

COUNCIL BILL NO. 1895

INTRODUCED BY: Jim Aughenbaugh

ORDINANCE NO. 1797

AN ORDINANCE

OF THE CITY OF DUBOIS AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF DUBOIS TO ADD PART 6 PROVIDING FOR THE ISSUANCE OF TICKETS FOR THOSE OFFENSES AS DEFINED BY RESOLUTION RATHER THAN CITATIONS AS THE INITIAL FORM OF DUE PROCESS THEREBY PROMOTING THE BEST INTERESTS OF THE RESIDENTS OF THE CITY OF DUBOIS BY PERMITTING THE RESOLUTION OF AN ALLEGED CODE ENFORCEMENT VIOLATION IN AN EXPEDITIOUS FASHION WITHOUT RESORTING TO THE COURTS TO RESOLVE THE MATTER.

BE IT ORDAINED AND ENACTED by the Council of the City of DuBois, Clearfield County, Pennsylvania, and it is hereby ordained and enacted by authority of the same as follows:

SECTION 1: GENERAL PROVISIONS

This Ordinance shall be known and may be cited as The Alternative Dispute Resolution Ordinance of the City of DuBois, Clearfield County, Pennsylvania, of 2014.

SECTION 2: PURPOSE

A. The purpose of the Ordinance is to provide for a mechanism by means of issuance of tickets rather than citation to permit a citizen who believes he may have been in violation to pay the ticket rather than cause the issuance of a citation and a costly and protracted legal hearing before a District Judge and unnecessary appeals. The resolution in this manner is beneficial from a two-fold perspective in that it permits the City of DuBois to maintain and enforce its laws and permits a citizen and/or taxpayer so accused to resolve the dispute in a manner that does not unduly burden the resident by requiring the issuance of a citation and a court hearing. It also does not deprive the citizen and/or taxpayer of the right to dispute the ticket and receive the full benefit of procedural and substantive due process of law.

SECTION 3: ENFORCEMENT

A. The provisions of any article so enumerated shall be enforced by police officers, code enforcement officers, or any public officer sworn to uphold and enforce the law of this municipality.

B. The City Council of the City of DuBois may from time to time change, increase or decrease those sections to be covered under this alternative dispute resolution ordinance by resolution passed at a regularly-scheduled work session or City Council meeting; however, at the time of the adoption of this Ordinance the following chapters are hereby deemed and ordained to be under the jurisdiction of this process:

1. The provisions of Ordinance No. 1645, Section 4 adopting the BOCA Code;

SECTION 3: ENFORCEMENT Cont'd.

2. The provisions of Ordinance No. 1544 governing all code enforcement powers and property maintenance matters enabling the City to more effectively prevent property from becoming blighted including, but not limited to the following:
 - a. The regulation of grass height and weeds;
 - b. The parking of inoperable vehicles;
 - c. The existence of unsanitary conditions;
 - d. The right to control the quality of sanitation in the City of DuBois;
 - e. The maintenance of sidewalks in a safe condition;
 - f. The control of overgrown trees and shrubs over the right-of-way and cart ways of the City of DuBois;
 - g. Unsafe conditions existing in or on the exterior of private property affecting the health, safety and welfare of the citizens of the City of DuBois;
 - h. The existence of unsafe conditions in or upon the interior of properties of the City of DuBois affecting the health, safety and welfare of the citizens of DuBois;
 - i. The City's right to require mandatory garbage service for the protection of health, safety and welfare of the citizens of DuBois; and
 - j. The right of the City of DuBois to regulate fireworks for the health, safety and welfare of the citizens of DuBois.

C. Any violation of the provisions of any article as enumerated in the above Ordinances and this chapter in the Code of Ordinances of the City of DuBois may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

D. A notice of violation or a violation ticket shall be served upon a violator in the following manner:

1. By handing the ticket or notice of violation to the violator.
2. By handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence.
3. By leaving or affixing the notice of violation ticket to the property where the violation exists.
4. By handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof.

SECTION 3: ENFORCEMENT (Paragraph D) - Cont'd.

5. By mailing the notice to the violator's address of record by United States First Class Mail with a certificate of Mailing.

E. Each day a violation continues or is permitted to continue constitutes a separate offense for which a separate fine may be imposed.

F. A public officer is hereby authorized and empowered to correct or abate any violation and should in the discretion of the officer such violation constitute a clear and present danger to the health and safety of the community, he shall take all steps necessary to correct or abate the violation within twenty-four (24) hours.

G. If the City of DuBois has effected a correction of the violation, the cost thereof shall be charged to the owner of the property, tenant, or offending party, in that order of responsibility and such restitution can be effected by whatever means is available to the City of DuBois.

SECTION 4. VIOLATION TICKET DISPOSITION

A person in receipt of a violation ticket shall have ten (10) days within which time to pay the amount of the ticket. In the event the ticket is not paid within ten (10) day such failure to pay shall result in the issuance of a criminal citation for the offense as enumerated on the ticket.

SECTION 5. FINES AND PENALTIES

- A. For the first offense of the violation of this article within a 12 month period, the ticket shall be issued in the amount of \$25.00.
- B. For the second offense of the violation of this article within a 12 month period, the tickets shall be issued in the amount of \$50.00.
- C. For the third offense of the violation of this article within a 12 month period, the tickets shall be issued in the amount of \$100.00.
- D. For the fourth offense and all subsequent offenses of the violation of this article within a 12 month period, the tickets shall be issued in the amount of \$300.00.

SECTION 6: RESTITUTION

In addition to imposing a fine and costs and or imprisonment as enumerated under the Section allegedly violated, the Magisterial District Judge having jurisdiction to hear such claims may order the violator upon conviction to make restitution to any aggrieved person.

SECTION 7: SEVERABILITY

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the City of DuBois that this Ordinance would

SECTION 7: SEVERABILITY Cont'd.

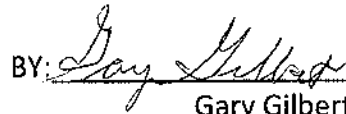
have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

SECTION 8: REPEALER

The provisions of any prior Ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. This Ordinance shall be effective immediately upon adoption.

ATTEST:


City Manager

BY: 
Gary Gilbert
Mayor and President of Council

PASSED BY COUNCIL:

Sept 22, 2014

APPROVED: 