

**TOWNSHIP OF HOWELL
ORDINANCE NO. 132
CIVIL INFRACTIONS**

ADOPTED: January 28, 2002
EFFECTIVE: March 15, 2002

An Ordinance to provide for the enforcement of certain Howell Township ordinance violations through the issuance of civil infraction citations.

HOWELL TOWNSHIP ORDAINS:

SECTION 1 Definitions.

As used in this Ordinance:

- A. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- B. "*Authorized Township Official*" means the Township Manager, Building Inspectors, Code Enforcement Officers, Township Police Officers, Township Fire Inspectors, or other personnel of the Township authorized by this Code to issue municipal civil infraction citations or municipal civil infraction violation notices.
- C. "*Bureau*" means the Township of Howell Municipal Ordinance Violations Bureau as established by the Code.
- D. "*Code*" means the Ordinance of the Township of Howell, Livingston County, Michigan.
- E. "*Municipal Civil Infraction*" means an act or omission that is prohibited this Code, but which is not a crime under this Code, 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 this Code that is a criminal offense.
- F. "*Municipal Civil Infraction Action*" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

- G. "*Municipal Civil Infraction Citation*" or "*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.
- H. "*Municipal Civil Infraction Notice*" means a written notice prepared by an Authorized Township Official directing a person to appear at the Township of Howell 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 Board, as authorized under Sections 8396 and 8707 of the Act.
- I. "*Repeat Offense*" means any second or subsequent violation of the same ordinance, for which the person is found responsible or admits responsibility, committed by the person within one (1) year of a violation.
- J. "*Township*" means Howell Township.
- K. "*Violation*" means an act which is prohibited and made or declared to be a municipal civil infraction by the Code, including any omission or failure to act where the act is required by this Code.

SECTION 2 Municipal Civil Infraction Action; commencement.

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 3 Municipal Civil Infraction Citations; issuance and service.

Municipal Civil Infraction Citations shall be issued and served by Authorized Township Officials as follows:

- A. The time for appearance specified in a Citation shall be within 10 days 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 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.

- D. 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 compliant 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 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 required copies of a Citation.
- F. 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 Authorized Township Official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or township attorney approves in writing the issuance of the Citation.
- G. Municipal Civil Infraction Citations shall be served by an Authorized Township Official as follows:
 - (1) Except as provided by Section 3(G)(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 a copy on the land or attaching a copy to the building 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 4 Municipal Civil Infraction Citations; contents.

- A. 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.
- B. 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 to be represented by an attorney, unless a formal hearing before the judge is requested by the Township.
 - (b) Appearing in court for a formal hearing before a judge, with the opportunity to be 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 that 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 Municipal Civil Infraction 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 Citation.

SECTION 5 Schedule of civil fines established.

- A. Any person who is found responsible or admits responsibility for a Municipal Civil Infraction shall be subject to a civil fine and costs. The civil fines are set forth in Section 5(B), unless otherwise specified in the Code of Ordinances. Further, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in an ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. However, in no case shall costs of less than \$9.00 or more than \$500.00 be ordered.
- B. Each violation shall be considered a separate offense. The fines for the violations listed below shall be as follows:
- C. Any person found responsible or admits responsibility may be subject to restitution. Such restitution may include any and all costs incurred to Howell Township for enforcement of Ordinance, including personal service of notice or citation. Said restitution will be paid directly to Howell Township.

Ordinance	Offense (Violation)	Fine
	Failure to comply with any provision of the Ordinance.	Not less than \$100.00
	First Repeat Offense.	\$250.00
	Second (or any subsequent) Repeat Offense.	\$500.00

SECTION 6 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 affected hereby.

SECTION 7 Ordinances Enforced.

The following ordinances may be enforced by issuance of a Municipal Civil Infraction Citation or institution of a Municipal Civil Infraction Action:

- a. All violations of Ordinance No. 4, Litter and Junk, adopted on June 3, 1977.
- b. All violations of Ordinance No. 123, the Public Nuisance Ordinance, adopted on April 17, 2001.
- c. Article #21 Administration and Enforcement of Ordinance #1, Howell Township Zoning Ordinance, effective January 8, 1983.

SECTION 8 Effective Date.

This Ordinance shall become effective thirty (30) days after publication in a newspaper in general circulation within Howell Township.

(Amend. by Ord.#151 effective December 6, 2002)