

TITLE I: ADMINISTRATION

CHAPTER V.

MUSCATINE COUNTY ENFORCEMENT ORDINANCE

SECTION 1. SCOPE AND AUTHORITY. The purpose of this ordinance is to centralize the penalty portions of each chapter of the Muscatine County Code of Ordinances.

- 1.1 Violations of the Muscatine County Code of Ordinances, if not resolved at the administrative level, may be enforced by the county officers in accordance with the provisions of this chapter.
- 1.2 Legal proceedings may be initiated against an alleged violator, when appropriate and if probable cause exists, by:
 - a. Issuing a civil citation for a county infraction as authorized in Iowa Code Section 331.307 and set forth in Section 2 below;
 - b. Filing a petition in equity seeking relief, including but not limited to an order for abatement or injunctive relief as set forth in Section 3 below;
 - c. Filing a criminal (simple misdemeanor) complaint for a county violation as authorized in Iowa Code Section 331.302(2) and as set forth in Section 4 below;
 - d. Prosecuting in accordance with state criminal laws if an alleged violation of an ordinance is a felony, an aggravated misdemeanor, or a serious misdemeanor under the state law or if the violation is a simple misdemeanor under Chapter 687 through 747 of the Iowa Code.
- 1.3 In addition to the civil citation, which is initiated by the citing officer, the aforementioned legal options may be pursued individually or in combination, as determined by the Muscatine County Attorney after reviewing the circumstances surrounding each individual case, including but not limited to the nature and seriousness of the violation, corrective action attempted by the respective department and its officers, and the impact or potential impact of the violation on the health, safety and welfare of the citizens of Muscatine County.

SECTION 2. CIVIL ENFORCEMENT PROCEDURES FOR COUNTY INFRACTIONS.

- 2.1 Any violation of the Muscatine County Code of Ordinances, including any section, subsection or any part thereof, or any rule or regulation adopted or issued in pursuant thereof, is a county infraction, and enforceable as such, except as noted in Section 1.2.d.
- 2.2 A county infraction is punishable by a civil penalty of not more than the maximum amount allowed by State Code for a first offense, or the maximum amount allowed by State Code for a second or subsequent offense.
 - a. Each day the violation occurs or is permitted to exist by the defendant may constitute a separate offense.
 - b. A schedule of fines may be adopted and amended as appropriate by separate resolution.
 - c. In addition to assessing a civil penalty, the court may:

- (1) Order the defendant to abate or correct the violation;
- (2) Authorize Muscatine County to abate or correct the violation; and
- (3) Order that Muscatine County's costs for abatement or correction of the violation be entered as a personal judgement against the defendant or assessed against the property where the violation occurred, or both, not to exceed the jurisdictional amount pursuant to Iowa Code Section 602.6306(2) unless entered by a district court judge.

2.3 An officer authorized pursuant to this section to enforce county code or regulation may issue a civil citation to a person who commits a county infraction. A copy of the citation may be served by personal service as provided in Rule of Civil Procedure 56.1, by certified mail addressed to the defendant at the defendant's last known address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 60.1. After a copy of the citation is served, the citing officer shall forward the original to the County Attorney for filing and prosecution.

- a. Standard County civil citation forms shall be maintained by the County Attorney and made available to appropriate county officers.
- b. County officers authorized to enforce a county code or regulation are elected officials and appointed department heads, and those persons designated by elected officials and appointed department heads.
- c. The issuance of a civil citation for a county infraction or the ensuing court proceedings does not provide an action for false arrest, false imprisonment or prosecution.

2.4 Within twenty (20) days of being served with a citation, the defendant shall answer the citation by appearing before the Clerk of Court, Small Claims Division, Muscatine County Courthouse, Muscatine, Iowa to admit or deny the alleged infraction.

- a. If the defendant fails to appear, judgement shall be entered against the defendant for the amount of the civil penalty and court costs, and restitution and with an order to correct or abate the violation if sought by the County.

2.5 If the defendant appears and admits the violation, the Clerk shall enter judgement against the defendant for the amount of the civil penalty and court costs, and restitution and with an order to correct or abate the violation if sought by the County.

2.6 If the defendant denies the infraction, the Clerk will set a time and date for a hearing on the matter, which will be tried in the same manner as a small claim and conducted in accordance with the following provisions.

- a. The County has the burden of proof that the county infraction occurred and that the defendant committed the infraction. The proof shall be clear, satisfactory, and convincing evidence.
- b. The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.
- c. The defendant may question all witnesses who appear for the County and produce evidence or witnesses on the defendant's own behalf.

- d. The court, after hearing the matter, shall enter judgment against the defendant or dismiss the matter, in accordance with its findings of fact and all applicable legal standards.
- e. If judgment is entered against the defendant, the court may impose a civil penalty or may grant appropriate relief to abate or correct the violation, or both, and the court may direct the payment of the civil penalty be suspended or deferred under conditions established by the court. If a defendant willingly fails to pay the civil penalty or violates the term of any other order imposed by the court, contempt proceedings may be initiated against the defendant.
- f. A defendant against whom judgment has been entered is liable for the court costs and fees. If the county infraction is dismissed, the County is liable for the court costs and fees. When the action is dismissed or otherwise disposed of without provision for assignment of court costs, the County is liable for court costs and fees.
- g. A defendant against whom judgment has been entered may appeal the verdict in accordance with small claims appellate procedures set forth in Chapter 631, Code of Iowa, and the Iowa Rules of Civil Procedure.

SECTION 3. EQUITABLE ENFORCEMENT PROCEDURES FOR COUNTY INFRACTIONS. The County, through the Board of Supervisors and other authorized officers, may institute any appropriate action in equity to restrain, correct, or abate a violation as authorized by Chapter 331, Code of Iowa, or by any other provisions in the Code of Iowa empowering the County, the Board of Supervisors, or other county officers to take legal action to remedy a county violation.

SECTION 4. CRIMINAL ENFORCEMENT PROCEDURES FOR COUNTY INFRACTIONS.

- 4.1** Any violation of the Muscatine County Code of Ordinance for which criminal enforcement is specifically authorized by section or chapter is a county (simple) misdemeanor.
- 4.2** If convicted of a county misdemeanor, the defendant is subject to a fine of not more than \$100.00, or to imprisonment for not more than 30 days, and shall pay the court costs and fees.
- 4.3** Criminal enforcement is initiated by referring the charges to the County Attorney for review. The County Attorney determines whether to file county misdemeanors in accordance with the same standards established for filing criminal actions against persons for violations of State criminal laws.
- 4.4** Each day the violation occurs or is permitted to exist by the defendant may constitute a separate offense.
- 4.5** County misdemeanors are docketed and prosecuted in the same manner as State simple misdemeanors.