

TITLE XII - CIVIL INFRACTIONS

CHAPTER 165

CIVIL INFRACTIONS

(Ord. No. 658, 03-06-00)

12.1. Definitions.

Section 1. As used in this Chapter, the following terms shall have the meanings prescribed in this section:

- A. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- B. "Authorized city official" means the City Police Chief, a City Police Officer and any other personnel of the City of Charlevoix authorized by this Chapter or any other Chapter of this Code to issue Municipal Civil Infraction Citations or Municipal Civil Infraction Violation Notices.
- C. "Citation" means a written complaint or notice to appear in court, upon which an authorized City official records the occurrence or existence of one or more municipal civil infractions by the person cited.
- D. "Municipal civil infraction" shall have the definition set forth in MCL 600.113(c), as amended.
- E. "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- F. "Municipal Civil Infraction Citation" means a written complaint or notice on which an authorized City official records the occurrence or existence of one or more municipal civil infractions by the person cited and which directs the person cited to appear in court regarding the alleged municipal civil infraction.
- G. "Municipal Civil Infraction Violation Notice" means a written notice on which an authorized City official records the occurrence or existence of one or more municipal civil infractions by the

person cited, and directs the person cited to appear at the City of Charlevoix Municipal Violations Bureau to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines established under this Chapter.

- H. "Municipal Violations Bureau" or "Bureau" means the City of Charlevoix Municipal Violations Bureau as established by this Chapter.

12.2. Municipal Violations Bureau.

Section 2.

- A. **Bureau established.**

The City hereby establishes a Municipal Violations Bureau (Bureau) as authorized under Section 8396 of the Act.

- B. **Location, supervision, employees, rules and regulations.**

The Bureau shall be located at the City of Charlevoix offices, and shall be under the supervision and control of the City Clerk. The City Clerk, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau and may appoint any necessary and qualified City employees to administer the Bureau.

- C. **Disposition of violations.**

The Bureau may only dispose of municipal civil infraction violations for which a fine has been scheduled pursuant to Section 10 of this and for which a Municipal Civil Infraction Violation Notice (as opposed to a Municipal Civil Infraction 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 Chapter shall prevent or restrict the City from issuing a Municipal Civil Infraction Citation for any violation designated as a municipal civil infraction in this Code, or from prosecuting any violation in a court of competent jurisdiction, as provided in this Code.

D. Scope of Bureau 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 assessed as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the municipal civil infraction or who admits responsibility for the municipal civil infraction only with explanation. 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. In addition, 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 competent 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 rights, privileges, and protection accorded the person by law.

E. Appearance; payment of fines and costs.

A person receiving a Municipal Civil Infraction Violation Notice shall appear at the Bureau and pay the specified fine and costs at or before the time specified for appearance in the Municipal Civil Infraction Violation Notice. An appearance may be made by mail, in person, or by representation.

F. Procedure when admission of responsibility not made or fine not paid.

If an authorized City official issues and serves a Municipal Civil Infraction Violation Notice, and if an admission of responsibility is not made and a civil fine and costs, if any prescribed by the schedule of fines for the violation, are not paid at the Bureau within the time specified for appearance in the Municipal Civil Infraction Violation Notice, the authorized City official may file a Municipal Civil Infraction Citation with the District Court. The contents of the Municipal Civil Infraction Citation shall comply with requirements of Section 7 of this Chapter. A copy of the Municipal Civil Infraction Citation issued under this subsection may be served by first class mail upon the person named in the Citation at the person's last known address.

12.3. Commencement of Municipal Civil Infraction Action.

Section 3. A municipal civil infraction action may be commenced upon the issuance by an authorized City official of (1) a Municipal Civil Infraction Violation Notice directing the alleged violator to appear at the City of Charlevoix Municipal Violations Bureau, or (2) a Municipal Civil Infraction Citation directing the alleged violator to appear in District Court.

12.4. Municipal Civil Infraction Violation Notices.

Section 4. Municipal Civil Infraction Violation Notices shall be issued by authorized City officials under the same circumstances and upon the same persons as provided for the issuance of Municipal Civil Infraction Citations under Section 5 of this Chapter. A Municipal Civil Infraction Violation Notice shall contain the following information:

- A. The person named in the Municipal Civil Infraction Violation Notice shall appear in the Municipal Violation Bureau by mail, in person, or by representation, within fourteen days of the issuance of the Municipal Civil Infraction Violation Notice.
- B. The address and telephone number of the Municipal Violation Bureau, and the hours during which the Bureau is open.
- C. The amount of the fine scheduled for the alleged violation, as established in Section 10 of this Chapter.
- D. A statement in bold typeface indicating that failure to appear at the City of Charlevoix Municipal Violations Bureau within fourteen days of the date of the Municipal Civil Infraction Violation Notice was issued to pay the required fine may result in the issuance of a Municipal Civil Infraction Citation.

12.5. Municipal Civil Infraction Citations; General.

Section 5. Municipal Civil Infraction Citations may be issued by authorized city officials as follows:

- A. An authorized city official may issue a Citation to a person if he or she personally witnesses the

person commit a municipal civil infraction.

- B. An authorized city official may issue a Citation to a person if, based upon personal investigation or upon investigation of a complaint by someone who allegedly witnessed a person commit a municipal civil infraction, the authorized city official has reasonable cause to believe that the person is responsible for a municipal civil infraction.
- C. A Municipal Civil Infraction Citation signed by an authorized city official shall be treated as made under oath if the violation alleged in the Municipal Civil Infraction Citation occurred in the presence of the authorized city official signing the Citation, and if the Citation contains the following statement immediately above the date and signature of the authorized city official:

"I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

12.6. Municipal Civil Infraction Citations; Issuance.

Section 6. Each Municipal Civil Infraction Citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office. The original Citation shall be filed with the District Court. The second copy shall be retained by the City, and the third copy shall be served on the alleged violator as provided by Section 8 of this Chapter.

12.7. Municipal Civil Infraction Citations; Contents.

Section 7.

- A. A Municipal Civil Infraction Citation shall contain the following information:
 - (1) The name and address of the alleged violator.
 - (2) The citation to and brief description of the municipal civil infraction alleged to have been violated.

- (3) The name, address and telephone number of the 90th District Court for the County of Charlevoix.
- (4) A statement in bold typeface indicating that failure to appear at the 90th District Court for the County of Charlevoix within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in the entry of a default judgment against the violator on the municipal civil infraction.

B. The Municipal Civil Infraction Citation shall also inform the alleged violator that he or she may do one of the following:

- (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or before the time specified for appearance in the Municipal Civil Infraction Citation.
- (2) Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation, at or before the time specified for appearance in the Municipal Civil Infraction Citation.
- (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - (a) Appearing in person for an informal hearing before the District Court Judge or 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 the District Court Judge, with the opportunity of being represented by an attorney.

C. The Municipal Civil Infraction Citation shall also inform the alleged violator of all 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 90th District Court in person, by mail, by telephone, or by representation within the time specified for appearance in the

Municipal Civil Infraction Citation to obtain a scheduled date and time for appearance in court.

- (2) If the alleged violator desires to deny responsibility, the alleged violator must apply to the 90th District Court in person, by mail, by telephone, or by representation within the time specified for appearance in the Municipal Civil Infraction Citation to obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the Municipal Civil Infraction 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 the District Court Judge or magistrate, without the opportunity of being represented by an attorney.
- (5) At a formal hearing, the alleged violator must appear in person before the District Court Judge with the opportunity of being represented by an attorney.

12.8. Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices; Service.

Section 8. Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices shall be served by an authorized City official as follows:

- A. Except as provided by subsection (2) below, an authorized City official shall personally serve a copy of the Municipal Civil Infraction Citation or the Municipal Civil Infraction Violation Notice upon the person or persons named therein.
- B. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the Municipal Civil Infraction Citation or the Municipal Civil Infraction Violation Notice may be served upon an owner or occupant of the land, building, or structure by posting a copy of the Citation or Notice on the land, building, or structure and by sending by first class mail, a copy of the Citation or Notice to the owner or occupant of the land, building, or structure, at the owner's or occupant's last known address.

- C. If a Municipal Civil Infraction Citation is being issued pursuant to a failure to admit responsibility and pay the fines and costs to the City of Charlevoix Municipal Violations Bureau resulting from a Municipal Civil Infraction Violation Notice issued by an authorized city official, the Municipal Civil Infraction Citation may be served by first class mail upon the alleged violator at his or her last known address.

12.9. Municipal Civil Infraction Citations; Court Procedure.

Section 9.

- A. A person to whom a Municipal Civil Infraction Citation is issued under this Section shall appear at or before the time specified in the Citation and may respond to the allegations contained in the Citation as follows:
 - (1) If the defendant wishes to admit responsibility for the municipal civil infraction, the defendant may do so by appearing in person, by mail, or by representation.
 - (2) If the defendant wishes to admit responsibility for the municipal civil infraction "with explanation," the defendant may do so in either of the following ways:
 - (a) Appearing by mail.
 - (b) By contacting the Court in person, by mail, by telephone, or by representation to obtain from the Court a scheduled date and time for an appearance, at which time the defendant shall appear in Court in person or by representation.
 - (3) If the defendant wishes to deny responsibility for a municipal civil infraction, the defendant shall do so by appearing for an informal or a formal hearing. If the hearing date is not specified on a Citation, the defendant shall contact the Court in person, by mail, by telephone, or by representation, to obtain a scheduled date and time to appear for an informal or a formal hearing. If the hearing date is specified on the Citation, the defendant shall appear on that date. The hearing shall be an informal hearing, unless a

formal hearing is requested by the defendant or the City.

- B. If the defendant fails to appear as directed by the Citation or other notice at a scheduled appearance to admit responsibility "with explanation", at a scheduled informal hearing, or at a scheduled formal hearing, the Court shall enter a default judgment against the defendant.

12.10. Schedule of Civil Fines.

Section 10.

- A. The City Council may adopt by ordinance a fine schedule and/or an ordinance may specify a fine for a violation of that particular ordinance. If no other fine amount is specified by an ordinance of the City Council, the fines for violations shall be as follows:

<u>Offense</u>	<u>Fine</u>
First Offense:	\$50.00
Second Offense within 2 years of initial offense:	\$75.00
Third or subsequent offense within 2 years of initial offense:	\$100.00

12.11. Fine Sanctions.

Section 11.

- A. A person charged with a municipal civil infraction under any part of the City of Charlevoix Code and who is served with a Municipal Civil Infraction Violation Notice under this shall, upon pleading responsible to the municipal civil infraction at the Bureau, be assessed a civil fine in accordance with the civil fine schedule established under this Chapter.

- B. A person who is charged with a municipal civil infraction under an ordinance of the City of Charlevoix and who is served a Municipal Civil Infraction Citation under this Chapter shall, upon pleading responsible or being found responsible by the District Court Judge or magistrate, be assessed a civil fine pursuant to the civil fine schedule as established by the District Court.

- C. In addition to the civil fines assessed pursuant to subsection (B) above, the District Court Judge, or magistrate (if expressly authorized to do so by the Chief Judge of the 90th District Court) may issue and enforce any order necessary to enforce the ordinance under which the municipal civil infraction was charged.

- D. If a person who has pled responsible or has been found responsible for a municipal civil infraction does not comply with any Court order enforcing the ordinance under which the municipal civil infraction arose, then the City may take such other action authorized by law, including but not limited to seeking an Order to Show Cause why the person should not be held in contempt of Court for failure to comply with the Court's original enforcement order.

12.12. Lien on Property.

Section 12.

- A. If a defendant does not pay the civil fine or costs as required by the District Court Judge or magistrate within thirty (30) days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupancy of land or a building or other structure, the City may obtain a lien against the land, building or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for the County in which the land, building or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the Register of Deeds.

- B. The court order recorded with the Register of Deeds shall constitute notice of pendency of the lien. In addition, a written notice of the lien shall be sent by the City by first class mail to the owner of record of the land, building or structure at the owner's last known address.

- C. The lien created by this section may be enforced and discharged by the City in the manner prescribed by the General Property Act, Act Number 206 of the Public Acts of 1893, being Section 211.1 to 211.157 of the Michigan Compiled Laws, or by an duly passed by the City. However, the

property is not subject to sale under Section 60 of Act 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for non-payment of a civil fine or costs unless the property is also subject to sale under that section for delinquent property taxes.

D. A lien created under this section has priority over any other lien unless one or more of the following apply:

(1) The other lien is a lien for taxes or special assessments;

(2) The other lien is created before the effective date of the amendatory act that added this section;

(3) Federal law provides that the other lien has priority;

(4) The other lien was recorded before the lien under this section is recorded.

E. The City may institute an action in a court of competent jurisdiction for the collection of the fines and costs imposed by a court order for a municipal civil infraction. However, an attempt by the City to collect the fines or costs by any process does not invalidate or waive the lien upon the land, building or structure.

- F. A lien provided for by this section shall not continue for a period of longer than five (5) years after a copy of the court order imposing a fine or costs is recorded, unless within that time an action to enforce the lien is commenced.