ORDINANCE NO. 205

AN ORDINANCE OF THE CITY OF SCANDIA, WASHINGTON COUNTY, MINNESOTA, ESTABLISHING AN ADMINISTRATIVE CITATION PROGRAM, AND PROVIDING FOR THE PURPOSES AND ADMINISTRATION THEREOF

Section 1. The City Council of the City of Scandia, Washington County, Minnesota hereby ordains:

ARTICLE ONE
Administrative Citations and Civil Penalties

Sec. 1.01. Application; Administrative citations and civil penalties.

Sections 1.01 through 1.07 shall govern administrative citations and civil penalties for violations of the City's ordinances.

Sec. 1.02. Findings; Purpose and Intent.

The City Council finds that there is a need for one or more alternate methods of enforcing the City's ordinances. Though criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused in that system. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential for incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City ordinance violations as being particularly important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement shall be in addition to any other legal remedy which could be pursued for City ordinance violations.

The administrative offense procedures established under this chapter are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with the administrative offenses. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures, in which event the City may bring criminal charges in accordance with law. Likewise, the City, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first or succeeding instances.

Sec. 1.03. General Provisions.

Subd. 1. Administrative Offenses established. A violation of any provision of the City's ordinances or the acts prohibited in Section 1.07 is an administrative offense that may result in an administrative citation and civil penalties pursuant to this chapter. Each day a violation exists constitutes a separate offense.

Subd. 2. Fines established. The civil penalty amounts for offenses shall be as follows:

Offense		Amount	Ordinance Reference
Rubbish violations		$ 25.00	**Ordinance 8**
Burning violations		$ 25.00	**Ordinance 11**
Skateboards		$ 25.00	**Ordinance 57**
False alarms		$ 25.00	**Ordinance 63**
Noise violations		$ 50.00	**Ordinance 65**
Snowmobiles		$ 25.00	**Ordinance 68**
Animal slaughter		$ 25.00	**Ordinance 69**
Tobacco			**Ordinance 92**
	Tobacco Product license – 1st time	$ 100.00	Section 12
	Tobacco Product license – 2nd time	$ 250.00	Section 12
	Other illegal acts	$ 50.00	Section 11
Development Code violations			**Ordinance 122**
	Environmental	$ 50.00	Chapter 2, Section 3.3
	Exterior Storage and off-street parking	$ 50.00	Chapter 2, Section 3.4
Park violations			**Ordinance 133**
	Park hours	$ 25.00	Section 1
	Removing, Defacing, or Destroying Property	$ 50.00	Section 2
	Erection of structure	$ 50.00	Section 3
	Littering and dumping	$ 25.00	Section 4
	Motorized vehicle	$ 25.00	Section 5
	Non-motorized vehicle in Wind in the Pines	$ 25.00	Section 6
	Open fires	$ 50.00	Section 7
	Animals	$ 25.00	Section 10
	Other park violations	$ 25.00	
Septic ordinance – Uptown system			**Ordinance 134**
	Prohibited waste discharge	$ 100.00	Section 9

	Other	$ 50.00	Section 8
Operation of Watercraft		$ 25.00	**Ordinance 155**
Dog violations			**Ordinance 185**
	Public nuisance	$ 50.00	Section 6
	Rabies vaccination	$ 50.00	Section 3
	Identification	$ 50.00	Section 2
Septic ordinance – "201" community septic system			**Ordinance 202**
	Prohibited waste discharge	$ 100.00	Section 9
	Other	$ 50.00	Section 8
Right-of-way violations			**Ordinance 204**
	Designated No parking zones	$ 25.00	Section 2.02
	Snow and Ice Removal	$ 25.00	Section 2.03
	Unobstructed Width	$ 25.00	Section 2.04
	Parking near mailboxes	$ 25.00	Section 2.06
	Other Parking	$ 25.00	
	Materials on Street, Sidewalk, or Right-of-way	$ 25.00	Article 3
	Seasonal Weight restrictions	$ 100.00	Article 4
	Incorporated Policies and Standards	$ 25.00	Article 5

The administrative penalty imposed for a subsequent violation of the same or similar nature as another violation by the same person in the prior 12 months shall be 200% of the stated amount, provided that no penalty shall exceed $300.

The City Council may amend the civil penalty amounts by including a list of such amounts in the City's Fee Schedule Ordinance that is adopted from time to time. Penalty amounts shall be determined in accordance with the fee schedule in effect on the date of the violation.

Subd. 3. Service. As used in this chapter, service may be accomplished by delivering a copy to the person directly; by leaving a copy at the individual person's usual place of abode with some person of suitable age and discretion then residing there; by depositing a copy in the U.S. Mail at a receptacle in Washington County, Minnesota, postage prepaid and properly addressed to last known address of the person to be served; or by any other manner provided in the Minnesota Rules of Civil Procedure. In the case of service my mail, service is completed on mailing.

Sec. 1.04. Procedures.

Subd. 1. Order to Correct; Exceptions and Extensions. Upon reasonable belief that an administrative offense has occurred, any officer of the Washington County Sherriff's Department or any other person (the "Official") employed by the City and authorized in writing by the City

Administrator shall serve on the violator an order to correct the violation. For violations of the following sections, the City shall not be required to issue an order to correct and may proceed directly to the issuance of an administrative citation as provided in Subdivision 2, below.

a. Repeat Offender. If the same person commits a subsequent violation within 12 months after an order to correct has been issued for the same or similar offense.

b. License Violations. For any license violations, including not having a license.

c. Parking Violations. For parking violations issued under Ordinance 197 Sections 2 and 3.

d. Animal Violations. For any violations of Ordinance 195, Section 6 (Running at Large)

e. Noise Violations. For any violation of Ordinance 65 (Noise Related Issues).

Subd. 2. Administrative Citation. If compliance is not achieved within the timeline prescribed in an order to correct a violation, the Official is authorized to issue an administrative citation. An administrative citation shall be served on the person responsible for the violation. The citation shall provide the following:

a. the date, time, location, and nature of the offense;

b. the indication of the relevant portion of the City Code that was violated;

c. the amount of the scheduled civil penalty and instructions for paying the penalty;

d. identification of the law enforcement officer or Official issuing the citation;

e. a statement that the City Code violation and the amount of the administrative civil penalty may be contested to be heard before an independent hearing officer by notifying the City Administrator or designated representative in writing within 14 days of the date of the citation; and

f. a statement that failure to pay the administrative civil penalty may result in it being assessed against the property as provided in Minnesota Statutes Chapter 429.

Subd. 3. Payment of Fines. Within 14 days of the service of the citation, the alleged violator shall pay the amount of the applicable civil penalty.

Subd. 4. Request for Hearing. Any person contesting an order to correct or citation issued pursuant to this chapter may, within 14 days of the service of the order to correct or citation, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is overturned by the hearing officer, the violator shall receive a refund of the civil penalty amount paid.

A person requesting a hearing must pay a hearing request fee deposit at the time of submitting the hearing request. The deposit shall be in the amount adopted by resolution of the City Council. The deposit is refundable if the person attends the hearing. If the person fails to attend the hearing, the deposit ifs forfeit. Refundable amounts will be applied first to any fine resulting from the hearing with any balance returned to the person who paid the deposit.

Subd. 5. Hearing Officers. The City Council will periodically approve a list of lawyers, from which the City Administrator will select a hearing officer to hear and determine a matter for which the hearing is requested. The person who has requested the hearing has the right to request, no less than 15 days before the date of the hearing, that the assigned hearing officer be removed from the case. One such request for each case will be granted by the City Administrator. A subsequent request must be directed to the assigned hearing officer, who will decide whether the hearing officer can fairly and objectively review the case. If the hearing officer cannot fairly and objectively review the case, the hearing officer shall remove himself or herself from the case, and the City Administrator shall assign another hearing officer. The hearing officer is not a judicial officer, but is a public officer as defined by Minnesota Statutes, Section 609.415. The hearing officer shall not be a current or former employee of the City of Scandia.

Subd. 6. Notice of Hearing. Notice of the hearing must be served on the person responsible for the violation no less than 20 days in advance of the scheduled hearing, unless a shorter time is accepted by both parties.

Subd. 7. Payment for Cost of Hearing. The cost of the hearing shall be borne solely by the non-prevailing party. The City shall provide an estimate of the cost of the hearing at the time of the request for hearing. The City Council has the authority to reduce the non-prevailing party's costs where that party can demonstrate indigency by clear and convincing evidence.

Proof of indigency can be demonstrated by the party's receipt of means-tested governmental benefits or a demonstrated lack of assets or current income. Such proof shall be presented to the City Council for determination subsequent to the hearing. However, the hearing officer shall, at the time of the hearing, inquire whether or not the party claims indigency, and, if so, report the claims to the City Council. In all cases, where the party requesting the hearing is unable to attend and fails to request a continuance of the hearing at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the hearing shall be charged to the requesting party.

Subd. 8. Hearing Procedures. At the hearing, the parties shall have the opportunity to present testimony and question witnesses, but strict rules of evidence shall not apply. The hearing officer shall record the hearing and receive testimony and exhibits, and the full record of the hearing shall be retained for a reasonable time. The hearing officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

Subd. 9. Authority of Hearing Officer. The hearing officer has the authority to determine that a violation did or did not occur, to dismiss a citation, to impose the scheduled fine, or to reduce, stay, or waive a scheduled fine, either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following:

a. The duration of the violation;
b. The frequency or recurrence of the violation;
c. The seriousness of the violation;
d. The history of the violation;
e. The violator's conduct after issuance of the notice of hearing;
f. The good faith effort of the violator to comply;
g. The economic impact of the penalty on the violator;
h. The impact of the violation upon the community;
i. Any other factors appropriate to a just result.

Subd. 10. Fines for Continuing Violations. The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation but only on a finding that the violation caused a serious threat of harm to the public health, safety, or welfare, or the accused intentionally and unreasonably refused to comply with the Code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.

Subd. 11. Decision of the Hearing Officer. The hearing officer shall issue a decision in writing to both parties within 10 days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the hearing officer's decision. If the fine is not timely paid, the City may assess the civil penalty against the person's property pursuant to Minnesota Statutes Chapter 429. If the hearing officer determines that no violation occurred, the City may not proceed with criminal prosecution for the same act or conduct. The decision of the hearing officer is final and may only be appealed to the Minnesota Court of Appeals by petitioning for a writ of certiorari under Minnesota Statute Section 606.01.

Sec. 1.05. Recovery of civil penalties.

Subd. 1. Unpaid fines. If a civil penalty is not paid within the time specified, it shall constitute:

a. A lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or

b. A personal obligation of the violator in all other situations.

Subd. 2. Assessment. A lien may be assessed against the property and collected in the same manner as taxes.

Subd. 3. Personal Obligation. A personal obligation may be collected by any appropriate legal means.

Subd. 4. Late fee. A late payment fee to 10% of the fine shall be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.

Subd. 5. Suspension and Revocation. Failure to pay a fine is grounds for suspending or revoking a license or permit or other approval associated with the violation.

Sec. 1.06. Criminal penalties.

Subd. 1. Misdemeanors. The following are misdemeanors, punishable in accordance with state law:

a. Failure to pay a fine or request a hearing within 14 days after service of an administrative citation.

b. Failure to appear at a scheduled hearing after service of a notice regarding the same.

c. Failure to pay a fine imposed by a hearing officer within 14 days after it was imposed, or such other time as may be established by the hearing officer.

Sec. 1.07. Incorporated Policies and Standards.

The following policies and standards are incorporated into this Ordinance as if fully set forth herein:

(i) Engineering Standards and Detail Specifications, adopted September 20, 2011.
(ii) Snowplowing and Ice Control Policy, adopted February 15, 2011, and amended April 15, 2014 and February 21, 2017.
(iii) Road Right of Way Maintenance Policy, adopted November 15, 2016.

Section 2. The following Ordinances are hereby repealed:

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of Scandia, Minnesota, this 18th day of December, 2018.

Christine Maefsky, Mayor

ATTEST:

Neil Soltis, City Administrator