

ORDINANCE 2008-001

THE TOWNSHIP OF CLEVELAND ORDAINS:

MUNICIPAL CIVIL INFRACTIONS

Definitions:

As used in this chapter:

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

"Authorized Village Official" means a police officer, the Zoning Administrator or other personnel of the township authorized by this code or any ordinance to issue Municipal Civil Infraction Citations or Municipal Civil infraction Violation Notices.

"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 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;

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 86th District Court in Suttons Bay Township, Michigan.
- (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 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 Prosecuting Attorney or Township Attorney approves, in writing, the issuance of the citation.

- (g) Municipal Civil Infraction Citation shall be served by an Authorized Township Official as follows:

1. Except as provided in the following section, 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, as reflected in the township's most recent tax roll.

Municipal Civil Infraction Citations: Contents:

- (a) A municipal Ordinance Citation shall contain:

1. The name and address of the alleged violator;

2. The Municipal Civil Infraction alleged;
3. The place where the alleged violator shall appear in court;
4. The telephone number of the court; and
5. 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:
 - i By mail;
 - ii in person; or
 - iii by representation

at or by the time specified for appearance.

2. Admit responsibility for the Municipal Civil Infraction "with explanation":
 - i By mail;
 - ii in person; or
 - iii by representation

at or by the time specified for appearance.

3. Deny responsibility for the Municipal Civil Infraction by doing either of the following:
 - i. 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; or
 - ii 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 schedule 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 and will result in entry of a Default Judgment against the alleged violator on the Municipal Civil Infraction.

Schedule of Civil Fines

Any municipal civil infraction shall be subject to a fine of not less than ONE HUNDRED (\$100.00) Dollars nor more than Five Hundred and 00/100 (\$500.00) Dollars, as determined by the Leelanau County District Judge or District Court Magistrate, with said schedule of fines to be posted or otherwise available at the courthouse.

Schedule of Civil Fines Established for Civil Infraction Citations.

- (a) A schedule of fines for a municipal civil infraction may be established by the 86th District Court for the County of Leelanau in accordance with the statute.
- (b) In addition to the above, the township may, with District Court acknowledgment and approval, establish a schedule of fines for infractions of particular ordinances of the Township, which may be set out in an amendment to the ordinance.

Provided further, however, that unless specifically indicated otherwise, the following schedule for fines for civil infractions is as follows:

1. First Offense: \$ 100.00
2. Second Offense: \$ 200.00
3. Third Offense: \$ 300.00

- (c) A copy of the schedule, as amended from time to time, shall be forwarded to the District Court for posting in accordance with the statute.
- (d) In addition to the fines established hereunder, the District Court, according to statute, may impose such costs and expenses (not to exceed \$500.00) as the District Court Judge or District Court Magistrate may determine appropriate after hearing the matter either on an informal or formal basis. Said costs shall be allocated in accordance with the statute.

Severability

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

Effective Date

This ordinance shall become effective upon publication.

At a (regular/special) meeting of the Cleveland Township Board, held on MAY 13, 2008, adoption of the foregoing ordinance was moved by JOE DECHOW and supported by BESSIE MUSIL

Voting For: CINDY SHAIKEL, JOE DECHOW, TIM STEIN, JAN NEMESKAL, BESSIE MUSIL

Voting Against: NONE

Certification

The foregoing is a true copy of Ordinance No 2008-001 which was enacted by the Cleveland Township Board at a (regular/special) meeting held on MAY 13, 2008.

Jan Nemeskalf
May 13 - 2008, Clerk

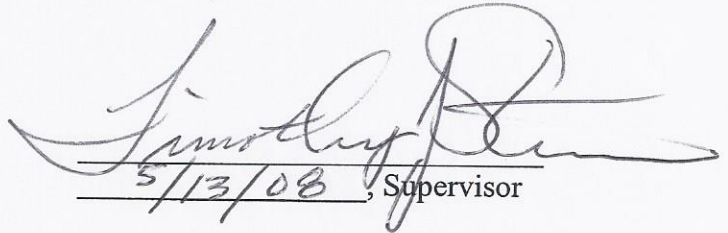
Severability:

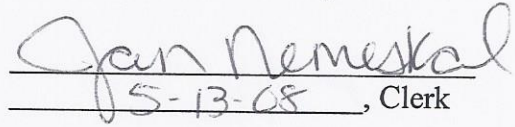
The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Effective Date:

This ordinance shall become effective immediately upon publication in a newspaper in general circulation within the Township of Cleveland.

First reading: _____
Second Reading: _____
Effective Date _____


5/13/08, Supervisor


5-13-08, Clerk

"Bureau" means the Township of Cleveland Ordinance Violations Bureau as established by this chapter.

Municipal Civil Infraction Violation Notice" means a written Notice prepared by an Authorized Township Official, directing a person to appear at the Township of Cleveland 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.

2. A Municipal Civil Infraction Violation Notice directing the alleged violator to appear at the Township of Cleveland Violations Bureau.

Schedule of Civil Fines Established for Violation Notices.

- (a) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with Municipal Ordinance Violation Notices is hereby established.

1. **Violation of Village Zoning Ordinance** \$ _____
First Repeat Offense \$ _____
2. **All other Village Ordinance** \$ _____
First Repeat Offense \$ _____

- (b) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.