

## Chapter 18

### **LAW ENFORCEMENT\***

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\***Cross references** – Administration, ch. 2; offenses, ch. 20; traffic and vehicles, ch. 36.

**State law references** – Commission on law enforcement standards act, MCL 28.601 et seq.; minimum employment standards, MCL 28.609.

## POTTERVILLE CODE

## ARTICLE I. IN GENERAL

**Secs. 18-1 – 18-30. Reserved.**

## ARTICLE II. MUNICIPAL CIVIL INFRACTIONS\*

### Sec. 18-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* means Public Act No. 236 of 1961 (MCL 600.101 et seq.), being the revised judiciary act of 1961.

*Authorized city official* means a police officer or other personnel of the city authorized by section 18-37 to issue municipal civil infraction citations or municipal civil infraction violation notices.

*Bureau* means the city municipal ordinance violations bureau as established by this article.

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

*Municipal civil infraction citation* means a written complaint or notice prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under sections 8396 and 8707(6) of the act (MCL 600.8396, 600.8707(6)).

*Municipal civil infraction violation notice* means a written prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the

violation by a schedule of civil fines adopted by the city, as authorized under sections 8396 and 8707(d) of the act (MCL 600.8396, 600.8707(6)).

(Ord. No. 181, § 15-2, 4-10-2000)

**Cross reference** – Definitions generally, § 1-2.

### Sec. 18-32. Commencement of action.

A municipal civil infraction action may be commenced for any violation of this Code designated by this Code as a municipal civil infraction upon the issuance by an authorized city official of:

- (1) A municipal civil infraction citation directing the alleged violator to appear in court; or
- (2) A municipal civil infraction violation notice directly the alleged violator to appear at the city municipal ordinance violations bureau.

(Ord. No. 181, § 15-3, 4-10-2000)

### Sec. 18-33. Issuance and service of citations.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation was issued.
- (2) The place for appearance specified in a citation shall be the district court of the county.
- (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by section 8705 of the act (MCL 600.8705).
- (4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation oc-

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\* **State law references** – Municipal ordinance violations bureau, MCL 600.8396 et seq.; revised judiciary act, MCL 600.8701 et seq.

curred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

- (5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (6) An authorized city official may issue a citation to a person if:
  - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has a reasonable cause to believe that the person is responsible for an infraction and the prosecuting attorney approves in writing the issuance of the citation.
- (7) Municipal civil infraction citations shall be served by an authorized city official as follows:
  - a. Except as otherwise provided by this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.
  - b. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served by 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.

(Ord. No. 181, § 15-4, 4-10-2000)

#### **Sec. 18-34. Citation contents.**

(a) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he may do one of the following:

- (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- (2) Admit responsibility for the municipal civil infraction with explanation by mail at the time specified by the appearance, or in person, or by representation.
- (3) Deny responsibility for the municipal civil infraction by doing either of the following:
  - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.
  - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(a) The citation shall also inform the alleged violator of all of the following:

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- (1) That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearing and obtain a scheduled date and time for an appearance.
- (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
- (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.
- (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
- (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(a) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction. (Ord. No. 181, § 15-5, 4-10-2000)

### **Sec. 18-35. Municipal ordinance violations bureau.**

(a) *Established.* The city hereby establishes a municipal ordinance violations bureau as authorized under section 8396 of the act (MCL 600.8396) to accept admissions of responsibility

for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) *Location; supervision; employees; adoption of rules and regulations.* The bureau shall be located at the city office and shall be under the supervision and control of the city manager. The manager, subject to the approval of the city board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified city employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled by section 1-7(d) and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau, and a person may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded by law.

(d) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept a payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or fal-

sity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations in section 18-33. In addition to any other information required by this article or any other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representative.

(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation shall comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 (MCL 600.8705, 600.8709), and shall fairly inform the alleged violator how to respond to the citation. (Ord. No. 181, § 15-6, 4-10-2000)

## Sec. 18-36. Schedule of civil fines.

(a) A schedule of fines payable to the municipal ordinance violations bureau for admissions of responsibility by persons served with municipal ordinance violation notices is established in section 1-7(d).

(b) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

(c) Unless another penalty is expressly provided for by this section or by any other city ordinance for the violation of any particular provision or section, every person found responsible by the judge or district court magistrate for a violation of any provision of a city ordinance designated as a municipal civil infraction shall pay a civil fine of not more than \$500.00 plus costs, damages, and expenses as follows:

- (1) A person found responsible by a judge or district court magistrate for any violation of a city ordinance charged as a municipal civil infraction shall pay the stipulated civil fine and costs to be determined by the court or magistrate, which may include all expenses, direct and indirect (including attorney fees) to which the city has been put in connection with the municipal civil infraction, up to the entry of the judgment. Costs of not less than \$9.00 or more than \$500.00 shall be ordered.
- (2) In addition to ordering the defendant to pay a civil fine, costs, damages, and expenses, the judge or district court magistrate may issue such writs or injunctive orders as necessary to enforce the city ordinance as provided by section 8302 of the act (MCL 600.8302).
- (3) If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under sections 8729 and 8731 of the act (MCL 600.8729, 600.8731). A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor and shall be punished by a

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fine of not more than \$500.00 and costs of prosecution or by imprisonment for not more than 90 days, or both such fine and imprisonment.

- (4) If a defendant does not pay a civil fine or costs or expenses or an ordered installment payment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building or structure involved in the violation by recording a copy of the court order requiring payment of the fine, costs, and expenses with the county register of deeds containing the legal description of the property, which lien may be recorded and enforced in the manner provided by section 8731 of the act (MCL 600.8731).
- (5) 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.
- (6) Each act of violation and every day upon which a violation shall occur shall constitute a separate offense.

(Ord. No. 181, § 15-7, 4-10-2000)

- (1) Any city police officer or county sheriff or deputy sheriff.
- (2) The building official.
- (3) The zoning administrator.
- (4) The city manager or the city manager's designee.

(Ord. No. 181, § 15-8, 4-10-2000)

### **Sec. 18-37. Persons authorized to issue violation notices.**

The following persons are authorized to issue municipal civil infraction citations or municipal civil infraction violation notices under this article: