

ARTICLE 27.00

ENFORCEMENT AND PENALTIES

Section 27.01 -- VIOLATIONS AND PENALTIES

- (a) Any person, persons, firm or corporation, or anyone acting on behalf of said person, persons, firm or corporation, who should violate the provisions of the Ordinance, or who fails to comply with the regulatory measures or conditions adopted by the Board of Appeals, Planning Commission or the City Council, shall be responsible for a municipal civil infraction, and subject to the penalties, sanctions, and procedures set forth in the Article.
- (b) Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, altered, raised, or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court may, in addition to the remedies provided above, enter any such judgment, writ or order necessary to enforce or enjoin violation of this Zoning Ordinance.
- (c) Other Rights or Remedies not Affected: The rights and remedies provided in this Ordinance are cumulative and shall be deemed to be in addition to, and shall not adversely effect, any and all other rights and remedies provided by law.
- (d) Rights and Remedies Preserved, No Waiver: Any failure or omission to enforce the provisions of this Ordinance, and any failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this Ordinance.

Section 27.02 -- PUBLIC NUISANCE

Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

Section 27.03 – OWNERS/OCCUPANTS, SEPARATE OFFENSES

The owner of any building, structure or premises or part thereof and the person or persons in possession of any building, structure or premises or part thereof, where any condition in violation of the Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a separate offense and upon a determination of responsibility thereof shall be liable for a separate civil infraction.

Section 27.04 – Penalties, Sanctions, and Remedies for Zoning Ordinance Violation

- A. Schedule of Fines, Civil Infraction Violation Notice.
 - (1) A schedule of civil fines payable to the bureau by persons served with municipal civil infraction violation notices is hereby established. The fine for the violation of the Zoning Ordinance shall be as follows:

Fine

First Offense	\$75.00
Second Offense	\$100.00
Third or subsequent offense	\$300.00

- (2) A copy of this schedule shall be posted at the bureau.

B. Penalties of Municipal Civil Infractions.

- (1) The following civil fines shall apply in the even of a determination of responsibility for a municipal civil infraction, unless otherwise specifically designated in the text of this zoning ordinance:
- a. First Offense. The civil fine for a first offense violation shall be in an amount of \$150.00, plus costs and other situations, for each offense.
 - b. Repeat Offense. The civil fine for any offense, which is a repeat offense, shall be in an amount of \$250.00, plus costs and other sanctions for each offense.
- (2) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this Zoning Ordinance.
- (3) Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (4) Remedies not exclusive. In addition to any remedies provided for in this Zoning Ordinance, any equitable or other remedies available may be sought.
- (5) The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.
- (6) A municipal civil infraction shall not be a lesser-included offense of a criminal offense or of an ordinance violation, which is not a civil infraction.

Section 27.05 – Rights and Remedies Are Cumulative

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 27.06 – Commencement of Municipal Civil Infraction Action

- A. A municipal civil infraction may be commenced upon issuance by an authorized official of either of the following:
- (1) A municipal civil infraction citation directing the person alleged to be responsible to appear in court.
 - (2) A municipal civil infraction notice directing the alleged violator to appear at the Municipal Violation Bureau.
- B. The form of citations used to charge municipal civil infraction violation shall be in accordance with state law (See MCL 600.8709).

- C. The basis for issuance of a municipal civil infraction citation shall be as set forth below:
 - (1) An authorized official who witnesses a person violate the zoning ordinance, the violation of which is a municipal civil infraction.
 - (2) An authorized official may issue a citation or notice to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.
 - (3) An authorized official may issue a citation or notice to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate the zoning ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the City for whom the authorized local officer is acting approves in writing the issuance of the citation or notice.

- D. Municipal civil infraction citations or notices shall be served in the following manner:
 - (1) Except as otherwise provided below, the authorized official shall personally serve a copy of the citation or notice upon the person alleged to be in violation of the ordinance.
 - (2) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation or notice need not be personally served upon the person alleged to be in violation of the ordinance but may be served upon an 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 or notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last know address.
 - (3) A citation or notice served as provided in Paragraph (2), above, shall be processed in the same manner as a citation or notice served personally upon an individual.
 - (4) a. The original citation or notice shall be filed with the District Court or Municipal Violations Bureau.
 - b. The first copy shall be an abstract of court or bureau records.
 - c. The second copy shall be retained by the authorized official.
 - d. The third copy shall be delivered to the alleged violator.

Section 27.07– Election of Person Served with Violation

- A. Any person receiving a municipal civil infraction violation notice shall be permitted to dispose of the charge alleged in the notice by making payment of the fine and/or costs to the bureau. However, a person shall have the right to elect not to have the violation processed by the bureau and to have the alleged violation processed in a court of competent jurisdiction. 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.

- B. A person electing to have the alleged violation processed at the bureau shall appear at the

bureau and pay the specified fine and/or costs within the time specified for the appearance in the municipal civil infraction violation notice. Such appearance may be made by mail, in person or by representation, provided if appearance is made by mail, the person charged in the notice shall have the responsibility for timely delivery of the fine and/or costs within the time specified in the municipal civil infraction violation notice.

- C. In the event a person elects not to admit responsibility and pay the specified civil fine and/or costs prescribed for the respective violation, a municipal civil infraction citation may be issued. The authorized official is not required to issue a municipal civil infraction violation notice as a precondition of issuance of a municipal civil infraction.