

CHAPTER 212
Municipal Civil Infractions

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CROSS REFERENCES

Form of municipal civil infraction violation citations - see M.C.L.A. 600.8705 to 600.8709

Authority of Council re penalties - see CHTR. Ch. VI, §§5, 6

General Code penalty - see CHTR. Ch. XVI, §11; ADM. 202.99

Municipal civil infraction penalty - see ADM. 202.99(a)(3)

Zoning Code penalty - see P. & Z. 1242.99

212.01 DEFINITIONS.

As used in this chapter:

- (a) "Authorized enforcement officer" means the Village Police Department and all Village officials and personnel designated by Council or authorized by Village ordinance to issue Municipal civil infraction citations or Municipal civil infraction notices.
- (b) "Municipal civil infraction" means a violation of any Village ordinance for which the remedy and/or sanction is prescribed to be a civil fine or sanction other than a criminal penalty. A Municipal civil infraction is not a lesser included offense of a criminal offense or of an ordinance violation that is not a civil infraction.
- (c) "Municipal civil infraction determination" means a determination that a defendant is responsible for a Municipal civil infraction based on one of the following:
 - (1) An admission of responsibility for the Municipal civil infraction;
 - (2) An admission of responsibility for the Municipal civil infraction, "with explanation";
 - (3) A preponderance of the evidence at an informal hearing or formal hearing; or
 - (4) A default judgment for failing to appear at a scheduled appearance.
- (d) "Municipal civil infraction violation notice" means a written notice prepared by an authorized enforcement officer directing a person to appear at the Ordinance Violations Bureau established under this chapter for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a Municipal civil infraction.

- (e) "Violation" means any act or offense which is prohibited or declared to be unlawful under any Village ordinance and any omission or failure to act where such act is required by ordinance. (Ord. 2000-1. Passed 2-7-00.)

212.02 MUNICIPAL CIVIL INFRACTION ACTIONS.

(a) Commencement. A Municipal civil infraction action is commenced upon the issuance by an authorized enforcement officer of either of the following:

- (1) Citation. A Municipal civil infraction citation directing the alleged violator to appear in District Court; or
- (2) Violation notice. A Municipal civil infraction violation notice directing the alleged violator to appear at the Ordinance Violations Bureau.

(b) Citation Form. The form and content of citations used for Municipal civil infraction violations shall be in accordance with M.C.L.A. 600.8705 and 600.8709.

(c) Basis for Issuance. The basis for issuance of a Municipal civil infraction citation shall be as follows:

- (1) Witnessed by authorized enforcement officer. An authorized enforcement officer who witnesses a person violate an ordinance, the violation of which is a Municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three copies of a citation unless the officer instead issues a Municipal civil infraction violation notice pursuant to subsection (e) hereof.
- (2) Based upon investigation. An authorized enforcement officer may issue a citation to a person if, based upon investigation, the officer has reasonable cause to believe that a person is responsible for a Municipal civil infraction.
- (3) Based on investigation of complaint by witness. An authorized enforcement officer may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, the violation of which is a Municipal civil infraction, the officer has reasonable cause to believe that the person is responsible for a Municipal civil infraction and if the Village Attorney approves, in writing, the issuance of the citation.

(d) Filing and Service of Citations. Municipal civil infraction citations shall be filed with the District Court, and a copy shall be served in the following manner:

- (1) Personal service. Except as otherwise provided in paragraphs (d)(2) and (3) hereof, the authorized enforcement officer shall personally serve a copy of the citation upon the alleged violator.
- (2) Use or occupancy of land; posting. In a Municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon the owner or occupant of the land, building or structure by posting the copy 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.
- (3) Processing of citation. A citation served as provided in paragraph (d)(2) hereof, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a citation served personally upon a defendant.

(e) Municipal Civil Infraction Violation Notices. An authorized enforcement officer may issue and serve a Municipal civil infraction violation notice, instead of a citation, under the same circumstances and in the same manner as provided for the service of citations. The violation notice shall indicate the time by which the alleged violator must appear at the Ordinance Violations Bureau, the means by which a violator may appear, the address and telephone number of the Ordinance Violations Bureau, the Ordinance Violations Bureau's hours, the amount of the fine for the violation, and the consequences for failure to appear or to pay the fine, together with any other information required by ordinance. (Ord. 2000-1. Passed 2-7-00.)

212.03 ORDINANCE VIOLATIONS BUREAU.

(a) Establishment; Purpose. An Ordinance Violations Bureau is hereby established for the purpose of accepting admissions of responsibility for Municipal civil infractions in response to Municipal civil infraction violation notices issued and served by authorized enforcement officers, and to collect civil fines and costs prescribed by Village ordinance.

(b) Disposition of Payments. Payments made to the Ordinance Violations Bureau shall be retained and accounted for as fines and costs, respectively, and shall be deposited in the Village's General Fund.

(c) Location; Authority of Village Administrator. The Ordinance

Violations Bureau shall be located in the Village's administrative offices, and shall be under the supervision and control of the Village Administrator.

(d) Authority of Ordinance Violations Bureau.

- (1) Acceptance of payments. The Ordinance Violations Bureau is authorized to accept admissions of responsibility for Municipal civil infractions in response to Municipal civil infraction violation notices, and to collect civil fines and costs in connection therewith.
- (2) Non-acceptance of payments where responsibility denied. The Ordinance Violations Bureau shall not accept payment of a fine or costs from any person who denies having committed the Municipal civil infraction charged in a Municipal civil infraction violation notice, or who admits responsibility only with explanation.
- (3) No authority to determine responsibility. The Ordinance Violations Bureau shall not have the authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) Disposition of Violations.

- (1) Alleged violator's options. Any person receiving a Municipal civil infraction violation notice may dispose of the charge alleged in the notice by making payment of the fine and/or costs to the Ordinance Violations Bureau; however, a person shall have the right to elect not to have the violation processed by the Ordinance Violations Bureau and to instead have the alleged violation processed in District Court. The unwillingness of any person to dispose of a violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- (2) Procedure for processing violations at bureau. A person electing to have an alleged violation processed at the Ordinance Violations Bureau shall appear at the Bureau and pay the specified fine and/or costs within the time specified for appearance in the Municipal civil infraction violation notice. Appearance may be made by mail, in person or by representation. If appearance is made by mail, the person charged in the notice shall be responsible for timely delivery of the fine and/or costs within the time specified in the Municipal civil infraction

violation notice.

- (3) Procedure where responsibility not admitted or fine not paid. If a person elects not to admit responsibility or pay the specified civil fine and/or costs prescribed for an alleged violation, an authorized enforcement officer may file a Municipal civil infraction citation with the District Court, in which case a copy of the citation shall be served by first-class mail upon the person charged with the Municipal civil infraction at the person's last known address. The citation filed with the Court need not comply in all particulars with Section 212.02(b), but shall consist of a sworn complaint containing the allegations stated in the Municipal ordinance violations notice and shall fairly inform the defendant how to respond to the citation. (Ord. 2000-1. Passed 2-7-00.)

212.04 SCHEDULE OF CIVIL FINES.

(a) Adoption. A schedule of civil fines payable to the Ordinance Violations Bureau for admissions of responsibility by persons served with Municipal civil infraction violation notices shall be adopted from time to time by resolution of Council.

(b) Posting. A copy of the adopted schedule of civil fines shall be posted at the Ordinance Violations Bureau.

(Ord. 2000-1. Passed 2-7-00.)