

BURDELL TOWNSHIP
OSCEOLA COUNTY, MICHIGAN
ORDINANCE NO. 2000-1

Adopted: August 8, 2000

MUNICIPAL CIVIL INFRACTION ORDINANCE

An Ordinance which shall (1) provide for municipal civil infractions of certain Township ordinances and penalties pursuant thereto; (2) establish a Municipal Ordinance Violations Bureau for the purpose of accepting admissions of responsibility and to collect and retain civil fines and/or costs; (3) establish the office and duties of the Ordinance Enforcement Officer and authorizing the Township Board to appoint persons to said office; and (4) to repeal all conflicting ordinances or parts of ordinances.

THE TOWNSHIP OF BURDELL ("Township") ORDAINS:

SECTION 1. Title.

This Ordinance shall be known as the Burdell Township Municipal Civil Infraction Ordinance.

SECTION 2. Authorization.

This Ordinance is authorized and enacted pursuant to Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and 1994 Public Act Nos. 12-26, as amended (hereinafter collectively referred to as the "Act"), and other applicable laws.

SECTION 3. Definitions.

The following words or terms when used herein shall be deemed to have the meanings set forth below:

- A. "Authorized township official" means a township official, police officer or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violations notices.
- B. "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

- C. "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.
- D. "Municipal civil infraction notice" means a written notice prepared by an authorized township official, directing a person to appear at the Burdell 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, as authorized under Sections 8396 and 8707 (6) of the Act, as amended.
- E. "Person" shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

SECTION 4. Penalties and Sanctions for Violations of Township Ordinances; Other Relief.

- A. Unless a violation of a Township ordinance is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a criminal misdemeanor.
- B. The penalty for a misdemeanor violation shall be a fine not exceeding five hundred dollars (\$500.00), plus costs of prosecution, or imprisonment not exceeding ninety (90) days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.
- C. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinances involved, 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, Public Acts 12-26 of 1994, as amended, and other applicable laws.
- D. 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 civil infraction notices shall be determined pursuant to the following schedule:

first violation within 3 year period*	\$50.00
second violation within 3 year period*	\$125.00
third violation within 3 year period*	\$250.00
fourth or subsequent violation within 3 year period*	\$400.00

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

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 the date of the service of the municipal civil infraction notice. Otherwise, costs of \$20.00 shall be assessed by the Bureau.

- E. Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- F. In addition to any remedies available at law, the Township may bring an action for injunction or other process against a person to restrain, prevent or abate any violation of any Township ordinance.

SECTION 5. Municipal Civil Infraction Notices.

- A. Notice Requirements. Municipal civil infraction notices shall be issued and served by authorized Township officials as provided by law. A municipal civil infraction notice shall include, at a minimum, all of the following:
 - (1) The violation;
 - (2) The time within which the person alleged to be responsible for a municipal civil infraction must contact the Bureau for purposes of admitting or denying responsibility for the violation;
 - (3) The amount of the scheduled fines and/or costs for the violation;
 - (4) The methods by which the violation may be admitted or denied;
 - (5) The consequences of failing to pay the required fines and/or costs or contact the Bureau within the required time;
 - (6) The address and telephone number of the Bureau; and
 - (7) The days and hours the Bureau is open.
- B. Appearance; Payment of Fines and/or Costs. An alleged violator receiving a municipal civil infraction 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 notice. An appearance may be made by mail, in person or by representation.
- C. Denial of Responsibility. Where a person alleged to be responsible for a municipal civil infraction fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil fines and/or costs within the designated time period, the Bureau Clerk or other designated Township employee(s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation, with the court having jurisdiction of the matter.

- D. Availability of Other Enforcement Options. Nothing in this Ordinance shall be deemed to require the Township to initiate its municipal civil infraction enforcement activity through the issuance of an municipal civil infraction notice. As to each ordinance violation designated as a municipal civil infraction, the Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

SECTION 6. Municipal Civil Infraction Citations.

- A. Commencement Upon Issuance. A municipal civil infraction 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, and shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal civil infraction notice and shall fairly inform the alleged violator how to respond to the citation. The citation shall thereafter be processed in the manner required by law..
- B. Requirements for Issuance. Municipal civil infraction citations shall be issued and served by authorized township officials as follows:
- (1) 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 a municipal civil infraction and if the Township Attorney approves in writing the issuance of the citation.
 - (2) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
 - (3) The place for appearance specified in a citation shall be the District Court which has jurisdiction over Burdell Township.
 - (4) 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 as provided by Section 8705 of the Act, as amended.
 - (5) A citation signed by an authorized township 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."

- (6) An authorized township official shall serve a copy of the municipal civil infraction citations (1) personally upon the alleged violator; or (2) if the municipal civil infraction involves the use or occupancy of land, a building or other structure, the citation may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching the copy to the building or structure, and a second copy of the citation shall be sent to the owner of the land, building or structure by first class mail to the owner's last known address.

C. Contents.

- (1) A municipal civil infraction 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 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 within the time specified for appearance
 - (c) Deny responsibility for the municipal civil infraction in person or by representation by:
 - (i) Appearance 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 the alleged violator.
 - (ii) 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 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 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.
- (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 at 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 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 7. Municipal Ordinance Violations Bureau.

- A. Establishment. The Burdell Township Municipal Ordinance Violations Bureau (hereinafter the "Bureau") is hereby established pursuant to 1994 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 as municipal civil infractions, and to collect and retain civil fines/costs for such municipal civil infractions as prescribed herein.
- B. Location. The Bureau shall be located at the Township Hall/Office or such other location in the Township as may be designated by the Township Board.
- C. Personnel. All personnel of the Bureau shall be township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Township Board.
- D. Authority. The Bureau shall only have the authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violations notice (as compared to a citation) has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this Ordinance or other applicable ordinance. The Bureau shall not accept payment of fines/costs from any person who denies having committed the

alleged violation or who admits responsibility only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

- E. Records and Accounting. The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices, and 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 and/or 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.

SECTION 8. Ordinance Enforcement Officer.

- A. Ordinance Enforcement Officer Establishment. The Office of Burdell Township Ordinance Enforcement Officer is hereby established.
- B. Appointment. The Township Board is hereby authorized to appoint by motion and/or resolution any person(s) to the office of Ordinance Enforcement Officer for such term(s) as may be designated in said motion and/or resolution and for such compensation as the Board may determine. The Board may further, by motion and/or resolution, remove any person from said office, in the discretion of the Board.
- C. Authority. The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the Township, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different enforcing official or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this Ordinance, and the authority of the Ordinance Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer shall in the performance of the officer's duties be subordinate and responsible to the Supervisor or such other Township Board member as the Township Board may from time to time designate.
- D. Duties. The Ordinance Enforcement Officer's duties shall include the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as authorized under 1968 Public Act 147, as amended (MCL 764.9c); issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized under 1994 Public Act 12, as it may from time to time be amended (MCL 600.8701 et seq.); appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators;

and such other ordinance enforcing duties as may be delegated by the Township Board, Township Supervisor, or assigned by the Township Attorney.

SECTION 9. Authorized Township Officials. Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Township ordinance to the contrary, the following officials are hereby designated as the authorized Township officials to issue and serve (1) municipal civil infraction notices, (2) municipal civil infraction citations, and (3) Appearance Tickets for violations of Township ordinances which contain criminal misdemeanor penalties for violations of the ordinance involved:

Township Supervisor and deputies
Township Ordinance Enforcement Officer
Township Zoning Administrator and deputies
Township Clerk
Osceola County Sheriff and all other Deputy County Sheriffs of said County
Township Building Inspector
Township Fire Marshall
Township Mechanical and Electrical Inspectors

SECTION 10. Applicability of the Act. Except as otherwise expressly provided in this Ordinance, the provisions and requirements of the Act shall govern.

SECTION 11. 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.

SECTION 12. Repeal. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 13. Effective Date. This Ordinance shall become effective thirty (30) days after its publication as required by law following adoption by the Township Board.

This Ordinance was offered for adoption by Alan Van Antwerp and was seconded by Carlton Plyler, the vote being as follows:

YES: Darwin Norman, Carlton Plyler, Julie Seguin, Alan Van Antwerp, Faye Anderson

NO: (None)

ABSENT: (None)

ORDINANCE DECLARED ADOPTED.

Faye C. Anderson

Faye C. Anderson
Burdell Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Burdell Township Board at a Regular Meeting held at the Community Center and Library, 310 South Neilson Street, Tustin, Michigan, on August 8, 2000, at 7:00 p.m., pursuant to the required statutory notice and procedures.

Faye C. Anderson

Faye C. Anderson
Burdell Township Clerk

Go into effect 9-27-2000.