

ORDINANCE NO. 229

MUNICIPAL CIVIL INFRACTIONS ORDINANCE

AN ORDINANCE TO DEFINE MUNICIPAL CIVIL INFRACTION AND RELATED TERMS, TO PROVIDE FOR PENALTIES AND SANCTIONS FOR VIOLATION OF TOWNSHIP ORDINANCES, TO AUTHORIZE CERTAIN TOWNSHIP OFFICIALS TO ISSUE MUNICIPAL CIVIL INFRACTION CITATIONS, AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

THE CHARTER TOWNSHIP OF ZEELAND, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Definitions. For purposes of their use in this Ordinance, the following words and terms are herein defined. Any word or term not herein defined shall be considered to be defined in accordance with its common or standard definitions.

- A. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- B. "Authorized Township Official" means a police officer or other personnel of the Township authorized by Ordinance to issue municipal civil infraction citations.
- C. "Municipal civil infraction" means an act or omission that is prohibited by Ordinance of the Township, but which is not a crime under this Ordinance or other Ordinances of the Township. and for which civil sanctions, including without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of the Act, as amended. A municipal civil infraction is not a lesser included offense of a violation of the Ordinances of the Township which is a criminal offense.
- 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 prepared by an authorized Township official, directing a person to appear at a court of law regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- F. "Municipal civil infraction determination" means a determination that a defendant is responsible for a municipal civil infraction by one of the following: (i) An admission of responsibility for the municipal civil infraction, (ii) An admission of responsibility for the municipal civil infraction "with explanation," (iii) A preponderance of the evidence at an informal hearing or formal hearing, (iv) A default judgment for failing to appear as directed by citation.

Section 2. Municipal Civil Infraction Action: Commencement. A municipal civil infraction 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 3. Municipal Civil Infraction Citations: Issuance and Service. Municipal civil infraction citations shall be issued and served by authorized Township officials as follows.

- A. The time for appearance specified on a citation shall be within a reasonable time after the citation is issued.
- B. The place for appearance specified on a citation shall be the Ottawa County District Court. However, if the person cited for a municipal civil infraction is under the age of 17 at the time of the occurrence of the violation, the matter shall be referred to the Ottawa County Probate Court.
- C. Each citation shall be numbered consecutively, shall be in the form approved by the state court administrator and shall consist of the following parts:
 - (1) The original, which is a complaint and notice to appear, shall be filed with the Ottawa County District Court;
 - (2) The first copy shall be retained by the Township and/or the ordinance enforcing agency;
 - (3) The second copy shall be issued to the alleged violator if the violation is a municipal civil infraction; and
 - (4) The third copy shall be issued to the alleged violator if the violation is a misdemeanor.
- 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 commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- F. An authorized Township official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

- (2) Based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or 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.
- (1) Except as provided in Section 3.G(2) below, an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
 - (2) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the municipal civil infraction 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. A citation served in accordance with this subsection for a violation involving the use or occupancy of land or a building or other structure shall be processed in the same manner as a citation served personally upon a defendant.

Section 4. Municipal Civil Infraction Citations: Contents.

- A. A municipal civil infraction citation shall contain the name of the plaintiff and the name and the 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. A municipal civil infraction citation shall inform the alleged violator that he or she may take one of the following courses of action.
- (1) The violator may admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) The violator may admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation, by the time specified for appearance.
 - (3) The violator may deny responsibility for the municipal civil infraction by doing either of the following.

- (a) The violator may appear 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) The violator may appear in court for a formal hearing before a judge, with the opportunity of being represented by an attorney. A party requesting a formal hearing shall notify the court and the other party or parties of the request at least 10 days before the hearing date, which request may be made in person, by representation, by mail or by telephone.
- C. The citation shall also inform the alleged violator of all of the following information.
 - (1) 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) 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 to appear for a hearing, unless a hearing date is specified on the citation.
 - (3) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
 - (4) 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) At a 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 at 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. Return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, return of citation with an admission of responsibility with explanation and with full payment of applicable civil fines and costs, or timely application to the court for a scheduled date and time for an appearance under Section 4.C(1) or a hearing under Section 4.C(2) constitutes a timely appearance.

- E. If an authorized Township official issues a citation as set forth in this Section, the court may accept an admission with explanation or an admission of responsibility without the necessity of a sworn complaint. If the defendant denies responsibility for the municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

Section 5. Municipal Civil Infractions: Sanctions, Continuing Violations, Injunctive Relief.

- A. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by Ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Act, as amended, and other applicable laws.
- (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by Ordinance, the civil fine for a violation shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
 - (2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of Ordinance. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 12 month period (unless some other period is specifically provided by Ordinance), and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by Ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows.
 - (a) The fine for any offense which is a first repeat offense shall be no less than \$250.00, plus costs.
 - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00, plus costs.
- B. A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by Ordinance. A "violation" also includes any omission or failure to act where the act is required by Ordinance.
- C. Each day on which any violation of Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- D. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of a Township Ordinance.

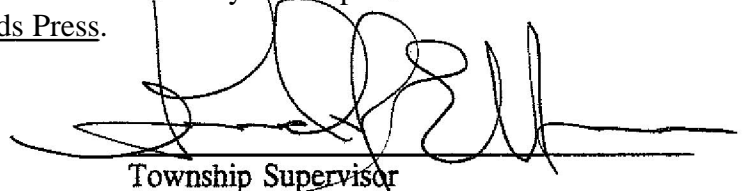
Section 6. Authorized Township Official. The Township Ordinance Enforcement Officer is hereby designated at the authorized Township official to issue municipal civil infraction citations as provided by this Ordinance, in addition to any other individuals authorized by Township Ordinance.

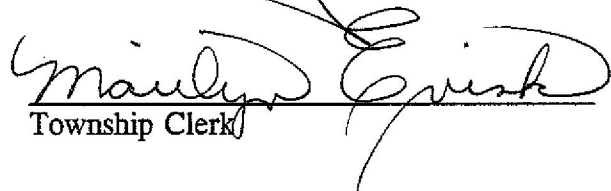
Section 7. Severability and Captions. This Ordinance and the various Sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any Section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 8. Repeal. All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

Section 9. Administrative Liability. No officer, agent, employee or member of the Township Board shall be personally liable for any damage which may occur to any person or entity as the result of any act or decision performed in the discharge of duties and responsibilities pursuant to this Ordinance.

Section 10. Effective Date. This Ordinance was approved and adopted by the Township Board of Zeeland Charter Township, Ottawa County, Michigan, on 11-18-, 1996, after introduction and first reading on 10-21, 1996, and after publication and posting following such first reading as required by Act No. 359 of the Public Acts of 1947, as amended. This Ordinance shall become effective 30 days after publication of a Notice of Adoption and Posting in the Grand Rapids Press.


Township Supervisor


Township Clerk

CERTIFICATE

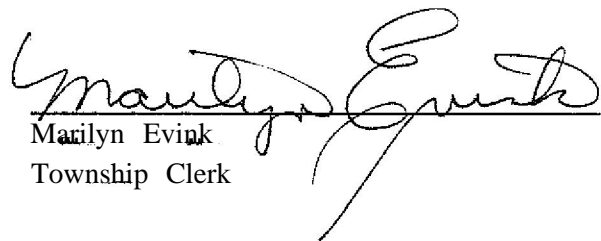
I, ~~Marilyn~~ Evink, Clerk for the ~~Charter~~ Township of Zeeland, Ottawa County, Michigan,
do hereby certify that the foregoing ~~Municipal~~ Civil Infraction Ordinance was adopted at a
Regular meeting of the Township Board held on 11-18, 1996. The

following members of the Township Board were present at that meeting: Evink,
De Kleine, Berghorst, Timmer, Nykamp, Oppenhuizen

The following members of the Township Board were absent: Ellens

The Ordinance was adopted by the Township Board with members of the Board Evink,
De Kleine, Berghorst, Timmer, Nykamp, Oppenhuizen voting in favor and

members of the Board Ellens voting in opposition. Notice of Adoption and Posting was published in the Grand Rapids Press
on 11-29, 1996. An attested copy of the Ordinance was sent to the Ottawa
County Clerk by first-class mail, postage prepaid, on 1-2-97.


Marilyn Evink
Township Clerk

slcivil.59

Copy sent to County Clerk, 1-2-97