

Rule 572. Form of Charging Document.

(a) A prosecution for an ordinance violation for which the penalty does not include the possibility of a jail term may be initiated by a charging document such as a Notice to Appear, Citation, Ticket, or Complaint or combination of the same. The charging document shall be signed by an attorney representing the plaintiff, or by a peace officer or a code enforcement officer authorized by the plaintiff to sign the charging document. The charging document shall be verified as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). Such charging document or combination of documents shall contain at least the following:

1. The name of the prosecuting entity;
2. The name of the defendant and his or her address, if known;
3. The nature of the offense and a reference to the relevant ordinance;
4. A statement whether the defendant is required to appear in court and, if so, the date, time and place of appearance;
5. If applicable, the steps the defendant can take to avoid an otherwise required appearance; and
6. A statement that the defendant may demand a jury trial by filing a jury demand and paying a jury demand fee when entering his or her appearance, plea, answer to the charge, or other responsive pleading.

(b) The following statement(s) shall also appear on the charging document or combination of documents listed in (a) above in the event a warrant or default judgment will be sought by the prosecuting entity:

1. A statement that a default judgment may be entered in the event the person fails to appear in court or answer the charge made on the date set for the defendant's court appearance or any date to which the case is continued. The statement must also contain the specific amount of any default judgment.
2. A statement that an arrest warrant may issue if the defendant fails to appear at any hearing.

(c) Multiple Violations. Multiple violations of automobile parking offenses may be contained in a single count. Violations of the same offense occurring on different days, or violations of ordinances which carry a per day fine, may be stated in one count even though each violation or day upon which a violation occurs carries a separate fine. Such separate violations and fines must be clearly stated.

(d) Prayer for Relief. It shall be sufficient for the prosecuting entity to generally pray for a penalty range between the minimum and maximum penalties authorized by the corporate authorities of the prosecuting entity.

(e) Amendments. The charging document may be amended at any time, before or after judgment, to conform the pleadings to the proofs on just and reasonable terms. However, the amount of any default judgment appearing on the charging document under Rule 572(b) may not be amended after the entry of such judgment, without notice to defendant.

Adopted December 7, 2011, effective immediately.

Committee Comment

(December 7, 2011)

Many prosecuting entities have created hybrid complaints that serve both as notice to appear and the charging document itself, similar to a traffic citation. Since an ordinance violation prosecution incorporates aspects of both criminal and civil procedures, the more general term “charging document” phrase is used.

(a) Rule 572 is intended to provide flexibility in the initiation of an ordinance violation prosecution.

The Municipal Code states that “the first process shall be a summons or a warrant.” 65 ILCS 5/1-2-9.

Many prosecuting entities, however, begin with a “Notice to Appear” which is provided for in the Code of Criminal Procedure, 725 ILCS 5/1 07-12: (a) Whenever a peace officer is authorized to arrest a person without a warrant he may instead issue to such a person a notice to appear *** (c) Upon failure of the person to appear a summons or warrant of arrest may issue.” A notice to appear “is a means by which a person may be brought before the court without the inconvenience of immediate arrest ***. Such a notice may be issued whenever a peace officer has probable cause to make a warrantless arrest.” *People v. Warren*, 173 Ill. 2d 348, 357 (1996).

The purpose of this rule is to continue to allow prosecuting entities to utilize the most efficient means of initiating ordinance violation proceedings. “Notices to Appear” are an appropriate and reasonable means of informing defendants of charges against them and are similar to citations issued in traffic cases.

This does not prohibit a prosecuting entity from obtaining an arrest warrant based upon probable cause, as authorized in section 1-2-9 of the Municipal Code (65 ILCS 5/1-2-9).

This rule also makes it clear that an attorney need not sign the charging document in every case. This is especially important where the process is initiated by a nonattorney such as a police officer or code enforcement officer.

(b) This section provides for issuance of default judgments or warrants upon a failure to appear.

(c) This is intended to minimize paperwork and codify the decision in *Village of Oak Park v. Flanagan*, 35 Ill. App. 3d 6 (1st Dist. 1975). The Village of Oak Park case involved prosecution for multiple parking tickets in which the court held that a computer printout was sufficient to comply with the requirements of pleading for ordinance violations. Note, however, this rule is not meant to contravene the one act, one crime rule identified in *Village of Sugar Grove v. James Rich*, 347 Ill. App. 3d 689 (1st Dist. 2004).

(d) Section 2-604 of the Code of Civil Procedure requires a “specific” prayer for relief. 735 ILCS 5/2-604. This paragraph is intended to make it clear that a prayer for a penalty within the penalty range authorized by the ordinance is sufficiently specific to advise the defendant of the maximum penalty to which they are exposed.

(e) Section 2-616(a) of the Code of Civil Procedure specifically permits amendments to civil pleadings at various times. 735 ILCS 5/2-616(a). The purpose is to avoid minor errors in the charging document being a cause of a finding of not guilty when a violation has been proved by the requisite proof. The last sentence enforces the requirement of Rule 572(b) that if the prosecuting entity will seek a default judgment, it must state the specific amount in the charging document or combination of documents served upon the defendant.