

## VILLAGE OF EMPIRE

### ORDINANCE NO. 107

AN ORDINANCE TO ESTABLISH THE AUTHORITY AND PROCEDURES FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTION NOTICES AND CITATIONS; TO ESTABLISH A MUNICIPAL ORDINANCE VIOLATIONS BUREAU; AND TO PROVIDE GENERALLY FOR PENALTIES AND SANCTIONS FOR MUNICIPAL CIVIL INFRACTION VIOLATIONS.

#### THE VILLAGE OF EMPIRE HEREBY ORDAINS:

##### **Section 1. Definitions.**

As used in this Ordinance:

*“Authorized local official”* means a member of the County Sheriff’s department or any personnel of the Village authorized by this or any other ordinance of the Village to issue municipal civil infraction citations or municipal civil infraction violation notices.

*“Bureau”* means the Village of Empire Municipal Ordinance Violations Bureau as established by this ordinance.

*“Municipal Civil Infraction”* means an act or omission that is prohibited by this or any other ordinance of the Village, but which is not a crime under this or such other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961 and Act 3 of the Public Acts of 1895, as amended. A municipal civil infraction is not a lesser included offense of any violation of any other Village Ordinance that is a criminal offense.

*“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 local 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 local official, directing a person to appear at the Village of Empire 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 Village, as authorized under Section 8396 [MCL 600.8396] and 8707(6) [MCL 600.8707(6)] of the Act.

##### **Section 2. Municipal Civil Infraction Action; Commencement; Dismissal.**

A municipal civil infraction action may be commenced upon the issuance by an authorized local 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 Village of Empire Municipal Ordinance Violations Bureau. Only the Village Council may dismiss a municipal civil infraction action once it is commenced.

### **Section 3. Municipal Civil Infraction Citations; Issuance and Service.**

Municipal civil infraction citations shall be issued and served by an authorized local official in accordance with the provisions of Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, et seq].

### **Section 4. Municipal Ordinance Violations Bureau.**

A. Bureau established; Employees. The Village hereby designates the Village Administrative Assistant as the Municipal Ordinance Violations Bureau (ABureau@) as authorized under Section 8396 of the Revised Judicature Act [MCL 600.8396] to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized local officials, and to collect and retain civil fines and costs as prescribed by this or any other ordinance of the Village.

B. Location. The Bureau shall be located at the Village of Empire Office, 11518 LaCore Street, Empire, Michigan 49630.

C. Jurisdiction of Bureau.

1. 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 ordinance shall prevent or restrict the Village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.
2. The Bureau may only accept admissions of responsibility for municipal civil infractions and collect and retain 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.

D. Municipal Civil Infraction Violation Notices. Municipal civil infraction violation notices shall be issued and served by an authorized local official under the same circumstances and upon the same persons as provided for citations as provided in this ordinance and in Chapter 87 of the Revised Judicature Act.

E. 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.

F. Procedure Where Admission of Responsibility not Made or Fine not Paid. If an authorized local 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, or if the Bureau can not accept an admission of responsibility, or can not collect the fine as provided in Subsection C.2 above, a municipal civil infraction citation may be filed with 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.

## **Section 5. Penalties and Sanctions.**

A. Unless provided otherwise in a specific ordinance, and except as provided in Subsection B, below, for fines for municipal civil infraction violation notices paid at the Bureau, the sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided below, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, et seq], and other applicable laws.

1. Unless otherwise specifically provided for a particular municipal civil infraction violation by any other Village ordinance, the civil fine for a violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction
2. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this or any other Village ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal infraction violation of the same requirement or provision (i) committed by a person within any twelve-month period (unless some other period is specifically provided by this or any other Village ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this or any other Village ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
  - a. The fine for any offense which is a repeat offense shall be no less than \$200.00, plus costs.
  - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$300.00, plus costs.

B. Schedule of civil fines for municipal civil infraction violation notices payable at the

Bureau.

1. Where a municipal civil infraction violation notice is issued, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Village ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$75.00.
2. Where a municipal civil infraction violation notice is issued for the second violation of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Village ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$150.00.
3. Where a municipal civil infraction violation notice is issued for the third or subsequent violation of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Village ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$250.00.

C. A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this or any other Village ordinance; and any omission or failure to act where the act is required by this or any other Village ordinance.

D. Each day on which any violation of this or any other Village 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 Village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this or any other Village ordinance.

#### **Section 6. Prior Ordinances.**

All prior ordinances, or parts thereof, in conflict with the terms of this ordinance are deemed rescinded.

#### **Section 7. Severability.**

Each provision of this ordinance is declared to be separable and severable, and a judicial determination that any such provision is invalid or unenforceable, shall not affect the validity or enforceability of any other article, section, subsection or provision hereof.

#### **Section 8. Effective Date.**

This Ordinance shall become effective upon publication in accordance with law.

At a regular meeting of the Village Council for the Village of Empire held on the 23rd day of October, 2007 Susan Michener moved for adoption of the foregoing ordinance and Karen Baja supported the motion.

Voting for: Nat Gray, Linda Payment, David Diller, Susan Michener, Karen Baja and President Susan Carpenter

Voting against:

The Village President declared the ordinance adopted.

  
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Susan A. Carpenter  
Village President

#### CERTIFICATION

The foregoing is a true copy of Ordinance No. 107 which was enacted by the Village Council for the Village of Empire at a regular meeting held on October 23, 2007.

  
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Patricia Zoyhowski  
Village Clerk