

**LYNDEN TOWNSHIP
COUNTY OF STEARNS
STATE OF MINNESOTA**

ORDINANCE NO. 10

**AN ORDINANCE TO PROVIDE FOR ADMINISTRATIVE
ENFORCEMENT OF ORDINANCE REGULATIONS**

The Town Board of Lynden Township ordains as follows:

SECTION 1. Administrative Enforcement of Ordinance Regulations

Subd. 1. Purpose and Intent. The Administrative enforcement procedures established within this Ordinance are intended to provide Lynden Township (“Township”) with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of Township Ordinances. Lynden Township retains the right, at its sole discretion, to enforce provisions of its Ordinances by bringing criminal charges or commencing civil litigation in any case where the Township determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the Township and further finds that that such a process is a legitimate and necessary alternative method of enforcing Ordinance violations.

Subd. 2 Definitions

- A. **Ordinance Compliance Officer.** Any Deputy of the Stearns County Sheriff’s Department, any employee of Lynden Township, or any person or company contracted to provide Ordinance enforcement services who has received official authority by the Lynden Town Board to enforce Township Ordinances. There may be more than one person designated as Ordinance Compliance Officer at any given time.

- B. **Ordinance Offense.** A violation of any section, subdivision, paragraph or provision of any Lynden Township Ordinance and is subject to a civil penalty determined according to a schedule adopted by Resolution of the Lynden Town Board from time to time and payable directly to the Township Treasurer. Each day the violation exists constitutes a separate Ordinance Offense.

- C. **Owner.** An individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.
- D. **Person.** Means a natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization.
- E. **Days** Means calendar days.

Subd. 3 Procedure.

- A. **Administrative Notice.** A Ordinance Compliance Officer may issue, either in person or by United States first class mail, an Administrative Notice to a person suspected or known to have committed an Ordinance Offense and/or to be the owner of property upon which an Ordinance Offense is being committed. The Administrative Notice shall identify the Ordinance Offense, the location upon which the Ordinance Offense occurred or is occurring, and the recommended corrective action for the Ordinance Offense. The Administrative Notice may also state that the alleged violator has, at the discretion of the Ordinance Compliance Officer, up to fifteen (15) days to correct or abate the Ordinance Offense. If the alleged violator and/or owner of property upon which an Ordinance Offense is being committed is unable to correct or abate the Ordinance Offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the Ordinance Compliance Officer. Any extension granted by the Ordinance Compliance Officer shall be in writing and shall specifically state the date of expiration. If the Ordinance Offense is not corrected or abated, as outlined in the Administrative Notice, within the prescribed time or any extension thereto, the Ordinance Compliance Officer may issue a citation, as provided below.
- B. **Citation.** An Ordinance Compliance Officer is authorized to issue a citation upon the belief that an Ordinance Offense has occurred, whether or not an Administrative Notice has first been issued in regard to said Ordinance 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. Said citation shall state the nature of the Ordinance Offense, the time and date said Ordinance Offense occurred, the civil penalty applicable to that Ordinance Offense as set forth in a schedule of civil penalties which shall be adopted by Resolution of the Town Board from time to time, and the manner for paying the civil penalty or requesting a hearing before a Hearing Officer to contest the citation.

- C. **Responding to a 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 fifteen (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 shall be received by the township clerk by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days. Payment of the civil penalty shall be deemed to be an admission of the Ordinance Offense.

Subd. 4 Appeal to Hearing Officer.

- A. **Requesting a Hearing.** Any person contesting a citation issued pursuant to this Ordinance may, within fifteen (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 Township for such a request and mailed to the township clerk by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days. All costs of this hearing shall be shared equally between the Township and the person or entity contesting the citation. The hearing shall be held at Township Hall within thirty (30) days of the date the Township received a timely written notice that a hearing has been requested. Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. A determination of good cause shall be made by the Hearing Officer, but does specifically not include forgetfulness or intentional delay.
- B. **Hearing Officer.** The Town Board shall by Resolution from time to time appoint a list of persons authorized to act as a Hearing Officer, as provided by the Township Attorney. The Hearing Officer is authorized to conduct an informal hearing to determine if an Ordinance Offense has occurred. The Hearing officer may be compensated by the Township for such hearings and related findings. The Hearing Officer shall have the authority to uphold or dismiss the citation or reduce, stay 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 Township for such purpose. A copy of the Hearing Officer's decision shall be served by United States first class mail upon the person requesting the hearing. The Hearing Officer's decision is final, except for appeal of the Hearing Officer's decision in limited cases to the Town Board, as set forth below.
- C. **Conduct of Hearing.** At the hearing, the parties will have the opportunity to present testimony, documents and exhibits and question witnesses. The Hearing Officer shall record the proceedings and receive testimony and exhibits. Strict rules of evidence will not apply. The Hearing Officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value

commonly accepted by reasonable and prudent persons in the conduct of their affairs.

Subd. 5 Appeal of Hearing Officer Decision.

- A. The Hearing Officer's decision shall be appealable to the Town Board only for the following matters:
 - 1. an alleged failure to obtain a required permit, license, or other approval from the Town Board as required by Township Ordinance;
 - 2. an alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license or approval, that was issued by the Town Board; or
 - 3. an alleged violation of regulations governing a person or entity who has received a license issued by the Town Board.
- B. An appeal to the Town Board of the Hearing Officer's decision must be made in writing on a form provided by the Township for such an appeal and must be served on the Township Clerk by United States first class mail, postage prepaid, within ten (10) days after the date of the Hearing Officer's decision.
- C. A timely appeal will be heard by the Town Board after a notice of hearing is served by the Township upon the appellant in person or by certified mail at least ten (10) 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 Town Board shall consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The Town Board is not bound by the Hearing Officer's decision, but may adopt all or part of the Hearing Officer's decision. The Town Board's decision may be voted upon and given at the hearing or may be given in writing within fifteen (15) days of the hearing.
- E. The failure of the appellant to appear in front of the Town Board or participate in the appeal constitutes a waiver of the violator's right of appeal and an admission of the violation. The Town Board may waive the result upon good cause shown. The determination of a showing of good cause shown shall be made solely at the discretion of the Town Board but does not include forgetfulness and intentional delay.

Subd. 6 Failure to Pay.

- A. In the event a person charged with an Ordinance Offense fails to pay the civil penalty and correct or abate the Ordinance Offense for which a citation was

issued within the prescribed time, a late charge of fifteen percent (15%) shall be imposed thereon for each seven (7) days the civil penalty remains unpaid and the Ordinance 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(s) to whom the citation was issued and the Township shall have the right to collect such unpaid civil penalty and accrued late charges, together with the Township's costs and reasonable attorney's fees, in criminal or civil proceedings.
- D. Pursuant to Minnesota Statutes ("M.S") § 429.101, M.S. § 514.67, M.S. § 366.012 and other applicable law, a lien in the amount of the civil penalty and any accrued late charges may be assessed against the property where the Ordinance Offense occurred and collected in the same manner as taxes. Any such assessment shall not preclude the Township from issuing additional citations for a continuing Ordinance Offense, nor shall it preclude the Township from making additional assessments against the same property resulting from a continuing or new Ordinance Offense.
- E. The Township may suspend or revoke a license or permit or other approval associated with the Ordinance Offense if the civil penalty and accrued late charges are not timely paid.

Subd. 7 Subsequent Violations

- A. If a second citation for an Ordinance Offense is issued by the Township to the alleged violator and/or owner of the property upon which the violation has occurred within twenty-four (24) months of the issuance of a previous citation for the same Ordinance Offense, the civil penalty shall increase by 25% over the scheduled civil penalty amount. If a third citation for an Ordinance Offense is issued by the Township to the alleged violator and/or the owner of the property upon which the violation has occurred within twenty four (24) months of the issuance of a previous citation for the same Ordinance Offense, the civil penalty shall increase by 50% over the scheduled civil penalty amount. If a fourth citation for an Ordinance Offense is issued by the Township to the alleged violator and/or the owner of the property upon which the violation has occurred within twenty-four (24) months of the issuance of a previous citation for the same Ordinance Offense, the civil penalty shall increase by 100% over the scheduled civil penalty amount.
- B. Nothing in this ordinance shall require the Township to exhaust this administrative process before bringing criminal charges or commencing civil litigation in any case where the Township determines it is appropriate or necessary.

SECTION 2: This Ordinance shall take effect upon its passage and publication according to law.

ADOPTED by the Town Board of Lynden Township, Stearns County, Minnesota this 3rd day of November, 2014.

TOWNSHIP OF LYNDEN

Anne Ackerman
Town Board Chair

Jenny Schmidt
Township Clerk