

**SHARON TOWNSHIP
WASHTENAW COUNTY, MICHIGAN
MUNICIPAL CIVIL INFRACTION ORDINANCE**

ORDINANCE NO. _____

An Ordinance to provide for the establishment of a township Municipal Civil Infraction Violation Bureau; to establish the procedures that pertain to the content and issuance of a Municipal Civil Infraction Notice and Citation, to provide for the designation of which township officials are authorized to issue and serve a Municipal Civil Infraction Notice and Citation; and to provide for an effective date.

THE TOWNSHIP OF SHARON, WASHTENAW COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1: Title

This ordinance shall be known and cited as the Sharon Township Municipal Civil Infraction Ordinance.

Section 2: Definitions

- (1) "Act" means Chapter 87 of Act No. 236 of the Public Acts 1961, MCL 600.8701 et seq., The Revised Judicature Act of 1961; as amended, and Public Acts 12-26 of 1994, as amended.
- (2) "Authorized Township Official," means a law enforcement officer or a Sharon Township official, or agent of the township expressly authorized by this ordinance or any other Sharon Township ordinance to issue Municipal Civil Infraction **Notices** and Municipal Civil Infraction **Citations**.
- (3) "Municipal Civil Infraction Ordinance Violation Bureau" [Violation Bureau] means the Violations Bureau at the Sharon Township Hall, as established by this ordinance.
- (4) "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 236 of the Public Acts of 1961, as amended. A Municipal Civil Infraction **Notice** is not a lesser-included offense of a violation of any township ordinance that is a criminal offense.
- (5) "Municipal Civil Infraction Action" means a civil action against an individual who is alleged to be responsible for violating a township municipal civil infraction ordinance.

- (6) “Municipal Civil Infraction Violation **Notice**” [Civil Infraction **Notice**] means a written **Notice**, other than a **Citation**, prepared by an authorized township official, directing a person to appear at the township Violation Bureau to pay the fines and costs prescribed for the violation of the ordinance or by the schedule of civil fines adopted by the Sharon Township Board.
- (7) “Municipal Civil Infraction Violation **Citation**” [Civil Infraction **Citation**] means a written complaint or **Citation** prepared by an authorized township official, directing a person to appear at the 14 A-1 Judicial District Court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- (8) “Appearance” means timely response to the Violation Bureau with a return of the Civil Infraction **Notice** with an admission of responsibility and with full payment of applicable fines and costs, or the timely application to the 14 A-1 Judicial District Court to request a hearing on the alleged civil violation.

Section 3: Municipal Civil Infraction Action: Commencement

- (1) A Municipal Civil Infraction Action is commenced upon the issuance by an authorized township official of either of the following:
- a. A Civil Infraction **Notice** affording the alleged violator the opportunity to admit responsibility (without explanation) to the Sharon Township Violations Bureau and pay all fines and costs imposed, without further commencement of a Municipal Civil Infraction Action and without appearing in court; or
 - b. A Civil Infraction **Citation** directing the violator to appear in the 14 A-1 Judicial District Court.

Section 4: Discretion and Designation of Authority

(1) Unless prohibited by state law or unless otherwise provided by specific contrary provisions of another Sharon Township ordinance, the following officials are authorized and empowered to investigate, issue and serve a Civil Infraction **Notice** and/or **Citation** for violations of township ordinances that provide for Municipal Civil Infraction penalties:

- a. The Township Supervisor
- b. The Township Zoning Administrator
- c. State, County or Local Law Enforcement Officer

- (2) Discretion: The Authorized Township Official has full right and authority to attempt to mitigate ordinance violations, as he or she deems necessary prior to the issuance of a Civil Infraction **Notice** or a Civil Infraction **Citation**. The Authorized Township Official has the option of writing a Civil Infraction **Notice** and subsequent **Notices** or a Civil Infraction **Citation**. The Authorized Township Official also has the option of requesting an informal or formal hearing in front of a judge or magistrate at the 14 A-1 District Court, without

affording the alleged violator an initial opportunity to settle the violation with a Notice and payment at the Township Violation Bureau.

Section 5: Municipal Ordinance: Civil Infraction Violation Bureau

(1) Establishment

- a. The township establishes a Municipal Ordinance; Civil Infraction Violations Bureau as authorized under Section 8396 of the Act (MCL 600.8396) for the purpose of;
 - i. Accepting admissions of responsibility for ordinance violations designated as civil infractions for which Civil Infraction **Notices** have been issued and served by authorized township officials; to collect and retain civil fines and costs for such violations as prescribed herein.
 - ii. Being a point of contact for the issuance of a Civil Infraction **Citation** when the alleged violator denies responsibility for the violation or accepts responsibility with an explanation and wishes to proceed to district court.
 - iii. The township is not under any legal obligation to establish a Violations Bureau within the township limits. The township board has full and complete latitude as to when a Violations Bureau is established. If the township does not have a Violations Bureau, the 14 A-1 Judicial District Court will assume said responsibilities as delineated in this ordinance.

(2) Location

- a. The Violation Bureau shall be located at the Sharon Township Hall, 18010 Pleasant Lake Road, Manchester, MI 48158.
- b. The location of the Violation Bureau will be under the supervision of the township supervisor and if, due to an emergency or mitigating circumstance, the Bureau cannot serve the public at said location, the township supervisor shall deem a temporary location for the Bureau.
- c. Any change of the location of the Violation Bureau will be made public as soon as practicable and will remain posted until said time that the supervisor declares a return to the Bureau's original location or a new location has been declared. The township clerk will provide the public with the Bureau's new location via prescribed public notices.

(3) Personnel

- a. All personnel of the Violation Bureau shall be employees or officials of Sharon Township. The Township Supervisor may appoint a Bureau Clerk with the duties prescribed herein and as otherwise, may be established and delegated by the Township Supervisor or Township Zoning Administrator.

(4) Bureau Scope and Authority

- a. The Violation Bureau shall only have authority to accept admissions of “responsibility without explanation” for a properly authorized Civil Infraction **Notice** and subsequently collect and retain the scheduled civil fines and costs for a violation specified pursuant to this Ordinance or other applicable ordinances. In no event shall the Violation Bureau determine, or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.
- b. The Violation Bureau shall not accept payment from a person who denies having committed the offense or who admits conditional responsibility (“responsible with an explanation”). If a person denies responsibility or admits conditional responsibility at the Violation Bureau, the Bureau Clerk may accept remittance of the Civil Infraction **Notice** in exchange for a Civil Infraction **Citation** with a date and time to appear in the 14 A-1 Judicial District Court.
- c. The mere issuance of a Civil Infraction **Notice** by a township official does not require that such a **Notice** be disposed of at the Bureau. The alleged violator may relinquish the Civil Infraction **Notice** without prejudice at the Violation Bureau in exchange for a Civil Infraction **Citation** and request a hearing in the 14 A-1 Judicial District Court. The unwillingness of any person to accept responsibility of a violation at the Violation Bureau shall not prejudice the person or in any way diminish the person’s rights, privileges and protection accorded by law.

(5) Schedule of Civil Fines and Costs

- a. Unless a different schedule of civil fines is provided for by the applicable ordinance, the civil fines payable to the Violation Bureau upon admission of responsibility by a person served with a Civil Infraction **Notice** shall be determined pursuant to the following schedule:

1 st violation within a 12 month period -----	\$100.00
2 nd violation within a 12 month period -----	\$200.00
3 rd violation within a 12 month period -----	\$400.00
All subsequent violations within a 12 month period ---	\$500.00

- b. Each subsequent day the violation continues is considered a separate violation under the applicable ordinance and shall be subject to penalties or sanctions as a separate offense. The issuance of subsequent violations is at the discretion of the authorized township official.

(6) Records and Accounting

- a. The Violations Bureau clerk or other designated township official shall retain a copy of all Municipal Civil Infraction **Notices** and **Citations** and shall account to the Township Board at least quarterly, or more often as the Township requires, concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Violation Bureau and the amount of fines and costs collected with respect to such violations.
- b. The civil fines and costs collected shall be delivered to the Township Treasurer and shall be deposited in the general fund of the township.
- c. Copies of all Sharon Township Municipal Civil Infraction Notices and Citation will be retained pursuant to the 2008 Records Retention and Disposal Schedule for Michigan Township Clerks until the final disposition of the case plus seven (7) years thereafter.

Section 6: Civil Infraction Notice: Contents

- (1) A Civil Infraction **Notice** shall contain the name of the township, the name and address of the alleged violator, the Municipal Civil Infraction alleged, the location and telephone number of the Violation Bureau, the hours during which the Violations Bureau is open, the amount of the fine for the alleged violation, the consequences for failure to appear and pay the fine within the required time, and the date and times by which an appearance at the Violations bureau must be made.
- (2) The Civil Infraction **Notice** shall inform the alleged violator that he or she may do one of the following:
 - a. Admit responsibility for the civil infraction violation and pay all applicable fines and costs at the Violation Bureau either, in person, by representation, on-line (when available), or by mail, postmarked on or before the time specified on the **Notice**; or
 - b. Admit responsibility for the Civil Infraction **Notice** “with an explanation” or deny responsibility for the Civil Infraction **Notice**, in person, by representation, or by mail, postmarked on or before the time specified on the **Notice** to the Violation Bureau, and the Bureau will subsequently issue and serve forthwith; a Civil Infraction **Citation** which affords the alleged violator the right to contact the 14 A-1 Judicial District Court and request an informal hearing which does not afford the alleged violator the opportunity to be represented by an attorney, or a formal hearing which affords the alleged violator the opportunity to be represented by an attorney.

Section 7: Civil Infraction Notice: Issuance and Service

(1) Issuance

- a. An Authorized Township Official may issue a Civil Infraction **Notice** to a person if:
 - i. The authorized township official witnesses a violation of a township ordinance and has reasonable cause to believe that the person to whom the **Notice** will be issued is responsible for the Municipal Civil Infraction; or
 - ii. Based upon an investigation of a complaint initiated by an individual who allegedly witnessed the person commit an ordinance violation, and the authorized township official has reasonable cause to believe that the person to whom the **Notice** will be issued is responsible for a Municipal Civil Infraction.
- b. Upon completion of an investigation into a Municipal Civil Infraction violation, an authorized township official will either;
 - i. Attempt to mitigate the ordinance violations as he or she deems necessary prior to the issuance of a Civil Infraction **Notice** or a Civil Infraction **Citation**.
 - ii. Prepare, issue, serve and file the appropriate copies of a civil infraction **Notice** as soon as practicable.
 - iii. Prepare, issue, and serve a Civil Infraction **Citation** and upon service, file it with the 14 A-1 Judicial District Court, or
 - iv. Make a determination that the defendant did not violate the township's ordinance and close the investigation.
- c. A Civil Infraction **Notice** signed by an authorized township official shall be treated as made under oath if the violation alleged in the **Notice** occurred in the presence of the authorized township official and if the **Notice** 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."
- d. A Civil Infraction **Notice** signed by an authorized township official shall be treated as made under oath if the violation alleged in the **Notice** was issued based upon an investigation originating from a valid complaint, and if the **Notice** 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. Each violation **Notice** shall be numbered consecutively and shall be in a form approved by the state court administrator. The original violation **Notice** shall be filed at the Violation Bureau. The Violation Bureau official shall retain a copy of the Civil Infraction **Notice** and a copy issued to the alleged violator as provided by Section 8705 of the Act.

(2) Service and Response

- a. An authorized township official shall attempt to personally serve a copy of the Civil Infraction **Notice** upon the alleged violator as provided by Section 8707 of the Act (MCL 600.8707).
- b. If personal service is unsuccessful, the authorized township official shall serve the alleged violator a copy of the Civil Infraction **Notice** by mail to the violator's last known address.
- c. An alleged violator who receives a Civil Infraction **Notice** shall pay all applicable fines and costs at the Violation Bureau either, in person, by representation, on-line (when available), or by mail, postmarked on or before the time specified on the **Notice**.
- d. If an admission of responsibility is not made (regardless if the alleged violation has been corrected or ceases to exist) and the fines and costs are not paid at the Violation Bureau, on or before the time specified on the **Notice**, an authorized township official is authorized to do one of the following:
 - i. Issue a subsequent Civil Infraction **Notice** that carries an increased fine per the Schedule of Fines and Costs.
 - ii. Issue a Civil Infraction **Citation** and upon service, file it with the 14 A-1 Judicial District Court.
 - 1. All fines are cumulative. The alleged violator is responsible for payment in full for all fines and costs associated with each **Notice** issued and each **Citation** he or she is found responsible in the 14 A-1 Judicial District Court. The failure to appear for a written violation constitutes the continuance of the violation as written, regardless if the alleged violation has been corrected or ceases to exist.
- e. If the alleged violator wishes to admit responsibility with an explanation or deny responsibility and yet does not do so on or before the time specified on the **Notice**, this failure to appear constitutes a default and an authorized township official is authorized to do one of the following:
 - i. Issue a subsequent Civil Infraction **Notice** that carries an increased fine per the Schedule of Fines and Costs.

ii. Issue a Civil Infraction **Citation** and upon service, file it with the 14 A-1 Judicial District Court.

1. All fines are cumulative. The alleged violator is responsible for payment in full for all fines and costs associated with each **Notice** issued and each **Citation** he or she is found responsible in the 14 A-1 Judicial District Court. The failure to appear for a written violation constitutes the continuance of the violation as written, regardless if the alleged violation has been corrected or ceases to exist.

- a. The Civil Infraction **Citation** filed with the court shall consist of a sworn complaint containing, at a minimum, the alleged violation of the ordinance, and shall fairly inform the alleged violator how to respond to the **Citation**.
- b. An authorized township official shall personally serve a copy of the Civil Infraction **Citation** upon the alleged violator as provided by Section 8707 of the Act.
- c. If personal service is unsuccessful the authorized township official shall serve the alleged violator a copy of the Civil Infraction **Citation** by mail to the violator's last known address.

Section 8: Civil Infraction Citation: Contents

- (1) A Civil Infraction **Citation** shall contain the name of the Township, the name and address of the alleged violator, the Municipal Civil Infraction alleged, the location and telephone number of the Court where the alleged violator must appear, and the dates and times at which an appearance must be made.
- (2) The Civil Infraction **Citation** shall also inform the alleged violator of the following:
 - a. If the alleged violator desires to admit responsibility without explanation, the alleged violator may appear in the 14 A-1 Judicial District Court by mail, in person, or by representation, at or by the time specified for appearance and admit responsibility with full payment of applicable civil fines and costs.
 - b. If the alleged violator desires to admit responsibility "with an explanation" the alleged violator must contact the 14 A-1 Judicial District Court in person by representation, by telephone or by mail, within the time specified for appearance and obtain a scheduled date and time to appear for a hearing whereupon; he or she may enter a plea with an explanation;

- c. If the alleged violator desires to deny responsibility, the alleged violator must contact the 14 A-1 Judicial District Court in person, by representation, by telephone or by mail, within the time specified for appearance and obtain a scheduled date and time to appear for a hearing;
- d. That the hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Authorized Township Official;
- e. That at an informal hearing, the alleged violator must appear in person before a district court magistrate or judge without the opportunity of being represented by an attorney;
- f. That at a formal hearing the alleged violator must appear in person before a district court judge and may have the opportunity of being represented by an attorney.
- g. The Civil Infraction **Citation** shall state in boldface type that the failure of the alleged violator to appear within the time specified on the **Citation** or at any scheduled hearing is a misdemeanor and will result in the entry of a default judgment against the alleged violator as well as additional fines and penalties, including the issuance of a bench warrant.
- h. A timely appearance means the return of the Citation with an admission of responsibility and with full payment of applicable civil fines and costs; return of the Citation with an admission of responsibility with explanation, or the timely application to the court for a scheduled date and time for a hearing

Section 9: Civil Infraction Citation: Issuance and Service

(2) Issuance

- a. An Authorized Township Official may issue a Civil Infraction **Citation** to a person if:
 - i. The authorized township official witnesses a violation of a township ordinance and has reasonable cause to believe that the person to whom the **Citation** will be issued is responsible for the Municipal Civil Infraction; or
 - ii. Based upon an investigation of a complaint by an individual who allegedly witnessed the person commit a violation of a township ordinance, the authorized township official has reasonable cause to believe that the person to whom the **Citation** will be issued is responsible for a Municipal Civil Infraction.
 - iii. An admission of responsibility is not made and the fines and costs are not paid at the Township Violation Bureau on or before the time specified on the Civil Infraction **Notice**.

- b. Upon completion of an investigation into a Municipal Civil Infraction violation, an authorized township official will either;
 - i. Prepare, issue, serve and file the appropriate copies of a Civil Infraction **Citation** as soon as practicable, or
 - ii. Make a determination that the defendant did not violate the township's ordinance and close the investigation.
- c. A Civil Infraction **Citation** 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 authorized township official 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."
- d. A Civil Infraction **Citation** signed by an authorized township official shall be treated as made under oath if the violation alleged in the **Citation** was issued based upon an investigation originating from a valid 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. Each **Citation** shall be numbered consecutively. The original **Citation** shall be filed with the 14 A-1 Judicial District Court. Copies of the **Citation** shall be retained by the Violation Bureau and issued to the defendant as provided by Section 8705 of the Act.

(3) Service

- a. An authorized township official has the option of writing a Civil Infraction **Notice** or a Civil Infraction **Citation**. An authorized township official also has the option of requesting an informal or formal hearing in front of a judge or magistrate at the 14 A-1 Judicial District Court, without affording the alleged violator an initial opportunity to pay a Civil Infraction **Notice** at the Township Violation Bureau.
- b. An authorized township official shall personally serve a copy of the Civil Infraction **Citation** upon the alleged violator as provided by Section 8707 of the Act (MCL 600.8707). In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the **Citation** need not 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 owner of the land, building, or structure at the owner's last known address.

- c. If personal service is unsuccessful the authorized township official shall serve the alleged violator a copy of the Civil Infraction **Citation** by mail to the violator's last known address.

Section 10: Applicability of the Act

If this Ordinance is silent as to given procedural requirements of the Act or in any way conflicts with the Act, the Act, MCL 600.8701 et seq., shall govern.

Section 11: Repealer

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

Section 12: 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 13: Savings Clause

All proceedings pending and a 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 14: Effective Date

The provisions of this Ordinance are ordered to take effect thirty (30) days after publication (as the full text or as a summary thereof) in a newspaper in general circulation in Sharon Township.

Section 15: Adoption.

This Ordinance was duly adopted by the Sharon Township Board of Trustees at its regular meeting called and held on the ____ day of _____, 2015.

Section 16: Publication.

The Township Clerk shall cause this ordinance or a summary of Ordinance No. _____ to be published in a newspaper of general circulation within Sharon Township within thirty (30) days after adoption.

Chelsea Mikel, Sharon Township Clerk

Adoption Date:

Publication Date:

Effective Date:

CERTIFICATION

I, Chelsea Mikel, the Clerk for Sharon Township, Washtenaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. _____ adopted by the Sharon Township Board of Trustees at a regular meeting held on _____, 2015. The following members of the Sharon Township Board of Trustees were present at the meeting:

The Ordinance was adopted by the Sharon Township Board of Trustees with _____ members of the Board voting in favor (_____) and _____ voting against (_____). A copy of the Ordinance or a summary thereof was published in The Manchester Enterprise on _____.

Chelsea Mikel, Sharon Township Clerk