



CITY COUNCIL

DATE: 07/05/2016

CONSENT

ITEM #: 6

AGENDA ITEM: Amending Section 10.99 of the City Code regarding Penalties

SUBMITTED BY: Emily Becker, Planner

REVIEWED BY: Stephen Wensman, Planning Director

Sarah Sonsalla, City Attorney

BACKGROUND:

Paragraphs C-K, Administrative citations and civil penalties of Section 10.99 (Penalties) of the Lake Elmo City Code of Ordinances was created as an alternative method to criminal citations for enforcement of the City Code. The rationales for such penalties were that there is inherent delay in the criminal citation system that does not ensure prompt resolution; that citizens resent being labeled as criminals for violations of administrative regulations; and that the higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations.

City Attorney Sonsalla, upon review of these provisions, recommended that the City consider repealing them. She stated that in recent years, the Legislature has proclaimed that statutory cities such as Lake Elmo are not authorized by state law to have these types of penalties with the exception of such penalties for certain types of traffic citations that have a specific process set forth in state law.

ISSUE BEFORE COUNCIL:

The City Council is respectfully requested to adopt Ordinance No. 08-141, An Ordinance Amending the Lake Elmo City Code of Ordinances Pertaining to Administrative Citations and Civil Penalties.

PROPOSAL DETAILS/ANALYSIS:

The penalties section of the City Code (Section 10.99) currently outlines prohibited acts and penalties for violations. The enforcement options the Section provides include:

- Charge the violator with a misdemeanor and criminally prosecute (up to \$1000 fine or up to 90 days in jail).
- Deny pending City applications if applicable.
- Bring a civil action to stop the violations from occurring.
- Administrative citations/civil penalties.

A flow chart is attached to outline the administrative citation process along with Section as further explanation of the process.

FISCAL IMPACT:

According to research performed by Staff, recorded by former Staff, since June of 2013, there have been 31 citations issued totaling an amount of \$3900.00, \$500 of which was eventually waived.

OPTIONS:

1. Adopt Ordinance No. 08-141 and repeal the administrative penalties provisions of the City Code;
2. Not Adopt Ordinance No. 08-141. The administrative citations and civil penalties provisions will remain in the City Code; or
3. Suggest changes to Ordinance No. 08-141.

RECOMMENDATION:

Staff respectfully requests that the City Council adopt Ordinance No. 08-141 by consent on the Consent Agenda. If the item is removed from the Consent Agenda, then by making the following motion:

“Move to adopt Ordinance No. 08-141, An Ordinance Amending the Lake Elmo City Code of Ordinances Pertaining to Administrative Citations and Civil Penalties.”

ATTACHMENTS:

- Section 10.99: Penalties.
- Flow chart outlining paragraphs C-K of Section 10.99 of the City Code.
- Ordinance 08-141

punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.16 COPIES OF CODE.

The official copy of this code shall be kept in the office of the City Clerk for public inspection. The City Clerk shall provide a copy for sale for a reasonable charge.

§ 10.17 ADOPTION OF STATUTES AND RULES BY REFERENCE.

It is the intention of the City Council that, when adopting this code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

§ 10.18 STATUTORY RULES ADOPTED BY REFERENCE.

The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in M.S. Ch. 645, as it may be amended from time to time, are adopted by reference and made a part of this code. As so adopted, references in that M.S. Ch. 645 to laws and statutes mean provisions of the code and references to the legislature mean the City Council.
(1997 Code, § 100.03)

§ 10.99 GENERAL PENALTY.

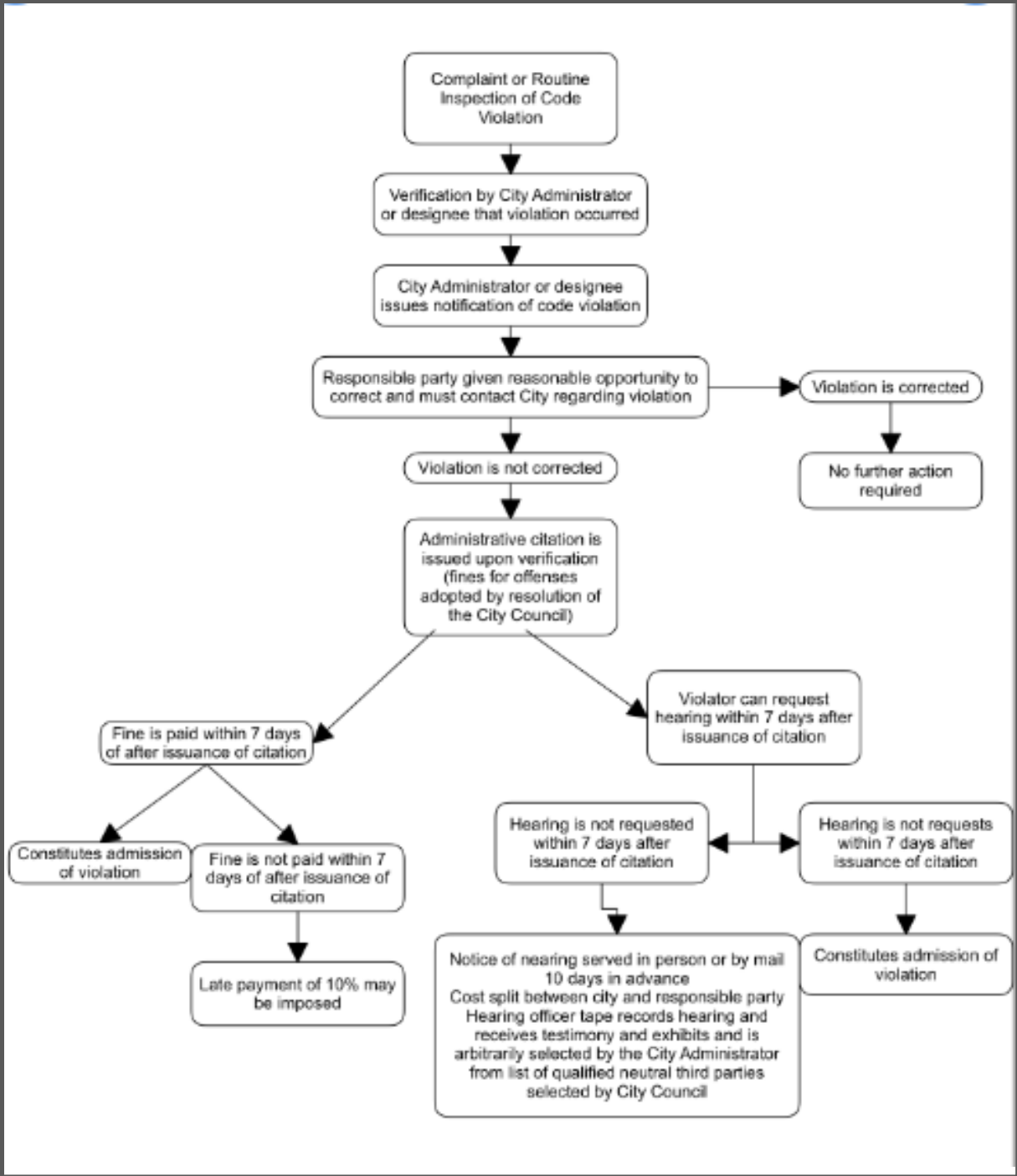
(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

Lake Elmo - General Provisions

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.



CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-141

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES PERTAINING
TO ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 10: Rules of Code Construction; Section 10.99: Penalties; paragraphs (C) through (K) by repealing these paragraphs in their entirety.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-141 was adopted on this ____ day of _____, 2016, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-141 was published on the ____ day of _____, 2016.