

WHITEFORD TOWNSHIP

MONROE COUNTY, MICHIGAN

MUNICIPAL CIVIL INFRACTION ORDINANCE

ORDINANCE NO. 54

An ordinance providing for municipal civil infractions of certain township ordinances and penalties pursuant thereto; establishing procedures relating thereto; authorization of which township officials can issue civil infraction tickets and appearance tickets; penalties; and procedures relating to such matters.

THE TOWNSHIP OF WHITEFORD, MONROE COUNTY, MICHIGAN, ORDAINS:

Section 1. Title

This Ordinance shall be known as the Whiteford Township Municipal Civil Infraction Ordinance.

Section 2. Definitions

As used in this Chapter:

- "Act" means Act No. 236 of the Public Acts of 1961, as amended
- "Authorized township official" means the:
 - Whiteford Township supervisor,
 - building, mechanical and electrical inspectors,
 - code enforcement officer,
 - fire chief,
 - constable, sheriff, deputy, police officer or other law enforcement officer, or
 - other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.
- "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- "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.
- "Township" means Whiteford Township.
- "violation" includes any act that is prohibited or made or declared to be unlawful or an offense by Township ordinance, and any omission or failure to act where the act is required by Township ordinance.

Section 3. Authorized Township Officials.

Authorized township officials are designated to issue municipal civil citations for alleged violations of the following ordinances, if and when violations have been designated to be civil infractions:

- A. The Michigan State Construction Code, or any other code adopted by the Township regulating the minimum acceptable standards for the maintenance of existing buildings and structures.
- B. All other Township housing or building regulations adopted by the Township.
- C. All ordinances that have been designated to be civil infractions.

Section 4. Municipal Civil Infraction Action; Commencement

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

Section 5. 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 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 that has jurisdiction over Whiteford Township.
- C. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by 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 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:
 - i. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - ii. 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 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:

- i. Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
- ii. 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 a 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. Municipal Civil Infraction Citations; Contents

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:

- i. Admit responsibility for the municipal infraction by mail, in person, or by representation, at or by the time specified for appearance.
- ii. Admit responsibility for the municipal infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
- iii. Deny responsibility for the municipal 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:

- i. 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.
- ii. 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.
- iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
- iv. 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.

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

Section 7. Applicability of the Act

If this Ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

Section 8. Penalty.

A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$1000.00 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorneys' fees, damages, expenses, and other remedies provided by law. For purposes of this section "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person for the same property within twelve (12) months of a previous violation.

B. In addition to pursuing a municipal infraction proceeding pursuant to subsection A hereof, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.

C. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.

D. Any use of land that is commenced or conducted, any activity, or any building, item or structure that is erected, moved, used, placed, reconstructed, razed, extended, enlarged, altered maintained, or changed, in violation of any provision of this Ordinance is also hereby declared to be a nuisance per se.

E. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.

F. Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this Ordinance involved for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision of this Ordinance involved as if the violation had been successful or completed.

Section 9. Availability of Other Enforcement Options. Nothing in this Ordinance shall prohibit the township from taking such other enforcement action as is authorized by law.

Section 10. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 11. Effective Date

This Ordinance shall become effective thirty (30) days after is publication, or publication of a summary thereof, in a newspaper in general circulation within Whiteford Township.

This Ordinance was offered for adoption by Donald Sahloff and was seconded by Tim Hill, the vote being as follows:

YEAS: Sahloff, Hill, Dressel, Christensen, Ruhl

NAYS: 0

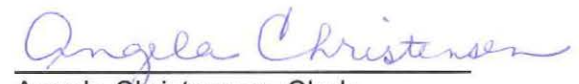
ABSENT / ABSTAIN: 0

This Ordinance is hereby declared to have been adopted and passed by the Township Board of the Township of Whiteford, County of Monroe, State of Michigan, at a regular meeting thereof duly called and held on the 18th day of September, 2012.


Walter Ruhl, Supervisor
Whiteford Township, Michigan

ATTESTED:

I, Angela Christensen, Whiteford Township Clerk, do hereby certify that the foregoing is a true copy of an Ordinance adopted at a regular meeting of the Whiteford Township board on the 18th day of September, 2012.


Angela Christensen, Clerk
Whiteford Township, Michigan

published 10-2-12
effective 11-1-12