

Chapter 401 – Municipal Civil Infractions

Section 401.1 – Intent

The intent of this Ordinance is to provide a municipal civil infraction penalty in Lenox Township in place of the current misdemeanor punishment for certain specified existing Ordinances and future Ordinances.

Section 401.2 – Definitions

Authorized Official – A Law Enforcement Official or Code Enforcement Officer as specified under Section 401.4 of this Ordinance.

Municipal Civil Infraction – A violation of a provision of any Township Ordinance that is designated as a municipal civil infraction or for which the remedy and/or penalty is prescribed to be a penalty for a municipal civil infraction, civil fine, or other 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 Determination – A determination that a defendant is responsible for a municipal civil infraction by one of the following:

- A. An admission of responsibility for the municipal civil infraction.
- B. An admission of responsibility for the municipal civil infraction, “with explanation;”
- C. A preponderance of the evidence at an informal hearing or formal hearing; or
- D. A default judgment for failing to appear at a scheduled appearance, informal hearing, or formal hearing.

Repeat Offense – A municipal civil infraction determination for a second, or a subsequent, municipal civil infraction about the same ordinance provision, committed by the same person within any three (3) year period, unless some other period is specifically provided with regard to a specific provision.

Responsible or Responsibility – A determination entered by a Judge or Magistrate, that a person is in violation of a provision of any township ordinance prescribed to be a municipal civil infraction.

Violation – Any act which is prohibited or made or declared to be unlawful or an offense under any township ordinance, including affirmative acts as well as omissions and/or failures to act where the act is required by the Ordinance.

Section 401.3 – Commencement of Municipal Civil Infraction Action

- A. A municipal civil infraction is commenced upon the issuance by an authorized official of a municipal civil infraction citation directing the person alleged to be responsible to appear in court. A notice that the violation exists may be served upon the responsible person before a civil infraction citation is issued.
- B. The form of citation used to charge municipal civil infraction violations shall be in accordance with state law.
- 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 who violates an Ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible an original and three (3) copies of a citation.
 - 2. An authorized official may issue a citation 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 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 official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney or other attorneys for the Township for whom the authorized local office is acting approves in writing the issuance of the citation.
- D. Municipal civil infraction citations shall be served in the following manner:
 - 1. Except as otherwise provided below, the authorized official shall personally serve a copy of the citation 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 need not 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 as reflected on the tax assessment records of the Township.

3. A citation served as provided in Section 401.3D2, above, shall be processed in the same manner as a citation or notice served personally upon a defendant.

Section 401.4 – Authorized Officials

- A. In addition to sworn law enforcement officers authorized by law or contract to enforce state laws and Township Ordinances within the jurisdiction of Lenox Township (e.g., the County Sheriff and Deputies) and any ordinance enforcement officers previously appointed to such office by the Township Board, the Township Board is hereby authorized to appoint by motion or resolution any person or persons as ordinance enforcement officers for such term as may be designated in the motion or resolution for the purposes of carrying out the duties and responsibilities specified in this Ordinance for officials charged with the enforcement of the Ordinance. The Board may further, by motion or resolution, remove any person from such Ordinance Enforcement Officer, at the discretion of the Board.
- B. Unless the Township Board's resolution or motion states otherwise, an appointed Ordinance Enforcement Officer is authorized to enforce all ordinances of this township, whether any particular provision specifies or designates a different enforcing official. When an officer is designated in any ordinance provision as having authority to enforce that the ordinance, that officer's authority shall continue in full force and effect, shall not be diminished or impaired by the terms of this Ordinance, and the authority of the ordinance enforcement officers authorized under a Township Board resolution or motion 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 ordinance violations; issuance of notices of municipal civil infraction violations; issuance and service of municipal civil infraction citations; appearance in court; and other judicial or quasi-judicial proceedings in the administration of the township ordinances.

Section 401.5 – Penalties for Municipal Civil Infraction

- A. Civil fine. The following civil fines shall apply in the event of a municipal civil infraction determination of responsibility unless a different fine is specified in connection with a particular ordinance provision:
 1. First offense. A civil fine for the first offense violation shall be in the amount of two hundred dollars (\$200.00), plus costs and other sanctions, for each offense.

2. Repeat offense. A civil fine for any offense which is a repeat offense shall not exceed five hundred dollars (\$500.00), plus costs and other sanctions, for each offense.
- B. Additional relief. 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 the magistrate shall be authorized to issue any judgment, writ, or order necessary to enforce the ordinance or enjoin or abate a violation of the ordinance.
 - C. Costs/assessments, sanctions/damages, and expenses. Upon a determination of responsibility for a municipal civil infraction, the judge or magistrate shall also be authorized to impose costs, assessments, sanctions, damages, and expenses against the defendant as provided by law.
 - D. Continuing offense. Each violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
 - E. Remedies are not exclusive. In addition to any remedies provided for by the Township ordinance, any equitable or other remedies available may be sought in and ordered by the circuit court. The rights and remedies provided in this ordinance are cumulative and in addition to other remedies provided by law and in equity.

Section 401.6 – Conflicts with State Law Crimes

In the event any violation designated as a municipal civil infraction under this ordinance or any other ordinance that constitutes a crime under any of the laws listed under MCL 41.183(4), such violation is hereby deemed to be a misdemeanor punishable, upon conviction, by a fine not to exceed five hundred dollars (\$500.00), or ninety (90) days imprisonment in the county jail, or both, together with all court costs and the cost of prosecution.