

**CITY OF OAK PARK  
OAKLAND COUNTY, MICHIGAN**

**ORDINANCE NO. O-18-658**

**ORDINANCE TO AMEND CITY OF OAK PARK CODE OF ORDINANCES BY ADDING A NEW CHAPTER 3 - MUNICIPAL CIVIL INFRACTIONS, THEREBY PRESCRIBING CIVIL SANCTIONS FOR CERTAIN VIOLATIONS OF THE CITY OF OAK PARK CODE OF ORDINANCES.**

**THE CITY OF OAK PARK ORDAINS:**

**SECTION 1.** The Code of Ordinances of the City of Oak Park is hereby amended by the addition of a new Chapter 3 - Municipal Civil Infractions, which shall read as follows:

**CHAPTER 3. - MUNICIPAL CIVIL INFRACTIONS**

**Sec. 3-1. - Definitions.**

For purposes of this chapter, the following definitions shall apply:

*Act* shall mean Public Act No. 236 of 1961 (see MCL 600.101 et seq.).

*Authorized city official* shall mean a public safety officer, the building official, the electrical inspector or other personnel authorized by this Code or any ordinance to issue municipal civil infraction citations.

*Municipal civil infraction* shall mean an act or omission that is prohibited by this Code or any ordinance of the city, but which is not a crime under the Code or other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by chapter 87 of Public Act No. 236 of 1961 (see MCL 600.8701 et seq.). A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

*Municipal civil infraction action* shall mean a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

*Municipal civil infraction citation* shall mean 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 that person.

*Municipal civil infraction determination* shall mean a determination that a defendant is responsible for a municipal civil infraction by one (1) 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.
- (d) A default judgment for failing to appear at a scheduled appearance.

*Repeat offense* shall mean a determination of responsibility for a second, or any subsequent, municipal civil infraction with regard to the same code provision, committed by the same person within any three-year period, unless some other period is specifically provided with regard to a specific Code provision.

*Responsible or responsibility* shall mean a determination entered by a court or magistrate that a person is in violation of a provision of this Code prescribed to be a municipal civil infraction.

Sec. 3-2. - Commencement of municipal civil infraction action.

- (1) A municipal civil infraction action shall be commenced upon the issuance by an authorized city official of a municipal civil infraction citation directing the person alleged to be responsible to appear in court.
- (2) The form of citations or notices used to charge municipal civil infraction violations shall be in accordance with state law (see MCL 600.8709).
- (3) The basis for issuance of a municipal civil infraction citation shall be as set forth below:
  - (a) An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction.
  - (b) 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.
  - (c) 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 attorney for the city approves in writing the issuance of the citation.
- (4) Municipal civil infraction citations shall be served in the following manner:
  - (a) Except as otherwise provided below, the authorized official shall personally serve a copy of the citation upon the alleged violator.
  - (b) 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 on 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.
  - (c) A citation served, as provided in paragraph (b) above, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a citation served personally upon a defendant.
  - (d) Municipal civil infraction citations shall be distributed as follows as provided by section 8705 of the Act (see MCL 600.8705).
    1. The original citation shall be filed with the district court.
    2. The first copy shall be an abstract of court records.
    3. The second copy shall be retained by the authorized official.
    4. The third copy shall be delivered to the alleged violator.

Sec. 3-3. – Authorized city official.

- (1) The building official, electrical inspector, plumbing and mechanical inspectors, code enforcement officer and public safety officers are hereby designated as the authorized city officials to issue municipal civil infraction citations directing alleged violators to appear in court as provided by this Code.

- (2) An Authorized city official is authorized to enforce all provisions of this Code whether or not any particular provision specifies or designates a different enforcing official, unless otherwise prescribed by state or federal law. Where a particular officer is designated in any Code provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section; and the authority of the Authorized city official shall be in addition and supplementary to the authority granted to such other specific officer.
- (3) The Authorized city official's duties shall include the following: investigation of code violations; issuance and service of municipal civil infraction citations; and appearance in court or other judicial or quasi-judicial proceedings in the administration of this Code.

Sec. 3-4. - Penalties for municipal civil infractions.

- (a) The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular Code provision:
  - (1) The first offense, \$150.00.
  - (2) The first repeat offense, \$250.00.
  - (3) A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
- (b) The following shall be exceptions to the civil fine schedule:
  - (1) A violation of any provision of Chapter 18 – Building and Building Regulations:
    - i. The first offense, \$150.00.
    - ii. The first repeat offense, \$300.00.
    - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
  - (2) A violation of any provision of Chapter 22 – Business:
    - i. The first offense, \$50.00.
    - ii. The first repeat offense, \$100.00.
    - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
  - (3) A violation of Division 3. Blight Sec 38-96. Cause of blight or blighting factors of Chapter 38 – Environment:
    - i. The first offense, \$50.00 plus any cost to abate.
    - ii. The first repeat offense, \$100 plus any cost to abate.
    - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.

- (4) A violation of any provision of Chapter 62 – Solid Waste:
  - i. The first offense, \$50.00.
  - ii. The first repeat offense, \$100.00.
  - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
- (5) A violation of any provision of Chapter 71 – Telecommunications Services:
  - i. The first offense, \$500.00.
  - ii. The first repeat offense, \$1,000.00.
  - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,000.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
- (6) A violation of any provision of Chapter 78 – Trees.
  - i. The first offense, \$50.00 plus any cost to abate.
  - ii. The first repeat offense, \$100 plus any cost to abate.
  - iii. A person who is determined to be responsible for a second or any subsequent repeat offense, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or community service for not more than 200 hours, or any combination of these penalties and the cost of prosecution, plus any cost to abate, if applicable.
- (c) A copy of the civil infraction fee schedule, as amended from time to time, shall be posted at the 45<sup>th</sup> District Court.
- (d) 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 magistrate shall be authorized to issue any judgment, writ, or order necessary to enforce or enjoin violation of this Code.
- (e) Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (f) Remedies not exclusive. In addition to any remedies provided for in this Code, any equitable or other remedies available may be sought.
- (g) The judge or magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.

Sec. 3-5. - Designation of civil infractions.

A violation of the following chapters, provisions, or sections of this Code or any rule, regulation, or order adopted or issued in pursuance thereof shall be deemed to be a municipal civil infraction which shall subject the violator to the civil fines and penalties as provided in this chapter unless specifically stated otherwise therein:

Chapter 6 – Alcoholic Liquors;

Chapter 10 – Amusements and Entertainments;  
Chapter 14 - Animals;  
Chapter 18 – Buildings and Building Regulations;  
Chapter 22 – Businesses;  
Chapter 38 – Environment;  
Chapter 42 – Fire Prevention and Protection;  
Chapter 50 – Offenses and Miscellaneous Provisions;  
Chapter 53 – Parking Lots;  
Chapter 54 – Parks and Recreation;  
Chapter 62 – Solid Waste;  
Chapter 66 – Streets, Sidewalks and Other Public Places;  
Chapter 71 – Telecommunications;  
Chapter 74 – Traffic and Vehicles;  
Chapter 78 – Trees  
Appendix A - Zoning; and

Any other chapter or section of this Code which specifically provides that a violation thereof is a municipal civil infraction.

## **SECTION 2. SEVERABILITY**

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park shall be affected by this Ordinance, except as to the above sections, and in the event that any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or the Code of Ordinances, City of Oak Park.

## **SECTION 3. SAVINGS**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

## **SECTION 4. EFFECTIVE DATE**

This Ordinance shall become effective ten (10) days from the date of its passage and shall be published as required by the Charter of the City of Oak Park.

**MADE, PASSED AND ADOPTED** by the Council of the City of Oak Park on this 3rd day of January, 2018.

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**T. EDWIN NORRIS**  
City Clerk

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**MARIAN McCLELLAN**  
Mayor

I, **T. EDWIN NORRIS**, the duly authorized Clerk of the City of Oak Park, Michigan, do hereby certify that the foregoing ordinance was adopted by the Council of the City of Oak Park at its regular meeting held on January 3, 2018.

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**T. EDWIN NORRIS, City Clerk**

<b>First Reading:</b>	<b>December 18, 2017</b>
<b>Second Reading:</b>	<b>January 3, 2018</b>
<b>Adopted:</b>	<b>January 3, 2018</b>
<b>Published</b>	<b>January 12, 2018</b>