

ORDINANCE NO. 360

AN ORDINANCE 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

THE CHARTER TOWNSHIP OF GRAND RAPIDS ORDAINS:

Section 1. Title. This Ordinance shall be known as the A Grand Rapids Charter Township Municipal Civil Infraction Ordinance (referred to herein as Athis Ordinance).

Section 2. Definitions.

As used in this Ordinance:

"Authorized township official" means a police officer or other personnel of the Township authorized by this Ordinance or any other Township ordinance to issue municipal civil infraction citations.

"Municipal civil infraction" means an act or omission that is prohibited by any ordinance of the Township, but which is not a crime under the 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, as amended. A municipal civil infraction is not a lesser included offense of a violation of any Township 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 Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Section 3. Municipal Civil Infraction Action. A municipal civil infraction action may be commenced upon the issuance by an authorized Township official of a municipal civil infraction citation directing the alleged violator to appear in court.

Section 4. Municipal Civil Infraction Citations; Issuance and Service. A municipal civil infraction citation shall be issued and served by an authorized township 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.

(d) The first copy of the citation (the original citation) shall be filed with the district court. The second copy of the citation shall be retained by the Township. The third copy (and any duplicate copies, as needed) shall be issued to the alleged violator.

(e) 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."

(f) 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 any required copies of a citation.

(g) 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 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.

(h) A municipal civil infraction citation shall be served by an authorized Township official as follows:

(1) Except as provided by section (4)(h)(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 the copy of 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 owners last known address.

Section 5. Municipal Civil Infraction Citations; contents.

(a) 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.

(b) Further, 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 a judge is requested by the township; or

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 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.

Section 6. Sanctions for Municipal Civil Infractions; Repeat Offenses; Continuing Violations; Injunctive Relief; Failure to Answer or Appear.

(a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinance violated, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

(b) Increased civil fines may be imposed for repeat offenses by a person of any requirement or provision of any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) admission or determination of responsibility for the same municipal civil infraction made within the period as specified by the ordinance violated.

(c) 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.

(d) In addition to any remedies available to law, 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. **[Amended 1/27/99 by Ord. No. 377]**

(e) An alleged violator who fails to answer a citation or notice to appear in court for a municipal civil infraction violation is guilty of a misdemeanor. **[Section 6 amended 12/9/98 by Ord. No. 374]**

Section 2. Severability.

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

Section 4. Effective Date.

This Ordinance shall become effective immediately upon publication in a newspaper in general circulation within the Charter Township of Grand Rapids.

