

The City of Galesburg
Kalamazoo County, Michigan
Ordinance No. 297
Adopted: August 7, 2023
Effective: August 21, 2023

The City of Galesburg, Kalamazoo County, Michigan ordains:

Section I
Insertion of Chapter 59
Into the City of Galesburg Code of Ordinances

A new chapter designated "59 Violations and Penalties" is hereby added to City of Galesburg Code of Ordinances to read as follows:

"Chapter 59

Violations and Penalties

Article I In General

Sec. 59-1 - General penalty; continuing violations.

- (a) In this section "violation of this Code" means any of the following:
- (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
- (b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.
- (c) In this section "violation of this Code" does not include the failure of a city official or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (d) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

ARTICLE II Misdemeanors.

Sec 59-20 Misdemeanor Defined.

A misdemeanor is a crime. Violation of any code provision designated "misdemeanor" is subject to the penalties in this division. Any code provision herein which provides that "jail time" is a potential penalty is a misdemeanor.

Sec. 59-21 Misdemeanor Penalties.

Violation of any provision of this Code designated as a "misdemeanor" is punishable by a fine of up to \$500 and up to 30 days in jail.

Section 59-22 Misdemeanor Penalties not exclusive.

In addition to any remedies provided by this article, the city may seek additional relief under all other provisions of law or equity, including seeking injunctive relief.

ARTICLE III. Municipal Civil Infractions.

Sec. 59-30. Definitions.

The following terms, as used in this article, shall have the meanings herein ascribed to them:

Citation or court citation means a written complaint or notice prepared by an authorized city official or employee directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation.

Municipal civil infraction shall mean a violation of a provision of this code for which the remedy and/or penalty is prescribed to be a civil fine or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser-included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

Municipal civil infraction determination shall mean a determination that a defendant is responsible for a municipal civil infraction by one of the following:

- (1) An admission of responsibility for the municipal civil infraction.
- (2) An admission of responsibility for the municipal civil infraction, "with explanation".
- (3) A preponderance of the evidence at an informal hearing or formal hearing.
- (4) A default judgment for failing to appear at a scheduled appearance.

Person means a natural person, or the principal, officer, director, partner or agent of any other entity, wherein he or she acted in bringing about a violation or municipal infraction.

Repeat offense shall mean a determination of responsibility for second or any subsequent municipal civil infraction with regard to the same code provisions committed by the same person.

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

Violation shall mean any act which is prohibited or made or declared to be unlawful or an offense under this article, including affirmative acts as well as omissions and/or failure to act where the act is required by this article.

Zoning violation means any violation or municipal civil infraction of the sections of the city code adopted pursuant to the Michigan Zoning Enabling Act 110 of 2006, as amended. A zoning violation is declared a nuisance per se in accordance with Section 407 of the Act.

Sec. 59-33. Service of municipal civil infraction violation citation.

- (a) Except as provided in subparagraph (b) below, an authorized official shall personally serve a copy of the municipal civil infraction citation upon an alleged violator.
- (b) In a municipal civil infraction involving the use or occupancy of land or a building or other structure, a copy of the municipal civil infraction violation notice 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 notice shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

Sec. 59-34. Basis for issuance of court citation.

The basis for issuance of a municipal civil infraction notice or court citation shall be as set forth below, as the case may be:

- (1) An authorized official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three copies of a citation unless such official issues a municipal civil infraction violation notice.
- (2) An authorized official may issue a violation notice or 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.
- (3) An authorized official may issue a violation notice or 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 for whom the authorized local officer is acting approves in writing the issuance of the citation.

Sec. 59-66. Schedule of Fines.

The Galesburg City Council, from time to time by resolution, shall adopt a schedule of fines for an admission of responsibility to a municipal civil infraction.

Unless a specific fine is specified in the Code section, the general schedule of fines applies.
Sec. 59-68. Sanctions for civil infraction court citation.

Determination of responsibility or responsibility with explanation. Upon being found responsible or responsible with explanation, the district court or other court of competent jurisdiction shall order the defendant to pay a civil fine as set forth on the schedule of fines herein, court costs of not less than \$10.00 nor more than \$500.00, plus the city's actual costs of enforcement and litigation including, but not limited to, subpoena fees, costs of city officials having to appear at hearings and actual attorney's fees and expenses incurred.

Sec. 59-69. Remedies not exclusive.

In addition to any remedies provided by this article, the city may seek additional relief under all other provisions of law or equity, including remediating the infraction and placing the cost of remediation on the tax bill, obtaining injunctions to abate code violations and the issuance of compliance orders.

Sec. 59-80. Administration and enforcement of the State Construction Code violations.

- (a) *Purpose.* Pursuant to the provisions of the Single State Construction Code Act, being Act 230 of the Public Acts of 1972, as amended, the City of Galesburg has assumed responsibility for the administration and enforcement of the State Construction Code and the nationally recognized codes which comprise the same as incorporated by reference or pursuant to an administrative rule adopted thereunder. The purpose of this section is to designate violation of the State Construction Code and the nationally recognized codes comprising the same as municipal civil infractions as permitted by MCL 125.1523(3), as amended.
- (b) *Violation.* Any violation of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized Code adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan; or any part of the same shall be deemed to constitute a municipal civil infraction as authorized by 1972 PA 2003, being MCL 125.1523(3).
- (c) *Designation as municipal civil infraction.* The City of Galesburg as the administering and enforcing agency for 1972 PA 230 hereby designates violations of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized code adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan municipal civil infractions as authorized by 1972 PA 230, as amended, being MCL 125.1523(3).

(d) *Penalties.* The City of Galesburg, as the administering and enforcing agency for 1972 PA 230, as amended, hereby sets forth penalties for violation of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized Codes adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan; by amending the respective "penalty" provision in each as follows:

"Any person, firm, association, partnership, corporation or governmental entity that violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 st Offense	\$ 125.00	\$ 500.00
2 nd Offense*	\$ 275.00	\$ 500.00
3 rd Offense*	\$ 350.00	\$ 500.00
4 th or More Offense*	\$ 500.00	\$ 500.00
* Within three-year period determined on the basis of the date of commission of the offense(s)."		

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which City of Galesburg has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 or more than \$500.00 be ordered. In addition, the city shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, compliance order or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this Chapter. "

Section 2

Repeal and Effective Date

Conflicting ordinance provisions are hereby repealed. The Ordinance is effective ten days after publication, after adoption.

City of Galesburg
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 269-665-7000

