

**Windsor Charter Township
Eaton County, Michigan
Civil Infractions Ordinance
Ordinance No. 40
Second Reading**

At a meeting of the Township Board of Windsor Charter Township, Eaton County, Michigan, held at the Windsor Charter Township Hall on June 10, 2014, at 7:30 p.m., Township Board Member Marcie Dailey moved to introduce the following Ordinance for posting, publication and subsequent final adoption, which motion was seconded by Township Board Member JANE K :

An Ordinance to provide for the enforcement of Windsor Charter Township Ordinance violations through the issuance of Municipal Civil Infraction Violation Notices and Municipal Civil Infraction Citations, establish the Windsor Charter Township Municipal Ordinance Violations Bureau for the purpose of accepting admissions of responsibility for Ordinance violations designated as municipal civil infractions for which Municipal Civil Infraction Violation Notices have been issued and served by authorized officials; to collect and retain civil fines/costs for such violations as prescribed herein, to establish that the Township Ordinance Enforcement Officer, Township Zoning Administrator, and members of the Eaton County Sheriff's Department who provide services to the Township may issue Municipal Civil Infraction Violation Notices and Municipal Civil Infraction Citations, and to repeal all conflicting Ordinances or parts of Ordinances.

THE CHARTER TOWNSHIP OF WINDSOR, EATON COUNTY, MICHIGAN, ORDAINS:

Section 1: Title: This Ordinance shall be known and cited as the Windsor Charter Township Civil Infractions Ordinance.

Section 2: Definitions: As used in this Ordinance:

- A. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- B. "Authorized Township Official" means the Township Ordinance Enforcement Officer, the Township Zoning Administrator, a police officer or other personnel of the Township authorized by this Ordinance or any Ordinance to issue Municipal Civil Infraction Violation Notices or Municipal Civil Infraction Citations, including members of the Eaton County Sheriff's Department who provide services to the Township.
- C. "Bureau" means the Windsor Charter Township Municipal Ordinance Violations Bureau as established by this Ordinance.
- D. "District Court" means the 56A District Court, Eaton County, Michigan.
- E. "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

F. "Municipal Civil Infraction Violation Notice" means a written notice prepared by an Authorized Township Official, directing a person to appear at the Windsor Charter Township 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.

G. "Municipal Civil Infraction Citation" or "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.

H. "Township" means Windsor Charter Township, Eaton County, Michigan.

I. "Township Ordinance Enforcement Officer" means that person designated by the Township Board to enforce the provisions of the Township Ordinances.

J. "Township Zoning Administrator" means that person designated by the Township Board to enforce the Township Zoning Ordinance.

Section 3: Municipal Civil Infraction Action; Commencement: A Municipal Civil Infraction Action may be commenced upon the issuance by an Authorized Township Official of:

A. A Municipal Civil Infraction Violation Notice providing the alleged violator with an option to appear at the Bureau; or

B. A Municipal Civil Infraction Citation directing the alleged violator to appear in District Court.

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 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 Authorized Township 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 Citations shall be served by an Authorized Township Official as follows:

(1) Except as provided by Section 4(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 a copy on the land or attaching a copy to the building 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 owners' last known address.

Section 5: Municipal Civil Infraction Citations; Contents

A. A Municipal Civil Infraction Citation shall contain

(1) A description of the violation;

(2) The amount of the scheduled fines and/or costs for the violation;

(3) The name and address of the alleged violator; and

(4) The place where the alleged violator shall appear in court; and

(5) The telephone number of the court, and the time at or by which the appearance shall be made.

B. 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 the 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 that 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 Citation.

Section 6: Establishment, Location and Personnel of the Municipal Ordinance Violations Bureau

A. The Township hereby establishes a Municipal Ordinance Violations Bureau as authorized under 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 fines and costs as prescribed by this Ordinance and any related Ordinance.

B. The Bureau shall be located at the Windsor Charter Township Hall, and shall be under the direct supervision and control of the Township clerk. The Township clerk, subject to the approval of the Township Board, may adopt rules and regulations for the operation of the Bureau and appoint the Township treasurer or any other necessary qualified Township employees to administer the Bureau.

C. 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 to 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 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 instead may choose to 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. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions arising out of Municipal Civil Infraction Violation Notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fee 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 veracity of any fact or matter relating to an alleged violation.

E. 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 prescribed in this Ordinance. In addition to any other information required by the Township Ordinances, 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.

F. 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. If an Authorized Township Official issues and serves a Municipal Civil Infraction Violation Notice, and if an admission of responsibility (without explanation) 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 District Court does not need to comply in all particulars with the requirements for Citations as provided by this Ordinance, but shall consist of a sworn complaint containing the allegations stated in the Municipal Civil Infraction Violation Notice and shall fairly inform the alleged violator how to respond to the Citation.

Section 7: Schedule of Civil Fines/Costs: Unless a different schedule of civil fines is provided for by an applicable Ordinance, the civil fines payable to the Bureau upon admissions of responsibility by persons served with Municipal Civil Infraction Violation Notices is hereby established, and shall be posted at the Bureau and the Township Hall. The fines for the violations shall be as follows:

A. The civil fine for a violation shall be \$125 for each infraction.

B. Increased civil fines shall be imposed upon a person for a Repeat Offense violating any requirement or provision of any ordinance. Unless otherwise specifically provided by any 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 (2nd offense) shall be \$250.

(2) The fine for any offense which is a second Repeat Offense (3rd offense) or any subsequent Repeat Offense shall be \$500.

If the civil fines payable to the Bureau are not made within 10 days of the date of service of the Municipal Civil Infraction Violation Notice, costs of \$20.00 shall be assessed by the Bureau. On matters that proceed in District Court, attorneys fees may be assessed in an amount of up to five hundred (\$500.00) per violation.

Section 8: Records and Accounting: The Bureau Clerk or other designated Township official/employee shall retain a copy of all Municipal Civil Infraction Violation Notices, and shall account to the Township Board once a month or at such other intervals as the Township Board may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the Township

Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

Section 9: Availability of Other Enforcement Options: Nothing in this Ordinance shall be deemed to require the Township to initiate its municipal civil infraction Ordinance enforcement activity through the issuance of a Municipal Civil Infraction Violation Notice. As to each Ordinance violation designated as a municipal civil infraction, the Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law, including, without limitation, injunctive relief or criminal enforcement.

Section 10: Severability: The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

Section 11: Repeal: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 12: Effective Date: This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.