

CIVIL INFRACTION ORDINANCE NO. 21

Section 1. Definitions

Act means Act No, 236 of the Public Acts of 1961, as amended.

Authorized township official means a police officer or other personnel of the township authorized by this Code or any ordinance to issue municipal civil infraction notices. The following persons other than police officers are also authorized township officials to issue a municipal civil infraction notice or citation: the zoning enforcement officer, the chief building inspector or authorized representative, the fire chief or his authorized representative, the director of planning and zoning or authorized representative, the director or public works or authorized representative, the electrical inspector, the building inspector and the plumbing and mechanical inspector.

Bureau means the Township of Mussey Municipal Ordinance Violations Bureau as established by this chapter.

Township means the Township of Mussey,

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 violation 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.

Municipal civil infraction violation notice means a written notice prepared by an authorized township official, directing a person to appear at *the* Township of Mussey Municipal Ordinance Violations Bureau and to pay the line and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township, as authorized under Section 8396 and 8707(6) of the Act.

Section 2. Municipal civil infraction action; commencement.

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 Mussey Municipal Ordinance Violations Bureau.

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 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 72nd Judicial 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 filed with the district court. Copies of the citation shall be retained by the township and 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 commit a municipal civil infraction may prepare and prescribe, as soon as possible and as completely as possible, an original and required copies of a citation.

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 commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction **or** if the township attorney approves in writing the issuance of the citation_

Municipal civil infraction citations shall be served by **an** authorized township official as follows:

Except as provided by section 3(g)(2), 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 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 4. 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:

- (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* at or 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: 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 bold-faced 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,

Section 5. 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 *fin*es and costs as prescribed by this Code or any ordinance.

- (b) *Location; supervision: employees; rules and regulations.* The Bureau shall be located at the Township of Massey Municipal Building, 135 N. Main Street, Capac, Michigan 48014.
- (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 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 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 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 3(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.
- (I) *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 where admission of responsibility 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.

Section 6. Schedule of Fines.

- (a) , Unless otherwise provided by another section of the Township of Mussey Code of Ordinances, the fine payable to the **bureau** for admission of responsibility persons served with a municipal civil infraction notice is as follows;

\$50.00

This fine may be amended from time to time by resolution of the Township Board *and shall be* posted at the bureau.

The fines authorized under this section shall be in addition to any other remedy provided for by law or ordinance and shall not diminish *or impair the* ability of the Township of *Mussey's* ability to seek violation of the provisions of the Township of Mussey **Code of Ordinances, or this** chapter.

Section 7.. Severability.

Should any part, section, clause, or paragraph of this chapter be declared by a court of competent jurisdiction to be invalid [the invalidity shall not be construed to affect the validity] of this chapter as a whole or part thereof other than the part declared to be void.

Section S. Effective Date

This ordinance shall become effective thirty (30) days after publication.

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I hereby certify that the foregoing Ordinance was adopted by the Township of Mussey at a regular meeting of the Township Board on the 14th day of January, 1998

M. D. ...