

PART 8 - MUNICIPAL CIVIL INFRACTIONS

Article 1: General Provisions

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PART 8 - MUNICIPAL CIVIL INFRACTIONS.

Sec. 8.1.01. Short Title.

This Part shall be known and may be cited as the “Municipal Civil Infraction Part.”

Sec. 8.1.02. Definitions.

For the purpose of the provisions of this Part, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended:

- 1) **Act** means Act No. 236 of the Public Acts of 1961, as amended.
- 2) **Authorized Township Official** means a police officer, code enforcement officer, zoning administrator or other personnel of the Township of Portland authorized by this Part or any ordinance or resolution to issue municipal civil infraction citations or municipal civil infraction violation notices.
- 3) **Bureau** means the Township of Portland Municipal Ordinance Violations Bureau as established by this Part.
- 4) **Municipal Civil Infraction Action** means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- 5) **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.
- 6) **Municipal Civil Infraction Violation Notice** means a written notice prepared by an authorized Township official, directing a person to appear at the Township of Portland Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Township, as authorized under Sections 8396 and 8707(6) of the Act, being MCL 600.8396 and 600.8707(6) respectively.
- 7) **Repeat Offense** means any second or subsequent violation of the same ordinance, for which the person is found responsible or admits responsibility, committed by the person within any 2 month period (unless some other period is specifically provided by this Part or any ordinance).
- 8) **Township** means Portland Township, a general law Township, Ionia County, Michigan.

- 9) **Warning Letter** means correspondence prepared by an authorized Township official advising the recipient of a municipal civil infraction and directing the person to correct the alleged violation.

Sec. 8.1.03. Designation of Authorized Township Officials.

The following personnel of the Township of Portland have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this Part:

- 1) Township Supervisor; and
- 2) Zoning Administrator; and
- 3) Any other person as may from time to time be designated by the Township by resolution.

Sec. 8.1.04. Warning Letters and Municipal Civil Infraction Action Commencement.

Prior to commencing a municipal civil infraction action, an authorized Township official may send a warning letter by regular or certified mail advising the recipient of an alleged municipal civil infraction and directing that the alleged violation be corrected within thirty (30) days of the date the warning letter was issued. If the authorized Township official determines that the recipient has made substantial progress to correct the violation within the first thirty (30) days, the period to correct the violation may be extended in writing, provided that the extension does not exceed an additional thirty (30) days. In the event the violation is not corrected within the specified time, the authorized Township official may commence a municipal civil infraction action as permitted by this Part. Nothing in this Section shall be construed to require a warning letter prior to commencing a municipal civil infraction action.

A municipal civil infraction action may be commenced upon the issuance by an authorized Township official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Township of Portland Municipal Ordinance Violations Bureau.

Sec. 8.1.05. Municipal Civil Infraction Citations: Issuance and Service.

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

- 1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- 2) The place for appearance specified in a citation shall be the 64A District Court.
- 3) Each citation shall be numbered consecutively and shall be in the form approved by the state court administrator. The original citation shall be filed with the Court; the first copy shall be retained by the Township; the third (3rd) copy shall be issued to the alleged violator.
- 4) 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."
- 5) 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.
- 6) 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 violate this Code, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the Township attorney approves in writing the issuance of the citation.
- 7) Municipal civil infraction citations shall be served by an authorized Township official as follows:
 - a) Except as provided by subsection 7) b), below, an authorized Township official shall personally serve the third (3rd) 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 of the citation 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.

Sec. 8.1.06. Municipal Civil Infraction Citations Contents.

A. A municipal civil infraction citation shall contain the name of the plaintiff, the name and the address of the defendant, the municipal civil infraction alleged, the place where the defendant shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

B. The municipal civil infraction citation shall inform the defendant 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 information 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 defendant of the following:
 - i) If the defendant desires to admit responsibility "with explanation" in person or by representation, the defendant 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.
 - ii) If the defendant desires to deny responsibility, the defendant 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.
 - iii) A hearing shall be an informal hearing unless a formal hearing is requested by the defendant or the Township.

- iv) At an informal hearing the defendant must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - v) At a formal hearing the defendant must appear in person before a judge with the opportunity of being represented by an attorney.
- 4) The citation shall contain a notice in boldfaced type that the failure of the defendant 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 the entry of a default judgment against the defendant on the municipal civil infraction.

Sec. 8.1.07. Municipal Ordinance Violations Bureau.

A. **Bureau Established.** The Township hereby establishes a Municipal Ordinance Violations Bureau (*Bureau*) as authorized by 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 Part or any other ordinance.

B. **Location, Supervision, Rules And Regulations.** The bureau shall be located at the Township Hall, and shall be under the supervision and control of the Township Supervisor. The Supervisor, subject to the approval of the Township Board, shall adopt rules and regulations for the operation of the Bureau.

C. **Disposition Of Violations.** The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this Part 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 and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person of in any way diminish the person's rights, privileges and protection afforded 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. In addition to any other information required by this Part or other ordinance, the notice of violation shall indicate

- 1) the time by which the alleged violator must appear at the Bureau;
- 2) the methods by which an appearance may be made;
- 3) the address and telephone number of the Bureau;
- 4) the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and;
- 5) the consequences of failing to appear and paying 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 and 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 When Admission Of Responsibility Is Not Made Or Fine Not Paid.** If an authorized Township official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first-class mail 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 Section 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.

Sec. 8.1.08 Penalties for Violations of Civil Infractions.

A. Unless specifically designated elsewhere in the Code, the penalty for civil infractions shall be the amount as provided by this Part, plus any costs, damages, expenses and other sanctions, as authorized under Part 87 of the Act, and any other applicable laws.

B. Unless otherwise specified, the fine for a municipal civil infraction shall be as follows:

Offense (Violation)	Fine
Failure to comply with any provision of the Ordinance.	Not less than \$100.00 plus costs.
First Repeat Offense.	Not less than \$250.00 plus costs.
Second (or any subsequent Repeat Offense.	Not less than \$500.00 plus costs.

C. Unless a violation of this Code is specifically designated as a civil infraction, the violation shall be deemed a misdemeanor in accordance with Section 1.3.01.

D. A violation includes any act that is prohibited or made or declared to be unlawful or an offense by this Code; and any omission or failure to act where the act is required by this Code.

E. Each day on which any violation of this Code continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

F. If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the judge or district court magistrate, in addition to any fine, costs, and assessment imposed under section 8727 of the Act, as amended, may assess additional costs incurred in compelling the appearance of the defendant, which costs shall be returned to the general fund of the Township.

G. All costs ordered by the court shall be in addition to the fines ordered under Section 8.1.08.B of this Part and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction in accordance with Section 8727 of the Act, provided that costs of no more than \$500.00 shall be ordered.

H. 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 this Part or this Code.

Sec. 8.1.09. Failure to Appear Penalty.

A person served with a municipal civil infraction citation as provided herein who fails to appear within the time specified in the citation or at the time scheduled for hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than five

hundred (\$500.00) dollars. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

