

## **Chapter 100 – Municipal Civil Infractions**

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- 100.01** Definitions. The following definitions are to be used in this Chapter:
- 100.01.01** "Authorized City Official" means a Police Officer, a Building Department Inspector Supervisor, a Housing and Zoning Inspector, a Police Service Aide or other personnel of the City legally authorized by ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- 100.01.02** "Bureau" means the Municipal Civil Infractions Bureau established by this Chapter.
- 100.01.03** "Citation" means a written complaint or notice to appear in court upon which an authorized City official records the occurrence or existence of one or more municipal civil infractions by the person cited.
- 100.01.04** "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for violating an ordinance designated as a municipal civil infraction.
- 100.01.05** "Municipal Civil Infraction Determination" means 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 finding of responsibility by a preponderance of the evidence at an informal hearing, as set forth in Section 100.07, or at a formal hearing, as set forth in Section 100.08.
  - d) The entry of a default judgment for failing to appear at a scheduled informal hearing or a scheduled formal hearing, or as otherwise directed by a citation or court notice.
- 100.01.06** "Municipal Ordinance Violation Notice" means a notice, other than a citation, directing a person to appear at the Municipal Ordinance Violations Bureau in the City of Troy, and to pay the fine and costs prescribed by ordinance for the violation.
- 100.02** Commencement of actions; jurisdiction; time and place for appearance.
- 100.02.01** A municipal civil infraction action is commenced upon the issuance of a citation. The City of Troy is the plaintiff in cases involving a violation of the City of Troy ordinances.

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- 100.02.02** The 52-4 Judicial District Court shall have jurisdiction over municipal civil infraction actions committed in the City of Troy.
- 100.02.03** The citation shall set an appearance date within a reasonable time of the issuance of the citation.
- 100.02.04** The place specified in the citation for appearance shall be the 52-4 District Court.
- 100.03** Citations; form; modification; signature
- 100.03.01** Each citation shall be numbered consecutively and be in a form as approved by the state court administrator.
- 100.03.02** The original citation shall serve as the complaint and notice to appear, and shall be filed with the 52-4 District Court.
- 100.03.03** A copy of the citation shall be retained by the City of Troy, and the third copy shall be given to the alleged violator.
- 100.03.04** If the citation contains a statement “I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief” and this statement is included immediately above the date and signature of the authorized City official, then the citation shall be treated as made under oath.
- 100.03.05** A citation shall contain the name of the plaintiff, the name and address of the defendant, the alleged municipal civil infraction violation, the location where the defendant is required to appear in court, the telephone number of the court, the time by which the appearance shall be made, and the additional information required by this section.
- 100.03.06** The citation shall inform the defendant that he or she may do one of the following:
- (a) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or prior to the time specified for appearance.
  - (b) Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation at or prior to the time specified for appearance.
  - (c) Deny responsibility for the municipal civil infraction.

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**100.03.07** The citation shall also inform the defendant of all of the following:

- (a) If the defendant desires to deny responsibility or admit responsibility "with explanation", 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 an appearance.
- (b) A hearing will be scheduled as an informal hearing unless either the defendant or the authorized city official specifically requests a formal hearing.

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- (c) At an informal hearing the defendant must appear in person before a District Court Judge or Magistrate, without the opportunity of being represented by an attorney.
- (c) At a formal hearing the defendant must appear in person before a District Court Judge with the opportunity of being represented by an attorney.

**100.03.08** The citation shall contain a notice in boldfaced type that the failure of the defendant 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 defendant on the municipal civil infraction.

**100.03.09** The return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, the return of the citation with an admission of responsibility with explanation, or timely application to the court for a scheduled date and time for a formal hearing or an informal hearing constitutes a timely appearance.

**100.04** Issuance of citations; witnesses; investigation; personal service; actions involving land, buildings, or structures;

**100.04.01** An authorized city official shall issue a municipal civil infraction citation when the official witnesses the named person violate a City of Troy ordinance that is designated as a municipal civil infraction.

**100.04.02** An authorized city official may issue a municipal civil infraction citation under the following circumstances:

- (a) An authorized city official has reasonable cause to believe that the named person is responsible for a municipal civil infraction, based upon investigation.

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(b) When an authorized city official has reasonable cause to believe that the named person is responsible for a civil infraction, based upon the investigation of a complaint by someone who allegedly witnessed alleged municipal civil infraction, as long as the City Attorney or an Assistant City Attorney approves of the issuance of the citation in writing.

**100.04.03** Except as otherwise provided in section 100.04.04, the authorized City official shall personally serve a copy of the municipal civil infraction citation upon the alleged violator.

**100.04.04** If a municipal civil infraction involves the use or occupancy of land or a building or other structure, service may be made upon the owner or occupant of the land, building or structure by posting a copy of the citation on the land or attaching the copy to the building or structure. In addition to the posting, a copy of the citation shall also be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address. A citation served in this manner shall be processed in the same manner as a citation served personally upon a defendant.

**100.05** Appearances; in person, by representation, or by mail; admission with explanation; denial of responsibility, informal or formal hearing

**100.05.01** A person to whom a citation is issued under section 100.04 shall appear by the time specified in the citation and may respond to the allegations in the citation as provided in this section.

**100.05.02** If the defendant wishes to admit responsibility for the municipal civil infraction, the defendant may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court. Upon acceptance of the admission, the court may order any of the sanctions permitted under section 100.11.

**100.05.03** If the defendant wishes to admit responsibility for the municipal civil infraction "with explanation", the defendant may do so in either of the following ways:

(a) By appearing by mail.

(b) By contacting the court in person, by mail, by telephone, or by representation to obtain from the court a scheduled date and time for an appearance, at which time the defendant shall appear in court in person or by representation.

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- 100.05.04** If a defendant admits responsibility for a municipal civil infraction "with explanation" under section 100.05.03, the court shall accept the admission as though the defendant has admitted responsibility under section 100.05.02 and may consider the defendant's explanation by way of mitigating any sanction that the court may order under section 100.11. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court, but the court may require the defendant to provide a further explanation or to appear in court.
- 100.05.05** If the defendant wishes to deny responsibility for a municipal civil infraction, the defendant shall do so by appearing for an informal or formal hearing. If the hearing date is not specified on the citation, the defendant shall contact the court in person, by representation, by mail, or by telephone, and obtain a scheduled date and time to appear for an informal or formal hearing. If the hearing date is specified on the citation, the defendant shall appear on that date. The hearing shall be an informal hearing, unless a formal hearing is requested by the defendant or the plaintiff as provided by section 100.06. If a hearing is scheduled by telephone, the court shall mail the defendant a confirming notice of that hearing by regular mail to the address appearing on the citation or to an address that is furnished by the defendant. An informal hearing shall be conducted pursuant to section 100.07, and a formal hearing shall be conducted pursuant to section 100.08.
- 100.06** Formal hearings; requests; time; notification of parties
- 100.06.01** The court shall schedule a formal hearing if either the defendant or the plaintiff expressly requests a formal hearing as provided by this section.
- 100.06.02** A request for a formal hearing must be received by the court at least 10 days before a scheduled informal hearing date. The request may be made in person, by representation, by mail, or by telephone.
- 100.06.03** The party requesting a formal hearing shall notify the other party or parties of the request. Notification of the request must be received by the other parties at least 10 days before the scheduled informal hearing date. The notification of a request for a formal hearing may be made in person, by representation, by mail, or by telephone.
- 100.07** Informal hearings; Magistrate or Judge, procedure; no representation by attorneys; notice of hearing, witnesses; preponderance of the evidence standard; appeals
- 100.07.01** An informal hearing shall be conducted by a District Court Magistrate, if authorized by the Judges of the District Court, or by a Judge of the District Court. A District Court Magistrate may administer oaths, examine

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witnesses, and make findings of fact and conclusions of law at an informal hearing. The Judge or District Court Magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, unless the rules of practice relate to privileged communications, which shall be binding. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.

- 100.07.02** At an informal hearing, the parties shall not be represented by an attorney.
- 100.07.03** Notice of a scheduled informal hearing shall be given to the plaintiff. The plaintiff and defendant may subpoena witnesses. Witness fees are not required to be paid in advance to a witness. Witness fees for plaintiff's witness(es) are payable by the district control unit of the District Court for the place where the hearing occurs.
- 100.07.04** If the Judge or District Court Magistrate determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction, the Judge or Magistrate shall enter an order against the defendant as provided in section 100.11. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to any costs of the action.
- 100.07.05** The plaintiff and/or defendant are entitled to appeal an adverse judgment entered at an informal hearing. An appeal shall be de novo in the form of a scheduled formal hearing as follows:
- (a) The appeal from a Judge of the District Court shall be heard by a different Judge of the district.
  - (b) The appeal from a District Court Magistrate shall be heard by a Judge of the district.
- 100.08** Formal hearing; Judge; representation of defendant by attorney; representation of plaintiff by City Attorney, witnesses; no jury trial; preponderance of the evidence standard
- 100.08.01** A formal hearing shall be conducted only by a Judge of the District Court.
- 100.08.02** In a formal hearing, the defendant may be represented by an attorney, but is not entitled to counsel appointed at public expense.
- 100.08.03** Notice of a formal hearing shall be given to the City Attorney. The City Attorney or Assistant City Attorney shall appear in court for a formal

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hearing and shall issue a subpoena to each necessary witness for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for Plaintiff's witness(es) are payable by the district control unit of the District Court for the place where the hearing occurs.

**100.08.04** There shall not be a jury trial in a formal hearing.

**100.08.05** If the Judge determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction, the Judge shall enter an order against the defendant as provided in section 100.11. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to recover any costs incurred in defending the action.

**100.09** Admissions or denial of responsibility; arrest warrants

**100.09.01** If an authorized City official issues a citation under section 100.04, the court may accept an admission with explanation or an admission or denial of responsibility upon the citation without the necessity of a sworn complaint. If the defendant denies responsibility for the municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation under section 100.10 shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

**100.10** Failure to appear, default judgment

**100.10.01** If the defendant fails to appear as directed by the citation or other notice under section 100.05, at a scheduled informal hearing, or at a scheduled formal hearing, the court shall enter a default judgment against the defendant.

**100.11** Not a lesser included offense; civil fines, costs, damages, expenses; collection of defaults in payment; failure to comply with judgment; failure to answer citation, misdemeanor

**100.11.01** A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a municipal civil infraction.

**100.11.02** If a defendant is determined to be responsible or responsible "with explanation" for a municipal civil infraction, the Judge or District Court Magistrate may order the defendant to pay a civil fine and costs. The civil fine, costs, and damages and expenses are due immediately. However, the Judge or District Court Magistrate may grant a defendant an extension

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of time to pay a civil fine, costs, and damages and expenses or may grant permission for a defendant to make installment payments.

**100.11.03** If a defendant is ordered to pay a civil fine under section 100.11.02, the Judge or District Court Magistrate shall summarily tax and determine the costs of the action, which is defined as all expenses that plaintiff has incurred directly or indirectly in pursuing the municipal civil infraction to the entry of judgment. Costs of not more than \$500 shall be ordered. Except as otherwise provided by law, costs shall be payable to the general fund of the plaintiff.

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**100.11.03A** In addition to any fine or cost ordered to be paid under sections 100.11.02 and 100.11.03, the Judge or District Court Magistrate shall order the defendant to pay a justice system assessment of \$10.00. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the State Treasurer for deposit in the Justice System Fund created in MCL 600.181.

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**100.11.04** In addition to ordering the defendant to pay a civil fine and costs, the Judge or District Court Magistrate shall have equitable jurisdiction and may issue a writ or order as provided under state law.

**100.11.05** A District Court Magistrate shall impose the sanctions permitted under sections 100.11.03 and 100.11.04 only to the extent expressly authorized by the Chief Judge of the District Court.

**100.11.06** The District Court may establish a schedule of civil fines and costs to be imposed for municipal civil infractions that occur within the City. If a schedule is established, it shall be prominently posted and readily available for public inspection at the Court. A schedule need not include all municipal civil infractions. A schedule may provide for exclusions from the scheduled fines in cases where the defendant has a prior record of municipal civil infraction violations.

**100.11.07** A judgment may be collected by any means authorized for the enforcement of a judgment under State law.

**100.11.08** If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under section 100.12 or 100.13, as applicable.

**100.11.09** A defendant who fails to answer a citation or notice to appear in court for

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a municipal civil infraction is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500, or both.

- 100.12** Default in payment of fines, costs, damages, or expenses; civil contempt; imprisonment
- 100.12.01** If a defendant defaults in the payment of a civil fine or costs, or any order allowing installment payments, then the court may issue a summons, show cause order or a bench warrant, requiring defendant to show cause why the defendant should not be held in civil contempt. Plaintiff can file a motion seeking this relief, or the Court can grant the relief on its own motion.
- 100.12.02** If a corporation or an association is ordered to pay a civil fine or costs, the individuals authorized to make disbursement on behalf of the corporation or association shall pay the fine, costs, damages or expenses, and the failure to do so shall be civil contempt.
- 100.12.03** Unless the defendant shows that the default was not an intentional refusal to obey the order of the court, the court shall find that a default constitutes a civil contempt and may order the defendant or authorized representative committed until all or a specified part of the amount due is paid in accordance with sections 100.12.05 and 100.12.06.
- 100.12.04** If it appears that the default in the payment of a fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine and costs.
- 100.12.05** The term of imprisonment on civil contempt for nonpayment of a civil fine or costs shall be specified in the order of commitment, and shall not exceed one day for each \$30.00 due. A person committed for nonpayment of a civil fine, costs, damages or expenses under this chapter shall be given credit toward payment for each day of imprisonment at the rate of \$30.00 per day.
- 100.12.06** A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
- (a) The defendant is credited with the total amount of the outstanding fines, costs, damages or expenses under section 100.12.05.

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- (b) The amount due is collected through execution of process or otherwise.
  - (c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).
- 100.12.07** The civil contempt shall be purged upon discharge of the defendant from incarceration once the indebtedness has been satisfied.
- 100.13** Violations involving land, buildings, or structures; failure to pay fine or costs, liens; notice of lien; enforcement and discharge; priority; action for collection of fines and costs; period of lien
- 100.13.01** In a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, if a defendant does not pay a civil fine or costs or an installment ordered under section 100.11 within 30 days after the date on which payment is due, the plaintiff may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds.
- 100.13.02** The court order recorded with the 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 plaintiff by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.
- 100.13.03** The lien may be enforced and discharged by the City in the manner prescribed by the City Charter or by the State General Property Tax Act.
- 100.13.04** 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 the effective date of this ordinance.
  - (c) Federal or state law provides that the other lien has priority.
  - (d) The other lien is recorded before the lien under this section is recorded.
- 100.13.05** Any attempt by the City to collect fines or costs by any process does not

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invalidate or waive the lien upon the land, building, or structure.

- 100.13.06** A lien provided for by this section shall not continue for a period longer than five years after a copy of the court order imposing a fine or costs is recorded, unless an action to enforce the lien is commenced within the five year period.
- 100.14** Costs incurred in compelling appearance of defendant
- 100.14.01** If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the Judge or District Court Magistrate, in addition to any fine and costs imposed under section 100.11, may assess additional costs incurred in compelling the appearance of the defendant. Any recovered additional costs shall be returned to the general fund of the City.
- 100.15** Municipal Civil Infraction Notice
- 100.15.01** Instead of issuing a citation, an authorized City official may issue and serve a Municipal Ordinance Violation Notice under the same circumstances and upon the same persons as provided in this ordinance. If an authorized City official issues and serves a Municipal Ordinance Violation Notice and if an admission of responsibility is not made and the civil fine and costs prescribed by ordinance for the violation are not paid at the Municipal Ordinance Violations Bureau, a citation may be filed with the court and a copy of the citation may be served by first-class mail upon the alleged violator at his or her last known address. The citation filed with the court pursuant to this subsection need not comply in all particulars with section 100.03, but shall consist of a sworn complaint containing the allegations stated in the Municipal Ordinance Violation Notice.
- 100.16** Municipal Ordinance Violations Bureau; establishment; location; supervision; employees; rules and regulations; disposition of violations; scope of authority; appearance; payment of fines and costs
- 100.16.01** There is hereby established a Municipal Ordinance Violations Bureau (Bureau), to accept admission(s) of responsibility for municipal civil infractions and to collect and retain civil fines and costs as prescribed.
- 100.16.02** The Bureau shall be located at City Hall and shall be under the supervision and control of the City Treasurer. The City Treasurer shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified City employees to administer the Bureau.
- 100.16.03** The Bureau may accept admission(s) of responsibility and payment for Municipal Ordinance Violation Notices that have been properly issued and

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for which a fine has been scheduled. The Bureau is not required to accept admission(s) of responsibility and payment for municipal ordinance violations when an authorized City official has issued a municipal civil infraction citation. The parties shall not be restricted or prohibited from bypassing the Bureau and having a violation processed before a court of appropriate jurisdiction.

- 100.16.04** The Bureau's authority is limited to accepting admission(s) of responsibility (without explanation) for municipal ordinance notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the noticed offense. The Bureau shall not determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- 100.16.05** A defendant receiving a Municipal Ordinance Violation Notice shall either appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the Municipal Civil Infraction Violation Notice or shall inform the Bureau that he or she denies responsibility and will not pay the fines and costs. An appearance may be made by mail, in person or by representation. If a defendant does not pay the fine and costs, 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 alleged violator's last known address. The citation filed with the Court does not need to comply with all requirements for citations as provided in Section 100.03, but shall consist of a sworn complaint containing the allegations stated in the Municipal Ordinance Violation Notice and shall fairly inform the alleged violator how to respond to the citation.
- 100.16.06** The City Treasurer or other designated city official/employee shall retain a copy of all Municipal Ordinance 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 deposited in the general fund of the City.
- 100.17** Schedule of municipal civil infraction fines and costs
- 100.17.01** Unless a different schedule of civil fines is provided for by an applicable Ordinance, the civil fines payable to the Bureau upon admission(s) of responsibility shall be as follows:

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1st violation within 3-year period* .....	\$ 65.00
2nd violation within 3-year period* .....	125.00
3rd violation within 3-year period* .....	250.00
4th or subsequent violation within 3-year period* .....	500.00

\*determined on the basis of the date of violation(s).

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