

Chapter 7.5

MUNICIPAL CIVIL INFRACTIONS

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* **Editors Note:** Ord. of 10-25-99(2), art. 1, set out provisions for municipal civil infractions. To maintain the alphabetic sequencing of this Code, these provisions have been included as §§ 7.5-26--7.5-31 at the editor's discretion to read as herein set out. See the Code Comparative Table.

Cross References: Administration, Ch. 2; animals, Ch. 3; cemetery, Ch. 5; garbage and refuse, Ch. 7; nuisances, Ch. 8; parks and recreation, Ch. 10; streets, sidewalks and other public places, Ch. 11; vegetation, Ch. 14; zoning, Ch. 15.

Supp. No. 1

ARTICLE I.**IN GENERAL**

Sec. 7.5-1--7.5-25. Reserved.

ARTICLE II.**MUNICIPAL CIVIL INFRACTIONS**

Sec. 7.5-26. Definitions.

[Whenever in this chapter the following terms are used, they shall have the meanings described to them in this section:]

Act means Act. No. 236 of the Public Acts of 1961, as amended.

Authorized city official means a police officer or other personnel of the city authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the Village of Elsie Police Department and/or clerk's office.

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 Village of Elsie Hall and to pay the bureau the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village, as authorized under Sections 8396 and 8707(6) of the Act. (Ord. of 10-25-99(2), Art. 1)

Sec. 7.5-27. Municipal civil infraction action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of: (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Village of Elsie Municipal Ordinance Violations Bureau. (Ord. of 10-25-99(2), Art. 1)

Sec. 7.5-28. Municipal civil infraction citations; issuance and service.

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

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (2) The place for appearance specified in a citation shall be the 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 cause 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 cause 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 7.5-28(7)b., 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 the copy of 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. of 10-25-99(2), Art. 1)

Sec. 7.5-29. 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 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 by the time specified for appearance.
- (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 village.
 - 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 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) 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 village.
- (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 will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. of 10-25-99(2), Art. 1)

Sec. 7.5-30. Municipal ordinance violations bureau.

(a) *Bureau established.* The village hereby establishes a municipal ordinance violation bureau ("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 village officials, and to collect and retain civil fines and costs as prescribed by the Code or any ordinance.

(b) *Location; supervision and employees.* The bureau shall be located at the Elsie Village Hall, and shall be under the supervision and control of the police chief.

(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 chapter shall prevent or restrict the village 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 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 village officials under the same circumstances and upon the same persons as provided for citations as provided in sections 7.5-28(6) and (7) of this chapter. In addition to any other information required by this Code or other 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 particulars 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. of 10-25-99(2), Art. 1)

Sec. 7.5-31. 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 below shall be as follows:

| Code Section(s)* | Chapter | Offense (Violation) | Fine |
|------------------|---------|---|-----------|
| (All) | 3 | Failure to comply with any provision of Chapter 3 (Animals) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. | \$1000.00 |

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| Code Section(s)* | Chapter | Offense (Violation) | Fine |
|------------------|---------|--|-----------|
| (7) | 5 | Failure to comply with any provision of Chapter 5: Sec. 7 (Cemetery, General Rules) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. | \$1000.00 |
| (51--66) | 6 | Failure to comply with any provision of Chapter 6: Article III (6:51—66; Open Burning) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. | \$1000.00 |
| (6-8) | 7 | Failure to comply with any provision of Chap. 7: Secs. 6--8 (Garbage and Refuse) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. | \$1000.00 |
| (All) | 8 | Failure to comply with any provision of Chapter 8 (Nuisances) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense to be decided upon by the district court. | \$1000.00 |
| (139-144) | 9 | Failure to comply with any provision of Chapter 9; Section 139-144 (Offenses) | \$500.00 |
| | | First repeat offense | \$700.00 |
| | | Second (or any subsequent) repeat offense to be decided upon by the district court. | \$1000.00 |
| (1) | 10 | Failure to comply with any provision of Chapter 10 (Parks and Recreation) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. (or decided by court when citation issued) | \$1000.00 |

MUNICIPAL CIVIL INFRACTIONS

| Code Section(s)* | Chapter | Offense (Violation) | Fine |
|------------------|---------|--|---|
| (1; 26) | 11 | Failure to comply with any provision of Chapter 11: Art. 1, Secs. 1 and 26 (Streets, Sidewalks and Other Public Places) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense, (or decided by court when citation issued) | \$1000.00 |
| (60) | 12 | Failure to comply with any provision of Chapter 12; Section 60 (First Offense) | \$200.00 |
| | | First repeat offense | \$300.00 and impound of vehicle at owner's expense. |
| | | Second (or any subsequent) repeat offense | \$500.00 and impound of vehicle at owner's expense. |
| (All) | 14 | Failure to comply with any provision of Chapter 14 (Vegetation) | \$300.00 |
| | | If not in compliance after ten (10) days of notification, an additional fine of fifty dollars (\$50.00) an hour will be charged for removal of vegetation in violation by the village. | |
| | | First repeat offense (with possible additional charge of Village removal of vegetation) | \$500.00 |
| | | Second (or any subsequent) repeat offense (with possible additional charge of Village removal of vegetation) | \$1000.00 |
| (All) | 15 | Failure to comply with any provision of Chapter 15 (Zoning) | \$300.00 |
| | | First repeat offense | \$500.00 |
| | | Second (or any subsequent) repeat offense. | \$1000.00 |

**Including chapter(s) article(s), divisions, and subsections, or portions thereof, as specified in the schedule.*

(b) A copy of this schedule, as amended from time to time, shall be posted at the Village Hall.
 (Ord. of 10-25-99(2), Art. 1 (Amended May 28,2003. Supp. No.1 ; Ordinance 2-23-2009, Amended Chapter 6; Article III, (6:51—66);

Ordinance # 156 (12-14-09) Amended Chapter 9; Article VII (9: 139-144). January 11, 2010. Supp. No. 1; Ordinance #159; (Sept. 13, 2010) Addition to Chapter 12; Article III.

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