

**Charter Township of Portage
Municipal Civil Infraction Ordinance
Number 144**

AN ORDINANCE TO ESTABLISH PROCEDURES FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTIONS, SPECIFICALLY BY DESIGNATING TOWNSHIP OFFICIALS AUTHORIZED TO ISSUE MUNICIPAL CIVIL INFRACTIONS BY DESIGNATING THE METHODS OF COMMENCING MUNICIPAL CIVIL INFRACTION CITATIONS AND OF MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES BY ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU AND BY PROVIDING FOR PENALTIES FOR FAILING TO APPEAR ON MUNICIPAL CIVIL INFRACTIONS.

THE CHARTER TOWNSHIP OF PORTAGE, MICHIGAN ORDAINS:

SECTION 1 - TITLE: This Ordinance shall be known and may be cited as the "Municipal Civil Infraction Ordinance".

SECTION 2 - DEFINITIONS: For the purposes of the provisions of this ordinance, the following words and phrases shall be construed to have the meaning herein set forth, unless it is apparent from the context that a different meaning is intended:

- a. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- b. "Authorized Township Official" means a law enforcement officer, a Twp. Constable, or other personnel of Charter Township of Portage authorized by this ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- c. "Bureau" means the Charter Township of Portage Municipal Ordinance Violations Bureau as established by this ordinance.
- d. "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- e. "Municipal Civil Infraction Citation" means a written complaint or notice prepared by an authorized Township Official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- f. "Municipal Civil Infraction Violation Notice" means a written notice prepared by an authorized law enforcement officer, Constable, or Township Official directing a person to appear at the Charter Township of Portage Municipal Ordinance Violations Bureau and to pay the fine and costs.

SECTION 3 - DESIGNATION OF AUTHORIZED TOWNSHIP OFFICIALS. The following personnel of Charter Township of Portage have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this ordinance:

- a. Township Constables
- b. Zoning Administrator
- c. Township Supervisor
- d. Planning Commission Chairperson

- e. Township Clerk
- f. Township Rental Inspector

SECTION 4 - COMMENCEMENT OF ACTION. A municipal civil infraction action may be commenced upon the issuance by an authorized township official of a municipal civil infraction citation directing the alleged violator to appear in court.

SECTION 5 - ISSUANCE AND SERVICE OF CITATIONS. Municipal civil infraction citations shall be issued and served by authorized township official as follows:

- a. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- b. The place for appearance specified in a citation shall be the District Court.
- c. Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be retained by the Township and a copy issued to the alleged violator as provided by Section 8705 of the Act.
- d. A citation for a municipal civil infraction signed by an authorized Township Official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the Official signing the complaint and if the citation contains the following statement immediately above the date and signature of the Official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- e. An authorized Township Official who witnesses a person committing a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of the civil infraction citation.
- f. An authorized Township Official may issue a citation to a person if:
 - (a) Based upon investigation, the Official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (b) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the Official has reasonable cause to believe that the person is responsible for an infraction and if the Township Attorney - Approves in writing the issuance of the citation,
- g. Municipal civil infraction citations shall be served by an authorized Township Official as follows:
 - (a) Except as provided by Section 6(g)(ii), an authorized Township Official shall personally serve a copy of the citation upon the alleged violator.
 - (b) If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the

building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

SECTION 6 - CONTENTS OF CITATIONS.

- a. A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- b. Further, the citation shall inform the alleged violator that he or she may do one of the following:
 1. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 2. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or in person or by representation.
 3. Deny responsibility for the municipal civil infraction by doing either of the following:
 - (a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.
 - (b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- c. The citation shall also inform the alleged violator of all of the following:
 1. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 2. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 3. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
 4. That at an informal hearing, the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

5. That at formal hearing, the alleged violator must appear in person before a judge, with the opportunity of being represented by an attorney.

d. The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

SECTION 7 - MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- a. **Bureau Established.** The Township hereby establishes a Municipal Ordinance Violations Bureau ("Bureau") as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized Township Officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.
- b. **Location; Supervision; Employees; Rules and Regulations.** The Bureau shall be located in the Township Building and shall be under the supervision and control of the Township Zoning Administrator. The Township Zoning Administrator, subject to the approval of the Township Planning Commission, shall adopt rules and regulation for the operation of the Bureau.
- c. **Disposition of Violations.** The Bureau may dispose only of municipal civil infraction violation or violations that fines have been scheduled for that the alleged violator wishes to dispose of and the Township shall not continue the pursuance of the civil infraction. Nothing in this chapter shall prevent or restrict the Township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau, they may choose to have the violation processed before a court with the appropriate jurisdiction. The unwillingness of any person to dispose of any civil infraction of infractions at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded by law.
- d. **Bureau Limited to Accepting Admissions of Responsibility.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions, and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- e. **Municipal Civil Infraction Violation Notices.** Municipal civil infraction violation notices shall be issued and served by authorized Township Officials under the same circumstances and upon the same persons as provided for citations, as provided in Sections 5(f) and (g) of this Chapter. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

- f. **Appearance; Payment of Fines and Costs.** An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine, penalties and associated costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- g. **Procedure Where Admission of Responsibility Not Made or Fine Not Paid.** If an authorized Township Official issues and serves a municipal ordinance notice and if an admission of responsibility is not made the schedule of fines for the violation are not paid, the civil fine, penalties and other costs can be appealed to the Bureau. If an authorized Township Official issues and serves a municipal ordinance notice and a final admission of responsibility is not made or the civil fine, penalties and costs are not paid a municipal civil infraction may also be filed with the local district court and a copy of the citation may be served by first class mail/return receipt upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

SECTION 8 - FAILURE TO APPEAR: PENALTY. A person served with a municipal civil infraction citation as provided in Section 5(G) who fails to appear within the time specified in the citation or at the time specified in the citation or at the time schedule for a hearing or appearance is guilty of a misdemeanor, punishable by a fine of not less than Five hundred (\$500) dollars or imprisonment for not more than ninety (90) days or by both such fine and imprisonment at the discretion of the court. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

SECTION 9 - MUNICIPAL CIVIL INFRACTION PENALTY.

- a. A person violating an ordinance for the first time which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than one hundred (\$100.00) dollars.
- b. A person violating an ordinance for the second time which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than two hundred and fifty (\$250.00) dollars, plus costs.
- c. A person violating an ordinance for the third time which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than five hundred (\$500.00) dollars, plus costs.
- d. Each subsequent violation of an ordinance which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and is subject to payment of a civil fine of five hundred (\$500.00) dollars per day, plus costs.

- e. Unpaid civil fines, penalties and associated costs can be placed in the form of a lien on the violators property.

SECTION 10 - SEVERABILITY. If any Section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 11 - SAVINGS. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance take effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 12 - REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 13 - EFFECTIVE DATE.

This ordinance shall become effective **30** days after publication.

This ordinance was introduced at the first reading by the Charter Township of Portage Board of Trustees meeting on the 14th day of August, 2017 .

This Ordinance was adopted by the Charter Township of Portage Board of Trustees on the 11th Day of September, 2017 .

CHARTER PORTAGE TOWNSHIP:

Heidi Paoli Riutta, Clerk

ATTEST:

Bruce Petersen, Supervisor