

Municipal Civil Infractions

Introduction

Prior to 1994, a violation of a municipal ordinance was a criminal misdemeanor offense. In 1994, a new law was passed to give municipalities the ability to decriminalize ordinance violations. PA 12 of 1994 amended the Revised Judicature Act (RJA), MCL 600.101 et seq., by adding a new definition of civil infraction. RJA section 113 provides that a civil infraction is any act or omission that is prohibited by a law or ordinance but is not a crime under the law or ordinance and for which civil sanctions may be ordered.

Local governments must amend their ordinances or adopt new ordinances to take advantage of the municipal civil infraction authority. At a minimum, a municipality wishing to use the civil infraction approach must designate which violations of its ordinances (or code) are municipal civil infractions, which are not, and identify the local officials authorized to issue citations. The amount of the civil fines must be established, with minimums and possibly maximums. Other optional provisions such as increased fines for repeat offenses may also be adopted. If a municipality wants to establish a municipal ordinance violations bureau, it must also provide some detail how that will be accomplished, including matters such as the bureau's staffing, location, and rules and regulations. A schedule of fines must be adopted to establish the fines for each violation for which admissions of responsibility will be accepted at the bureau.

Types of civil infractions (MCL 600.113)

- (a) violation of the Michigan Vehicle Code (MCL 257.1 et seq.) if designated a civil infraction
- (b) violation of ordinance substantially the same as the vehicle code if designated a civil infraction
- (c) violation of ordinance involving traffic in parking areas (MCL 257.941 et seq.)
- (d) violation of ordinance adopting Uniform Traffic Code (MCL 257.951 et seq.) if designated a civil infraction
- (e) violation of parking ordinance adopted by state college or university (MCL 390.891 et seq.) if designated a civil infraction
- (f) violation of county parking regulations (MCL 46.201)
- (g) municipal civil infraction
- (h) state civil infraction
- (i) violation of pupil transportation act (MCL 257.1801 et seq.) if designated a civil infraction

Note: A blight violation pursuant to MCL 117.41 may also provide for a civil fine but is not a municipal civil infraction.

What is a *municipal* civil infraction?

There is a difference between a civil infraction and a municipal civil infraction. An act which is a civil infraction **cannot** be a municipal civil infraction. A municipal civil infraction is a civil infraction involving the violation of a municipal ordinance but NOT one of the violations listed above and NOT including any crime under certain specific statutes including the public health code, the Michigan Vehicle Code, the Michigan Liquor Control Code, and the Michigan Penal Code. Cities, villages, townships, and counties may adopt municipal civil infraction ordinances. See attached sample ordinance.

A violation of an ordinance is a municipal civil infraction **only** if so expressly provided by ordinance or statute. Local units of government must amend ordinances or adopt new ordinances as municipal civil infractions.

Prosecuting municipal civil infractions

RJA Chapter 87 governs the procedures for prosecuting municipal civil infractions. Of particular note—a municipality may establish a municipal ordinance violations bureau and process admission of violations through the bureau.

A municipality must designate which violations of its ordinances (or code) are municipal civil infractions, and identify the local officials authorized to issue citations. The amount of the fine must also be established.

Differences between a misdemeanor and a civil infraction

MISDEMEANOR	CIVIL INFRACTION
Crime	Civil action
Guilty/not guilty	Responsible/not responsible
Penalty includes jail	No jail penalty
Must prove guilty beyond a reasonable doubt	Must prove responsible by a preponderance of the evidence
Must be prosecuted in district court by city, township, or village attorney	City, township, or village attorney only allowed in formal hearing
Defendant entitled to attorney appointed at public expense if indigent and jail is a possibility	Defendant not entitled to attorney appointed at public expense if indigent
Defendant has right to jury trial at public expense	No jury trial

Municipal Civil Infraction Actions and Citations Municipal Ordinance Violations Bureau

A) Definitions. As used in this section:

- 1) **“Act”** means Act 236 of the Public Acts of 1961, as amended
- 2) **“Authorized city/village official”** means a police officer or other personnel of the city/village authorized by these codified ordinances or any ordinance to issue municipal civil infraction citations or municipal ordinance violation notices.
- 3) **“Bureau”** means the city/village Municipal Ordinance Violations Bureau, as established by this chapter.
- 4) **“Municipal civil infraction action”** means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- 5) **“Municipal civil infraction citation”** or **“citation”** means a written complaint or notice prepared by an authorized city/village official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- 6) **“Municipal ordinance violation notice”** or **“violation notice”** means a written notice, other than a citation, prepared by an authorized city/village official, directing a person to appear at the city/village Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city/village, as authorized under Section 8396 and 8707(6) of the Act.

B) Commencement of Municipal Civil Infraction Actions. A municipal civil infraction action may be commenced upon the issuance by an authorized city/village official of:

- 1) A municipal civil infraction citation directing the alleged violator to appear in court; or
- 2) A municipal ordinance violation notice directing the alleged violator to appear at the city/village Municipal Ordinance Violations Bureau.

C) Issuance and Service of Municipal Civil Infraction Citations. Municipal civil infraction citations shall be issued and served by authorized city/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/village 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/village official shall be treated as if it were 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/village 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/village official may issue a citation to a person if:
 - a) Based upon the investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;
 - 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

such an infraction and if the prosecuting attorney or city/village attorney approved in writing the issuance of the citation.

- 7) **Municipal** civil infraction citations shall be served by an authorized city/village official as follows:
 - a) Except as provided by paragraph “C) 7) b)”, hereof, an authorized city/village 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 on 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.

D) Contents of Municipal Civil Infraction Citations.

- 1) A 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.
- 2) Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - a) Admit responsibility for the municipal civil infraction by mail, in person or by representation, at or by the time specified for appearance.
 - b) Admit responsibility for the municipal civil infraction “with explanation” by mail, by the time specified for appearance, or in person or by representation.
 - c) Deny responsibility for the municipal civil infraction by doing either of the following:
 - (1) 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/village.
 - (2) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- 3) The citation shall also inform the alleged violator of all of the following:
 - a) 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.
 - b) 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.
 - c) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city/village.
 - d) 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.
- 4) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- 5) 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.

E) Municipal Ordinance Violations Bureau.

- 1) **Establishment.** The city/village establishes a Municipal Ordinance Violations Bureau, as authorized under Section 8396 of the Act, to accept admissions of responsibility for municipal civil infractions in response to municipal ordinance violation notices issued and served by authorized city/village officials, and to collect and retain civil fines and costs as prescribed by these codified ordinances or any ordinance.

- 2) **Location; supervision, rules and regulations; employees.** The Bureau shall be located at city/village hall and shall be under the supervision and control of the treasurer. The treasurer, subject to the approval of the commission/council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified employees to administer the Bureau.
- 3) **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 ordinance violation notice 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 section shall prevent or restrict the city/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.
- 4) **Scope of authority.** 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 admissions. The Bureau shall not accept payment of a fine from any person who denies 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.

F) Issuance and Service of Municipal Ordinance Violation Notices.

- 1) **Contents.** Municipal ordinance violation notices shall be issued and served by authorized city/village officials under the same circumstances and upon the same persons as are provided for municipal civil infraction citations in paragraph "C) 7)" hereof. In addition to any other information required by these codified ordinances or any other ordinance, the violation notice 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.
- 2) **Appearance; payment of fines and costs.** An alleged violator receiving a municipal ordinance 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 ordinance violation notice. An appearance may be made by mail, in person or by representation.
- 3) **Procedure where admission of responsibility is not made or fine is not paid.** If an authorized city/village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and cost, 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.

G) Civil Penalties

- 1) A schedule of civil fines payable to the Municipal Ordinance Violations Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the classes of municipal civil infractions are as follows:

Schedule Of Municipal Civil Infraction Fines			
Class	First offense	Second repeat offense within one year	Third and subsequent repeat offenses within one year
A.	\$10.00	\$20.00	\$40.00
B.	\$25.00	\$50.00	\$100.00
C.	\$50.00	\$100.00	\$200.00
D.	\$100.00	\$200.00	\$400.00
E.	\$200.00	\$400.00	\$500.00
F.	\$500.00	\$1,000.00	\$2,000.00
Special as set by specific section	Specific amount	First x two	First x four

- 2) A copy of the schedule, as amended from time to time, shall be posted at the Municipal Ordinance Violations Bureau.
- 3) A separate offense shall be deemed committed each day or on which a violation or noncompliance occurs or continues, unless otherwise provided.