

**LIME TOWNSHIP
BLUE EARTH COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 2022-01

LIME TOWNSHIP ENFORCEMENT PROCEDURES

The Lime Township Board of Supervisors hereby ordains as follows:

Subd. 1. Declaration of Policy. The purpose of this Ordinance is to provide remedies to eliminate violation of the Lime Township Ordinances, Conditional and Interim Use Permits, State Laws, and Township Resolutions, and to provide for administration, enforcement and penalties. The administrative enforcement procedures established within this Ordinance are intended to provide Lime Township with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of Town Ordinances. Lime 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. Lime Township also reserves the right to revoke any Conditional or Interim Use Permits should any of the conditions contained in the permit be violated.

Subd. 2. Definitions. The following definitions shall apply to this chapter:

- 2.1. **Code Offense.** Is a violation of any section, subdivision, paragraph or provision of any Lime Township Ordinances, Conditional Use Permits, Interim Use Permits, State Laws, County Ordinances, and Township Resolutions and is subject to a civil penalty determined according to a schedule adopted by Resolution of the Township from time to time and payable directly to the Town Treasurer in addition to other requirements as provided in this Ordinance. Each day the violation exists constitutes a separate Code Offense.
- 2.2. **Enforcement Officer.** All persons appointed as enforcement personnel or acting as inspectors for the Township or any other Township employee or contractor designated by the Township to enforce the provisions of the Lime Township Ordinances.
- 2.3. **Hearing Officer.** An attorney or judge, licensed in the State of Minnesota, or other individual appointed by the Township to oversee and conduct Administrative Hearings for the Township. The Hearing Officer shall be unaffiliated with the Township Board and shall not be a resident of Lime Township. The Township shall have the authority to establish a list of approved hearing officers at any of its regularly scheduled meetings.
- 2.4. **Interested Party.** Any owner of record, occupant, tenant, or lien holder of record.
- 2.5. **Last Known Address.** The address shown on the records of Blue Earth County Property Information and Taxpayer Services or a more recent address known to the Enforcement Officer. In the case of parties not listed in these records, the last known address shall be the address obtained by the Enforcement Officer after a reasonable search.
- 2.6. **Mail.** Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.
- 2.7. **Owner.** Those shown to be the owner or owners on the records of Blue Earth County Property Information and Taxpayer Services. Owner is also 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 or other property.

- 2.8. **Person.** 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.
- 2.9. **Personal Service.** Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.
- 2.10. **Responsible Party.** Any one or more of the following: Agent; assignee or collector of rents; holder of a contract for deed; a mortgagee or vendee in possession; receiver, or personal representative, or trustee; tenant; those known to the Enforcement Officer as having an ownership interest in the Property; or any other person, firm or corporation exercising apparent control over a Property.
- 2.11. **Violation.** The failure to comply with any law, ordinance, permit or contract.

Subd. 3. Violations.

- 3.1. No person shall directly or indirectly, or by omission, create a Violation or Code Offense.
- 3.2. No Owner or Responsible Party shall allow a Violation to remain upon or in any Property or structure under his or her control.

Subd. 4. Disclosure of Responsible Party. Upon the request of the Enforcement Officer, a Responsible Party or Owner shall disclose the name of any other Responsible Party or Owner known to them. This shall include, but not be limited to, the person for whom they are acting, from whom they are leasing the Property, to whom they are leasing the Property, with whom they share joint ownership, or with whom they have any contact pertaining to the Property.

Subd. 5. Order to Cease. In the event that an Enforcement Officer observes a person creating or allowing a Violation, the Enforcement Officer may order that the person cease and desist creating or allowing the Violation.

Subd. 6. Service. When service of an Order is required, any one or more of the following methods of service shall be adequate:

- 6.1. By personal service; or
- 6.2. By certified mail, through the United States Postal Service; or
- 6.3. By United States Mail, unless it is a written Order which gives three (3) days or less for the completion of any act it requires, in which case personal service shall be required; or
- 6.4. If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the Order in a conspicuous place on the Property; or
- 6.5. If a mailed Order is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the Order orders abatement and that abatement has been completed.

Subd. 7. Administrative Penalties. The Township may, by resolution, establish a schedule or list of administrative penalties for Class 1 and Class 2 Violations. The amount of the penalty shall reflect the costs associated with inspection, Notice and Order, posting, and/or abatement of Violations. Administrative penalties shall be imposed according to the schedule or list adopted by the Township. Administrative penalties may be imposed in addition to any criminal charges or fines. The schedule or list of administrative penalties may provide for increased penalties in the event of multiple violations for the same offense within a twenty-four (24) month period. See 9.7 below.

Subd. 8. Violations.

- 8.1. **Class 1 Violations.** For purposes of this section, the following conditions, when existing or allowed to exist in the Township, shall be designated as "Class 1 Violations".

- 8.1.1. Statutory Law Violations. Except as provided for "Class 2 Violations", anything or condition on Property which is known to be a breach or breaking of the Statutes of Minnesota, Blue Earth County Ordinances or Lime Township Ordinances.
- 8.1.2. Occupations or commercial activity operated, maintained or permitted in violation of Lime Township Ordinances.
- 8.1.3. Discharging of sump pumps onto adjacent properties.
- 8.1.4. Extension of a culvert in or adjacent to a Township Road right-of-way without first obtaining the permission of the Township.
- 8.1.5. Blocking or redirecting of the flow of water within a Township Road ditch without approval from the Township.
- 8.1.6. Usage of a Property in a manner not in accordance with the Lime Township Zoning Ordinances.
- 8.1.7. Expansion of a non-conforming structure or use without first obtaining any required variance or permission from the Township.
- 8.1.8. Failure to screen parking areas for four (4) or more vehicles in a residential zone per the terms of Article 5, Section 1 of the Lime Township Zoning Ordinance.
- 8.1.9. Failure to screen commercial or industrial areas from residential area per Article 5 of the Lime Township Zoning Ordinance.
- 8.1.10. Failure to conform to the home occupation standards per Article 5 Section 4 of Lime Township Zoning Ordinance.
- 8.1.11. Parking or storage of junked motor vehicles in violation Article 5 Section 7 of Lime Township Zoning Ordinance.
- 8.1.12. Violation of the setback requirements per the terms of the Lime Township Zoning Ordinance.
- 8.1.13. Violation of the height requirements per the terms of Article 4 Section 2, 3, 4, 5, 6 and Article 5 of the Lime Township Zoning Ordinance.
- 8.1.14. Unlawful placement, construction, modification, relocation, erecting, or removal of signage.
- 8.1.15. Failure to conform to the fill placement specifications per the terms Article 4 and Article 5 of the Lime Township Zoning Ordinance.
- 8.1.16. Storage of off-site commercial materials or equipment in violation of the Lime Township Zoning Ordinance, unless approved with an Interim Use Permit.
- 8.1.17. Placement or installation of a swimming pool not in accordance with the standards set forth in Article 5, Section 9 the Lime Township Zoning Ordinance.
- 8.2. **Class 2 Violations.** For purposes of this section, the following conditions, when existing or allowed to exist in the Township, shall be designated as "Class 2 Violations".
 - 8.2.1. Breach of the conditions set forth in a Conditional Use Permit or Interim Use Permit.
 - 8.2.2. Mining or other mineral extraction without an Interim Use Permit in violation of the Lime Township Zoning Ordinance .
 - 8.2.3. Mining or mineral extraction requiring reclamation in excess of ten (10) acres without an Interim Use Permit in violation of the Lime Township Zoning Ordinance.
 - 8.2.4. Failure to have bonding in place as required by the Lime Township Zoning Ordinance, a Conditional Use Permit, or Interim Use Permit.
 - 8.2.5. Conducting business or mining activities outside of Lime Township approved hours of operation per a Conditional Use Permit, an Interim Use Permit, or the Township ordinance or a resolution.

- 8.2.6. Failure to provide adequate security fencing or gates as required by the Lime Township Zoning Ordinance, a Conditional Use Permit, or an Interim Use Permit.
- 8.2.7. Allowing crops, trees, vegetation, fill, or other items to obstruct traffic signage, or sight distance, as defined by the Minnesota Department of Transportation Access Management Manual.
- 8.2.8. Failure to prevent or control odor (as defined in the Lime Township Zoning Ordinance), fumes, dust, noise, light, glare, and/or vibrations which cause a disturbance on neighboring properties.
- 8.2.9. Inadequate storage or disposal of toxic or noxious matter or refuse as required by the Lime Township Zoning Ordinance, a Conditional Use Permit, or an Interim Use Permit.
- 8.2.10. Unpermitted usage of explosives, whether for mining or mineral extraction, or otherwise as required by the Lime Township Zoning Ordinance, a Conditional Use Permit, or an Interim Use Permit.
- 8.2.11. Failure to control dust per the terms of an approved Conditional Use Permit, Interim Use Permit, or other Lime Township approved plan, related to business activities including maintenance of haul roads.
- 8.2.12. Tracking of sediment or other debris on to Township, County, or City roads per the terms of the Municipal Separate Storm Sewer System requirements (MS4) or in violation of Minn. Stat. §160.2715 or other applicable law.

Subd. 9. Abatement Enforcement Procedure. Class 1 Violations. Unless the Violation is as described in Subdivision 10, the Township may abate Class 1 Violations by the procedure described below:

- 9.1. **Order.** The Enforcement Officer shall serve a written Order upon the Owner. The written Order may also be served upon any Responsible Party known to the Enforcement Officer and upon any party known to have caused the Code Offense. The written Order shall contain the following:
 - 9.1.1. The reason for and a description of the Code Offense;
 - 9.1.2. The location upon which the Code Offense occurred or is occurring;
 - 9.1.3. The remedial action required to abate the Code Offense;
 - 9.1.4. The date that the Code Offense is to be corrected or abated which shall not exceed thirty (30) days from the date of the Order unless an extension as provided herein is granted by the Enforcement Officer;
 - 9.1.5. If the Owner and/or Responsible Party of the property upon which a Code Offense is being committed is unable to correct or abate the Code Offense within the prescribed time, that person may request in writing an extension of time from the Enforcement Officer. Any extension granted by the Enforcement Officer shall be in writing and shall specifically state the date of expiration;
 - 9.1.6. The civil penalty applicable to the Code Offense as set forth in a schedule of civil penalties which shall be adopted by Resolution of the Township from time to time and the manner and timeline for paying the civil penalty if the Code Offense is not timely abated as stated in the Order.
 - 9.1.7. A statement that the Order may be appealed to a hearing before a Hearing Officer designated by the Township Chair, and that the hearing may be obtained by filing a written request with the Township Clerk before the appeal deadline which shall be the abatement deadline designated in the Order or any extension thereof; and
 - 9.1.8. A statement that, if corrective or remedial action is not taken nor a request for a hearing filed with the Township Clerk within the time specified, the Township may abate the Code Offense and charge all costs incurred therein against the Owner of the Property where the Code Offense occurred or is occurring, the "Property", and if cost is unpaid by the Owner or Responsible Party within thirty (30) days, the costs may be charged against the

Property as a special assessment/certification to be collected in the same manner as property taxes.

- 9.2. **Setting Hearing Date.** Any request for a hearing before a Hearing Officer shall be made in writing and either delivered personally or mailed to the Town Clerk by United States first class mail, postage prepaid and postmarked within the prescribed timeline for requesting a hearing. In the event that an appeal is filed, the Township Clerk shall set a hearing date no less than five (5) days, nor more than thirty (30) days, after the date the appeal is filed with the Clerk. The hearing shall be held at a place determined by the Township Chair. 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. The determination of a showing of good cause shown shall be made solely at the discretion of the Hearing Officer but does not include forgetfulness and intentional delay.
- 9.3. **Notice of Hearing Date.** In the event that an appeal is filed, at least three (3) days prior to the hearing, a Notice of hearing shall be mailed or personally delivered by the Township Clerk or other designee to the person who requested the hearing, stating the date, time, place and subject of the hearing.
- 9.4. **Designated Hearing Officer.** A Hearing Officer, designated by the Township Chair, shall convene an informal hearing at which time the Owner and/or Responsible Party or their designee shall have an opportunity to present evidence and testimony to support the appeal of the abatement Order. The Hearing Officer may receive evidence and testimony from the Enforcement Officer and other parties who wish to be heard. Strict rules of evidence will not apply. The Hearing Officer may be compensated by the Township for such hearings and related findings. The Hearing Officer must receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

The Hearing Officer shall have the authority to uphold or dismiss the Order or reduce, stay or waive the civil penalty imposed upon such terms and conditions as the Hearing Officer shall determine. A copy of the Hearing Officer's decision shall be served either by personal delivery or mailed to the Town Clerk and 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 Township, as set forth below.

If the Hearing Officer requires abatement, the Hearing Officer shall, in their decision, fix a time within which the Violation must be abated and shall provide that, if the Violation is not abated within the time specified, Lime Township may abate the Violation and assess the costs of the abatement to the Property as provided in this Ordinance.

9.5. **Appeal of Hearing Officer Decision.**

9.5.1. The Hearing Officer's decision shall be appealable to the Town Board only for the following matters:

9.5.1.1. an alleged failure to obtain a required permit, license, or other approval from the Township as required by Township Ordinances; or

9.5.1.2. 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 Township; or

9.5.1.3. an alleged violation of regulations governing a person or entity who has received a license issued by the Township.

9.5.2. An appeal to the Town Board of the Hearing Officer's decision must be made in writing and must be served on the Town Clerk either in person or by mail within ten (10) days after the date of the Hearing Officer's decision.

9.5.3. 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 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.

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

9.5.5. The failure of the appellant to appear in front of the Township or participate in the appeal constitutes a waiver of the violator's right of appeal and an admission of the violation. The Township 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.

9.6. Failure to Pay.

9.6.1. In the event a person charged with a Code Offense fails to pay the civil penalty and correct or abate the Code Offense or pay the civil penalty for which a citation was issued within the prescribed time, a late charge of five percent (5%) shall be imposed thereon for each seven (7) days the civil penalty remains unpaid and the Code Offense remains uncorrected or unabated beyond the due date.

9.6.2. 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 or to certify said costs to the Property as provided in this Ordinance.

9.6.3. Pursuant to Minn. Stat. §429.101., Minn. Stat. §514.67 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 Code 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 Code Offense, nor shall it preclude the Township from making additional assessments against the same property resulting from a continuing or new Code Offense.

9.6.4. The Township 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.

9.7. Subsequent Violations. If a second citation for a Code 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 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 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 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 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 Code Offense, the civil penalty shall increase by 100% over the scheduled civil penalty amount.

- 9.8. **Abatement.** If the remedial action is not taken nor an appeal filed within the time specified, Lime Township may abate the Code Offense.
- 9.9. **Performance of Work by Township: Invoice.** If the Owner of any Property fails to comply with the Order, within the period allowed for compliance as stated in the Order, the Township may cause to be performed the work as is ordered by the Order or decision of the Hearing Officer. Lime Township shall prepare and maintain a record showing the cost of such work attributable to each separate lot and parcel including, but not limited to, attorney's fees and administrative costs, and shall mail an invoice to the Owner of each lot or parcel setting forth the charges for such work, which shall be immediately due and payable to Lime Township.
- 9.10. **Assessment.** On or before September 1 of each year, Lime Township shall cause to be listed the total unpaid charges and Administrative Penalties for each type of Order issued or work performed against each separate lot or parcel to which abatement charges are attributable pursuant to this Ordinance. Lime Township may then assess the abatement charges against the Property benefited as a special assessment, pursuant to the provisions of Minnesota Statutes Chapter 429 and any other applicable statute, for certification to the County Auditor and collection together with current taxes payable in the following year.

Subd. 10. Abatement Procedure. Class 2 Violations. Unless the Violation is as described in Subdivision 11, the Township may abate Class 2 Violations by the procedure described below:

- 10.1. **Order.** See Section 9.1 which is incorporated herein by reference except that the language of Section 9.1.4 is modified to read as follows: "A statement that the Code Offense is to be abated within ten (10) days of the date of the Order."
- 10.2. **Setting Hearing Date.** See Section 9.2 which is incorporated herein by reference.
- 10.3. **Notice of Hearing Date.** See Section 9.3 which is incorporated herein by reference.
- 10.4. **Designated Hearing Officer.** See Section 9.4 which is incorporated herein by reference.
- 10.5. **Appeal of Hearing Officer Decision.** See Section 9.5 which is incorporated herein by reference.
- 10.6. **Failure to Pay.** See Section 9.6 which is incorporated herein by reference.
- 10.7. **Subsequent Violations.** See Section 9.7 which is incorporated herein by reference.
- 10.8. **Abatement.** See Section 9.8 which is incorporated herein by reference.
- 10.9. **Performance of Work by Township: Invoice.** See Section 9.9 which is incorporated herein by reference.
- 10.10. **Assessment.** See Section 9.10 which is incorporated herein by reference.

Subd. 11. Emergency Abatement Procedure. When the Enforcement Officer determines that a Violation exists which constitutes an immediate danger or hazard which if not immediately abated will endanger the health and safety of the public, and there does not exist sufficient time to follow the procedures of Subdivisions 9 and 10, Lime Township may abate the Violation by the procedure described below:

- 11.1. **Order.** Lime Township shall order emergency abatement by an administrative Order to be signed by an Enforcement Officer.
- 11.2. **Notice of Abatement.** Following an emergency abatement, a Notice shall be mailed to the Owner of the Property and other Responsible Parties connected with the Property that are known to Lime Township. The Notice shall contain:
- 11.2.1. A description of the Violation;
- 11.2.2. The action taken by Lime Township;
- 11.2.3. The reasons for immediate action;

- 11.2.4. The costs incurred in abating the Violation; and
- 11.2.5. The date, time and place of a hearing. Prior to the hearing the Enforcement Officer who ordered the abatement shall provide the Owner with an opportunity to meet and informally discuss the matter. The Enforcement Officer may make a recommendation to the Township Board based on the information obtained at this informal meeting.
- 11.3. **Hearing.** If the matter is not resolved at the informal meeting, a designated Hearing Officer shall hear from the Enforcement Officer and any other parties who wish to be heard. After the hearing, the Hearing Officer shall make a recommendation to Township Board regarding payment of the costs of abatement. The Township Board may adopt a resolution levying an assessment for all or a portion of the costs incurred by the Township in abating the Violation, payable in a single payment or by equal annual installments as the Township Board may provide.
- 11.4. **Assessment.** On or before September 1 of each year, the Township shall cause to be listed the total unpaid charges and administrative penalties for each type of Order issued or work performed against each separate lot or parcel to which abatement charges are attributable pursuant to this Ordinance. The Township may then assess the abatement charges against the Property benefited as a special assessment, pursuant to the provisions of Minnesota Statutes Chapter 429, for certification to the County Auditor and collection together with current taxes payable in the following year.

Subd. 12. Severability. The provisions of this Ordinance are severable and if any provision of this Ordinance or application of any provision of this Ordinance due to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Ordinance shall not be affected thereby.

Subd. 13. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

ADOPTED by the Lime Township Board of Supervisors, Blue Earth County, Minnesota this 8th day of February, 2022.

LIME TOWNSHIP

Karl O. Friedrichs, Chairperson

Jill Hilgers, Clerk