

ORDINANCE NO. 2019-_____

AN ORDINANCE TO ALLOW FOR DESIGNATING VIOLATIONS OF CITY ORDINANCES AS MUNICIPAL CIVIL INFRACTIONS; TO PROVIDE FOR PROCEDURES FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES AND MUNICIPAL CIVIL INFRACTION CITATIONS; AND TO ESTABLISH A MUNICIPAL CIVIL INFRACTIONS VIOLATIONS BUREAU TO ACCEPT ADMISSIONS OF RESPONSIBILITY FOR MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES.

THE CITY OF READING ORDAINS THAT:

Section 1. Title.

1.01 This ordinance shall be known and cited as the City of Reading Municipal Civil Infractions and Violations Bureau Ordinance.

Section 2. Definitions. As used in this Ordinance:

2.01 “**Act**” means Act No. 236 of the Public Acts of 1961, as amended.

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

2.03 “**Municipal civil infraction**” means an act or omission that is prohibited by any 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 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 criminal offense of or a violation of any City ordinance that is not a civil infraction.

2.04 “**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 violation notice.

2.05 “**Municipal civil infraction violation notice**” means a written notice, prepared by an authorized City official, directing a person to appear at the Municipal 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 Sections 8396 and 8707(6) of the Act.

Section 3. Designation of authorized City officials.

3.01 The following personnel have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices directing the alleged violator to appear in District Court or at the Municipal Ordinance Violations Bureau:

- (1) City police officers;

- (2) the City code enforcement officer;
- (3) such other City personnel authorized to issue municipal civil infraction citations or municipal civil infraction violation notices within the provisions of the City ordinance which is then being enforced.

Section 4. Issuance of Municipal Civil Infraction Citations.

- 4.01 Municipal civil infraction citations shall be issued and served by authorized City officials as set out in this section.
- 4.02 The time for appearance specified in a municipal civil infraction citation shall be within a reasonable time after the citation is issued.
- 4.02 The place for appearance specified in a municipal civil infraction citation shall be the Hillsdale County District Court.
- 4.03 Each municipal civil infraction citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office. The original municipal civil infraction citation shall be filed with the Hillsdale County District Court. Copies of the municipal civil infraction citation shall be retained by the City and issued to the alleged violator as provided by Section 8705 of the Act.
- 4.04 A municipal civil infraction citation 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 citation 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."
- 4.05 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.
- 4.06 An authorized City official may issue a municipal civil infraction citation to a person if:
 - (1) based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (2) 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 a municipal civil infraction and if the prosecuting attorney or City attorney approves in writing the issuance of the citation.
- 4.07 Municipal civil infraction citations shall be served by an authorized City official as follows:
 - (1) Except as otherwise provided within this ordinance, an authorized City official shall personally serve a copy of a municipal civil infraction 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 municipal civil infraction 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 a copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owners of the land, building, or structure at the owner's last known address.

Section 5. Municipal civil infractions; fines, continuing violations, injunctive relief.

- 5.01 The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided herein, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Act, as amended, and other applicable laws. Upon a finding of responsibility for a municipal civil infraction, pursuant to Section 8302(4) of the Act (MCL 600.8302(4)), in addition to the assessment of fines and costs, the court may issue and enforce any judgment, writ, or order necessary to enforce the ordinance.
- 5.02 The civil fine for a violation shall not be less than \$100.00 nor more than \$500.00, in the discretion of the court, together with costs of the action, which are not limited to the costs in ordinary civil actions and may include all expenses, direct and indirect, to which the City has been put in connection with the municipal civil infraction up until the entry of judgment, and such other assessments and damages and expenses as are allowed by law.
- 5.03 Each day that a violation is permitted to exist or continue shall constitute a separate violation.
- 5.04 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 City ordinance.

Section 6. Contents of Municipal Civil Infraction Citation.

- 6.01 A municipal civil infraction 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.
- 6.02 The municipal civil infraction 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:
 - a. 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.

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

6.03 The municipal civil infraction 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 an 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.

6.04 The municipal civil infraction citation shall contain a notice in bold face 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 the entry of a default judgment against the alleged violator on the municipal civil infraction.

Section 7. Municipal Ordinance Violations Bureau.

7.01 The City of Reading establishes a Municipal Ordinance Violations 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 notices issued and served by an authorized City official, and to collect and retain civil fines and costs as prescribed by this or any other ordinance.

7.02 The Municipal Ordinance Violations Bureau shall be located at the City Hall or at such other location in the City as may be hereafter designated by the City Council. All personnel of the bureau shall be City employees. The City Council may by resolution designate bureau personnel and a bureau clerk with the duties prescribed herein and as otherwise may be designated by the City Council.

7.03 Disposition of violations. The Municipal Ordinance Violations Bureau may dispose of only a municipal civil infraction violation for which a municipal civil infraction violation notice has been issued. The Municipal Ordinance Violations Bureau may not dispose of any municipal civil infraction violation for which a municipal civil infraction 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 Municipal Ordinance Violations

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.

- 7.04 The scope of the Municipal Ordinance Violations Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions as to which a municipal civil infractions violation notice has been issued and collecting and retaining civil fines and costs as a result of those admissions. The Municipal Ordinance Violations Bureau shall not accept payment of a fine from a 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. No person shall be required to dispose of a municipal civil infraction violation at the Municipal Ordinance Violations Bureau and any person may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Municipal Ordinance Violations Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protections accorded by law.
- 7.05 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 pursuant to Section 3.06 and Section 3.07 of this ordinance. In addition to any other information required by this ordinance or any other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Municipal Ordinance Violations Bureau, the methods by which an appearance may be made, the address and telephone number of the Municipal Ordinance Violations Bureau, the hours during which the bureau is open, the amount of the fines scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- 7.06 An alleged violator receiving a municipal civil infraction violation notice shall appear at the Municipal Ordinance Violations Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation. Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the bureau upon admission of responsibility by persons served with municipal civil infraction violation notices shall be determined pursuant to the following schedule and on the basis of the dates of the violation(s):
- (1) first violation - \$50.00
 - (2) second violation for the same offense within a four-year period - \$125.00
 - (3) third violation for the same offense within a four-year period - \$250.00
 - (4) fourth or subsequent violation for the same offense within a four-year period - \$400.00.
- 7.07 If an authorized City official issues and serves a municipal civil infraction 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 Municipal Ordinance Violations Bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged

violator at the 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 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction violation notice and shall fairly inform the violator how to respond to the citation.

- 7.08 The bureau clerk or other designated City official/employee shall retain a copy of all municipal civil infraction 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 for municipal civil infraction violation notices 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 in such intervals as the Treasurer shall require, and shall be deposited in the general fund of the City.
- 7.09 Nothing in this ordinance shall be deemed to require the City to initiate its municipal infraction ordinance enforcement activity through the issuance of a municipal civil infraction violation notice. As to each ordinance violation designated as a municipal 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 8. Severability.

- 8.01 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 9. Repeal.

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

Section 10. Effective date.

- 10.01 This Ordinance shall take effect ten (10) days after publication, as provided by City Charter.