

**CITY OF ROSE CITY
COUNTY OF OGEMAW, STATE OF MICHIGAN**

**CITY OF ROSE CITY ORDINANCE NO. 19-04-16-1
AN ORDINANCE TO SET FORTH THE AUTHORITY AND PROCEDURES FOR
DESIGNATING VIOLATIONS OF CITY ORDINANCES AS MUNICIPAL CIVIL
INFRACTIONS, COMMENCING MUNICIPAL CIVIL INFRACTIONS ACTIONS,
ISSUANCE AND SERVICE OF MUNICIPAL CIVIL INFRACTION CITATIONS, AND
SANCTIONS FOR MUNICIPAL CIVIL INFRACTIONS**

THE CITY OF ROSE CITY ORDAINS:

Section 1. Title. This Ordinance shall be known as the "City of Rose City Municipal Civil Infraction Ordinance" (referred to herein as "this Ordinance").

Section 2. Definitions. As used in this Ordinance:

"Authorized city official" means a representative of the City authorized by City Ordinance to issue municipal civil infraction citations.

"Municipal civil infraction" means an act or omission that is prohibited by an Ordinance of the city, but which is not a crime under the Ordinance, and for which civil sanctions including, without limitation, fines, damages, expenses, and costs, may be ordered as authorized by Michigan law.

"Municipal civil infraction action" 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 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.

Section 3. Municipal Civil Infraction Action. A municipal civil infraction action may be commenced upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court.

Section 4. Municipal Civil Infraction Citations: Issuance and Service. A municipal civil infraction citation shall be issued and served by an authorized city official 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.
- (d) The first copy of the citation (the original citation) shall be filed with the district court. The second copy of the citation shall be retained by the city. The third copy (and duplicate copies, as needed) shall be issued to the alleged violator.
- (e) 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 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."
- (f) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon possible and as completely as possible, an original and any required copies of a citation.
- (g) An authorized city official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal infraction; or

- (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction and if the city attorney approves in writing the issuance of the citation.
- (h) A municipal civil infraction citation shall be served by an authorized city official as follows:
- (1) Except as provided by section (4)(h)(2), an authorized city official shall personally serve a copy of the citation upon the alleged violator.
- (2) 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 other structure, by posting the copy on the land or in a manner reasonably calculated to give notice 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 5. 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 on 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.
- (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:

- (a) Appearing in person for an informal hearing before a City of Rose City Ordinance Committee, than an opportunity to appear before the Rose City Council; or
- (b) If resolutions have not been met in this matter, appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The City Clerk or other designated employee shall retain all municipal ordinance violation notices and shall account to City Council as directed concerning the number of admissions and denials of responsibility for municipal civil infractions and the amount of fines collected. The amounts collected in civil fines shall be placed in the General Fund of the City.
- (d) Whenever any unpaid civil infraction judgment against any property shall be delinquent for six months, the City official or officials in charge of the collection thereof shall certify annually, not later than May 1 of each year, to the tax assessing officer, the fact of such delinquency, whereupon such charge shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same premises are collected and the lien thereof enforced.

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 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.
- (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.

(e) The citation shall contain a notice in bold-faced type that the failure of 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.

Section 6. Sanctions for Municipal Civil Infraction; Repeat Offenses; Continuing Violations; Injunctive Relief. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

(a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinance violated, plus any costs, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws

(b) Increased civil fines may be imposed for repeat offenses by a person of any requirement or provision of any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) admission or determination of responsibility for the same municipal civil infraction made within the period as specified by the ordinance violated.

(c) Each day on which any violation designated as a municipal civil infraction continues constitutes a separate offense and shall be subject to sanctions as a separate violation.

owner of said property giving fourteen (14) days to comply with said Ordinance. If the violation has not been resolved within fourteen (14) days a fine of one hundred and fifty dollars (\$150.00) will be issued to the owner of property in violation. The fine will continue to occur every fourteen (14) days or until the violation has been resolved. The City of Rose City will have a lien on said property, fines shall be added to the real estate tax assessment rolls for such land if not paid.

Upon this Ordinance taking effect, any prior City of Rose City Ordinance covering the same substantially similar subject is hereby repealed to the extent they provide for rules and regulations which are inconsistent with this document.

A motion made by Mr. Wiltse and seconded by Mr. Hinkley to adopt the City of Rose City Weed Control Ordinance # 19-04-16-4

Yeas: Mr. Wiltse, Mr. Hinkley, Ms. Killackey, Ms. Danforth, Ms. Bentley, Mr. Card.

Nays: None

Absent: None

The Mayor and the Council declared the Ordinance adopted on April 16, 2019 this Ordinance takes effect May 6, 2019.

CERTIFICATION

I, Cindy Rosebrugh, City Clerk for the City of Rose City, County of Ogemaw, State of Michigan, do hereby certify that the attached is full, true, and correct copy of an Ordinance duly made, passed and adopted by the City Council of the City of Rose City, Michigan at a regular meeting of the Council held on the 16th day of April, 2019.

Cindy Rosebrugh, City Clerk