

ORDINANCE # 0,703, 2003

AN ORDINANCE RELATED TO CIVIL INFRACTIONS.

THE COUNTY OF ANTRIM ORDAINS:

A new ordinance to the Ordinances, Antrim County, to read in its entirety as follows:

CIVIL INFRACTIONS BUREAU

Section 100-1 Definitions.

As used in this Ordinance:

101-1.1 "Act" means Act No. 236 of the Public Acts of 1961, as amended.

101-1.2 "Authorized County Official" means a police officer, animal control officer, building code enforcement officer, soil erosion enforcement officer, wetland enforcement officer, environmental sanitarian (health inspector), marine officer, or any other personnel of the County authorized by this Ordinance, by any other ordinance or state law permitted to enforce an ordinance or state law and/or to issue municipal civil infraction citations or municipal civil infraction violation notices.

101-1.3 "Bureau" means the County of Antrim Ordinance Violations Bureau as established by this Ordinance.

101-1.4 "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

101-1.5 "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 a municipal civil infraction violation by the person cited.

101-1.6 "Municipal civil infraction violation notice" means a written notice prepared by an authorized County official, directing a person to appear at the County of Antrim Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by

the County, as authorized under MCL 600.8396 and MCL 600.8707(6) of the Act

101-1.7 "Municipal civil infraction" means any civil infraction issued by an authorized County Official as provided for by ordinance or state law.

Section 200-1 Municipal civil infraction action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized County 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 County of Antrim Ordinance Violations Bureau.

Section 300-1 Municipal civil infraction citations; issuance and service.

300-1.1 Municipal civil infraction citations shall be issued and served by an authorized County official 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. The County shall retain copies of the citation, and one copy shall be 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 if 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 County official who witnesses a person commit a municipal civil infraction may prepare and subscribe, as soon as possible, and as completely as possible, an original citation and the required copies.

- (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 the prosecuting attorney approves, in writing, the issuance of the citation.
- (g) Municipal civil infraction citations shall be served by an authorized County official as follows:
- i. An authorized County official shall personally serve a copy of the citation upon the alleged violator.
 - ii. An authorized County official may, in lieu of personal service, serve a copy of the citation by certified mail, return receipt requested, and delivery restricted to the alleged violator.
 - iii. 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 certified mail, return receipt requested, and delivery restricted to the owner of the land, building, or structure at the owner's last known address.

Section 400.1 Municipal civil infraction violation notice and citations;
contents. .

400-1.1 A municipal ordinance violation notice and/or citation shall contain the name and last known address of the alleged violator and, in the case of a minor, shall also include the name and address of a parent or guardian of said minor; the municipal civil infraction alleged, the place where the alleged violator shall appear in court or at the Violations Bureau, as the case maybe, the telephone number of the court and/or Violations Bureau, and the time when the appearance shall be made.

400-1.2 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, at or by the time specified for appearance.
- (c) Deny responsibility for the municipal civil infraction by doing either of the following:
 - i. By returning the violation ticket to the violation bureau or Court, as the case maybe, denying responsibility and a written request for an informal hearing and then appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless the County or alleged violator requests a formal hearing before a judge.
 - ii. By returning the violation ticket to the violation bureau or Court, as the case maybe, and a written request for an informal hearing Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

400-1.3 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 court or Violations Bureau, as the case may be, in person, by mail, by telephone, or by representation within the time specified for appearance.
- (b) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court or Violations Bureau, as the case may be, in person, by mail, by telephone or by representation within the time specified for appearance. .
- (c) Upon notice of denial of responsibility given to the Violation Bureau, the Violation Bureau must cause to be served upon the alleged violator a copy of the civil infraction citation and file the civil infraction citation with the District Court, who shall thereafter handle the matter by setting a scheduled dare and time to appear for a hearing, unless a hearing date is specified on the citation.
- (d) That a hearing shall be an informal hearing unless the alleged violator or the County requests a formal hearing.

- (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 at a formal hearing, the alleged violator must appear in person before a judge, with the opportunity of being represented by and attorney.

400-1.4 The citation and notice shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation and notice, or at the time scheduled for a hearing and will result in entry of a default or default judgment, as the case maybe, against the alleged violator on the municipal civil infraction.

Section 500-1 Municipal ordinance violations bureau.

500-1.1 Bureau established. The County hereby establishes a County Ordinance Violations 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 another ordinance.

500-1.2 Location; supervision; employees; rules and regulations. The Bureau shall be located at County Treasurer's Office, County Building, 203 East Cayuga Street, Bellaire, Michigan 49615, and shall be under the supervision and control of the County Treasurer. The County Treasurer, subject to the approval of the County Board of Commissioners, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified County employees to administer the Bureau.

500-1.3 Disposition of violations. The Bureau may dispose only of County 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 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.

500-1.4Bureau 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 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.

500-1.5Municipal **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 in Sections 300-1.1 (f) and (g) of this Ordinance. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time 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**.

500-1.6Appearance; **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. Failure to appear **at the Bureau** within the time specified for appearance shall result in admission of responsibility and a default against the alleged violator.

500-1.7Procedure 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 violations are not paid at the Bureau, the Bureau may assess a fines and costs in accordance with the established schedule. The Bureau, by first class mail, shall mail to the violator. a notice or notices of amount of fines and costs due. In the event the violator fails to pay the fine and costs the Bureau shall cause a municipal civil infraction citation to be served by certified mail, return receipt requested, and delivery restricted to the addressee, 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 Sections 8705 and 8709 of 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.

Section 600-1 Schedule of civil fines established.

600-1.1 A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established, and is set forth, as part of this ordinance, as Exhibit "A" which is attached hereto and incorporated herein by reference as if the same had been fully set forth. Said schedule (Exhibit "A") provides for the general schedule of civil fines, but in the event the ordinance that was violated has within its terms a specific schedule of fines, the schedule of fines set forth in the specific ordinance shall control over this general schedule of fines.

600-1.2 The County Board of Commissioners may from time to time adopt, by resolution, a new schedule of civil fines

600-1.3 A copy of the schedule, as amended from time to time, shall be posted **and/or available at the Bureau.**

Section 700-1 Severability

700-1.1 The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If a court of competent jurisdiction adjudges any part, clause, sentence, paragraph, or section unconstitutional or invalid, the remainder of the Ordinance shall not be affected thereby.

Section 800-1 Effective Date

800-1.1 This Ordinance shall become effective upon publication.

STATE OF MICHIGAN
COUNTY OF ANTRIM



I HEREBY CERTIFY THIS COPY TO BE A
TRUE AND CORRECT COPY OF THE
RECORD ON FILE WITH THE OFFICE OF
COUNTY CLERK

LAURA SEXTON

ANTRIM COUNTY CLERK
40th

BY:

LAURA SEXTON
COUNTY CLERK

DATE: Ajafp, /, /, t 1, / 2 /, 9" -