

CHAPTER 58 ENFORCEMENT.

58.1 DEFINITIONS. The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them below, except where the context clearly indicates a different meaning:

Authorized Village Official means a police officer or other personnel of the Village authorized by this Code or any ordinance to issue municipal civil infraction citations.

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 of notice prepared by an authorized Village official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Violation means doing an act that is prohibited by ordinance or by rule or regulation authorized by ordinance, or failing to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance. Violation does not include the failure of a Village officer or employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this Chapter.

58.2 MISDEMEANOR VIOLATIONS. A person convicted of any of the following violations shall be guilty of a misdemeanor punishable by a fine not to exceed \$500, and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment:

- (A) Violation of a stop work order issued by a Village building official.
- (B) Failure or refusal to comply with an order approved by the Village Council pursuant to the Housing Law of Michigan, being Public Act No. 167 of 1917, within the time prescribed by same.
- (C) Violation of any other provision of this Code expressly designated to be a misdemeanor.

58.3 MUNICIPAL CIVIL INFRACTIONS. Except as otherwise provided by this Code or state law, a violation of this Code shall be a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for a subsequent offense, in addition to all the costs, damages and expenses, including reasonable attorneys fees, incurred by the Village by reason of the violation, as provided by law. For purposes of this section, the term “subsequent offense” means a violation of the same provision

committed by the same person within one year of a previous violation for which such person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses.

58.4 CONTINUOUS VIOLATIONS. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

58.5 OTHER REMEDIES AVAILABLE. The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions. Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

58.6 AUTHORIZED VILLAGE OFFICIALS. The following personnel of the Village have the authority to issue municipal civil infraction citations:

- (A) Village President.
- (B) Ordinance Enforcement Officer.
- (C) Sheriff and Deputies of the Eaton County Sheriff's Department.
- (D) Building officials and housing officials, but only for violations of those ordinances and codes for which such officials are responsible for administering and enforcing.
- (E) Zoning Administrator, but only for violations of the Village Zoning Ordinance.
- (F) Village Clerk, for violations of Chapter 57, covering telecommunications.
- (G) Other Village officials appointed by the Village Council to administer and enforce all or part of this Code.

58.7 MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT. A municipal civil infraction action may be commenced upon the issuance by an authorized Village official of a municipal civil infraction citation directing the alleged violator to appear in court.

58.8 MUNICIPAL CIVIL INFRACTION CITATIONS – ISSUANCE AND SERVICE. Municipal civil infraction citations shall be issued and served by authorized Village officials, as follows:

- (A) An authorized Village official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (2) Based upon investigation 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 Village attorney approves in writing the issuance of the citation.
- (B) 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 Village and issued to the alleged violator as provided by law.
- (C) An authorized Village official shall personally serve a copy of the citation upon the alleged violator; provided, however, that 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 by posting the copy on the land or attaching it to the building or structure and sending a second copy by certified mail to the owner of the land, building or structure at the owner's last known address.
- (D) The municipal civil infraction 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.
- (E) Upon receiving a municipal civil infraction citation, the alleged violator 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 by the time specified for appearance, 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 information 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 Village.
 - (b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (F) If the alleged violator desires to deny responsibility or admit responsibility with explanation, 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 an appearance, unless a hearing date is specified on the citation.
- (G) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Village.
- (H) Failure of an 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 the municipal civil infraction.

Amendment/Repeal of Certain Penalties Provisions. The following provisions of the Code, covering penalties for violations of their respective Chapters, are hereby amended to read as follows:

1.18 RESERVED.

2.10 PENALTIES.

- A. [no change]
- B. Any violation which continues beyond the reasonable time limit given shall be a municipal civil infraction, for which penalties shall be assessed in accordance with Section 58.3 of this Code.
- C. [no change]

32.36 RESERVED.

35.14 RESERVED.

35.15 RESERVED.

37.6 RESERVED.

38.5 RESERVED.

39.8 RESERVED.

40.8 RESERVED.

41.4 PENALTIES. A minor under the age of seventeen years who violates any provision of this Chapter, and also the parent, guardian or legal custodian of any such minor, shall be responsible for a municipal civil infraction for which penalties shall be assessed in accordance with Section 58.3 of this Code.

55.4 RESERVED.

57.20 RESERVED.

57.21 RESERVED.

Adoption of Revised Uniform Traffic Code. Section 45.1 of the Code is hereby amended so as to read in its entirety as follows:

45.1 UNIFORM TRAFFIC CODE ADOPTED. The Uniform Traffic Code for Cities, Townships, and Villages promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969 (MCL 24.201, *et seq.*), as amended and made effective October 30, 2002, together with any subsequent amendment thereof, is hereby adopted by reference except as to such provisions thereof as may be amended or deleted in this Chapter.

Amendment of Chapter 57. Chapter 57 of the Code, covering telecommunications facilities, is hereby amended as follows:

All instances of the word "City" shall be replaced with the word "Village."

All instances of the word "Manager" shall be replaced with the word "Clerk."

The phrase "Chapter 4 (four) of" shall be deleted from Section 57.6.

Effective Date. This Ordinance shall become effective the day following its publication or publication of a summary of its provisions in a local newspaper of general circulation in the Village.