

Chapter 20

LAW ENFORCEMENT*

* **State Law References:** Mutual assistance agreements, MCL 123.811 et seq.; uniform crime reports, MCL 28.251 et seq.; commission on law enforcement standards act, MCL 28.601 et seq.

Article I. In General

Secs. 20-1--20-19. Reserved.

Article II. Municipal Civil Infractions

Division 1. Generally

Sec. 20-20. Definitions.

Sec. 20-21. General penalties and sanctions for violations of city ordinances; continuing violations; injunctive relief.

Secs. 20-22--20-39. Reserved.

Division 2. Municipal Ordinance Violations Bureau

Sec. 20-40. Establishment, location and personnel.

Sec. 20-41. Authority.

Sec. 20-42. Ordinance violation notice requirements.

Sec. 20-43. Schedule of civil fines/costs.

Sec. 20-44. Record and accounting.

Sec. 20-45. Availability of other enforcement options.

Secs. 20-46--20-61. Reserved.

Division 3. Enforcement Action

Sec. 20-62. Commencement.

Sec. 20-63. Municipal civil infraction citations--Issuance and service.

Sec. 20-64. Same--Contents.

Sec. 20-65. Schedule of civil fines established.

Secs. 20-66--20-81. Reserved.

Division 4. Ordinance Enforcement Officer

Sec. 20-82. Position established.

Sec. 20-83. Appointment.

Sec. 20-84. Authority.

Sec. 20-85. Duties.

ARTICLE I.

IN GENERAL

Secs. 20-1--20-19. Reserved.

ARTICLE II.

MUNICIPAL CIVIL INFRACTIONS*

* **State Law References:** Municipal civil infractions, MCL 600.8701 et seq.

DIVISION 1.

GENERALLY

Sec. 20-20. 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 Public Act No. 236 of 1961 (MCL 600.101 et seq.).

Authorized city official means the city manager, a city police officer, the city zoning enforcement officer, city zoning administrator, city building inspector, or other personnel of the city authorized by resolution of the city council to issue municipal civil infraction citations or municipal civil infraction violation notices.

Municipal civil infraction means an act or omission that is prohibited by this chapter or any ordinance of the city, but which is not a crime under this chapter 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 Public Act No. 236 of 1961 (MCL 600.8701 et seq.). A municipal civil infraction is not a lesser included offense of a violation of this chapter 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 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.
(Ord. No. 01-03, art. 2, §§ 2.2, 2.3, 9-10-2001)

Sec. 20-21. General penalties and sanctions for violations of city ordinances; continuing violations; injunctive relief.

(a) Unless a violation of this chapter or any ordinance of the city is specifically designated in the provisions as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(b) The sanction for a violation which is a municipal infraction shall be a civil fine in the amount as provided by this chapter or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.), and other applicable laws.

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

(d) Each day on which any violation of this chapter or any city ordinance continues constitutes a

separate offense and shall be subject to penalties or sanctions as a separate offense.

(e) In addition to any remedies available at law, the city may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation or any city ordinance. (Ord. No. 01-03, art. 3, § 3, 9-10-2001)

Secs. 20-22--20-39. Reserved.

DIVISION 2.

MUNICIPAL ORDINANCE VIOLATIONS BUREAU

Sec. 20-40. Establishment, location and personnel.

(a) *Establishment.* The city municipal ordinance violations bureau (hereafter "bureau") is hereby established pursuant to Public Act 12 of 1994 (MCL 600.8396), as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.

(b) *Location.* The bureau shall be located at the city hall/office or other such location in the city as may be designated by the city council.

(c) *Personnel.* All personnel of the bureau shall be city employees. The city manager may designate a bureau clerk with the duties prescribed herein and as otherwise may be delegated by the city manager.

Sec. 20-41. Authority.

The municipal ordinance violations bureau shall only have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violations notice (as compared to a citation) has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this division or other applicable ordinance. The bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

Sec. 20-42. Ordinance violation notice requirements.

(a) *Issuance; required information.* Municipal civil infraction violation notices shall be issued and served by authorized city officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:

- (1) The violation;
- (2) The time within which the person must contact the bureau for purposes of admitting or denying responsibility for the violation;

- (3) The amount of the scheduled fines/costs for the violation;
- (4) The methods by which the violation may be admitted or denied;
- (5) The consequences of failing to pay the required fines/costs or contact the bureau within the required time;
- (6) The address and telephone number of the bureau; and
- (7) The days and hours that the bureau is open.

(b) *Denial of responsibility.* Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the bureau and pay the required civil fines/costs within the designated time period, the bureau clerk or other designated city employee shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter. The citation filed with the court shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. 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 shall thereafter be processed in the manner required by law.

Sec. 20-43. Schedule of civil fines/costs.

Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule:

- (1) First violation within a three-year period: \$50.00.*
- (2) Second violation within a three-year period: \$250.00.*

*Determined on the basis of the date of the violation.

- (3) Third or subsequent violation within a three-year period: \$500.00.

In addition to the above-prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the bureau if the fine and costs are paid within ten days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the bureau.

Sec. 20-44. Record and accounting.

The bureau clerk or other designated city official/employee shall retain a copy of all municipal ordinance violation notices and shall account to the city council once a month or at such other intervals as the city council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the city treasurer at such intervals as the treasurer

shall require, and shall be deposited in the general fund of the city.

Sec. 20-45. Availability of other enforcement options.

Nothing in this division shall be deemed to require the city to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction, the city may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

Secs. 20-46--20-61. Reserved.

DIVISION 3.

ENFORCEMENT ACTION

Sec. 20-62. Commencement.

A municipal civil infraction action may be commenced by an authorized city official issuing a municipal civil infraction citation directing the alleged violator to appear in court.
(Ord. No. 01-03, art. 3, § 3.1, 9-10-2001)

Sec. 20-63. Municipal civil infraction citations--Issuance and service.

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

- (1) 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.
- (2) An authorized city official may issue a citation to a person if:
 - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - b. Based upon investigation by an authorized city official of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney approves in writing the issuance of the citation.
- (3) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (4) The place for appearance specified in a citation shall be the district court.
- (5) 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 236 (MCL 600.8705).

- (6) 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."
- (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 upon the land or attaching the copy to the building or structure. In both cases, 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. 01-03, art. 3, § 3.2, 9-10-2001)

Sec. 20-64. Same--Contents.

- (a) A civil infraction notice or citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the zoning ordinance section violated, time, place, and location of the alleged violation, 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. These cases will be administered by the municipal ordinance violations bureau.
 - (2) Admit responsibility for the municipal civil infraction with explanation by mail by the time specified for appearance or, in person, or by representation.
 - (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.

- (c) The citation shall also inform the alleged violator of all of the following:
- (1) That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court by 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) That 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) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.
 - (4) That 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) That 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 boldfaced 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 said alleged violator will be in contempt of court and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 01-03, art. 3, § 3.3, 9-10-2001)

Sec. 20-65. Schedule of civil fines established.

(a) A schedule of civil fines payable to the district court for admissions or determinations of responsibility by persons served with municipal ordinance violation notices is hereby established. Unless otherwise specifically provided by another city provision, failure to comply with any provision of this chapter or any ordinance, including, without limitation, failure or refusal to abate a violation following service of a notice and order shall result in:

- (1) A \$50.00 fine for first offense.
- (2) A \$250.00 fine for first repeat offense.
- (3) A \$500.00 fine for second repeat (or any subsequent) offense within a three-year period.

(b) A copy of the schedule, as amended from time to time, shall be posted at the district court.
(Ord. No. 01-03, art. 3, § 3.4, 9-10-2001)

Secs. 20-66--20-81. Reserved.

DIVISION 4.

ORDINANCE ENFORCEMENT OFFICER

Sec. 20-82. Position established.

The office of city ordinance enforcement officer is hereby established.

Sec. 20-83. Appointment.

The city manager is hereby authorized to appoint any city employee to the office of ordinance enforcement officer for such term as designated.

Sec. 20-84. Authority.

The ordinance enforcement officer is hereby authorized to enforce all ordinances of the city, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different enforcing officer or do not designate any particular enforcing officer. Where a particular officer is so designated in an ordinance, that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this article, and the authority of the ordinance enforcement officer shall be in addition and supplementary to the authority granted to such other specific officer. An ordinance enforcement officer shall, in the performance of his duties, be subordinate and responsible to the city manager.

Sec. 20-85. Duties.

The ordinance enforcement officer's duties shall include the following:

- (1) Investigation of ordinance violations issuing and serving ordinance violation notices;
- (2) Issuing and serving appearance tickets as authorized under Public Act 147 of 1968, as amended (MCL 764.9c);
- (3) Issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized under Public Act 12 of 1994, as it may from time to time be amended (MCL 600.8701 et seq.);
- (4) Appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators; and
- (5) Such other ordinance enforcing duties as may be delegated by the city manager or assigned by the city attorney.