



LEGAL DIVISION
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STEPHEN HOLZ
City Attorney

JACK WAALER
Special Counsel

Memorandum

DATE: March 4, 2004
TO: Mayor Satterthwaite
FROM: Steve Holz
RE: Pay-by-Mail Fines Minimums

Per your request, I have prepared the attached ordinance and its supporting materials to update the pay-by-mail fines for ordinance violations, and to correct errors that have crept into the pay-by-mail schedule over the course of years. This review was prompted initially by citizen and police department concerns that the minimum fines established by Urbana's pay-by-mail system are so much lower than those established by the City of Champaign's pay-by-mail system that they are no longer effective in deterring violations.

In particular, the minimum fine for an underage alcohol violation is \$280 in Champaign, but only \$75 in Urbana—a \$205 difference. Similarly, the minimum fine for general noise violations, such as loud parties, is \$185 in Champaign, but only \$50 in Urbana—a difference of \$135.

A review of the pay-by-mail system has revealed that many of Urbana's fines are not at a level that can be deemed effective. Urbana currently has 3 levels of minimum fines: \$50, \$75, and \$100. By comparison, Champaign's minimum fine levels are \$135, \$185, and \$280. Urbana's fines at the current levels have been in place without change since approximately 1993, when the pay-by-mail system was first established in Urbana. After ten years of even moderate inflation, the impact of Urbana's fines has been eroded. In addition to recommending new fine levels, this ordinance includes a provision raising fines by three percent per year to keep up with inflation.

Section 1 of the proposed ordinance increases the fines for liquor-related violations. The minimum fines for each of those would be increased to \$280 (the same as is set for those violations in Champaign), with the exception of the two offenses for carrying open containers of alcohol on public property or outside of alcohol-licensed premises, each of which would be increased to a minimum fine of \$135, which is the same as the minimum for similar offenses in the City of Champaign.

Section 2 of the proposed ordinance will increase the minimum fines to \$185 for general noise violations and construction noise violations, while increasing the minimum fine to \$135 for noise violations related to the operation of motor vehicles. This generally follows the fine scheme that the City of Champaign has, and will be an increase to those amounts from the current level of \$75 for construction noise violations and \$50 for all other noise violations.

Section 3 of the proposed ordinance increases the minimum fines for animal cruelty offenses and mistreating police dogs to \$185, from the current minimum of \$75. The new minimum would match that of Champaign. Note that other animal violations would be increased to \$135, from the current minimum of \$50.

Section 4 of the proposed ordinance changes the minimum fines for Chapter 15 offenses ("Miscellaneous Offenses"). This is a collection of offenses that could generally be characterized as being criminal in nature, including such offenses as hindering or obstructing police officers, fraudulent use of parking permits, assault, battery, reckless conduct, breaking and entering, theft, destroying and injuring property, criminal trespass to land, retail theft, loitering, disorderly conduct, mob action, possession of fireworks, curfew for minors, public urination and defecation, throwing stones, and use of slings and air guns. The minimum fines for all those offenses would be increased to \$185, with the exception of disorderly conduct, possession of fireworks, and curfew for minors, each of which would be increased to a minimum of \$135. The current minimums for all those Chapter 15 offenses are \$75, with the exception of assault, battery, and reckless conduct, which all currently carry a \$100 minimum. The proposed new minimums again generally track the levels that are currently in place in the City of Champaign.

Section 5 of the Code of Ordinances is a catchall section that will increase every other provision in the pay-by-mail schedule to \$135, except as addressed above.

Section 6 of the proposed ordinance would increase the maximum fine for code violations (except as elsewhere described in the Code of Ordinances itself) to \$750. This would include also noise violations related to loud car stereos at Section 16-8(f). Note that state law currently sets \$750 as the maximum that can be established for ordinance violations. However, court decisions have held that Home Rule municipalities can go higher than \$750. While the City of Urbana has gone up to \$1,000 maximum fine for certain repeat violations of nuisance ordinances which are not at issue in the present proposal (see Code of Ordinances Section 11-47), the attached proposed ordinance does not establish any maximums above \$750.

Section 7 of the proposed ordinance contains an automatic escalator of minimum fines. Rather than increasing the fines by a fixed dollar amount (\$10 annually) as Champaign does, the proposal calls for each fine to be increased annually by 3%, rounded down to the nearest whole dollar amount.

Section 8 of the proposed ordinance calls for clean-up of errors in Section 1-18. Over the years as various changes were made to the Code of Ordinances, it appears

that parallel updating that should have been done to Section 1-18 was at times overlooked. The attachment to the ordinance contains clean-up of the section numbers and section titles that are referred to in Section 1-18. In some instances, (for example former Code Section 10-2 and new Code Sections 11-52 and 11-53) the current language of the sections does not precisely track the language of the former section, but the substance of the new sections is essentially the same as in the former sections.

Several sections contained in the pay-by-mail schedule should be removed completely. Those include the following:

1. Section 9-39, a section that no longer exists. The former Section 9-39 was a provision that required city licensing of vehicles that delivered food. This section apparently was deleted many years ago, and there is no longer any similar provision in the Code.
2. Sections 10-3, 10-5, 10-6, 10-7, and 11-19. Although similar provisions currently exist in the Code of Ordinances, they have been renumbered (to 11-57(a)(1), 11-57(c), 11-57(d)(2), 11-57(a)(2), and 11-57(b)(3), respectively. More importantly, those offenses are all now part of the separate schedule for escalating fines on repeat offenses in Section 11-57 of the Code. Accordingly, it is contradictory to keep them in this minimum fine section, and the attached revision of the pay-by-mail schedule proposes to delete them from that schedule. An alternative would be to keep these in the Schedule of Fines, but cross-reference the escalating fine schedule of 11-57 in the pay-by-mail schedule. My preference is to delete these offenses from the pay-by-mail schedule, to avoid confusion.

This Ordinance:
AMENDS the Code of Ordinances.

ORDINANCE NO. 2004-03-026

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
REGARDING MAXIMUM FINES AND PAY-BY-MAIL MINIMUM FINES

WHEREAS, since approximately 1993, the City of Urbana has had a pay-by-mail system for settling ordinance violation matters by payment of minimum fines prior to suit being filed, as set forth in sections 1-17 and 1-18 of the Code of Ordinances; and

WHEREAS, most or all of the minimum fines established for the pay-by-mail system have remained unchanged since the system was first established in 1993; and

WHEREAS, those fines no longer offer a realistic deterrence to the commission of the offenses; and

WHEREAS, those fines are substantially lower than the minimum fines established by the Urbana's adjacent neighbor, the City of Champaign, for its pay-by-mail system, as shown in the following comparison:

	Urbana	Champaign
Minimum fine:	\$ 50	\$ 135, \$ 185
	\$ 75	\$ 135, \$ 185, \$ 280
	\$ 100	\$ 185

; and

WHEREAS, the maximum fine for all ordinance violation offenses (with the exception of certain repeat BOCA code violations, Code of Ordinances section 1-10(k)) has remained at \$500 or less since 1993, although State law has since been amended to set the statutory maximum for municipal fines at \$750; and

WHEREAS, the City of Champaign has raised its maximum fines to \$750; and

WHEREAS, certain section numbers set forth in Section 1-18 are no longer accurate citations of the pertinent sections setting forth the violations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Liquor Violations. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended, so that

every offense related to the unlawful sale, consumption, or possession of alcohol (all offenses established by Chapter 3 of the Code of Ordinances) shall carry a minimum fine of \$280.00, with the exception of sections 3-59 (Possession of open container of alcoholic liquor on public property) and 3-60 (Carrying open container of alcohol out of liquor service premises), both of which shall carry a minimum fine of \$135.00.

Section 2. Noise Violations. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended, so that offenses related to Noise violations shall carry minimum fines as follows:

Urbana Ordinance section #	Fine amount
16-2 (Loud & Raucous noise, generally)	\$ 185
16-7 (Construction Noise time restrictions)	\$ 185
16-8 (Motor vehicles [Noise])	\$ 135
16-9 (Unlawful use of Horns & signaling devices on vehicles)	\$ 135

Section 3. Cruelty to Animals Violations. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended, so that every offense related to Cruelty to Animals (violations of section 4-6 of the Code of Ordinances) and Mistreating or Interfering with Police dogs (violations of section 4-11 of the Code of Ordinances) shall carry a minimum fine of \$185.00.

Section 4. Chapter 15 Offenses. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended, so that every offense set forth in Chapter 15 ("Miscellaneous Offenses"), which are offenses that can generally be characterized as being criminal in nature, shall carry a minimum fine of \$185.00, with the exception of sections 15-59 (Loitering), 15-60 (Disorderly Conduct), 15-62 (Possession of fireworks), and 15-63 (Curfew for minors), each of which shall carry a minimum fine of \$135.00.

Section 5. All Other Pay-by-mail Offenses. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended, other than as set forth in Sections 1 through 5, above, so that the minimum fine for every other violation shall be \$135.00.

Section 6. Maximum Fines. That Section 1-10, subparagraphs (b), (c), and (d) of the Code of Ordinances of the City of Urbana are amended, to reflect that the default maximum fines established by those subparagraphs shall be \$750.00, rather than \$500.00 and, further, that Section 16-8(f)(noise violations related to use of motor vehicles) is amended to change the maximum fine for offenses under Section 16-8 to \$750.00.

Section 7. Automatic Escalator of Minimum Fines. That

the minimum fines contained in section 1-18 shall automatically be increased by three percent (3%), rounded down to a whole dollar amount, on the first day of July of every year. The calculations shall be made each year by the City Comptroller and forwarded to the City Attorney for publication in the Code of Ordinances.

Section 8. Cleanup of Section 1-18. That Section 1-18 of the Code of Ordinances of the City of Urbana is amended to correct inaccurate citations to section numbers and section titles, as set forth in the attached strikethrough/underline version of the Section 1-18.

Section 9. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this ____ day of _____, _____.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, _____, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "AN ORDINANCE AMENDING THE CODE OF ORDINANCES REGARDING MAXIMUM FINES AND PAY-BY-MAIL MINIMUM FINES" which provided by its terms that it should be published in pamphlet form.

The pamphlet form of the Ordinance was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, _____, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, _____.

(SEAL)

Phyllis Clark, CITY CLERK

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Sec. 1-18. Minimum fine schedule for certain violations.

The minimum fine for violating certain sections of the Code of Ordinances, City of Urbana, Illinois shall be as follows:

Section	Section Title	Minimum Fine
<u>Chapter 3 Alcoholic Liquors</u>		
3-3	Hours of operation.	75.00 <u>280.00</u>
3-4	Sale to minors, drunkards, and the like	75.00 <u>280.00</u>
3-5	Transporting in motor vehicle.	75.00 <u>280.00</u>
3-20	Allowing to frequent or remain in public areas of Class A establishments. ([Minors])	75.00 <u>280.00</u>
3-21	Failure to w Warning to minors <u>[to be posted]</u> .	75.00 <u>280.00</u>
3-22	Purchase, consumption or acceptance of gift by minors; misrepresentation of age.	75.00 <u>280.00</u>
3-23	Identification cards.	75.00 <u>280.00</u>
3-24	Purchase, possession prohibited; exceptions. (Minors) <u>Employment of Minors</u>	75.00 <u>280.00</u>
3-39	Required. (Liquor license)	75.00 <u>280.00</u>
3-59	Consumption [& Possession] of open container of alcoholic liquor on public property - Prohibited.	75.00 <u>135.00</u>
3-60	Carrying open container of alcoholic liquor out of liquor service premises.	50.00 <u>135.00</u>
<u>Chapter 3.5 Ambulances</u>		
3.5-257	Cooperation with other public safety and emergency services <u>Compliance with emergency dispatch procedures.</u>	75.00 <u>135.00</u>
3.5-358	Monitoring <u>emergency dispatch</u> calls.	75.00 <u>135.00</u>
3.5-1130	Ambulance service license R required; exceptions. (Ambulance license)	75.00 <u>135.00</u>
<u>Chapter 3.7 Amusements</u>		
3.7-13	License required. (Amusement devices)	75.00 <u>135.00</u>
<u>Chapter 4 Animals and Fowl</u>		
4-1	Prohibited at large; responsibility of owner.	50.00 <u>135.00</u>
4-6	Cruelty.	75.00 <u>185.00</u>

4-11	Mistreating, interfering with, etc., police dogs.	75.00 <u>185.00</u>	
4-12	Disturbing the peace. (Animals)	50.00 <u>135.00</u>	
4-23	Subject to impoundment for running at large, etc. (Dogs)	50.00 <u>135.00</u>	
4-31	Removal of dog excrement	50.00 <u>135.00</u>	
<u>Chapter 6 Civil Emergencies</u>			
6-1	Proclamation by mayor for public curfew.	75.00 <u>135.00</u>	
<u>Chapter 8 Fire Prevention and Protection</u>			
8-2	Obstructing fire hydrants.	75.00 <u>135.00</u>	
8-3	Removal of property salvaged at fires.	75.00 <u>135.00</u>	
<u>Chapter 9 Food and Food Establishments</u>			
9-183	Licenses and fees. (Food service license) Health District permit prerequisite.	75.00 <u>135.00</u>	
9-39	Required. (Food delivery license) [Note: the code no longer contains a section similar to this provision, which required city licensing of vehicles that delivered food.]	75.00 <u>135.00</u>	
<u>Chapter 9.5 Games of Chance</u>			
9.5-21	License required. (Raffle license)	75.00 <u>135.00</u>	
9.5-27	Conduct of raffles; tickets; advertisements.	75.00 <u>135.00</u>	
<u>Chapter 10 Garbage and Refuse</u>			
10-211-52	Municipal waste service Collection required. [Note, this will move to Ch. 11.]	50.00 <u>135.00</u>	
11-53	Containers [Note: the prior version of the Code had a containers requirement in the same section (10-52) as the section that required municipal waste service.] [Note, this will move to Ch. 11.]		
10-3	Scavenging prohibited.	50.00	
10-5	Depositing waste on property of another.	50.00	
10-6	Scattering dirt, gravel, etc. on public streets.	50.00	
10-7	Placing grass, leaves or debris in streets and gutters.	50.00	
10-25	Vehicle operating requirements.	75.00 <u>135.00</u>	
10-81	Unauthorized tampering	50.00 <u>135.00</u>	
<u>Chapter 11 Health and Sanitation</u>			
11-19	Open burning.	50.00	

11-34	Prohibitions generally. (Smoking)	50.00 135.00	
11-36	Prohibited smoking on buses.	50.00 135.00	
11-37	Responsibility of proprietors. (Smoking)	75.00 135.00	
<u>Chapter 13 Library</u>			
13-1	Creating disturbances	75.00 135.00	
13-2	Loitering	75.00 135.00	
13-3	Failure to return books or pay fines	75.00 135.00	
13-4	Mutilating, etc., books, etc.	75.00 135.00	
13-5	Unlawful removal of articles.	75.00 135.00	
13-6	Those prohibited from use not to visit.	75.00 135.00	
<u>Chapter 15 Miscellaneous Offenses and Provisions</u>			
15-3	Hindering performance by or refusing to obey direction of city officer or employee.	75.00 185.00	
15-4	Impersonation of city officers and employees.	75.00 185.00	
15-16	Assault.	100.00 185.00	
15-17	Battery.	100.00 185.00	
15-18	Reckless conduct.	100.00 185.00	
15-31	Breaking and entering.	75.00 185.00	
15-32	Theft.	75.00 185.00	
15-33	Destroying or injuring property--Generally.	75.00 185.00	
15-34	Same--Caps or lids connected with water, sewerage or gas companies.	75.00 185.00	
15-35	Criminal trespass to land generally.	75.00 185.00	
15-36	Criminal trespass to city-supported land.	75.00 185.00	
15-43	Definitions. (Retail theft)	75.00 185.00	
15-59	Loitering.	75.00 135.00	
15-60	Disorderly conduct.	75.00 135.00	
15-61	Mob action.	75.00 185.00	
15-62	Fireworks.	75.00 135.00	
15-63	Curfew for minors.	75.00 135.00	
15-64	Public urination and defecation prohibited.	75.00 185.00	
15-71	Throwing stones, missiles, etc.	75.00 185.00	
15-72	Use of slings and air guns prohibited.	75.00 185.00	
<u>Chapter 16 Noises and Vibrations</u>			
16-2	Prohibitions generally.	50.00 185.00	
16-7	Construction operations.	75.00 185.00	
16-8	(All subsections) Motor vehicles [Noise offenses]	50.00 135.00	
16-9	Horns <u>and signaling devices on vehicles.</u>	50.00 135.00	

<u>Chapter 17 Peddlers, Solicitors and Transient Merchants</u>			
17-3	Refusing to leave premises; posting of premises.	75.00 <u>135.00</u>	
17-4	Use of residential streets prohibited; exception peddlers and permit holders.	75.00 <u>135.00</u>	
17-16	Required. (Solicitor license)	75.00 <u>135.00</u>	
<u>Chapter 20 Streets, Sidewalks and Other Public Places</u>			
20-44	Permission required. (Obstructions)	75.00 <u>135.00</u>	
20-45	Merchandise. (Obstructions)	75.00 <u>135.00</u>	
20-46	Building materials. (Obstructions)	75.00 <u>135.00</u>	
<u>Chapter 23 Local Traffic Code</u>			
23-35	Use of coasters, roller skates and similar devices restricted	50.00 <u>135.00</u>	
23-107	Climbing on vehicles in motion	50.00 <u>135.00</u>	
23-108	Clinging to moving vehicles	50.00 <u>135.00</u>	
23-109	Unlawful riding	50.00 <u>135.00</u>	
23-110	Required. (Parade permit)	75.00 <u>135.00</u>	
23-119(a)	Interference. (Parades)	75.00 <u>135.00</u>	
23-119(b)	Driving through parades.	75.00 <u>135.00</u>	
23-144	Riding on sidewalks	50.00 <u>135.00</u>	
<u>Chapter 26 Vehicles for Hire</u>			
26-27	Required. (Taxicab business license)	75.00 <u>135.00</u>	
26-43	Required. (Taxicab driver's license)	75.00 <u>135.00</u>	
26-46	State license required. (Taxicab)	75.00 <u>135.00</u>	

(Ord. No. 9394-17, § 3, 8-16-93; Ord. No. 9495-105, § 4, 6-5-95; Ord. No. 9596-27, § 4, 9-18-95; Ord. No. 9596-75, § 2, 2-19-96; Ord. No. 9697-123, § 3, 4-21-97; Ord. No. 2000-05-045, 5-15-00)

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