

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 2

COUNTY INFRACTIONS AND JUDICIAL MATTER

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2.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "County Infraction" means, except for those provisions specifically provided under State law as a felony, an aggravated misdemeanor, a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, the commission of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this Code of Ordinances, or any ordinances or code herein adopted by reference, or the omission or failure to perform any act or duty required by this Code of Ordinances or any ordinance or code herein adopted by reference and its punishable by civil penalty as provided herein.

(Code of Iowa, Sec. 331.307[2 & 3])

2. "Repeat Offense" means a recurring violation of the same section of this Code of Ordinances. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

3. "Civil Infraction" means a County Infraction that is brought by the county in a civil proceeding, and upon which the possible sanctions are those allowed at civil law, but not including confinement - imprisonment or jail - for the offender.

4. "Criminal Infraction" means a County Infraction that is brought by the county as a criminal misdemeanor offense, and upon which the possible sanctions include those allowed at criminal law, including confinement - jail - for the offender.

2.02 VIOLATIONS, PENALTIES AND ALTERNATIVE RELIEF. It shall be unlawful to violate any regulation or any provisions of this CHAPTER 2 DALLAS COUNTY, IOWA

Code of Ordinance or any amendment or supplement thereto adopted by the Board of Supervisors of Dallas County. Any person, firm or corporation violating any regulation in and or any provision of the Code of Ordinances or of any amendment or supplement

thereto, shall be guilty of a County Infraction. A Conviction of a County infraction may be brought, at the option of the County, as either a civil proceeding (Civil Infraction) or as a criminal misdemeanor offense (Criminal Infraction) as provided by the Iowa Code, and herein.

2.03 CIVIL INFRACTIONS. A county infraction is punishable as a Civil Infraction herein, and upon conviction thereby, the imposition of any, or any combination of remedies or sanctions provided herein

1. Remedies and Sanctions. The county may seek any relief allowed by law, including:

- A. Civil Penalty. A civil infraction may be punished by a civil penalty by entry of a personal judgment against the person of the defendant of not more than five hundred dollars (\$500.00) for a first offense and not more than seven hundred fifty dollars (750.00) for each repeat offense, unless the schedule of civil penalties herein specifically provides for the offense otherwise. Allowable relief includes both the imposition of a civil penalty and the imposition of other alternative forms of relief, remedies, or sanctions. The court may direct that a payment of the civil penalty be suspended or deferred under conditions imposed by the court, except that the court may not suspend or defer payment of a scheduled penalty as provided herein. A schedule of civil penalties, for those ordinance sections deemed by inclusion herein to be a scheduled violation, is as follows: (The descriptions of violations herein provided are for convenience only, and are not construed to define any offense or to include or exclude any offense other than those specifically included or excluded by reference to the Code. Court Costs shall be added to the scheduled fine.)

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- (1) Violations of Transportation Ordinances.

- a) For Civil Infractions under Sections 13.02, Stopping on Public Ways, and 13.03, Time Restriction, the scheduled civil penalty shall be \$25.00 for each 24-hour period or portion thereof.

(b) For Civil Infractions under Sections 16.06, Maintenance Policy for Secondary Road System within the County, and 16.07, Permit required for Activities within the County Right of Way, the scheduled civil penalty shall be \$100.00 for a first incident, including \$100.00 for each day (24 hour period or portion thereof) the circumstance remains unabated after notice by the county, and \$500.00 for each repeat offense.

(2) Violations of Public Order and Safety Ordinances, Civil Infractions of Chapter 25, Conservation Regulations Sections 25.03:

- a) A fine of \$35.00 for violations under subparagraphs 2, 3, 5, 13, 14, 15, 16, 17, 21, 23, 26, 27, 28, 30, 31, 33, 36, 38, 40, 41, 42, 46, 47, 48, 51, and 56.
- b) A fine of \$45.00 for violations under subparagraphs 8, 9, 20, 62, 63, 64, 66, 67, 68, and 69.
- c) A fine of \$50.00 for violations under subparagraphs 4, 6, 7, 10, 11, 12, 18, 25, 29, 32, 34, 35, 37, 39, 43, 44, 45, 49, 50, 52, 53, 58, 59, 60, and 65.
- d) A fine of \$70.00 for violations under subparagraph 19.
- e) A fine of \$75.00 for violations under subparagraphs 22, 24, 57, and 61.
- f) A fine of \$100.00 for violations under subparagraphs 54 and 55.

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(3) Violations of Public Order and Safety Ordinances. There are no scheduled civil penalties for violations of this title. All violations under this title are subject to the maximum civil penalties provided in this chapter.

(4) Violations of Health Ordinances. There are no scheduled civil penalties for violations of this title.

All violations under this title are subject to the maximum civil penalties provided in this chapter.

B. Abatement of the violation. The court may order, in addition to any other form of remedy, sanction or relief granted, that the violation be corrected, ceased or abated.

1. The Court may order the defendant to abate, correct, or cease the violation.

2. The Court may authorize the County to abate or correct the violation, and therewith shall order that the County's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. The costs of such abatement or correction of the violation by the county may be ordered at the time of hearing the case, or if such costs are not reasonably known by the county at that time, shall be ordered upon claim filed by the county upon completion of the county's work to correct or abate the violation. The county costs of such correction or abatement shall include the reasonable costs of the county, its officers, employees, and any entity working in connection with the county pursuant to the order to correct or abate the violation. Upon claim filed with the court for such costs, the court shall enter the amount of the claim as the amount of judgment for the costs of correction or abatement of the violation against the defendant or the property. The court shall give regular mail notice to the defendant or property owner, as the case may be, of the amount of such

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subsequent judgment, and provide that the defendant or property owner may, within 30 days of the entry of such judgment, contest the amount of the judgment. The defendant or property owner may contest the amount of such subsequent judgment by filing with the court, within 30 days of the entry of such judgment, a notice to contest the amount of judgment, with an informational copy of such notice to the County Attorney, whereupon the court shall schedule a hearing to determine solely the amount of the claim contested.

3. The Court may grant appropriate alternative relief, ordering the defendant to abate, correct or cease the violation.

## 2. Civil Citations.

A. Any officer authorized by the County to enforce this Code of Ordinance may issue a civil citation to a person who commits a county infraction. The following officers are hereby authorized to issue civil citations pursuant to this Code of Ordinance:

1. The Dallas County Sheriff and any deputy sheriff so designated by the County Sheriff; and
2. The Dallas County Conservation Director and any full time Conservation Department employee so designated by the Dallas County Conservation Board to issue citations; and
3. The Dallas County Director of Planning and Development and any full time Planning and Development employee so designated by the Planning and Development Director to issue citations; and
4. The Dallas County Environmental Sanitarian and any full time County Environmental Health employee so designated by the Dallas County Board of Health to issue citations; and
5. The Dallas County Engineer, the Secondary Roads Superintendent, and the Secondary Roads Supervisor: and
6. The Dallas County Attorney and any assistant Dallas County Attorney.

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B. The citation may be served as provided in the Iowa Rules of Civil Procedure. A copy of the citation shall be retained by the issuing officer, one copy forwarded to the office of the Dallas County Attorney, and one copy shall be sent to the Clerk of the District Court.

C. The citation shall serve as notification that a civil offense has been

1. The Name and Address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.

4. The scheduled fine, if any, or amount of civil penalty to be assessed or the alternative relief sought or both fine and alternative relief sought.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.

2.04 CRIMINAL INFRACTIONS. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinance or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the County to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means. A County Infraction is punishable as a Criminal

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Infraction herein, prosecuted as a simple misdemeanor, and, upon conviction there, shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) or by, imprisonment of not more than thirty (30) days. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense. Such criminal violation may be charged by a peace officer pursuant to the rules of criminal procedure, upon a violation of this Code of Ordinances.

2.05 INDIGENT LEGAL FEE GUIDELINES. In the implementation of the statutes of Iowa and constitutional duties of the court, attorneys are from time-to time appointed by the court, or by action of statute otherwise, to represent an indigent person in a case for which the County is legally responsible for payment of legal fees including but not limited to mental health, dual diagnosis and/or substance abuse involuntary committals. Upon such case, fees are limited to \$60.00 per hour for attorney fees, and paralegal fees not more than \$25.00, the total fee not to exceed \$300.00 per case (as described by the Iowa Administrative Law relevant to defense of indigent criminal defendants).

1. In performing services, attorneys shall be governed by applicable statutes and rules as well as by relevant provisions of the Iowa Code of Professional Responsibility for Lawyers.

2. The procedures and allowable expenses provided for in the Iowa Administrative Code relevant to the defense of indigent persons in simple misdemeanors, as applicable hereto shall govern the procedures and allowable expenses herein.

3. When required to do so by law or when the attorney has any question about the propriety of incurring a particular expense, the attorney shall obtain prior approval of the board of supervisors, with notice and opportunity to be heard by the county attorney, before incurring the obligation. In addition, the attorney must obtain advance approval for anticipated compensation in excess of amounts that shall be established herein. Such approval must be preceded by adequate notice to the County Attorney and opportunity to be heard. The purpose of requiring such approval is not to inhibit reasonably necessary services, but to provide a system for monitoring and a basis for predicting and budgeting amounts necessary for such

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compensation. In determining whether an application should be sustained, the Board of Supervisors shall consider whether the anticipated services are necessary in the reasonable professional judgment of counsel. The requirement that an application be made shall not have any bearing on whether an application should be sustained. Moreover, the Board of Supervisors shall not require disclosure by the attorney of any information not subject to discovery under applicable law. Such applications shall be made at the earliest opportunity.

4. Upon completion of services, and within 15 days following dispositional hearing of the matter, the attorney shall file with the clerk of the Board of Supervisors a written claim for compensation for court appointment services and expenses. The term "Dispositional hearing" shall include all such hearings that result in the issuance of a court order that tends to resolve the matter, including but not limited to "Continuances on call" wherein a respondent is ordered to a course of treatment, and the matter definitely or indefinitely continued pending further developments in the course of treatment. The claim shall be accompanied by an itemized statement showing the time necessarily spent on the case, the nature and extent of services and expenses, and the consequences of the proceeding involved.

