

## **ARTICLE IX. MUNICIPAL CIVIL INFRACTIONS**

### Sec. 58-241. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.101 et seq., MSA 27A. 101 et seq.), as amended.

Authorized city official means a police officer, building inspector, or other designated official or employee of the city authorized by this article or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau, as established by this article.

Municipal civil infraction means an act or omission that is prohibited by this article or any ordinance of the city, but which is not a crime under this article or other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses, and costs, may be ordered, as authorized by chapter 87 of Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.101 et seq., MSA 27A. 101 et seq.), as amended. A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of fines adopted by the city, as authorized under sections 8396 and 8707(6) of the act. (Ord. No. 94-8, 1(9.159), 8-15-94) Cross reference—Definitions generally, 1-2.

Sec. 58-242. General penalties and sanctions for violations of city ordinances; continuing violations; injunctive relief.

- (a) Unless a violation of this article or any ordinance of the city is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.
- (b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00, plus costs of prosecution, or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this article or any ordinance.

(c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this article or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of the act and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this article or any ordinance, the civil fine for a violation shall be not less than \$25.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this article or any ordinance. As used in this section, the term "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any six-month period, unless some other period is specifically provided by this article or any ordinance, and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this article or any ordinance

for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows: a. The fine for any offense which is a first repeat offense shall be no less than \$100.00, plus costs.

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$250.00, plus costs.

(d) A violation includes any act which is prohibited, or made or declared to be unlawful, or an offense by this article or any ordinance, and any omission or failure to act where the act is required by this article or any ordinance.

(e) Each day on which any violation of this article or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies at law, the city may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this article or any city ordinance. (Ord. No. 94-8, 1(9.160), 8-15-94)

Sec. 58-243. Authorized city officials.

The following employees and/or officials of the city are hereby designated as the authorized city officials to issue municipal civil infraction citations, directing alleged violators to appear in court, or municipal civil infraction violation notices, directing alleged violators to appear at the city municipal ordinance violations bureau, as provided by this article:

(1) City building inspector;

(2) Fire chief;

(3) Sworn, full-time firefighters acting on the directive of the fire chief;

(4) Police chief; and

(5) Sworn, full-time police officers. (Ord. No. 94-8, 1(9.161), 8-15-94)

Sec. 58-244. Municipal civil infraction action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court or a municipal civil infraction violation notice directing the

alleged violator to appear at the city municipal ordinance violations bureau. (Ord. No. 94-8, 1(9.162), 8-15-94)

Sec. 58-245. Municipal civil infraction citations—Issuance and service.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued which shall not exceed 15 calendar days following such issuance.
- (2) The place for appearance specified in a citation shall be the county district court.
- (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator, as provided by section 8705 of the act.
- (4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: “I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief.”
- (5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (6) An authorized city official may issue a citation to a person if:
  - a. Based upon investigation, the official has reasonable course to believe that the person is responsible for a municipal civil infraction; or
  - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable course to believe that the person is responsible for an infraction and if the prosecuting attorney or city attorney approves in writing the issuance of the citation.
- (7) Municipal civil infraction citations shall be served by an authorized city official as follows:
  - a. Except as provided by subsection (7)b of this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.
  - b. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, or structure, by posting a copy of the citation on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address. (Ord. No. 94-8, 1(9.163), 8-15-94)

Sec. 58-246. Same Contents.

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

- (b) Further, the citation shall inform the alleged violator that he may do one of the following:
  - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
  - (2) Admit responsibility for the municipal civil infraction, with explanation, by mail, in person, or by representation, at or by the time specified for appearance.
  - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
    - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.
    - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

8 The citation shall also inform the alleged violator of all of the following:

- (1) If the alleged violator desires to admit responsibility, with explanation, in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
- (2) If the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
- (3) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.
- (4) At an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
- (5) At a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in bold-faced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on a municipal civil infraction. (Ord. No. 94-8, 1(9.164), 8-15-94)

Sec. 58-247. Municipal ordinance violations bureau.

- (a) Established. The city hereby establishes a municipal ordinance violations bureau, or bureau, as authorized under section 8396 of the act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs, as prescribed by this article or any ordinance.
- (b) Location; supervision; employees; rules and regulations. The bureau shall be located at the city municipal offices and shall be under the supervision and control of the city manager. The city manager, subject to the approval of the city council, shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified city employees to administer the bureau.

- (c) Disposition of violations. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice, as compared with a citation, has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded by law.
- (d) Bureau limited to accepting admissions of responsibility. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (e) Municipal civil infraction violation notices. Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as are citations, as provided for in section 58-245. In addition to any other information required by this article or any ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (f) Appearance; payment of fines and costs. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- (g) Procedure where admission of responsibility not made, or fine not paid. If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all respects with the requirements for citations as provided by sections 8705 and 8709 of the act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. (Ord. No. 94-8, 1(9.165), 8-15-94) Sec. 58-248. Schedule of civil fines established.

(a) A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed in this subsection shall be as follows:

Identification Offense

within Code (Violation) Fine

Sections 22-308--22-310 Failure to comply with any provision of sections \$25.00 22-308--22-310 First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 38-56 et seq. Failure to comply with any provision of section 25.00 38-56 et seq.

First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 38-71 et seq. Failure to comply with any provision of section 25.00 38-71 et seq.

First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 42-51 et seq. Failure to comply with any provision of section 25.00 42-51 et seq.

First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 50-4 Failure to comply with any provision of section 25.00 50-4

First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 58-211 et seq. Failure to comply with any provision of section 25.00 58-211 et seq.

First repeat offense 100.00

Second (or any subsequent) repeat offense 250.00 Sections 70-4--70-8 Failure to comply with any provision of sections 70-4---70-8, inclusive 25.00 First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 78-28, UTC section 2.5 Failure to comply with any provision of section 2.5 of the UTC adopted by section 78-26 and amended by section 78-28 25.00 First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00 Section 86-56 et seq. Failure to comply with any provision of section 86-56 et seq. 25.00 First repeat offense 100.00 Second (or any subsequent) repeat offense 250.00

(b) A copy of the schedule, as from time to time amended, shall be posted at the bureau. (Ord. No. 94-8, 1(9.166), 8-15-94; Ord. No. 96-1, 3, 2-5-96; Ord. No. 96-2, 2, 4-15-96)