

RILEY TOWNSHIP – ST. CLAIR COUNTY

Ordinance # 60 – 2023 Municipal Civil Infractions

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; establish a municipal ordinance violations bureau for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions for which municipal ordinance violation notices, and/or citations have been issued, and served by authorized officials; and to collect and retain civil fines/costs for such violations as prescribed herein.

THE TOWNSHIP OF RILEY, ST. CLAIR COUNTY, MICHIGAN, ORDAINS:

Section 1. Title

This Ordinance shall be known as the “Riley Township Municipal Ordinance Violations Bureau, Municipal Penalty, Civil Infraction and Appearance Tickets Ordinance.”

Section 2: Definitions

As used in this Ordinance:

- “**Act**” means Act No. 236 of the Public Acts of 1961, as amended, and Public Acts 12-26 of 1994, as amended.
- “**Authorized Township Official**” means a township official, police officer, ordinance enforcement officer, zoning administrator, code inspector, or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.
- “**Bureau**” means the Riley Township Municipal Ordinance Violations Bureau as established by Section § 6 (A) of this Ordinance.
- “**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.
- “**Municipal Civil Infraction Notice**” means a written notice prepared by an authorized township official, directing a person to appear at the Riley Township Municipal Ordinance Violations Bureau to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Township Board.
- “**Municipal Ordinance Violations Bureau**” means the Bureau established by Section § 6 (A) of this Ordinance pursuant to Public Act No. 12 of the Public Acts of 1994, as amended (being MCLA 600.113, MCLA 600.8313, MCLA 600.8375, MCLA 600.8396, MCLA 600.8512 and MCLA 600.8701, et seq, as amended).

- **“Repeat Offense”** means a second, or subsequent, municipal civil infraction of the same requirement or provision of this ordinance committed by a person within any six-month period for which the person admits responsibility or is determined to be responsible.
- **“Township”** means Riley Township or Township of Riley.

Section 3: 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 notice directing the alleged violator appear at the Riley Township Municipal Ordinance Violations Bureau, within ten days, to pay a civil fine if the alleged violator admits responsibility.

Section 4: 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;
- (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 § 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 to 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 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:
 - 1) Except as otherwise provided 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 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 5: 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 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 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.

Section 6: Municipal Ordinance Violations Bureau;

- (A) **Establishment.** The Riley Township Municipal Ordinance Violations Bureau ("Bureau") is hereby established as authorized by § 8396 of the Act (MCLA 600.8396) to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction notices issued

and served by authorized township officials and to collect and retain civil fines and costs as prescribed by ordinance.

- (B) **Location.** The Bureau shall be located at a site designated by the Township Board 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) **Personnel.** All personnel of the Bureau shall be Township employees. The Riley Township Board shall designate Bureau Clerk and other qualified personnel to administer the Bureau duties prescribed herein.
- (D) **Bureau Authority.** The Bureau shall only have authority to accept admissions of responsibility for municipal civil infractions for which a municipal civil infraction notice has been issued (as differentiated from a municipal civil infraction citation). The Bureau shall collect and retain civil fines and costs resulting from those admissions. The Bureau shall not accept payment of a civil fine from any person who denies responsibility for the offense or who admits responsibility only with an explanation. In no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation.
- (E) (1) The Bureau may dispose of municipal civil infractions for which a fine has been scheduled and for which a municipal civil infraction notice (as differentiated from a citation) has been issued. The Bureau may not dispose of a municipal civil infraction citation (as differentiated from a municipal civil infraction notice).

(2) Nothing in this ordinance shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any action for such a violation in a court of competent jurisdiction. No person shall be required to respond to a municipal civil infraction notice at the Bureau and may instead have the violation processed as a citation so that the matter will be handled by a court of competent jurisdiction. The unwillingness of any person to respond to any municipal civil infraction notice at the Bureau shall not prejudice or diminish the person's rights, privileges and protection accorded by law.
- (F) **Ordinance Violation Notice Requirements.** 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 Section § 4(G)(1) and (2) of this Ordinance. In addition to any other information required by this 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.
- (G) 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.
- (H) If an authorized township official issues and serves a municipal civil infraction 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 violations are not paid at the Bureau within ten (10) days from the date of issuance of the municipal civil infraction notice, 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 his or her last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction notice and shall fairly inform the alleged violator how to respond to the citation.

Section 7: General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations; Injunctive Relief

(A) Unless a violation of an ordinance of the Township of Riley is specifically designated in the ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a criminal misdemeanor.

The penalty for a misdemeanor violation shall be a fine not exceeding **\$500.00** (plus costs of prosecution), **or imprisonment not exceeding 93** days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.

(C) The sanction for a violation which is a Municipal Civil Infraction shall be a civil fine in the amount as provided by the ordinances involved, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, Public Acts 12-26 of 1994, as amended, and other applicable laws.

Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than **\$150.00**, plus costs and other sanctions, for each infraction.

Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this Ordinance, “**repeat offense**” means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by a person **within any twelve (12) month period** (unless some other period is specifically provided by an Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

- 1) The fine for any offense which is a first repeat offense shall be not less than **\$375.00**, plus costs.
- 2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than **\$750.00**, plus costs.
- 3) The fine for any offense which is a third or subsequent repeat offense shall be not less than **\$1,500.00**, plus costs.

(D) A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.

- 1) Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(E) 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 any Township ordinance.

Section 8: Authorized Persons-Civil Infractions Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Riley Township ordinance to the contrary, the following officials are hereby designated as the authorized Township officials to issue and serve municipal civil infraction citations for violations of Township Ordinances which provide for a municipal civil infraction for a violation thereof:

- The St. Clair County Sheriff and all other Deputy County Sheriffs of said County
- The Township Ordinance Enforcement Officer

- The Township Zoning Administrator
- The Township Building Inspector
- The Township Mechanical and Electrical Inspectors

Section 9: Authorized Persons-Misdemeanor Appearance Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Riley Township ordinance to the contrary, the following officials are empowered to issue and serve Appearance Tickets for violations of Township ordinances which contain criminal misdemeanor penalties for violations of the ordinance involved:

- The St. Clair County Sheriff and all other Deputy County Sheriffs of said County
- The Township Ordinance Enforcement Officer
- The Township Zoning Administrator
- The Township Building Inspector
- The Township Mechanical and Electrical Inspectors

Section 10: 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 11: 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 12: Repeal

All Ordinances or parts of Ordinances in conflict with this ordinance, including Ordinance # 52-06 Violations Bureau Ordinance, are hereby repealed.

Section 13: Effective Date

This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper of general circulation within Riley Township as required by law following adoption by the Township Board.

This Ordinance was offered for adoption by Township Board Member MARK BARANOWSKI, and was seconded by Township Board Member DUANE HAGLE the vote being as follows:

YEAS: Supervisor Al Titus, Treasurer Mike Rushing, Clerk Dawn Behem, Trustee Duane Hagle, Trustee Mark Baranowski. NAYS: None. ABSENT/ABSTAIN: None.

ORDINANCE DECLARED ADOPTED BY THE TOWNSHIP SUPERVISOR.

Dawn Behem, Riley Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Riley Township Board at a regular meeting held at the Riley Township Hall held on January 10th, 2023, at 7:00 p.m., pursuant to the required statutory notice and procedures and published in a newspaper of general circulation within Riley Township as required by law on January 10th, 2023.

Dawn Behem, Riley Township Clerk