

ORDINANCE NO. 695
Civil Infractions Ordinance

An ordinance setting forth the authority and procedures for designating violations of city ordinances as municipal civil infractions, establishing a municipal ordinance violations bureau for the purpose of accepting admissions of responsibility for ordinance violations, authorizing the issuance of civil infraction notices and citations and the manner of serving the same; establishing sanctions for municipal civil infractions; authorizing the collection and retention by the city of civil fines / costs for such violations as prescribed herein and to repeal all conflicting ordinance or parts of ordinances.

THE CITY OF HIGHLAND PARK ORDAINS:

Section 1. Title

This ordinance shall be known and cited as the City of Highland Park Civil Infractions Ordinance.

Section 2. Definitions

As used in this Ordinance:

- a. "Authorized city official" means any personnel of the city authorized by this ordinance or any other city ordinance to issue municipal civil infraction citations.
- b. "Municipal civil infraction" means an act or omission that is prohibited by any ordinance of the city (e.g. IMPC, Muni Codes, etc.), 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 Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of any city ordinance that is a criminal offense.
- c. "Municipal civil infraction citation" means a written complaint prepared by an authorized city official and filed with the court, in those cases where the alleged

violator either denies responsibility or admits responsibility with explanation following the issuance of a municipal civil infraction notice.

- d. "Municipal civil infraction notice" means a written notice issued and served by an authorized city official which shall notify an alleged violator of the proposed commenced by an authorized city official regarding the occurrence or existence of a municipal civil infraction violation.

Section 3. Establishment, Location and Personnel of Municipal Ordinance Violations Bureau

- a. Establishment of Bureau. The City of Highland Park Municipal Ordinance Violations Bureau (hereafter Bureau) is hereby established pursuant to Public Act 12 of 1994 (MCL 600.8396), as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.

Prior to, or in lieu of, the formal establishment of the City of Highland Park Municipal Ordinance Violations Bureau, the 30th District Court will accept admissions of responsibility, with or without an explanation, for ordinance violations designated as municipal civil infractions. The Court shall collect civil fines/costs and remit them to the City of Highland Park.

For those individuals who deny responsibility, the 30th District Court will set the matter for a hearing pursuant to Section 7(b)(3)(i) or (ii).

For those individuals who fail to either admit or deny within the given time, then the court will enter a default and assess the prescribed fine.

- b. Location of Bureau. The bureau shall be located at the city hall/office.
- c. Personnel. Once formally established, all personnel of the Bureau shall be city employees. The Mayor may designate Bureau personnel and a Bureau clerk with the duties prescribed herein and as otherwise may be delegated by the Mayor.
- d. Operational Procedure. The City Administration may adopt rules and regulations for the operation of the Bureau.

Section 4. Bureau Authority

The Bureau shall only have authority to accept admissions of responsibility without explanation for municipal civil infractions for which a municipal ordinance violations notice has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this ordinance or other applicable ordinance. The Bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

Section 5. Authorized City Officials

The following personnel are authorized to issue municipal civil infraction ordinance violation notices and/or municipal civil infraction citations:

- a. Any Peace Officer or Police Officer;
- b. Fire Department Officers;
- c. Building or other duly authorized Code Inspector or Officer;
- d. Ordinance Enforcement Officers;

The City Council may by resolution authorize such personnel to issue municipal civil infractions ordinance violation notices or municipal civil infraction citations as it deems necessary and proper.

Section 6. Civil Infraction Action

- a. **Commencing Action.** A municipal civil infraction action shall be commenced by the issuance of a municipal civil infraction notice by an authorized city official directing the alleged violator to contact the bureau for purposes of admitting or denying responsibility for the violation.
- b. **Grounds for Issuing Notice.** An authorized city official may issue a municipal civil infraction notice to a person if:

1. The authorized city official witnesses that person commit a municipal civil infraction, or
2. Based upon investigation, the official has reasonable cause to believe that that person is responsible for a municipal civil infraction; or
3. Based upon investigation of a complaint by someone who allegedly witnessed that person commit a municipal civil infraction, the official has reasonable cause to believe that that person is responsible for an infraction and if the City attorney approves in writing the issuance of the municipal civil infraction notice.

Section 7. Civil Infraction Notice

- a. Contents of Notice. A municipal ordinance notice shall at a minimum contain the following information:
 1. The name and address of the alleged violator;
 2. The municipal civil infraction alleged;
 3. The address and telephone number of the bureau;
 4. The days and hours that the bureau is open;
 5. The amount of the scheduled fines/costs for the violation;
 6. The time within which the person must contact the bureau for purposes of admitting or denying responsibility for the violation;
 7. The methods by which the violation may be admitted or denied; and
 8. The consequences of failing to pay the required fines/costs or contact the bureau within the required time;
- b. Rights of Violator. Further, the municipal civil infraction notice 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. Request an informal hearing in which event he or she shall appear in person for a 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; or
 - ii. Request a formal hearing before a judge, with the opportunity of being represented by an attorney.
- c. Effect of Failure to Admit. The municipal civil infraction notice shall also inform the alleged violator that in the event the alleged violator admits responsibility “with explanation”, denies responsibility or fails to contact the bureau within the prescribed time, the municipal civil infraction will be filed with the 30th District Court for entry of default or the setting of an informal hearing or setting of a formal hearing as set forth in Section 7b.

Section 8. Civil Infraction Citation

- a. When Citation Shall Issue. Where a person fails to admit responsibility without explanation for a violation within the jurisdiction of the Bureau and pay the required civil fines/costs within the designated time period, the bureau clerk or other designated city employee(s) shall advise the authorized city official to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter.
- b. Contents of Citation. The citation filed with the court and served on the alleged violator shall contain the following information:
 1. The name and address of the alleged violator;

2. A sworn complaint containing all the allegations regarding the violation as set forth in the municipal civil infraction notice;
 3. The place where the alleged violator shall appear in court;
 4. The address and telephone number of the court;
 5. The time that the appearance shall be made;
 6. Clear and unambiguous information on how the alleged violator must respond to the citation; and
 7. 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.
- c. Rights of Violator. The citation shall also inform the alleged violator of his or her right to admit or deny the violation, as more fully set forth Section 7b of this ordinance.
- d. Service of the Citation. A copy of the citation may be served on the alleged violator either by personal service or by first class mail sent to the alleged violator's last known address. The citation shall thereafter be processed in the manner required by law.

Section 9. Schedule of Civil Fines/Costs

Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule and on the basis of the of the date of the violation(s):

- First violation \$150
- Second violation \$350

- Third and subsequent violation \$500 and/or a misdemeanor

In addition to the above prescribed civil fines, costs in the amount of \$10 shall be assessed by the Bureau if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20 shall be assessed by the Bureau.

Section 10. Record and Accounting

The Bureau clerk or other designated city official/employee shall retain a copy of all municipal ordinance violation notices and shall account to the City Council once a month or at such other intervals as the City Council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the City Treasurer at such intervals as the treasurer shall require, and shall be deposited in the specified accounts of the city.

Section 11. Availability of Other Enforcement Options

Nothing in this ordinance shall be deemed to require the City to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction, the City may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

Section 12. Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance which shall continue in full force and effect.

Section 13. Repeal

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 14. Effective Date

This ordinance shall take effect immediately upon publication as required by law following adoption by the City Council.

YEAS: 4

NAYS: 0

ABSENT:1 Councilmember Lewis

Ordinance declared adopted on this 17th day of August, 2020 .

Brenda Green

Brenda Green, Clerk
City of Highland Park