

ORDINANCES AND RESOLUTIONS

**CITY COUNCIL
September 24, 2002**

To: Mayor and City Council

From: George J. Rodericks, City Manager

SUBJECT: ORDINANCE NO. 2002-0491, ADMINISTRATIVE FINES FOR VIOLATIONS OF THE VILLA PARK MUNICIPAL CODE

BACKGROUND

The Villa Park Municipal Code provides that any person, firm, corporation or other group found to be in violation of any ordinance or law of the City shall be guilty of a misdemeanor. Every day any violation of the Municipal Code or any other ordinance continues constitutes a separate offense. In addition, any condition caused or permitted to exist in violation of the Code or any other ordinance is deemed a public nuisance and may be summarily abated as such.

Essentially, any violation of the City's codes can result in a fine of \$1,000 or imprisonment of up to six months – or both. In addition, after several public hearings, the City can obtain a warrant and enter any property to abate what is determined to be a public nuisance. The preceding is already a part of the City's Municipal Code and current procedures. These are the only tools in the City's arsenal to bring properties into compliance.

However, it is generally not in the City's best interest to threaten imprisonment for someone who fails to bring in their refuse containers or parks a recreational vehicle in a driveway for more than 72-hours. In addition, it is difficult for the public to believe that an empty refuse container in public view constitutes a public nuisance.

FINDINGS

The City's code enforcement officer currently uses a personal contact and letter writing campaign in an attempt to bring a property into compliance. Staff provides the property owner with numerous opportunities to bring the property into compliance prior to recommending that the City Council review the issue as a public nuisance. The process can be time consuming and expensive if the property owner does not wish to comply.

Ordinance No. 2002-0491 provides code enforcement staff with another tool for the tool box to address enforcement issues. Ordinance No. 2002-0491 provides an administrative procedure for the enforcement of Villa Park codes by authorizing the imposition and collection of fines for violations. By authorizing the collection of fines, the Council is reducing, to the greatest extent possible, the costs expended by all parties during enforcement actions.

The imposition of fines helps deter violations of the City's codes. The administrative procedures enacted by the Ordinance provide an alternative to the City's existing civil and criminal enforcement powers. Under the administrative procedures proposed, due process rights of a fair hearing before an impartial decision-maker and the opportunity to call and cross-examine witnesses must be followed.

Under the proposed procedures, the enforcement officer issues a correction notice to a property owner – essentially a letter explaining the violation and what is required to bring the property into compliance. If personal contact is made, the contact must be followed up with a letter. The property owner is provided with multiple opportunities to comply. A minimum of thirty (30) days is required under the proposed ordinance.

If a property owner fails to comply, the enforcement officer can issue an Administrative Citation. At that point, within fifteen (15) days, the property owner must pay the fine amount designated on the Citation; or make a written request for an administrative hearing. Under the Ordinance, fines are set at \$100.00 for the first violation, \$200 for a second violation of the same ordinance within one year of the first violation; and \$500 for each additional violation of the same ordinance within one year of the date of the first violation. Each and every day a violation continues to exist constitutes a separate offense.

If a hearing is not requested, the property owner must pay the fine to the City within fifteen (15) days of the date of Citation and correct the violation. Payment of the fine does not relieve the obligation of the property owner to correct the violation. The property owner may pay the fine and request an Administrative Hearing.

The Administrative Hearing provides due process of law to any person who is issued an Administrative Citation. Due process of law provides that the property owner shall be given adequate notice, an opportunity to participate in a hearing, and an adequate explanation of the reasons justifying the Administrative Citation.

The property owner must make the request for the Administrative Hearing within fifteen (15) working days from the date of the Administrative Citation together with an advanced deposit of the fine. At least fifteen (15) working days prior to the date of the Hearing, notice shall be provided to the property owner of the time, date and location of the Hearing. The City Manager appoints a person or persons to preside at the Hearing. It is staff's recommendation that the Community Development Committee serve as the Hearing Board.

Within ten (10) working days of the Hearing's conclusion, the Hearing Board shall provide the property owner with an Administrative Order constituting its decision. The decision of the Hearing Board is final. A decision in favor of the property owner constitutes dismissal of the violation. If the Hearing Board renders a decision in favor of the City, the property owner must comply with the Administrative Order or seek judicial review in Orange County Superior Court pursuant to Section 1-8.10 of the Ordinance.

Code enforcement staff recommends using the citation process as a last resort to obtain compliance. In all cases, a property owner will be given multiple opportunities to comply before a Citation is issued. It is staff's opinion that the Citation process will serve as a deterrent and an effective remedy to some of the non-public safety violations, such as refuse container placement, overgrown lawns, lack of adequate vegetation, recreational vehicle parking, overweight vehicle parking, and inappropriate storage.

RECOMMENDATION

It is recommended that the City Council introduce for first reading Ordinance No. 2002-0491, an Ordinance of the City Council of the City of Villa Park amending Section 1-5.6 and Article 1-8 to the Villa Park Municipal Code to create a procedure for imposing and collecting administrative fines for violations of the Villa Park Municipal Code.