

**CITY OF LINDEN  
ORDINANCE NO. 382**

**MUNICIPAL CIVIL INFRACTIONS ORDINANCE**

AN ORDINANCE to establish the authority and procedures for the issuance of municipal civil infraction notices and citations; to establish a municipal ordinance violations bureau; and to provide generally for penalties and sanctions for municipal civil infraction violations.

**THE CITY OF LINDEN HEREBY ORDAINS:**

**Section 1. Definitions.**

As used in this Ordinance:

“*Act*” means Act No. 236 of the Public Acts of 1961 [MCL 600.8701, et seq], as amended.

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

“*Bureau*” means the City of Linden Municipal Ordinance Violations Bureau as established by this ordinance.

“*Municipal Civil Infraction*” means an act or omission that is prohibited by this or any other ordinance of the City, but which is not a crime under this or such other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended.

“*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 City of Linden 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, as authorized under Section 8396 [MCL 600.8396] and 8707(6) [MCL 600.8707(6)] of the Act.

## **Section 2. Municipal Civil Infraction Action; Commencement; Dismissal.**

An ordinance violation that is not abated within 7 days of the notice of violation shall be enforced as a municipal civil infraction. A municipal civil infraction action may be commenced upon the issuance by an authorized City 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 City of Linden Municipal Ordinance Violations Bureau.

## **Section 3. Municipal Civil Infraction Citations; Issuance and Service.**

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

- (a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the district court.
- (c) 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 [MCL 600.8705].
- (d) 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 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."
- (e) 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.
- (f) An authorized City official may issue a citation to a person if:
  - (i) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;  
or
  - (ii) 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.

- (g) Municipal civil infraction citations shall be served by an authorized City official as follows:
  - (i) Except as provided by Section 8707 of the Act [MCL 600.8707], an authorized City official shall personally serve a copy of the citation upon the alleged violator.
  - (ii) 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.

**Section 4. Municipal Civil Infraction Citations; 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:
    - (i) 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;
    - (ii) 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 City;
  - (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; and
  - (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 hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

#### **Section 5. Municipal Ordinance Violations Bureau.**

- (a) Bureau established; Employees. The City hereby designates the City Clerk as the Municipal Ordinance Violations Bureau (“Bureau”) as authorized under Section 8396 of the Act [MCL 600.8396] to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized City officials, and to collect and retain civil fines and costs as prescribed by resolution of City Council. The City clerk may assign the functions and responsibilities of bureau operation to a deputy or, with the approval of the City Council, to any qualified City employee.
- (b) Location; Supervision. The Bureau shall be located at the City of Linden City Hall, 132 E. Broad Street, Linden, Michigan 48451, and shall be under the supervision and control of the City Clerk.

- (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 Ordinance shall prevent or restrict the City from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in 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 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 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.
- (e) **Municipal Civil Infraction Violation Notices.** Municipal civil infraction violation notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as provided for citations as provided in this ordinance. In addition to any other information required by this or any other ordinance of the City, 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 no later than 14 days after the date of the 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 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 [MCL 600.8705 and 600.8709] 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.

## **Section 6. Penalties and Sanctions.**

- (a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in an amount set by resolution of City Council, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, et seq], and other applicable laws.
  - (1) Unless otherwise specified by resolution of City Council, the civil fine for a violation shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
  - (2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this or any other City ordinance. As used in this section, “repeat offense” means any subsequent municipal infraction violation of the same requirement or provision (i) committed by a person within any twelve-month period (unless some other period is specifically provided by this or any other City ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specified by resolution of City Council, the increased fine for a repeat offense shall be as follows:
    - (i) A second repeat offense shall be no less than \$100.00, plus costs.
    - (ii) A third repeat offense shall be no less than \$200.00, plus costs.
    - (iii) A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by this or any other City ordinance; and any omission or failure to act where the act is required by this or any other City ordinance.
    - (iv) Each day on which any violation of this or any other City ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

- (b) In addition to any remedies available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this or any other City ordinance.

**Section 7. Effective Date.**

This Ordinance shall become effective thirty (30) days following publication.

At a regular meeting of the City Council of the City of Linden held on \_\_\_\_\_, 2018, \_\_\_\_\_ moved for adoption of the foregoing ordinance and \_\_\_\_\_ supported the motion.

Voting for:

Voting against:

The Mayor declared the ordinance adopted.

\_\_\_\_\_  
Danielle N. Cusson, Mayor

\_\_\_\_\_  
Lynn M. Henry, Clerk

**Certification**

Lynn Henry, City Clerk, certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_\_ which was enacted by the City Council of the City of Linden at a regular meeting held on \_\_\_\_\_, 2018.

\_\_\_\_\_  
Lynn M. Henry, City Clerk