

CHAPTER 4

MUNICIPAL INFRACTIONS

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4.01 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.

(Code of Iowa, Sec. 364.22[3])

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction which is a violation of Chapter 455B of the *Code of Iowa* or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

(Code of Iowa, Sec. 364.22 [1])

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.
2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.
3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

4.03 PENALTIES. A municipal infraction is punishable by the following civil penalties:

(Code of Iowa, Sec. 364.22 [1])

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00

B. Each Repeat Offense – Not to exceed \$1,000.00

Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

2. Special Civil Penalties.

A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(Code of Iowa, Sec. 364.22 [4])

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.

- 4.The amount of civil penalty to be assessed or the alternative relief sought, or both.
- 5.The manner, location, and time in which the penalty may be paid.
- 6.The time and place of court appearance.
- 7.The penalty for failure to appear in court.

4.05 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

(Code of Iowa, Sec. 364.22 [8])

4.06 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.22[11])

4.07 SETOFF. Any qualifying debt as defined in Section 421.65(1)(d) of the *Code of Iowa*, owing and payable to the City, such as unpaid municipal infractions and utility bills, will be submitted to the Iowa Setoff Program through the State of Iowa Department of Revenue under authority of Section 421.65 of the *Code of Iowa*. Prior to submission to the Iowa Department of Revenue of the qualifying debt for setoff, the obligor shall have an opportunity to protest or challenge the obligation.

1. The following procedure shall be followed for unpaid gas and electric utility bills:

A. Disconnection for nonpayment may occur only after the City has sent written notice of disconnection by regular mail postmarked at least 12 days before service is to be shut off. This notice must include the reason for disconnection. If disconnection is scheduled between November 1 and April 1 and it has not been possible to contact the obligor by telephone or in person, a notice shall be placed on the door of the property at least one day before service is disconnected.

B. The obligor may request a hearing by submitting a request in writing to the City Clerk by noon on the day preceding the scheduled shutoff date. The hearing board shall be the Director of Public Works, one Council member and the Mayor or his/her

designee. The hearing shall be held within two business days of the request for hearing. The hearing may be held in person, by telephone or by video conference. The decision of the hearing board is final.

2. The following procedure shall be followed for unpaid water, sewer and solid waste collection bills:

A. Discontinuance of service for nonpayment may occur only after the City has sent written notice of disconnection by regular mail postmarked at least 30 days before service is to be shut off. This notice must include the reason for discontinuance of service.

B. The obligor may request a hearing by submitting a request in writing to the City Clerk by noon on the day preceding the scheduled cutoff date. The hearing board shall be the Director of Public Works, one Council member and the Mayor or his/her designee. The hearing shall be held within two business days of the request for hearing. The hearing may be held in person, by telephone or by video conference. The decision of the hearing board is final.

3. The following procedure shall be followed for municipal infractions:

A. The obligor may request a hearing by submitting a request in writing to the City Clerk within ten days of the date of the ticket issued by the Code Enforcement Officer. The hearing board shall be the Code Enforcement Officer, one Council member and the Mayor or his/her designee. The hearing shall be held within five business days of the request for hearing. The hearing may be held in person, by telephone or by video conference. The decision of the hearing board is final.

B. If the obligor fails to protest or challenge the obligation within the time period provided, the obligation shall be submitted to the Iowa Department of Revenue for setoff according to the procedures adopted by the department.

(Section 4.07 – Ord. 731 – Feb. 24 Supp.)

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