

ORDINANCE 2017-007 PASSED: FEBRUARY 27, 2017

**AMENDING CHAPTER 1 “GENERAL PROVISIONS”,
SECTION 1.06, “PENALTIES”, OF THE MUNICIPAL CODE
OF THE CITY OF DEKALB, ILLINOIS.**

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority conferred thereupon by virtue of the Illinois Constitution, the Illinois Municipal Code and the City Code of the City of DeKalb; and

WHEREAS, City Code Section 1.06 presently codifies the general penalties for violations of the DeKalb City Code and regulations; and

WHEREAS, the City Council has determined that it is necessary and appropriate to adopt updates to such provisions.

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. Revised Section 1.06 Adopted:

Section 1.06 of the City Code shall be amended as follows:

1.06 PENALTIES

a) Standard Penalty. Unless another penalty is specifically provided by this code for violations of any particular provision, section or chapter, any person violating any provision of this code, or any rule or regulation adopted or issued in pursuance thereof, or any provision of any code adopted herein by reference, shall upon conviction or Court Supervision be subject to a fine of not more than \$500 \$750, plus Court Costs and the costs of prosecution.

~~b) Commitment. The person upon whom any fine or penalty is imposed for violations of any provisions of this code or any ordinance of the city, upon order of the court before whom the conviction is had, may be committed to the city or county jail as provided by law, or to any other place provided by ordinance for the incarceration of offenders until the fine, penalty and costs are fully paid. No imprisonment, however, shall exceed six months for any one offense.~~

b) Each Day of Violation. Each act of violation and each day upon which a violation occurs constitutes a separate offense.

c) Applicability. The penalty provided by this section applies to the amendment of any section of this code or a code adopted herein by reference whether or not such penalty is reenacted in the amendatory ordinance.

d) Reference to Sections. Reference to a section of this code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

e) Failure of Officers to Perform Duties. The failure of an officer or employee of the city to perform an official duty imposed by this code shall not subject such officer or employee to the penalty imposed for violation of this code, unless a penalty is specifically provided in the section creating the duty.

f) Court Supervision. Where any person violates a provision of this Code, the Court may, in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the offender, impose a term of Court supervision. In the Order providing for such supervision, the Court may apply the following conditions:

(1) The Court shall order a specific period of time for each supervision and final entry of a conviction will be deferred until the conclusion of that period. During the period of supervision, the defendant shall be required to comply with any terms of sentencing imposed by the Court, and shall be required to attend all regularly scheduled Court dates.

(2) The Court may require the defendant to meet any or all of the following conditions of supervision as it sees fit:

- a) Report to and participate with the Court or other person or social service agency;
- b) Pay a fine and costs;
- c) Undergo medical, psychological or psychiatric evaluation, treatment, or treatment for drug addiction or alcoholism;
- d) If a minor (in addition to any other conditions):
 - i. Reside with his parents or in a foster home;
 - ii. Attend school;
- e) Make restitution to the victim in an amount equal to any personal injury or property damage caused by the defendant. The Court shall determine the amount and conditions of payment;
- f) Perform public service work or community service;
- g) Not violate the laws of any state or municipality;
- h) Agree to correct an ordinance, code or regulatory violation within a specified period of time, to demolish an unsafe structure, or otherwise to remediate or address a pending legal violation;
- i) Not enter upon specified premises or locations and/or not have contact with specified persons that have a reasonable nexus to the defendant's underlying unlawful conduct; or
- j) Such other conditions as the Court shall determine to be appropriate based upon the facts and circumstances of the case and the defendant's present or past conduct.

(3) If, at the conclusion of the period of supervision, the Court determines that supervision has successfully been completed, the Court shall discharge the defendant and enter a judgment dismissing the charges.

(4) If the defendant is found by the Court to have violated a condition of his supervision, the defendant may be resentenced by the Court.

(5) No person assigned to a public service employment program shall be considered an employee of the city for any purpose, nor shall the City be obligated to provide any compensation to such person. Any public service employment program, public work or community service assigned for completion pursuant to a Court Order of supervision pursuant to this Ordinance shall be considered "public or community service" for purposes of the immunities granted under the Probation Community Service Act, 730 ILCS 115/1, *et. seq.*, and the Tort Immunity Act, 745 ILCS 10/6A-105, or any similar or related statute, law or doctrine, and the Court, the City and the agency to which service is rendered shall be immune from liability arising out of the activities or injuries of the defendant in rendering such community service.

(6) Neither the state, the city, any local unit of government, nor any official or employee thereof acting in the course of his official duties shall be liable for any tortious acts of any person placed on supervision who is given any public service work as a condition of supervision.

(7) In the event that the Court utilizes a payment compliance date process wherein a defendant may avoid recurrent Court appearances by engaging in specific, Court-Ordered activity (such as the reporting of community service hours or the monthly deposit with the Court of specified payments towards costs of restitution or fines), such compliance date process shall toll the end date of such Court supervision indefinitely, pending further Order of Court.

(8) In the event that the defendant fails to appear in Court on a scheduled Court date during the term of supervision, the dispatch of a final notice to appear, the issuance of a warrant, or the verbal or written filing of a petition to revoke Court supervision shall toll the end date of such supervision indefinitely, pending further Order of Court. Participation in the Court supervision program constitutes waiver of written notice or personal service of any verbal or written petition to revoke that is made on a scheduled Court date for such case. A defendant who receives Court supervision shall be obligated to provide and update the defendant's address on record with the DeKalb County Circuit Clerk's office, and shall be obligated to receive and comply with Court Orders or notices dispatched by the Circuit Clerk at the direction of the Court.

(9) At hearing upon a petition to revoke Court supervision, when conducted pursuant to the verbal or written motion of the City, after written notice has been mailed to the defendant, the Court may extend such period of supervision, may

conclude the period of supervision with dismissal of the case (provided that all terms of sentencing have been complied with), may terminate the supervision and enter a conviction, may enter alternate sanctions against the defendant, or may Order such other or further relief as the Court shall deem appropriate.

Section 2. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

Section 3. Should any provision of this Ordinance be declared invalid by a Court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 4. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: February 28, 2017. Effective date: March 9, 2017.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 27th day of February, 2017 and approved by me as Mayor on the same day. First Reading February 13, 2017. Passed by an 8-0 Omnibus roll call vote under the Consent Agenda. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

ATTEST:


JENNIFER JEEP JOHNSON, City Clerk


JOHN A. REY, Mayor

