date less than fifteen (15) days after the date of service of the violation in an emergency situation where the violation constitutes a threat to public interest, safety or welfare.

- (g) A statement of penalties for failure to appear at the hearing.
- (h) The amount of the fine and the date required for payment of the fine that can be paid to settle the violation (if applicable). The notice in the administrative citation shall also apprise the recipient that the failure to pay the stated fine within the allotted time will operate to process the administrative citation within the administrative adjudication system and require appearance at a hearing as otherwise provided by this Chapter
- (i) The certification of the correctness of the facts contained in the violation by signature of the person issuing the notice.

For parking notice violations issued under Section 11-5-21 of the East Peoria City Code, the parking notice violation issued to the respondent shall become the administrative citation for the purposes of this Chapter if the parking notice violation is not timely paid in compliance with Section 11-5-21. In such cases, the respondent shall be provided notice of the administrative hearing in the parking notice violation or by separate notice from the City.

#### **1-13-5. Service of administrative citation.**

A copy of the administrative citation shall be personally served on the respondent by a law enforcement officer or by a Code Hearing Department official, or served by first class mail, postage prepaid, sent to the address of the respondent as otherwise provide by a city official in accordance with the applicable provision of the Illinois Municipal Code.

#### **1-13-6. Settlement of certain violations.**

Each administrative citation issued under this Chapter for the violations set forth below in this Section shall provide the respondent with the option to pay a fine and settle the respondent's case without having to appear for a hearing as otherwise provided in this Chapter.

- (a) For the listed violations below, the administrative citation shall give the respondent the option to settle the case by paying the fine set forth herein provided payment is made within the time and in the manner set forth in the administrative citation and consistent with the provisions of this Section.

- (b) Payments in settlement of violations set forth in this Section shall be made prior to the assigned hearing date in the administrative citation. Payment of a fine under this Section shall be made to the City in person at the location set forth on the administrative citation or by mail to the address set forth on the administrative citation. The respondent shall be responsible for ensuring payment by mail is provided to the City prior to the date set forth on the administrative citation. If payment is not received by the City prior to the established deadline date, the respondent will remain responsible for such payment until received by the City, and the respondent shall be further responsible for appearing on the required hearing date as provided on the administrative citation.
- (c) The City Attorney or his designee may, at his discretion, elect to reject the adjudication process as settlement of any violation listed herein by filing an ordinance complaint for such violation in the Tazewell County Circuit Court and giving notice of such ordinance complaint to respondent as required by law. Further, the respondent shall be provided notice that the administrative citation of the violation has been withdrawn by the City.
- (d) The settlement amount set forth herein shall be the minimum fine for settlement for first offenses of the listed violations in this Section, notwithstanding that the fine stated for such violations in another Section of this Code may be lower than the fine stated in this Section. The settlement amount stated herein for the listed violations shall be doubled for a second or subsequent offense provided no such settlement amount shall exceed seven hundred fifty dollars (\$750.00) for any second or subsequent offense, except for underage drinking charges in violation of Section 10-1-4.11 of the East Peoria City Code, where a second offense shall be a mandatory court appearance.
- (e) The fines for settlement of violations for which administrative citations have been issued pursuant to this chapter for the specific violations of the listed sections of Title 10 of the East Peoria City shall be paid in the amount, which shall include all related costs, as follows:

## Fines

Section	Violation	Fine
<i>Offenses Involving Public Order</i>		
10-1-3.1	Disorderly conduct; breach of peace	\$200.00
10-1-3.2	Public intoxication; breach of peace; incapacitated	\$175.00
10-1-3.3	Vagrancy	\$175.00
10-1-3.4	Disturbing lawful assemblies	\$200.00
10-1-3.5	Disturbing elections, process	\$200.00
10-1-3.6	Assault, battery and affray	\$250.00
10-1-3.9	Reckless Conduct	\$200.00
10-1-3.10	Unlawful assemblies	\$200.00
10-1-3.12	Obstructing stairways or exits	\$300.00
10-1-3.13	Resisting arrest	\$200.00
10-1-3.14	Police and fire officers; interfering and obeying	\$200.00
<i>Offenses Involving Health, Safety and Children</i>		
10-1-3.21	Unlawful use of Civic Complex	\$150.00
10-1-4.1	Dangerous fires	\$200.00
10-1-4.2	Bonfires	\$175.00
10-1-4.3	Nuisances; creating; maintaining	\$200.00
10-1-4.4	Loud, disturbing and unnecessary noises	\$200.00

Section	Violation	Fine
10-1-4.5	Stench bombs; nauseous gases and substances	\$200.00
10-1-4-6	Fireworks and sparklers	\$175.00
10-1-4.7	Throwing missiles or bottles	\$200.00
10-1-4.8	Curfew for Children	\$150.00
10-1-4.9	Sale, gift or furnishing of alcoholic liquors to a minor or knowing a minor possesses alcoholic liquor prohibited	\$400.00
10-1-4.10	Possession of alcoholic liquor by minor prohibited	\$350.00
10-1-4.11	Consumption of alcoholic liquor by minors prohibited	\$350.00
10-1-4.13	Minors on certain licensed premises prohibited	\$250.00
10-1-4.14	Use of forged identification card to obtain liquor prohibited	\$350.00
10-1-4.16	Sniffing or Inhaling of intoxicants prohibited	\$200.00
10-1-4.17	Possession, sale and delivery of cannabis, look-alike substances, synthetic alternative drugs and drug paraphernalia prohibited	\$450.00
10-1-4.18	Truancy and excessive absenteeism prohibited	\$200.00
10-1-4.19	Parental allowance of truancy or excessive absenteeism prohibited	\$250.00
10-1-4.21	Use of skateboards prohibited	\$50.00
10-1-4.22	Possession of open liquor on certain public property prohibited	\$175.00
10-1-4.23	Smoking/tobacco use at EastSide Centre	\$75.00

Section	Violation	Fine
10-1-4.24	Possession of tobacco products, electronic cigarettes, and alternative nicotine products by minors prohibited	\$75.00
10-1-4.25	Consumption of tobacco products, electronic cigarettes, and alternative nicotine products by minors prohibited	\$100.00
10-1-4.26	Smoking in public prohibited	\$125.00
10-1-4.27	Smoking of e-cigarettes on city property prohibited	\$150.00
10-1-4.28	Smoking of e-cigarettes in public places prohibited	\$150.00
10-1-4.29	Purchase of tobacco products, electronic cigarettes or alternative nicotine products by persons under twenty-one (21) prohibited	\$150.00
10-1-4.30	Sale or furnishing of tobacco products, electronic cigarettes, or alternative nicotine products to persons under twenty-one (21) prohibited	\$150.00
<i>Offenses Involving Property</i>		
10-1-5.1	Criminal housing management	\$300.00
10-1-5.2	Trespass to land and buildings	\$150.00
10-1-5.3	Malicious mischief or destruction	\$150.00
10-1-5.4	Coin-operated devices; slugs, tampering	\$150.00
10-1-5.5	Trespass to vehicles	\$200.00
10-1-5.6	Malicious destruction of holiday displays	\$150.00
10-1-5.7	Criminal damage to property	\$250.00
10-1-5.8	Graffiti vandalism and defacement	\$200.00



Section	Violation	Fine
<i>Offenses Involving Morality</i>		
10-1-6.1	Prostitution defined; penalty	\$300.00
10-1-6.2	Keeping a place of prostitution; penalty	\$300.00
10-1-6.3	Patronizing a prostitute; penalty	\$300.00
10-1-6.4	Soliciting for a prostitute; penalty	\$300.00
10-1-6.5	Pandering; penalty	\$300.00
10-1-6.6	Pimping; penalty	\$300.00
10-1-6.7	Public indecency; acts or language prohibited	\$250.00
10-1-6.9	Obscene marking in public view prohibited	\$250.00
10-1-6.10	Material harmful to minors defined; definitions; elements; interpretation; penalty; affirmative defenses; minor falsifying age	\$250.00
10-1-6.12	Gambling prohibited; penalty	\$200.00
<i>Miscellaneous Provisions</i>		
10-1-7.4	Bribery; offering or accepting	\$250.00
10-1-7.5	Solicitation to commit offense	\$250.00
10-1-7.6	Conspiracy to commit offense	\$200.00
10-1-7.8	Public solicitation of funds; registration required	\$200.00
10-1-7.9	Telephone solicitation or promotion; registration required	\$200.00

Section	Violation	Fine
10-1-7.10	Telephones; obscene, anonymous, misrepresented calls	\$200.00
10-1-7.11	False alarms; police, fire, ambulance	\$200.00
10-1-7.12	Intimidation defined; prohibited	\$250.00
10-1-7.13	Littering on public or private property	\$150.00
10-1-7.14	Boat launching permit; penalty	\$150.00
10-1-7.15	Operation of ATVs and off-highway motorcycles	\$150.00
10-4-8	Uninvited soliciting	\$175.00
10-5-2	False alarms	\$175.00
	<i>Animals</i>	
10-2-1.3	Tag affixed to collar	\$150.00
10-2-2.1	Rabies vaccination required	\$150.00
10-2-3.1	Annoying noises	\$150.00
10-2-3.4	Animals disturbing peace	\$150.00
10-2-3.5	Animals running at large	\$150.00
10-2-3.10	Threatening or annoying dogs	\$150.00
10-2-3.13	Keeping of vicious dogs	\$350.00
10-2-3.14	Cruelty to animals	\$350.00

### **1-13-7. Administrative hearings.**

If a violation is not settled pursuant to Section 1-13-6 or Section 11-5-21 (if applicable) of the East Peoria City Code, the administrative adjudication process for the ordinance violation shall afford a party due process of law and shall substantially follow the procedure set forth below:

- (a) Any administrative proceeding conducted by the Code Hearing Department shall afford the parties an opportunity for a hearing before an administrative Hearing Officer.
- (b) An attorney who appears on behalf of any person shall file with the Hearing Officer a written appearance on a form provided by the Code Hearing Department for that purpose.
- (c) The Hearing Officer may grant continuances only in cases where a continuance is absolutely necessary to protect the rights of the defendant. Lack of preparation by either party shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this chapter shall not exceed thirty (30) days.
- (d) All testimony shall be given under oath or affirmation.
- (e) The Hearing Officer may issue subpoenas to secure the attendance and testimony of relevant witnesses and production of relevant documents. Issuance of subpoenas shall be subject to the restrictions contained in this chapter.
- (f) The formal and technical rules of evidence shall not apply to the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of his or her affairs.
- (g) No violation may be established except upon proof by a preponderance of the evidence; provided, however, that an administrative citation, or a copy thereof, issued and signed in accordance with State law shall be prima facie evidence of the correctness of the facts contained therein. Additionally, the administrative citation shall be admissible in any subsequent administrative or legal proceeding, and the original or a complete copy of the administrative citation shall be retained and kept as a record in the ordinary course of City business.
- (h) Upon timely request of any party to a proceeding, any person, who the Hearing Officer determines may reasonably be expected to provide testimony which is material and which does not constitute a needless presentation of cumulative evidence,

shall be made available for cross-examination prior to a final determination of liability.

- (i) The record of all hearings before a Hearing Officer shall include:
  - (1) all documents presented at the hearing;
  - (2) a copy of the notice of the violation or notice of the hearing; and
  - (3) a copy of the findings and decisions of the Hearing Officer.
  
- (j) The record of a hearing before a Hearing Officer may include a record of the testimony presented at the hearing, which may be by means of an audio recording, transcription, or other appropriate means.
  - (1) The Code Hearing Department shall not be required to provide recording services or equipment.
  - (2) Any party desiring to record the testimony presented at the hearing shall provide its own court reporter, transcriber or recorder at that party's own expense regardless of the outcome of the hearing.
  - (3) The Hearing Officer may reasonably limit where the court reporter, transcriber or recorder may be placed in the hearing room. If the party, the court reporter, transcriber or recorder is unwilling to follow reasonable limitations then the Hearing Officer may remove the court reporter, transcriber or recorder.
  
- (k) Upon conclusion of a hearing, the Hearing Officer shall make a final written determination on the basis of the evidence as to whether or not a Code violation exists. Upon issuing a final determination of liability, the Hearing Officer shall:
  - (1) Impose penalties and/or fines that are consistent with applicable provisions of the City Code;
  - (2) Issue orders that are consistent with applicable provisions of the City Code, including, but not limited to, orders to cure or abate any continuing violations of the City Code; and
  - (3) Assess costs reasonably related to instituting the hearing.

- (l) In the issuance of a final determination of liability, a Hearing Officer shall inform the defendant of defendant's right to seek judicial review of the final determination.

#### **1-13-8. Representation at hearings.**

- (a) City representation. The case for the City may be presented by a City employee or by an attorney designated by the City Attorney. Documentary evidence prepared by any department of the City may be presented at the hearing to or by the Hearing Officer.
- (b) Respondent/defendant representation. The case for the defendant may be presented by the defendant or by an attorney. An attorney appearing at an administrative hearing on behalf of a defendant shall present the Hearing Officer with a signed appearance form stating, on oath or affirmation, that he has been authorized by the defendant to represent the defendant at the hearing.

#### **1-13-9. Default.**

If at the time set for a hearing, the recipient of an administrative citation or a notice of hearing, or the recipient's attorney of record, fails to appear, the Hearing Officer may find the recipient in default and proceed with the hearing and accept evidence relevant to the existence of a code violation and conclude with a finding, decision and order. A copy of the order of default shall be served in any manner permitted under this Chapter.

Within twenty-one (21) calendar days from the issuance of an order of default, a recipient of an administrative citation or a notice of hearing who has been found to be in default may petition the Hearing Officer to set aside the determination and set a new hearing date on the basis that the failure to appear at the hearing was for good cause. If the petition is granted, the Hearing Officer shall serve notice of the new hearing date upon the petitioner in any manner permitted by this Chapter no less than seven (7) calendar days prior to the hearing date.

#### **1-13-10. Review of final orders.**

A final order of a Hearing Officer shall constitute a final determination and shall be subject to review under the Illinois Administrative Review Law.

#### **1-13-11. Enforcement of hearing officer's order.**

- (a) Any fine, other sanction or costs imposed by a Hearing Officer's order and any expenses incurred by the City to enforce the

order, including but not limited to attorney's fees and court costs for the administrative hearing, that remain unpaid after the exhaustion of, or the failure to exhaust, judicial review of a Hearing Officer's final determination of liability for a code violation shall be a debt due and owing the City and, as such, may be collected in accordance with applicable law.

- (b) The City may take action to impose a lien on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the City under this Chapter. The lien may be recorded and enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction. No lien may be enforced under this section until it has been recorded in the manner provided by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code.

**1-13-12. Fines payable to the City of East Peoria Treasurer.**

All fines and other monies paid to the City in accordance with this chapter shall be remitted to the City of East Peoria Treasurer for deposit to the City general fund.

**1-13-13. Post-hearing motions.**

There shall be no post-hearing motion practice before the Code Hearing Department.

**1-13-14. Ex parte disclosures.**

The City hereby adopts and incorporates Canon 3(A)(6) of the Code of Conduct for Administrative Law Officers. Therefore, Hearing Officers and other personnel of the Code Hearing Department are required to refrain from public comment about a pending proceeding before the Code Hearing Department.

**1-13-15. Waiver, suspension or reduction of fines.**

In instances where the East Peoria City Code calls for the imposition of a mandatory minimum fine upon a finding of liability by a Hearing officer, a Hearing Officer may not waive, suspend or reduce the imposition of said mandatory minimum fine.

**1-13-16. Additional rules, regulations and provisions.**

The City Department Head overseeing the Code Hearing Department or the Mayor may adopt any other necessary and proper rules, regulations, or provisions to carry into effect this Chapter and the powers granted and purposes stated in the City Code.

**1-13-17. Severability.**

If any provision of this Chapter or the application thereof is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect any other provision of this Chapter which is not specifically included in such ruling or which can be given effect without the unconstitutional or invalid provision or application; and to this end, the provisions of this Chapter are declared severable.

**1-13-18. Savings clause.**

Nothing herein adopted shall be construed to affect any suit or proceeding now pending in any Court or any rights accrued or liability incurred or any cause or causes of action accrued or existing under any prior Resolution or Ordinance. Nor shall any right or remedy of any party to a proceeding be lost, impaired, or affected by this Chapter.

**Section 7.** Title 11, Chapter 5, Section 21 of the East Peoria City Code is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

**11-5-21. Penalties.**

- (a) The following violations of the City Code pertaining to stopping, standing and parking shall be punishable by a fine in the following amounts if said fine is paid within twenty-one (21) days of issuance of the parking violation notice:
- (1) \$25.00 overtime parking;
  - (2) \$25.00 no parking zone;
  - (3) \$25.00 parked wrong direction;
  - (4) \$25.00 improperly parked;
  - (5) \$50.00 obstructing traffic;
  - (6) \$50.00 bus zone;
  - (7) \$50.00 parked on sidewalk;
  - (8) \$75.00 parked in fire zone.

The term "fire zone" as used in this section shall include those areas described in subsections 11-5-6(a)(4) (parking within fifteen (15) feet of a fire hydrant), 11-5-6(a)(10) (parking within a certain distance of a fire station entrance), and 11-5-6(c) (parking in a fire lane).

- (b) Penalty for all other parking violations within the city, unless otherwise specified herein, shall be a fine of twenty-five dollars (\$25.00).
- (c) The penalty for a violation of subsection 11-5-6(d) (parking in an area designated for handicapped persons only) shall be a fine of three hundred fifty dollars (\$350.00).
- (d) The penalty for a violation of subsection 11-5-6(d)(1) (person not having a disability who uses disability plates or decals to exercise parking privileges in a space reserved for a person with disabilities) shall be a fine of six hundred dollars (\$600.00).
- (e) The penalty for a violation of subsection 11-5-6(e) (parking in electric vehicle charging station or area designated for electric vehicles only) shall be a fine of one hundred dollars (\$100.00).
- (f) Any fine mentioned in subsections (a), (b), (c), (d) or (e) above, may be satisfied without appearing in court if it is paid in person or at the East Peoria Police Department, 201 N. Main, East Peoria, Illinois, or by mailing a check or money order to the East Peoria Police Department at the above address within twenty-one (21) days of issuance of the parking violation notice. The twenty-one-day period shall be computed from the day the parking violation notice was issued, including the day of issuance.
- (g) Where any fine mentioned in subsections (a), (b), (c), (d) or (e) above remains unpaid after twenty-one (21) days of issuance of the parking violation notice, the East Peoria Police Department shall adjudicate the parking violation notice under the administrative citation provisions of Chapter 13 of Title 1 of the East Peoria City Code, and during such administrative proceedings the parking violation notice shall become the administrative citation for the purpose of Chapter 13 of Title 1 of the East Peoria City Code. Alternatively, the East Peoria Police Department may file the parking violation notice against the violator for appearance in court to answer the charges of such violation. Any person convicted of violating this section through the administrative adjudication process under provisions of Chapter 13 of Title 1 of the East Peoria City Code or through court adjudication proceedings shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00) for each offense.
- (h) Any person violating any of the provisions of sections 11-5-12, 11-5-13 or 11-5-20 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed seven hundred fifty dollars (\$750.00). Each day such violation is committed



or permitted to continue shall constitute a separate offense and shall be punishable as such.

**Section 8.** 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 9.** 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 10.** 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