

WASHTENAW COUNTY, MICHIGAN

Ordinance No. _____

WASHTENAW COUNTY
MUNICIPAL CIVIL INFRACTIONS
ORDINANCE

AN ORDINANCE TO PROVIDE FOR MUNICIPAL CIVIL INFRACTIONS AND A MUNICIPAL CIVIL INFRACTIONS VIOLATIONS BUREAU; TO PROVIDE FOR SANCTIONS FOR VIOLATIONS OF MUNICIPAL CIVIL INFRACTIONS; TO ADOPT A SAVINGS CLAUSE; AND TO PROVIDE AN EFFECTIVE DATE.

THE COUNTY OF WASHTENAW
ORDAINS:

SECTION 1. DEFINITIONS.

- (1) "Act" means Act No. 236 of the Public Acts 1961 as amended.
- (2) "Authorized County Official" means a County sheriff's deputy other personnel of Washtenaw County authorized by this ordinance, or any County ordinance, to issue municipal civil infraction citations or municipal civil infraction violation notices.
- (3) "Bureau" means the Washtenaw County Municipal Civil Infractions Violations Bureau, as established by this Ordinance.
- (4) "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (5) "Municipal Civil Infraction Citation" means a written complaint or notice prepared by an authorized county official, directing a person to appear in court regarding the occurrence or existence of one or more municipal civil infraction violations by the person cited.
- (6) "Municipal Civil Infraction Violation Notice" means a written notice, other than a citation, prepared by an authorized county official, directing a person to appear at the Washtenaw County Municipal Civil Infractions Violations Bureau and to pay the fines and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the County, as authorized under sections 8396 and 8707(6) of the Act.

**SECTION 2. MUNICIPAL CIVIL INFRACTIONS ACTION;
COMMENCEMENT.**

A municipal civil infraction action is commenced upon the issuance by an authorized county official of (1) a municipal civil infraction citation directing the alleged violator to appear in the district court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Washtenaw County Municipal Civil Infractions Violations Bureau.

SECTION 3. MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE.

(1) Issuance. A municipal civil infraction citation shall be issued by an authorized county official as follows:

- (A) The time for appearance by the alleged violator 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 14-A District court for Washtenaw County.
- (C) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation, which is a complaint and notice to appear, shall be filed with the 14-A District Court. Copies of the citation shall be retained by the County 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 County official shall be treated as made under oath, if the violation alleged in the citation occurred in the presence of the authorized county 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 county 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 all required copies of a citation.
- (F) An authorized county official may issue a citation to a person if:
 - (i) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (ii) 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 County attorney approves in writing the issuance of the citation.

(2) Service. A municipal civil infraction citation shall be served by an authorized county official as follows:

(A) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation need not be personally served upon this 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.

(B) In all other cases, an authorized county official shall personally serve a copy of the citation upon the alleged violator.

SECTION 4. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS.

(1) 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.

(2) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(A) Admit responsibility for the municipal civil infraction by mail, in person or by representation, at or by the time specified for appearance;

(B) Admit responsibility for the municipal civil infraction "with explanation" by mail, in person or by representation by the time specified for appearance;

(C) Deny responsibility for the municipal civil infraction by doing either of the following:

(i) Appearing in person for an informal hearing before a district court judge or magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a district court judge is requested by the County; or

(ii) Appearing in court for a formal hearing before a district court judge, with the opportunity of being represented by an attorney.

(3) The citation shall also inform the alleged violator of all of the following:

- (A) That if the alleged violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the district court in person, by mail or by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear and enter his or her plea with explanation;
 - (B) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the district court in person, by mail or 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;
 - (C) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the County;
 - (D) That at an informal hearing, the alleged violator must appear in person before a district court judge or magistrate without the opportunity of being represented by an attorney;
 - (E) That at a formal hearing, the alleged violator must appear in person before a district court judge with the opportunity of being represented by an attorney.
- (4) The citation shall contain a notice, in boldface 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, and may result in the issuance of an arrest warrant.

SECTION 5. MUNICIPAL CIVIL INFRACTIONS VIOLATIONS BUREAU.

- (1) Bureau established. The County hereby establishes a Municipal Civil Infractions Violation 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 county officials, and to collect and retain civil fines and costs as prescribed by this ordinance or any ordinance.
- (2) Location, supervision, employees, rules and regulations. The Bureau shall be located within, and shall be under the supervision and control of, the County elected official or department generally responsible for administering and enforcing the ordinance under which the violation is cited. The Elected Official serving as the Bureau may adopt rules and regulations for the operation of the Bureau, appoint any necessary qualified existing County employees to administer the Bureau, and contract with service providers, as necessary. The County department serving as the Bureau, subject to the approval of the County Board of Commissioners, may adopt rules and regulations for the operation of the Bureau, appoint any necessary qualified existing

County employees to administer the Bureau, and contract with service providers as necessary.

- (3) Disposition of violations. The Bureau may dispose only of municipal civil infractions for which a fine has been scheduled and for which a municipal civil infraction violations 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 section shall prevent or restrict the County 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.
- (4) 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 factor matter relating to an alleged violation.
- (5) Municipal civil infraction violation notices. Municipal civil infraction violation notices shall be issued and served by authorized county officials under the same circumstances and upon the same persons as provided for citations under Section 3(2). In addition to any other information required by this or other 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.
- (6) 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.
- (7) Procedure where admission of responsibility not made or fine not paid. If an authorized county 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 maybe filed with the 14-A 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 need not comply in all particulars with the requirements for citations as provided in Sections 8705 and 8709

of the Act, 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 6. SCHEDULE OF CIVIL FINES ESTABLISHED.

(1) The County Board of Commissioners shall, by Resolution, adopt a schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices, which may be amended by a subsequent Resolution. Unless another fine schedule is adopted in another ordinance, the initial schedule of fines payable at the Bureau shall be as follows:

First offense \$50.00

Second offense \$100.00

Third (or any subsequent) offense \$500.00

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

(3) If a defendant admits responsibility for a municipal civil infraction “with explanation,” the court shall accept the admission as though the defendant has admitted responsibility and may consider the defendant’s explanation by way of mitigating any sanction, including fines, costs, damages, and expenses, which the court may order. If the defendant has appeared by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court, but the court may require the defendant to provide further explanation or to appear in court personally.

SECTION 7. REPEALER.

All ordinances in conflict are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 8. SEVERABILITY.

The various parts, sections and clauses of this ordinance are hereby declared to be severable. Should any part, clause, sentence, paragraph, or section of this ordinance be found invalid or unconstitutional for any reason by any court of competent jurisdiction, any such decision shall not affect the validity of the remainder of this ordinance.

SECTION 9. SAVINGS CLAUSE.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 10. EFFECTIVE DATE.

The provisions of this ordinance are ordered to take effect after publication.

I, Lawrence Kestenbaum, Washtenaw County Clerk, certify that this ordinance was adopted by the Washtenaw County Board of Commissioners and published on _____.

Lawrence Kestenbaum, Washtenaw County Clerk