

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
AUGUST 21, 2012 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Ordinance Amendments: Bail and Sentences for Ordinance Violations	✓ Resolution Ordinance Motion Discussion Only	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared amending various sections of the Municipal Code relating to bail amounts and sentences for ordinance violations.

STRATEGIC PLAN ALIGNMENT

The Goals for 2011-2018 identified *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the August 14, 2012 Village Council meeting. Staff recommends approval on the August 21, 2012 Active Agenda.

BACKGROUND

The Village prosecutes violations of its own ordinances and violations of the Illinois Motor Vehicle Code as adopted through Village ordinance. Historically, ordinance violations have been considered “quasi-criminal”- meaning they were governed by some criminal procedural rules and some civil rules, which at times caused some confusion in court. In order to alleviate some of this confusion and after an almost ten year process, the Illinois Supreme Court recently enacted Supreme Court Rules which govern the prosecution of ordinance violations which are punishable by fine only (excluding traffic violations). The new Rules clarify that civil procedural rules apply to ordinance violation prosecutions and they set forth requirements regarding the information to be included in the charging document (complaint), potential conditions of sentences and other procedural aspects. The Rules state that a municipality’s ordinance must be specific as to potential sentences and conditions that may be imposed on defendants. Additionally, the Illinois Supreme Court amended rules regarding bail schedules for traffic offenses and other ordinance offenses by increasing the minimum amount of bail an arrestee must post. Minimal changes need to be made to the Village’s current ordinances to make it clearer as to potential sentences and to increase bail amounts.

ATTACHMENTS

Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Police Department **DATE:** August 21, 2012
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

- Ordinance
- Resolution
- Motion
- Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE AMENDING GENERAL PENALTIES FOR ORDINANCE VIOLATIONS, PENALTIES FOR MISCELLANEOUS OFFENSES AND GENERAL SENTENCING FOR ORDINANCE VIOLATIONS", as presented.

SUMMARY OF ITEM:

Adoption of this motion shall amend general penalties for ordinance violations, penalties for miscellaneous offences and general sentencing for ordinance violations.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE AMENDING GENERAL PENALTIES FOR ORDINANCE VIOLATIONS,
PENALTIES FOR
MISCELLANEOUS OFFENSES AND GENERAL SENTENCING FOR ORDINANCE
VIOLATIONS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 1.15 is hereby amended to read as follows:

1.15 General penalty for ordinance violation.

(a) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the Village shall be guilty of an offense. Except in cases where a different penalty is prescribed by any ordinance of the Village, any person ~~convicted~~ who pleads guilty to or is found guilty of an offense under the ordinances of Downers Grove shall be punished by a fine of not less than seventy five (\$75.00) nor more than seven hundred fifty dollars (\$750.00).

(b) Any person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the Village is committed, continued or permitted by any such person, and he shall be punished accordingly.

(c) In all cases where the same offense is made punishable or is created by different clauses or sections of an ordinance the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the suspension or revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(d) The levy and/or payment of any penalty or fine provided in this code shall not be deemed a waiver of the power of the Village of Downers Grove to suspend, revoke or refuse to renew any license or permit for cause.

(e) In addition to any other penalties provided in this Code, the Village Attorney shall have the authority to seek injunctive or other relief in the Circuit Court of DuPage County to enforce and compel compliance with the ordinances of the Village. Such injunctive action may be combined with counts seeking monetary fines as provided herein. (R.O. 1925, § 44; codification 1969; Ord. No. 2261, § 4.)

NOTE: For state law as to limitations upon fines and penalties imposed by Village, see Ill. Comp. Stat., ch. 65, § 5/1-2-1.

Section 2. That Section 1.17 is hereby amended to read as follows:

1.17 General Sentencing for Ordinance Violations--Work; restitution.

In addition to the payment of a fine as set forth in Section 1.15(a), Any person who pleads guilty to or is found guilty ~~convicted~~ of the violation of any provision of this Code may be sentenced by the court to a period of court supervision or to conditional discharge for a period not to exceed one year under the provisions of the Illinois Uniform Code of Corrections,* including a requirement that the person (a) perform community service work appropriate in type and duration to the offense committed; (b) make restitution or reparation in an amount not to exceed actual loss or damages to property and pecuniary loss; or (c) any other penalty or condition set forth in 730ILCS 5/15-6-3 or 5-6-3.1 as may be amended from time to time ~~pay a fine~~. If sentenced to work as aforesaid, the court may not require the person to work

more than eight hours per day on weekends or legal holidays. (Ord. No. 2261, § 5.)

*See Ill. Comp. Stat., ch. 730, § 5/1-1-1 et seq. (See §§ 5/5-6-1 through 5/5-6-3.1)

Section 3. That Section 14.3. is hereby amended to read as follows:

14.3. Adoption of the Illinois Vehicle Code.

In lieu of using any section, or in addition to any section of this Chapter, the officer issuing a citation may issue it by using any of the sections of the Illinois Vehicle Code, Chapter 625, Sections 1-100 to 20-204 and as amended from time to time, which are hereby incorporated and adopted by reference as part of this Chapter. All citations issued for these violations shall be in the name of the Village of Downers Grove and shall refer to the numbered sections in the Illinois Vehicle Code, but shall also be referred to as an ordinance violation in the traffic ticket or complaint.

1. A violation of any provision of the Illinois Vehicle Code, unless otherwise specified, or of any offenses classified as "petty" offenses under the Illinois Vehicle Code shall be punishable by a fine of not less than ~~seventy five dollars (\$75.00)~~ one hundred twenty dollars (\$120.00) nor more than one thousand dollars (\$1,000.00) for each offense. Offenses classified as "business" or "petty" offenses under the provisions of the Illinois Vehicle Code shall be punishable as set forth therein.

2. Offenses classified as "misdemeanors" under the provisions of the Illinois Vehicle Code shall be subject to a fine and/or imprisonment for a determinate term according to the following limitations:

a. For Class A Misdemeanor, imprisonment for any term less than one year and/or a fine of not less than two hundred dollars (\$200.00) and not to exceed two thousand five hundred dollars (\$2,500.00), except as provided for in subsection (d) of this Section.

b. For a Class B Misdemeanor, imprisonment for any term not more than six (6) months and/or a fine of not less than one hundred dollars (\$100.00) and not to exceed one thousand dollars (\$1,000.00).

c. For Class C Misdemeanor, imprisonment for not more than thirty (30) days and/or a fine of not less than seventy-five dollars (\$75.00) and not to exceed one thousand dollars (\$1,000.00).

d. The Court, upon making a finding of guilty for any offense under Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501), in addition to any sentencing alternative elected by the Court, shall impose a fine of not less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00) for each offense.

3. The Court, in imposing any fine as provided in this Section, shall consider the financial resources and future ability of the offender to pay the fine, and whether the fine will prevent the offender from making court-ordered restitution or reparation to the victim of the offense, if any. (Ord. No. 3069, § 2; Ord. No. 3170, § 1.)

Section 4. That Section 15.7. is hereby amended to read as follows:

15.7. Penalty for certain violations.

(a) The penalty for a violation of Sections 15-2 through 15-6 of this Chapter shall be as follows:

(1) A fine of not less than ~~seventy five dollars (\$75.00)~~ one hundred twenty dollars (\$120.00) nor more than seven hundred fifty dollars (\$750.00); or

(2) A period of court supervision or conditional discharge not to exceed one year. ~~Such discharge~~ Either disposition shall specifically require as a condition that the defendant not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and that the defendant report to and appear in person before such person or agency as directed by the court. In addition, the ~~discharge~~ disposition may require as a condition that the defendant:

(i) pay a fine as specified herein;

(ii) make restitution or reparation in an amount not to exceed actual loss or damage

to property and pecuniary loss;

~~(iii) perform some reasonable public or community service work;~~

~~(iiiiv) work or pursue a course of vocational study;~~

~~(iv) undergo medical or psychiatric treatment or counselling;~~

~~(vi) if a minor, to reside with his/her parent or in a foster home, attend school or attend a nonresidential program for youth;~~

~~(vii) comply with any other penalty or condition set forth in 730 ILCS 5/5-6-3 or 5-6-3.1, as may be amended from time to time.~~

(b) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by the court upon a minor hereunder; provided, that the minor has not paid such fine or made restitution or reparation within the time ordered by the court, and further provided that such parent or legal guardian has been served with a notice to appear in the original cause as provided by law. (Ord. No. 2877, § 1.)

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk