

07/06/2000

70-O-00

AN ORDINANCE

**Amending Title I, Chapter 4 To Increase The
Maximum Penalty For Ordinance Violations and
To Amend Certain Other Provisions
Regarding Administrative Adjudication**

WHEREAS, 65 ILCS 5/1-2-1 provides for a \$750 maximum fine or penalty in ordinance violations and for a requirement that the violator perform community services; and

WHEREAS, the Evanston City Code permits recipients of certain Code violation citations to pay a designated fine to resolve the matter rather than appearing for a hearing; and

WHEREAS, the City Council of the City of Evanston wishes to expand the number of provisions of the Evanston City Code for which the payment-in-lieu-of-appearance option is available; and

WHEREAS, Code violation citations at present are adjudicated in the Circuit Court of Cook County; and

WHEREAS, the City Council of the City of Evanston wishes to provide for adjudication of certain Code violation citations by the Division of Administrative Hearings pursuant to the Illinois Municipal Code, 65 ILCS 5/1-2.1 *et seq.* and the Evanston City Code, Title 11, Chapter 1,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: The Evanston City Code of 1979, as amended, be and is further amended by revising Section 1-4-1, to read as follows:

SECTION 1-4-1: GENERAL PENALTY.

A. Whenever any provision of this Code or any ordinance of the City: (1.) prohibits an act or makes or declares an act unlawful or an offense or (2.) requires an act to be performed or declares the failure to perform an act to be unlawful or an offense, and the Code is silent with respect to the penalty to be imposed upon a finding of liable, the penalty shall be a fine of not less than \$10 but not more than \$750 and/or compliance with or community service orders as specified in Section 11-1-9F. Where applicable, each day a Code provision is found to have been violated shall constitute a separate offense and when the Code is silent as to penalty, each separate offense subjects the violator to the penalty provided for in this Subsection 1-4-1(A).

B. In addition to any fine imposed under Subsection 1-4-1A., a violator may be required to pay administrative costs and enforcement costs and may be ordered to cease violating and/or comply with the Code provision(s) found to have been violated and/or ordered to post a compliance bond as provided by Section 11-1-16B. of this Code. The Director of Administrative Hearings shall establish a uniform schedule of administrative costs and enforcement costs and shall present same for annual review and approval by the City Council.

SECTION 2: That existing section 1-4-2 is deleted in its entirety and the following substituted therefor, to read as follows:

1-4-2 CODE VIOLATION CITATIONS.

A. Notwithstanding any other provision of this Code, including any penalty provision, a person alleged to have violated any provision of the City Code except for violations classified as misdemeanors under the City Code may be issued a notice of ordinance violation ("Code violation citation" or "citation"), in a form prescribed by the Director of Administrative Hearings. The alleged violation(s) set forth in a Code violation citation issued under the authority of this Section 1-4-2 shall be adjudicated by the Division of Administrative Hearings pursuant to Title 11, Chapter 1 of this Code.

Every Code violation citation issued pursuant to this Section 1-4-2 shall be issued in the format and pursuant to the procedure set forth in section 11-1-12 of the City Code.

SECTION 3: That existing section 1-4-3 is renumbered as section 1-4-4, subsequent sections are renumbered appropriately, and the following new section 1-4-3 added, to read as follows:

1-4-3 APPEARANCE AND PAYMENT IN LIEU OF APPEARANCE.

- A. Every Code violation citation issued pursuant to Section 1-4-2 shall state the date, time, and location of the administrative hearing to be held with respect to the violation(s) alleged by the citation. Every citation also shall state whether the respondent is required to appear at the hearing or may elect to resolve the matter completely by paying prior to the hearing date the fine amount specified by the citation, in which case the respondent need not appear. If a respondent is not required to appear and elects to pay a fine in lieu of appearing, such election shall have the effect of the respondent entering a plea of no contest to the violation(s) alleged in the citation.
- B.1. If the respondent is required to appear and does not appear or if the respondent is permitted to pay a specified fine in lieu of appearing and does not pay the fine prior to the hearing date, the respondent may be held in default and ordered to pay the maximum fine specified by the citation plus applicable administrative costs, unless, because of error, the maximum fine amount specified by the citation exceeds the maximum fine provided by the Code in which case the maximum fine provided by the Code will be the fine imposed upon default.
- B.2. Unless a respondent held in default appeals the final default judgment to the Circuit Court of Cook County within thirty-five (35) days of entry of the judgment, the fine imposed by the judgment becomes final and constitutes a debt due and owing the City for which the City may institute collection proceedings. In the event the respondent appeals the default judgment and the judgment is affirmed, the fine imposed becomes final and constitutes a debt due and owing the City for which the City may institute collection proceedings.

C. The issuance of Code violation citations and the administrative adjudication of Code violation citations does not preclude the City from seeking to enforce any provision of this Code in any other administrative forum or in a court of competent jurisdiction.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 10, 2000

Adopted: July 24, 2000

Approved: July 27, 2000

Lorraine H. Norton
Mayor

ATTEST:

Mary J. Morris
City Clerk

Approved as to form:

Kathleen F. Brennan
Corporation Counsel