

## ADMINISTRATION

### **4.000            MUNICIPAL CIVIL INFRACTIONS                       ORDINANCE NO. 192**

Adopted:            February 10, 2003  
Effective:           February 25, 2003

This Ordinance is to set forth the authority and procedures for designating violations of Township ordinances as municipal civil infractions, commencing municipal civil infraction actions, issuance and service of municipal civil infraction citations and sanctions for municipal civil infractions. This ordinance also establishes a Municipal Ordinance Violations Bureau, the purpose of which is accepting admissions of responsibility for ordinance violation designated as municipal civil infractions for which municipal ordinance violation notices or citations have been issued and served by authorized officials and collecting and retaining civil fines/costs for such violations, as prescribed herein and repeal and replace Ordinance No. 133, adopted August 8, 1994.

#### **A.        Title**

This Ordinance shall be known and cited as the Cooper Charter Township Municipal Civil Infractions Ordinance.

#### **B.        Definitions**

As used in this section:

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

**Authorized Township Official** means the Township Supervisor, Township Building Official, Township Enforcement Officer or designee, or other personnel of the Township authorized by this Code of Ordinances to issue municipal civil infraction citations or municipal civil infraction violation notices.

**Bureau** means the Cooper Charter Township Municipal Ordinance Violations Bureau as established by this section.

**Municipal Civil Infraction Action** means a civil action in which the defendant is alleged to be responsible for municipal civil infractions.

**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 Violation Notice** means a written notice prepared by an authorized Township official, directing a person to appear at the 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, which may be amended from time to time.

**C. Municipal civil infraction action; commencement**

A municipal civil infraction 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 violation notice directing the alleged violator to appear at the Township Municipal Ordinance Violations Bureau.

**D. Municipal civil infraction citations; issuance and service**

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
2. The place for appearance specified in a citation shall be the district court.
3. 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.
4. 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."
5. An authorized Township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as completely as possible, an original and required copies of a citation.
6. An authorized Township official may issue a citation to a person if:
  - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;
  - or
  - b. 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.

7. Municipal civil infraction citations shall be served by an authorized Township official as follows:
  - a. Except as provided in Section 4.000 D., an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
  - b. If the municipal civil infraction 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 last known owner of record of the land, building, or structure at the owner's last known address.

**E. Municipal civil infraction citation; contents**

1. A municipal civil infraction citation shall contain:
  - a. A description of the violation.
  - b. The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation.
  - c. The amount of the scheduled fines/costs for the violation.
  - d. The address and telephone number of the Bureau.
  - e. The days and hours that the Bureau is open.
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" within the time specified for appearance by mail, in person or by representation.
  - c. Deny responsibility for the municipal civil infraction by doing either of the following:

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

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

3. The citation shall also inform the alleged violator of all 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 court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for appearance.
  - b. 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.
  - c. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
  - d. 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.
  - e. That a formal hearing, the alleged violator must appear in person before a 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 judgement against the alleged violator of the municipal civil infraction.

## **5. Municipal Ordinance Violations Bureau**

1. Establishment:

The Cooper Township Municipal Ordinance Violations Bureau (hereinafter Bureau) is hereby established pursuant to Public Act 12 (MCL 600.8396), as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated municipal civil infractions, and to collect and retain civil violation fines/costs for such violations prescribed by the code or any ordinance.

2. Location; supervision; employees; rules and regulations:

The Bureau shall be located at the Township offices/hall, or at such other Township location as designated by the Township Board. The Bureau shall be under the supervision and control of the Township Supervisor, or his designee. The Township Board, by resolution, may designate a Bureau Clerk with duties prescribed herein and as may otherwise be delegated by the Board.

3. Disposition of violations:

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 section 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 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 a 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.

5. Municipal civil infraction violation notices:

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 in Section 4.000 D. and E.

- a. The violation.
- b. The time within which the person must contact the Bureau for purposes for admitting or denying responsibility for the violation.
- c. The amount of the scheduled fines/costs for the violation.
- d. The methods by which the violation may be admitted or denied.
- e. The consequences of failing to pay the required fines/costs or contact the bureau within the required time.
- f. The address and telephone number of the Bureau.
- g. The days and hours that the Bureau is open.

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 Township 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 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 court does not need to comply in all particulars with the requirements for citations as provided by the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

**G. Schedule of civil fines/costs**

1. 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 violation notices shall be determined pursuant to the following schedule:

1 <sup>st</sup> violation within 3 year period*.....	\$ 75.00
2 <sup>nd</sup> violation within 3 year period*.....	\$ 150.00
3 <sup>rd</sup> violation within 3 year period*.....	\$ 325.00
4 <sup>th</sup> violation or subsequent violation within 3 year period*...	\$ 500.00

\* determined on basis of date of violation(s).

2. In addition to the above prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the Bureau, if the fine and costs are paid within 10 days of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the Bureau.

3. Each day on which any violation designated as a municipal civil infraction continues constitutes a separate offense and shall be subject to sanctions as a separate violation.

**H. Records and accounting**

The designated Township official/employee 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.

**I. 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 an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction, the Township may, at its sole discretion, proceed directly with issuance of a municipal civil infraction citation, or take such other enforcement action as is authorized by law. Specifically, if it so desires, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any municipal civil infraction violation.

**J. 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.

**K. Repeal**

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**L. Effective date**

This Ordinance took effect on February 25, 2003. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

*[Repealed and Replaced Ord. No. 133, Eff. 09/20/1994*