



CITY OF FLINT
Department of Community and Business Services
Planning and Zoning Division

Sheldon Neeley,
Mayor

Memorandum

Date: March 25th, 2024
To: City of Flint Planning Commission
From: Max Lester, Int. Zoning Coordinator
Subject: Details of Proposed Article 18: Administration and Enforcement Text Amendments

Commissioners,

At the march 12th, 2024 meeting staff requested a Public Hearing be set to discuss potential updates to Article 18: Administration and Enforcement to add an additional enforcement option and clearly define additional staff with enforcement capabilities. Below is an explanation of the recommended changes in the attached draft documents. Changes are noted with highlighted text. Staff worked with the Legal Department to draft these changes and they have been approved for review and potential adoption.

Relevant Sections of the Zoning Ordinance:

Article 18: Administration and Enforcement
Section 50-200 B. Code Enforcement Responsibility
Section 50-202 Enforcement Powers

Draft Amended Sections and Explanations:

Section 50-200 B. Code Enforcement Responsibility

Code Enforcement Responsibility. The enforcement of this Chapter shall be the responsibility of the Zoning Coordinator, staff designated by the Zoning Coordinator, the Building Official, and staff designated by the Building Official.

The proposed change would clearly denote the Building Official and their designated staff as having the authority to enforce the Zoning Ordinance, as was permitted under the prior Zoning Ordinance. The overall impact is not significant as the Zoning Coordinator can designate staff, however, it would more clearly allow the Building Official to designate their staff such as the Neighborhood Enforcement Officers.

Section 50-202 Enforcement Powers / 50-202 H. Municipal Civil Infraction

Municipal Civil Infraction. A violation of this Chapter shall be a municipal civil infraction pursuant to and punishable by § 1-10 through § 1-21 of the Flint City Code of Ordinances. Those Persons identified in § 50-200 B. may issue a municipal civil infraction for a violation of this Chapter.

The proposed addition would allow enforcement staff to issue a municipal civil infraction, in addition to the other enforcement powers noted in Section 50-202. Sections 1-10 through 1-21 are attached, these sections define the process, fines, and penalties for a municipal civil infraction and subsequent violations. The benefit of this process is that it avoids a respondent from having to secure legal representation, rather settling the matter in a more informal court setting.

Attached:

Current and Amended Article 18: Administration and Enforcement
Draft Amended Zoning Ordinance Sections 50-200 and 50-202
Sections 1-10 through 1-21 of the Flint City Code of Ordinances.

ARTICLE 18 ADMINISTRATION AND ENFORCEMENT

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Section 50-200 Authority of the Zoning Coordinator

- A. Authority of the Zoning Coordinator. The administration of the Chapter, and the interpretation of the provisions of this Chapter, shall be the responsibility of the Zoning Coordinator, or another designee of the Director of Planning and Development if the Zoning Coordinator position is vacant.
- B. Code Enforcement Responsibility. The enforcement of this Chapter shall be the responsibility of the Zoning Coordinator, staff designated by the Zoning Coordinator, the Building Official, and staff designated by the Building Official.
- C. Lapse in Permitting or Enforcement. No oversight or dereliction on the part of the Zoning Coordinator shall legalize, authorize, waive or excuse the violation of any of the provisions of this Chapter. No permit, nor any license for any use, building or purpose shall be issued by any official or employee of the City if the same would be in conflict with the provisions of this Chapter. Any permit or license so issued shall be null and void.
- D. Appeals Regarding Enforcement. All appeals to decisions made by the Zoning Coordinator or appointee are subject to the procedures contained in Article 17.

Section 50-201 Violations

All land developed or redeveloped, all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered, and all land, buildings, structures, and uses must comply with all applicable provisions of this Chapter. Failure to comply with applicable provisions constitutes a violation of this Chapter. The following list of violations is intended to be illustrative, and not limited to the specific items.

- A. Development or Redevelopment Violations.
 - a. Engaging in the development or redevelopment of land in any way not consistent with the requirements of this Chapter.
 - b. Erecting a building or other structure in any way not consistent with the requirements of this Chapter.
 - c. Failure to comply with any condition or stipulation imposed on a permit or approval, including conditions of approval for a change in zoning, Special Use, Site Plan Review, Variance, Planned Unit Development, or other approval.

- B. Alterations to Existing Land, Buildings or Structures Violations.
 - a. Modifying, converting, filling, excavating, removing, enlarging, reconstructing, moving or structurally altering land, vegetation, fences, and other site features in any way except as permitted by or pursuant to this Chapter.
 - b. Modifying, converting, enlarging, reconstructing, demolishing, moving or structurally altering an existing building or structure except as permitted by or pursuant to this Chapter.
- C. Use Violations.
 - a. Using land, buildings or structures in any way except as permitted by or pursuant to this Chapter.
 - b. Engaging in the use of a building or land or any other activity requiring one or more permits, variance or other approval under this Chapter without obtaining all such permits, variances or approvals.
- D. Compliance Violations.
 - a. Failure to comply with any lawful order issued by the Zoning Coordinator.
 - b. Failure to arrange for an initial inspection or a re-inspection to determine compliance with notices issued under this Chapter.
 - c. Failure to comply with any permit, variance, special use, planned development, or approval granted under this Chapter.
- E. Separate Violation. Each act of violation and each day upon which a violation occurs or remains shall constitute a separate violation.

Section 50-202 Enforcement Powers

The City may use any lawful remedy or enforcement powers against the owner or responsible person for any violation of this Chapter, including, without limitation, one or more of the following. Remedies may be pursued simultaneously or sequentially and the pursuit of one remedy does not foreclose the simultaneous or subsequent pursuit of other remedies. The remedies are cumulative and the City shall have all power granted from time to time under all applicable federal, state and local laws, rules and regulations:

- A. Withhold Permit. The City may deny or withhold any and all permits or other forms of authorization from an applicant on any property where there is an uncorrected violation of a provision of this Chapter or of a condition or stipulation of approval for a permit or other authorization previously granted by the City. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
- B. Permit Approved with Conditions. In addition to denying or withholding a permit or other authorization, the City may grant such permit or other authorization subject to the condition that the violation be corrected.
- C. Revoke Permit. A permit or other form of authorization authorized under this Chapter may be revoked when the Zoning Coordinator determines that: a) there is departure from the plans, specifications, or conditions required under the permit; b) the permit or other form of authorization was procured by false representation or was issued in error; or c) any of the provisions of this Chapter are being violated. Any permit or other authorization revoked under this procedure shall become null and void.

- D. Cease and Desist Order. With or without revoking a permit, the Zoning Coordinator may issue a cease and desist order on any land, building or structure for which there is an uncorrected violation of a provision of this Chapter. The cease and desist order must be in writing and must state the work in violation that is to be stopped, the reasons for the stoppage, and the conditions under which the work may be resumed.
- E. Court Order. The City Attorney may bring and prosecute an action in any court of competent jurisdiction to: a) enjoin the owner or responsible person from continuing such use, erection, construction, moving or alteration; or if such is being or has been accomplished, the City Attorney shall enjoin the owner or responsible person from maintaining the same; and/or b) comply with the requirements of this Chapter.
- F. Declaration of Nuisance. A violation of this Chapter is a nuisance per se and the City may institute appropriate actions or court proceedings to correct, or abate any violation of the provisions of this Chapter. If the owner or responsible person fails to abate a violation, the City may take action to abate the violation. The abatement may be performed by the City, by a contract vendor, or by other means determined by the City. The cost of such action, plus an administrative fee, shall be a personal debt of the owner, and may be assessed as a lien against the property until paid.
- G. Performance Guarantee or Surety. If a performance guarantee or surety was previously required as a special condition by the Planning Commission, Zoning Board of Appeals, City Council, or Zoning Coordinator, the City may seek forfeiture of the performance guarantee or surety.
- H. Municipal Civil Infraction. A violation of this Chapter shall be a municipal civil infraction pursuant to and punishable by § 1-10 through § 1-21 of the Flint City Code of Ordinances. Those Persons identified in § 50-200 B. may issue a municipal civil infraction for a violation of this Chapter.

Section 50-203 Enforcement Process

- A. Basis of Inspections. Inspections shall be made to obtain and maintain compliance with the provision of this Chapter based upon one (1) or more of the following:
 - a. To determine conformity with a permit, variance or other approval, as well as any special conditions imposed at any time.
 - b. The need to determine compliance with a notice or an order issued by the City.
 - c. A complaint is received by the City, indicating that there is a violation of the provisions of this Chapter.
 - d. An observation by the City of a violation of the provisions of this Chapter.
 - e. An emergency is observed or reasonably believed to exist.
 - f. A request for an inspection is made by the owner or responsible person.
 - g. Designation of an area where all dwellings, accessory building, yards, and/or signs are to be inspected uniformly or intensively or for specific violations.
- B. Content of Written Notices. Notices authorized by this Chapter shall:
 - a. Be in writing.
 - b. Include a description of the real estate and/or project name sufficient for identification.
 - c. Include a statement of the violation or violations.

- d. Include a correction order allowing a reasonable time to correct the violation and bring the property into compliance. If a Notice to Abate, the notice shall indicate that the City may act to abate the violation if not brought into compliance.
 - e. State that failure to comply with the Notice may result in further enforcement action.
 - f. State that a fee shall be charged for the issuance of the Notice. If a Notice to Abate, the cost of City action to abate the violation shall be a personal debt of the owner, which may be assessed as a lien against the property until paid.
 - g. Include a description of the right to appeal, as applicable.
- C. Method of Service. A written notice shall be deemed to be properly served in one (1) of the following ways:
- a. Delivered personally,
 - b. Sent by first-class mail addressed to the last known address of the responsible person, or
 - c. Any other method authorized for the service of process by court rule or State statute.
- D. Posting. After issuing a written notice, the City may, but is not required to, post a copy of the written notice and/or a placard on the property.
- E. Reasonable Entry. If needed, inspections inside a structure, building, dwelling, dwelling unit or accessory building shall be made during reasonable hours. Entry without consent of an owner or an occupant shall require an order of the court as provided by State law.

§ 1-10 APPEARANCE TICKETS.

(a) Officers, employees and other individuals employed by and in the service of the City who are authorized by State law and Flint City Code § 1-8 and § 1-9 to enforce the provisions of this Code, are hereby specifically authorized in accordance with State law, to issue and serve upon a person an appearance ticket. This authorization is contingent upon the authorizing person having reasonable cause to believe that a person has committed a violation of this Code. This authorization is not granted where the issuance of such an appearance ticket is expressly prohibited by the provisions of this Code or applicable State law.

(b) An “appearance ticket” as that term is used in subsection (a) means a complaint, municipal civil infraction or written notice issued and subscribed by a police officer or other authorized person as defined in subsection (a) which directs a person to appear in the local District Court at a designated future date and time in connection with the alleged commission of a violation of this Code for which the maximum permissible penalty does not exceed ninety-three (93) days in jail and/or a fine of five hundred dollars (\$500.00). The appearance ticket shall be numbered consecutively, be in such form authorized by the State Court Administrator and shall consist of the following parts:

- (1) The original, which shall be a complaint or notice to appear by the authorized person, shall be filed with the court;
- (2) The first copy shall be an abstract of court records retained by the court;
- (3) The second copy shall be retained by the appropriate local enforcement agency;
- (4) The third copy shall be issued to the alleged violator.

(c) With the prior approval of the State Court Administrator, the appearance ticket may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local court procedures and practices.

(Ord. 3285, passed 11-28-1994; Ord. 3535, passed 6-9-2004)

§ 1-11 PRESUMPTION OF MISDEMEANOR.

Unless a violation of this Code is specifically designated in the text of this Code to be a civil infraction, a violation shall be deemed to be a misdemeanor.

(Ord. 3285, passed 11-28-1994; Ord. 3536, passed 6-9-2004)

§ 1-12 DEFINITIONS.

The following words and phrases as used in this article, unless a different meaning is clearly required by the context, shall have the following meanings.

AUTHORIZED LOCAL OFFICIAL. A police officer or other personnel of the city authorized to issue municipal civil infraction notices and/or citations.

BUREAU. The Municipal Ordinance Violations Bureau established by § 1-15.

MUNICIPAL CIVIL INFRACTION. A violation of a provision of this Code for which the remedy and/or penalty is prescribed to be a civil fine, or sanction other than a criminal penalty. A **MUNICIPAL CIVIL INFRACTION** is not a lesser included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or appearance ticket prepared by an authorized person directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by that person.

MUNICIPAL CIVIL INFRACTION DETERMINATION. A finding that a defendant is responsible for a municipal civil infraction by one of the following:

- (1) An admission of responsibility for the municipal civil infraction.
- (2) An admission of responsibility for the municipal civil infraction, “with explanation.”
- (3) A preponderance of the evidence at an informal hearing or formal hearing.
- (4) A default judgment for failing to appear at a scheduled appearance.

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE. A written notice prepared by an authorized person, directing a person to appear at the Municipal Ordinance Violations Bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

REPEAT OFFENSE. A determination of responsibility for a second, or any subsequent municipal civil infraction after there has already been a determination of responsibility with regard to the same Code provision committed by the same person within the past three years, unless some other period is specifically provided with regard to a specific Code provision.

RESPONSIBLE or **RESPONSIBILITY.** A determination entered by a court or magistrate that a person is in violation of a provision of this Code prescribed to be a municipal civil infraction.

VIOLATION. Any act which is prohibited or made or declared to be unlawful or an offense under this Code, including affirmative acts as well as omissions and/or failures to act where the act is required by this Code.

(Ord. 3285, passed 11-28-1994; Ord. 3537, passed 6-9-2004; Ord. 3645, passed 4-25-2005)

§ 1-13 COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION.

(a) A municipal civil infraction action may be commenced upon the issuance, by an authorized local 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 Violations Bureau.

(b) The form of citations or notices used to charge municipal civil infraction violations shall be in accordance with State law, shall name the City of Flint as the plaintiff and for municipal civil infraction citations and shall give a reasonable time after the citation is issued for appearance at the 68th District Court.

(c) The basis for issuance of a municipal civil infraction citation or notice shall be as set forth below:

(1) An authorized local official witnesses a person violate an ordinance, the violation of which is a municipal civil infraction.

(2) An authorized local official may issue a citation or notice to a person if, based upon investigation, the authorized person has reasonable cause to believe that a person is responsible for a municipal civil infraction.

a. For violations concerning the use, occupation or condition of rental property both the landlord and tenant may be issued a municipal civil infraction, in accordance with subsection (d), for the same offense concerning the use, occupation or condition of the property and shall be individually responsible for a violation of same.

(3) An authorized local 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 an ordinance, a violation of which is a municipal civil infraction, the authorized local official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the City 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 local official shall personally serve a copy of the citation or notice upon the alleged violator.

(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 alleged violator but may be served upon an owner and/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 known address.

a. In cases involving properly licensed rental property, where a citation is issued to a tenant, in addition to posting, a copy of the notice shall be sent by first class mail to both the owner and the tenant of the property.

(3) A citation or notice served as provided in subsection(2) above, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a citation or notice served personally upon a defendant.

(4) The copies of the citation shall be distributed as follows:

a. The original citation which is a complaint and notice to appear by the authorized local official shall be filed with the 68th District Court.

b. The first copy shall be an abstract of the court and retained by the court.

c. Second copy shall be retained by the authorized local official.

d. The third copy shall be issued to the alleged violator.

(5) A citation for a municipal civil infraction signed by an authorized local official shall be treated as made under oath if the authorized local official signing and dating the complaint does so immediately above the following statement "I declare under the penalties of perjury that the statements above are true to the best of my knowledge, information and belief."

(6) Each citation shall inform the defendant that he or she may do one of the following:

a. Admit responsibility for municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

b. Admit responsibility with explanation by mail by the time specified for appearance, or in person, or by representation. If the defendant is going to admit responsibility with explanation either in person or by representation, the defendant 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 appearance. If the defendant admits responsibility with explanation by mail, the court shall accept the admission as though the defendant has admitted responsibility under subsection (d)(6)a. above and the court may consider the defendant's explanation by way of mitigating any sanction that the court may order. If the appearance is made by mail or representation the court shall accept the admission of responsibility but may also require the defendant to provide further explanation or to appear in court.

c. Deny responsibility for the municipal civil infraction by doing 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 plaintiff.

2. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

3. Defendant must apply in person, by mail, by telephone or by representation with the time specified for appearance and obtain a scheduled date and time to appear for a hearing.

4. The hearing shall be an informal hearing unless a formal hearing is requested by either the plaintiff or the defendant.

(7) The citation shall contain in boldface type that the failure of a defendant to appear within the time specified in the citation or a time scheduled for a hearing or appearance is a misdemeanor and will result in the entry of a default judgment against the defendant on the municipal infraction. Return of the citation with an admission of responsibility and with full payment of fines and costs, return of the citation with an admission of responsibility with explanation, or timely application to the court for a scheduled date and time for appearance or hearing constitutes a timely appearance.

(8) If a hearing is scheduled, it shall be an informal hearing, unless a formal hearing is requested by the plaintiff or defendant and a confirming notice shall be mailed by the court to the defendant to the address appearing on the citation or supplied by the defendant. An informal hearing shall be conducted pursuant to MCLA § 600.8719 and a formal hearing shall be conducted pursuant to MCLA § 600.8721.

(9) The court shall schedule a formal hearing if either the plaintiff or the defendant expressly requests a formal hearing. The request for a formal hearing must be received at least 10 days before any hearing date appearing on the citation. The party requesting the formal hearing shall notify the other party of the request and must be received by the party at least 10 days before the hearing date. A formal hearing may be requested in person, by representation, by mail or by telephone. Witness fees need not be paid in advance to a witness. Witness fees for a witness on behalf of the plaintiff are payable by the District Control Unit of the District Court for the City of Flint. There shall be no jury trial for a municipal civil infraction.

(10) If the defendant fails to appear as directed by the citation or other notice at a scheduled appearance, at a scheduled informal hearing, or at a scheduled formal hearing a default judgment shall be entered. A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor.

(Ord. 3285, adopted 11-28-1994; Ord. 3538, passed 6-9-2004; Ord. 3646, passed 4-25-2005; Ord. 3652, passed 6-27-2005)

§ 1-14 ORDINANCE ENFORCEMENT OFFICER.

(a) Pursuant to §§ 1-7 and 1-8 ordinance enforcement officers may be appointed for purposes of carrying out the duties and responsibilities specified in this Code for authorized persons charged with the enforcement of this Code.

(b) An appointed ordinance enforcement officer is authorized to enforce all provisions of this Code, whether or not any particular provision specifies or designates a different enforcing official. Where a particular officer is designated in any Code provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and the authority of the ordinance enforcement officer shall be in addition and supplementary to the authority granted to such other specific officer.

(c) The ordinance enforcement officer's duties shall include the following: investigation of Code violations; issuance and service of municipal ordinance violation notices and municipal civil infraction citations and municipal civil infraction violation notices; appearance in court or other judicial or quasi-judicial proceedings in the administration of this Code.

(Ord. 3285, adopted 11-28-1994; Ord. 3539, passed 6-9-2004)

§ 1-15 ESTABLISHMENT OF BUREAU.

(a) A City Municipal Civil Infraction Violation Bureau is hereby established for the purpose of accepting admissions of responsibility in response to municipal civil infraction violation notices.

(b) Payments made to the Bureau shall be retained and accounted for as fines and costs, respectively, and shall be deposited in the general fund.

(c) The Bureau shall be at locations designated by the Chief Legal Officer. All employees of the Bureau shall be city employees.

(Ord. 3285, adopted 11-28-1994; Ord. 3540, passed 6-9-2004; Ord. 3647, passed 4-25-2005; Ord. 3654, adopted 6-27-2005; Ord. 3773, passed 7-12-2010)

§ 1-16 AUTHORITY OF BUREAU.

(a) The Bureau may dispose only of municipal civil infraction violations for which a municipal civil infraction notice has been issued and for which a fine has been set by ordinance. Nothing in this ordinance shall prevent or restrict the City of Flint from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in the 68th District Court.

(b) The limit of the Bureau's authority shall be to accepting admissions of responsibility for municipal civil infraction notices and the collecting of fines and costs resulting from these admissions. The Bureau shall not accept payment from a person who is denying responsibility for a municipal civil infraction or admitting responsibility with explanation.

(c) The notices shall include the time of the alleged violator shall appear before the Bureau, the methods by which an appearance can be made, the address and telephone number of the Bureau and the hours during which the Bureau is open.

(d) If an authorized local official issues and serves a municipal civil infraction notice and the alleged violator does not admit responsibility and pay the fines and costs, a municipal civil infraction citation shall be issued and filed with the 68th District Court, with a copy mailed to the alleged violator (defendant) as provided in ordinance no.

(e) The Bureau is authorized to accept payment of fines and costs in response to municipal civil infraction violation notices, and shall not be authorized to accept monies or admissions of responsibility in response to municipal civil infraction citations.

(f) The Bureau shall not accept payment of a fine or costs from any person who denies having committed a municipal civil infraction charged in a municipal civil infraction violation notice.

(g) The Bureau shall not have authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Ord. 3541, passed 6-9-2004; Ord. 3648, passed 4-25-2005)

§ 1-17 ELECTION OF PERSON SERVED WITH VIOLATION NOTICE.

(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 notice processed by the Bureau and to have the alleged violation notice processed in the 68th District Court. 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 notice processed at the Bureau shall appear at the Bureau and pay the specified fine and/or costs within the time specified for 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 notice, a municipal civil infraction citation may be issued. The authorized local official is not required to issue a municipal civil infraction citation notice as a precondition of issuance of a citation.

(Ord. 3542, passed 6-9-2004; Ord. 3649, passed 4-25-2005; Ord. 3655, adopted 6-27-2005)

§ 1-18 SCHEDULE OF FINES FOR A MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE.

- (a) A schedule of civil fines payable to the Bureau by persons served with municipal civil infraction violation notices is hereby established.
- (b) The fines for the violations of the Code sections listed in § 1-20(a) shall be as follows:

<i>Offense</i>	<i>Fine</i>
First Offense:	\$25.00
Second Offense:	\$50.00
Third or Subsequent Offense:	\$150.00

- (c) The fines for the violations of the Code sections listed in § 1-20(b) shall be as follows:

- (1) Up to \$5,000.00 per occurrence, plus costs and other sanctions for each offense.

(Ord. 3543, passed 6-9-2004; Ord. 3774, passed 7-12-2010)

§ 1-19 PENALTIES FOR MUNICIPAL CIVIL INFRACTION CITATIONS.

(a) The following civil fines shall apply when there has been a determination of responsibility for a municipal civil infraction citation, unless a different fine is specified within a particular Code provision.

(1) *First offense.* The civil fine for a first offense violation shall be no less than one hundred fifty dollars (\$150.00), plus costs and other sanctions, for each offense.

(2) *Repeat offense.* The civil fine for any offense which is a repeat offense shall be no less than two hundred fifty dollars (\$250.00), plus costs and other sanctions for each offense.

(3) Certain violations as outlined in Chapter 46 may be punishable by up to five thousand dollars (\$5,000.00) per violation, per day, plus costs and other sanctions for each offense.

(b) In addition to ordering a defendant determined to be responsible for a municipal civil infraction citation 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 this Code, enjoin a violation of this Code and/or abate a violation of this Code.

(1) A judge or magistrate shall issue an order to enforce this Code, enjoin a violation of this Code and/or abate a violation of this Code, and shall order the defendant to pay all costs associated with enforcement of this Code, enjoining a violation of this Code and/or abating a violation of this Code, for any defendant determined responsible for a municipal civil infraction.

(2) Upon a written ex parte motion with affidavit a judge or magistrate shall be authorized to issue an order to enforce this Code, to enjoin a violation of this Code and/or abate a violation of this Code prior to a determination of responsibility.

a. A defendant shall be required to pay all costs associated with the enforcement of this Code, enjoining a violation of this Code and/or abatement of a violation of this Code, only if the defendant is determined responsible.

(c) Each violation, and each day upon which any such violation shall continue to exist, shall constitute a separate offense and shall be considered a continuing violation.

(d) A judge or magistrate is authorized to order any remedies provided for in this Code along with any equitable or other remedies available by law.

(e) The judge or magistrate shall be authorized to impose fines, costs, damages and/or sanctions as provided by law.

(f) A municipal civil infraction citation shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

(g) For violations of an owner or occupant of the subject property concerning the use, condition, occupation of land, building or other structure, fines, costs, damages and/or sanctions which are delinquent shall be a lien against the property, and assigned to the City of Flint's tax roll.

(1) Upon a finding of responsibility, a defendant shall be immediately responsible for all fines and costs, unless the court orders a longer time, but in no case shall a defendant have longer than 90 days from the time of the finding of responsibility to make full payment.

(2) If a defendant has not made full payment within 30 days after the date on which payment is due under section (g)(1), the payment shall be considered delinquent.

(3) In a municipal civil infraction action brought for a violation involving the use, occupation, condition of land, a building or other structure where the payment is delinquent, the City of Flint shall record the lien against the property which is the subject matter of the violation by recording a copy of the court order requiring payment of the fines, costs, damages and/or sanctions with the Genesee County Register of Deeds. Such order or judgment shall include a legal description of the property.

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

(5) The lien may be enforced and discharged by the City of Flint in the manner prescribed by its Charter, the General Property Tax Act, 1896 PA 206, MCLA 211.1 to 211.157, or by ordinance. However the property is not subject to sale under the General Property Tax Act, 1896 PA 206, MCLA 211.1 to 211.157, for delinquent property taxes or under this ordinance.

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

- a. The other lien is a lien for taxes or special assessments.
- b. The other lien is created before May 1, 1994.
- c. Federal law provides that the other lien has priority.
- d. The other lien is recorded before the lien under this section.

(7) A political subdivision may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by the City of Flint to collect the judgment by process does not invalidate or waive the lien upon the land, building or structure.

(8) 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, costs or assessment is recorded, unless within that time an action to enforce the lien is commenced.

(9) If a defendant defaults in the payment of a civil fine, costs, assessment or if applicable, or any installment, as ordered pursuant to this section that does not deal with property and therefore is not subject to the lien procedure, that defendant shall be subject to civil contempt procedures as outlined in MCLA 600.8729.

(Ord. 3544, passed 6-9-2004; Ord. 3650, passed 4-25-2005; Ord. 3656, adopted 6-27-2005; Ord. 3729, passed 10-27-2008)

§ 1-20 DESIGNATION OF MUNICIPAL CIVIL INFRACTIONS.

Violation of the following sections of this Code or the violation of any regulation adopted through these Code provisions shall be deemed to be a municipal civil infraction which shall subject the violator to the civil fines and penalties as provided in this chapter:

(a) Sections 11-1, 11-2, 11-10, 11-24, 12-2, 12-11, 12-19, 12-25, 12-39, 12-43, 12-48, 12-49.2, 12-52, 12-53.1, 12-54.1, 12-54.2, 12-62.1, 12-63, 12-67.1, 12-67.2, 12-67.3.2, 12-67.3.4, 12-67.3.5, 12-67.3.6, 12-67.3.7, 12-67.3.8, 12-67.3.9, 12-67.3.10, 12-67.3.11, 12-67.3.12, 12-67.3.13, 12-82, 16-1, 17-2, 17-4, 17-5, 17-6, 22-1, 24-1, 30-3, 30-4, 30-7, 30-9, 30-11, 30-12, 30-13, 30-14, 30-15, 30-18, 30-20, 30-21, 30-

22, 30-23, 30-25, 30-26, 31-48.1, 36-1, 39-5, 39-6, 39-7, 39-9, 39-12, 39-13, 39-14, 39-18, 39-18.1, 39-19, 39-20, 39-20.1, 39-21 and 42-47(b).

(b) Sections 46-127, 46-128, 46-129, 46-131, 46-132, 46-139, 46-145, 46-146, 46-147, 46-149, 46-150, 46-151, 46-153, 46-154, 46-155, 46-170, 46-174 and 46-175.

(Ord. 3545, passed 6-9-2004; Ord. 3775, passed 7-12-2010)

§ 1-21 REPEAL.

(a) *Repeal.* All ordinance provisions inconsistent with the provisions contained in §§ 1-10 through 1-21 are hereby repealed.

(Ord. 3546, passed 6-9-2004)