

ORDINANCE NO. 2016-03

AN ORDINANCE OF THE CITY OF CLEARWATER, MINNESOTA, ESTABLISHING ADMINISTRATIVE ENFORCEMENT RULES AND REGULATIONS, AND PROVIDING FOR PENALTY FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF CLEARWATER HEREBY ORDAINS:

SECTION 1: The Clearwater Code is hereby amended to add Chapter 3, which shall read as follows:

CHAPTER 3: ADMINISTRATIVE ENFORCEMENT

Section

[3.01](#) Purpose and intent

[3.02](#) Definitions

[3.03](#) Administrative notices

[3.04](#) Citation

[3.05](#) Responding to citation; payment

[3.06](#) Requesting a hearing

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§ 3.01 PURPOSE AND INTENT.

Administrative enforcement procedures established pursuant to this chapter are intended to provide the city with an informal, cost-effective and more efficient alternative to criminal prosecution of civil litigation for certain violations of the city code. The city retains the right to enforce provisions of this code by bringing criminal charges or commencing civil litigation in any case where the city determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the city and finds that such a process is a legitimate and necessary alternative method of enforcement of code violations.

§ 3.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE COMPLIANCE OFFICER. Any officer of the Wright County Sheriff's Department or any employee of the city who has received official authority by the City Council to enforce the city code.

CODE OFFENSE. A violation of any section, subdivision, paragraph or provision of the city code and is subject to a civil penalty determined according to a schedule adopted by resolution of the City Council from time to time and payable directly to the City Treasurer. Each day the violation exists constitutes a separate **CODE OFFENSE**.

§ 3.03 ADMINISTRATIVE NOTICE.

A Code Compliance Officer may issue, either in person or by United States first class mail, an administrative notice to any person suspected or known to have committed a code offense and/or to the owner of property upon which a code offense is being committed. The administrative notice shall identify the code offense, the location in which the code offense occurred or is occurring, and the recommended corrective action for the code offense. The administrative notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, up to 15 days to correct or abate the code offense. If the alleged violator and/or owner upon which a code offense is being committed is unable to correct or abate the code offense within the prescribed time, he or she may request an extension from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall specifically state the date of expiration. If the code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time, the Code Compliance Officer may issue a citation, as provided below.

§ 3.04 CITATION.

A Code Compliance Officer is authorized to issue a citation upon the belief that a code offense has occurred, whether or not an administrative notice has first been issued in regard to the code offense. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail. The citation shall state the nature of the code offense, the time and date the code offense occurred, the civil penalty applicable to that code offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a Hearing Officer to contest the citation.

§ 3.05 RESPONDING TO CITATION; PAYMENT.

Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within 15 days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in this section. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within the prescribed 15 days. Payment of the civil penalty shall be deemed to be an admission of the code offense.

§ 3.06 REQUESTING A HEARING.

Any person contesting a citation issued pursuant to this chapter may, within 15 days of the time of issuance of the citation, request a hearing before a Hearing Officer. Any request for a hearing before a Hearing Officer shall be made in writing on a form provided by the city for such a request and either delivered personally to the city at City Hall or mailed to the city by United States first class mail, postage prepaid and postmarked within the prescribed 15 days. The hearing shall be held at City Hall within 30 days of the date the city received a timely written notice that a hearing has been requested. Failure to appear for the hearing will result in a default decision against the party failing to appear. The losing party will be responsible for payment of the cost of the hearing.

§ 3.07 HEARING OFFICER.

City staff and consultants are authorized to act as a Hearing Officer. The Hearing Officer is authorized to conduct an informal hearing to determine if a code offense has occurred. The Hearing Officer may be compensated by the city for such hearings and related findings. The Hearing Officer shall have the authority to uphold or dismiss the citation or reduce or waive the civil penalty imposed upon such terms and conditions as the Hearing Officer shall determine. The Hearing Officer's decision shall be made in writing on a form provided by the city for such purpose. The Hearing Officer's decision is final, except as provided in this chapter for appealing the Hearing Officer's decision in limited cases to the City Council.

§ 3.08 APPEAL OF HEARING OFFICER DECISION.

(A) The Hearing Officer's decision shall be appealable to the City Council only for the following matters:

(1) An alleged failure to obtain a required permit (such as, without limitation, a conditional use permit), license (such as, without limitation, a liquor license), or other approval from the City Council as required by the city code;

(2) An alleged violation of a permit (such as, without limitation, a conditional use permit), license (such as, without limitation, a liquor license), other approval, or the conditions attached to the permit, license, or approval, that was issued by the City Council; or

(3) An alleged violation of regulations governing a person or entity who has received a license issued by the City Council.

(B) An appeal to the City Council of the Hearing Officer's decision must be made in writing on a form provided by the city for such an appeal and must be served on the City Clerk by United States first class mail, postage prepaid, within ten days after the date of the Hearing Officer's decision.

(C) A timely appeal will be heard by the City Council after a notice of hearing is served by the city upon the appellant in person or by certified mail at least ten days in advance of the date of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.

(D) The City Council shall consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The City Council is not bound by the Hearing Officer's decision, but may adopt all or part of the Hearing Officer's decision. The City Council's decision may be voted upon and given at the hearing or may be given in writing within 15 days of the hearing.

§ 3.09 FAILURE TO PAY.

(A) In the event a person charged with a code offense fails to pay the civil penalty and correct or abate the code offense for which a citation was issued within the prescribed time, a late charge of 15% shall be imposed thereon for each seven days the civil penalty remains unpaid and the code offense remains uncorrected or unabated beyond the due date.

(B) An unpaid civil penalty and accrued late charges will constitute a personal obligation of the person to whom the citation was issued and the city shall have the right to collect such unpaid civil penalty and accrued late charges, together with the city's costs and reasonable attorney's fees, in a criminal or civil proceeding.

(C) Pursuant to M.S. § 429.101 and M.S. § 514.67, as they may be amended from time to time, and other applicable law, a lien in the amount of the civil penalty and accrued late charges may be assessed quarterly or annually against the property where the code offense occurred and collected in the same manner as taxes. Any such assessment shall not preclude the city from issuing additional citations for a continuing code offense.

(D) The city may suspend or revoke a license or permit or other approval associated with the code offense if the civil penalty and accrued late charges are not timely paid.

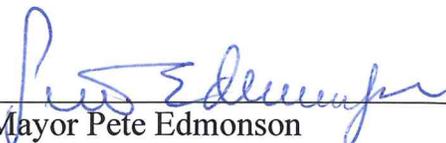
§ 3.10 SUBSEQUENT VIOLATIONS.

If a second citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 25% over the scheduled civil penalty amount. If a third citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 50% over the scheduled civil penalty amount. If a fourth citation for a code offense is issued by the city to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same code offense, the civil penalty shall increase by 100% over the scheduled civil penalty amount.

SECTION 2: This ordinance becomes effective from and after its passage and publication in summary form in the City's official newspaper.

Passed by the City Council of the City of Clearwater the 7th day of March, 2016.

CITY OF CLEARWATER, MINNESOTA

By: 
Mayor Pete Edmonson

ATTEST:

By: 
City Administrator Kevin Kress

EXHIBIT A

TITLE AND SUMMARY OF ORDINANCE 2016-03

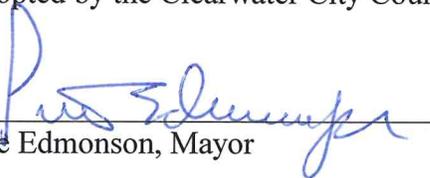
AN ORDINANCE OF THE CITY OF CLEARWATER, MINNESOTA
AMENDING THE MUNICIPAL CODE
ADDING CHAPTER 3

The City Council of the City of Clearwater, Minnesota, Counties of Wright and Stearns, does hereby add Chapter 3 to the Clearwater Code.

The purpose for adding Chapter 3 to the Code is to establish administrative enforcement rules and regulations, and providing for penalty for violation thereof.

A complete copy of the Ordinance is available for inspection at the City Office, 605 County Road 75, Clearwater MN 55320, and on the City's website at www.clearwatercity.com.

Adopted by the Clearwater City Council on the 7th day of March, 2016.


Pete Edmonson, Mayor

Attest:


Kevin Kress, City Administrator

CERTIFICATION

I, Kevin Kress, City Administrator of the City of Clearwater, Minnesota, do hereby certify that the foregoing Resolution is a true and exact copy of the Resolution presented to and adopted by the City Council of the City of Clearwater, at a duly authorized meeting thereof, held on the 7th day of March, as shown by the minutes of said meeting in my possession.



Kevin Kress, City Administrator