

**CLEARWATER TOWNSHIP
ORDINANCE ENFORCEMENT POLICY
RESOLUTION #5 OF 2019**

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Clearwater Township Board hereby establishes the following policy and procedures for the enforcement of Clearwater Township Ordinances.

Section 1: Mission

The mission of the Ordinance Enforcement Policy is to enhance Clearwater Township's livability by protecting the health, safety and welfare of the Township residents and visitors by assuring compliance with the Township's Zoning and General Ordinances. The Township will assure compliance both by encouraging voluntary compliance and by following progressive steps, including legal action, for ordinance violators.

Section 2: Purpose

The purpose of the Clearwater Township Ordinance Enforcement Policy is to provide written guidelines for:

- A. The prioritization of ordinance enforcement cases;
- B. Investigation of violation complaints;
- C. Enforcement of Township Ordinances through voluntary compliance;
- D. Prosecution of violators who do not comply.

These written guidelines are intended to assure consistency within the Township's Ordinance Policy and to educate the Township's residents and property owners about ordinance enforcement.

Section 3: Philosophy

The Township's policy is to achieve compliance with ordinances in cases reported and discovered violations. However, not all violations have the same degree of severity. As such, the Township has established, through this policy, a priority and ranking procedure. The intent is to allow the level of enforcement that best fits the type and circumstances of the violations within clear and objective criteria, consistent with the established priorities and maximize available resources. It is the Township's policy that ordinance enforcement follows the priorities set forth in this policy.

Section 4: Priorities for Enforcement

It is the Township's policy to investigate and attempt to resolve all reported and discovered violations. There may be times when code violations cannot be given the same level of attention, when some violations may get no attention at all, or when the Township may be unable to carry out the proactive enforcement activities outlined in this policy. In such circumstances the most serious violations, as determined through the application of the priorities and criteria in this section shall be addressed before the less serious violations are addressed.

Priority of Violations:

- A. Violations that present an imminent threat to public health, safety or welfare;
- B. Violations affecting storm drainage, wetlands, and/or adjacent areas;
- C. Construction of non-permitted structures;
- D. Multiple complaints received on the same property;
- E. Zoning and Junk violations;
- F. All other violations

Section 5: Criteria for Establishing Priority

Violations listed lower in the priority list may be moved to a higher ranking if they have one or more of the following aggravating circumstances:

- A. The actions leading to the violation(s) are deliberate;
- B. The violation causes economic harm to individuals or the Township as a whole;
- C. The alleged violator is receiving significant economic benefit from the continued violation;
- D. The physical size or extent of the violation is significant;
- E. The violation has existed uncorrected for a significant period of time;
- F. There is a previous history of complaints and enforcement on the subject property and/or with the alleged violator;
- G. There is community interest in the violation expressed by the receipt of multiple complaints from separate individuals or by a complaint by a citizens group
- H. After reasonable efforts have been made, there is little likelihood of obtaining voluntary compliance;
- I. The violation(s) is flagrant and visible to the public.

Section 6: Applicability

- A. General applicability: This policy applies to all ordinance enforcement carried out by Township employee and/or official.
- B. Non-Applicability: This policy does NOT apply to Deeds, Covenants and Restrictions. These conditions are enforceable through private legal action and not the Township.

Section 7: Initiation of Ordinance Enforcement

Enforcement will be initiated by the following methods:

- A. Resident Complaints: Any resident, property owner or business owner can make a complaint to the Township alleging one or more violations. The complaint must be filed on a Township Violation Complaint form. The form is available at the Township Hall and on the Township website. If a reliable verbal complaint is received, the complaint must be documented on the Township Violation Complaint form before acting on the complaint.
- B. Anonymous Complaints: Anonymous complaints are accepted, but may or may not be investigated at the discretion of the employee/official depending on the following factors:
 - 1. The reliability of the complaint;

2. Whether the complaint alleges an imminent threat to public health, safety or welfare;
 3. The ease or difficulty with which the complaint can be verified.
- C. Township Staff or Official: Township staff or officials may report a potential violation. Such complaints must be filed using the Township Violation Complaint form or reported at a Township Board meeting; a Violation Complaint form is then completed.

Section 8: Recording and Files

To the extent possible, all complaints received shall be recorded in the Township Ordinance Enforcement records. The complaint files shall be held at the Township Office and maintained by the Zoning Administrator.

Recording the complaint shall consist of the following:

- A. Assigned case number;
- B. Complainant's name and phone number;
- C. Subject property address;
- D. Type of complaint;
- E. Report of the field investigation as described in the policy; and
- F. Any supporting documentation.

Section 9: Investigation

Before contact or notice of a violation is sent, it must be determined whether the complaint, if valid, establishes a violation. The investigation should start within seven (7) days of receipt of the complaint. The person reporting the violation shall be notified within seven (7) days that the alleged violation is being investigated if contact information was provided.

- A. If a case does not establish a violation, the case will be closed and the person who submitted the complaint will be notified, if contact information was provided.
- B. Field Investigation and Purpose:
 1. Verify the existence and severity of the violation;
 2. Document violations by means of written notes, photographs, witness interviews, etc. All investigations should include photographs if possible.
 3. If possible, discuss with property owner, occupant or other responsible person the following:
 - a. Nature of violation(s);
 - b. Methods for complying;
 - c. Timelines for compliance;
 - d. Enforcement procedures; and
 - e. Potential consequences for failure to comply.
 4. Document all verbal communication in a written summary.
- C. Preparations and Precautions: Employee/official shall take whatever actions are reasonable and necessary to minimize any potential risk of violent confrontation or injury to themselves when conducting the field investigation.
 1. Law Enforcement Assistance: When appropriate, Township employee/official may request law enforcement assistance in conducting the field investigation.

2. Entering upon Property or Premises: Township employee/official shall not enter upon private property or premises to conduct a field investigation without permission to enter.
 3. Unless permission is granted, the investigation shall be conducted from the right-of-way or property where permission to enter has been granted.
- D. Report of Field Investigation: Upon completion of the field investigation, employee/official shall enter the information onto or attach to the Violation Complaint Form. The information shall include:
1. Name of the investigator;
 2. Date, time and place of field visit;
 3. Violation(s) observed;
 4. If no violation(s) are observed, an explanation of conditions observed;
 5. Witnesses, if any, interviewed;
 6. Evidence obtained, if any, such as photographs, measurements;
 7. Discussions, if any, with owners, occupants, or other responsible persons;
 8. Action necessary to correct violation(s);
 9. Recommended enforcement action and timeline;
 10. Referrals, if any, to other agencies such as social services, environmental health, construction codes, etc.

Section 10: Enforcement Levels

- A. Obtaining voluntary compliance after initial contact/written notice to correct
- B. Follow up written notice to correct
- C. Issue citation and/or file action with court

Section 11: Enforcement Procedures

- A. Initial Contact/Written Notice: When the employee/official determines that there are reasonable grounds to believe a violation did or does occur based upon the information in the complaint and field investigation; notice shall be given by the Township. A written notice shall be sent to the property owner(s) of the location of the alleged violation with a copy to the Township Board via the Clerk.
- B. Follow up: The date in the notice for corrective action shall be entered in the enforcement records. After the deadline, if the employee/official determines that the required corrections have not been made, a second written notice shall be sent in the matter consistent with the written notice as stated above.
- C. Voluntary Compliance Agreement: Under special circumstances, deadlines may be extended. The responsible party shall enter into a Voluntary Compliance Agreement that will be signed by both the responsible party and the Township. The extended deadline shall be determined on a case by case basis contingent upon the effort already made to correct the violation, severity and extent of the violation, whether the violation is a repeat offense, weather, etc.
- D. Compliance: If the employee/official determines that required corrections have been made, the date and method of compliance shall be noted in the file and the case shall be closed. The property owner will be notified in writing that

the case has been closed. An update will also be made to the Township Board via the Clerk.

E. Permit Requirements: In some cases, corrective action may consist of applying for and obtaining necessary permits. The employee/official will be responsible for any necessary follow up. Any violation not related to permitting shall be corrected prior to issuance of a permit.

Section 12: Resolution of Violations

It is the Township's policy to attempt to reach final, satisfactory resolutions of all violation complaints. However, the Township recognizes that not all complaints can be resolved successfully, due to factors outside the Township's control. These factors include the lack of Township resources to assist the violator and the number of complaints received. Where the Township determines that a violation may not be successfully resolved within the established reasonable timelines, the file will either be closed or alternate methods of enforcement pursued. The Township Board shall review the list of unresolved violations quarterly and determine if the file(s) shall be turned over to legal counsel for further action through the court system.

Section 13: Board Adoption

Motion made by Eldridge, seconded by Crambell to adopt the foregoing resolution.

Upon roll call vote, the following voted:

"Aye": Eldridge, Morrison, Gaylord, Crambell, Bradley

"Nay": None

The Township Supervisor declared the motion carried and the resolution duly adopted on June 20, 2019.

Kathy Eldridge

Kathy Eldridge, Clerk