

TOWNSHIP OF MELROSE

COUNTY OF CHARLEVOIX

Ordinance No. 6

MUNICIPAL CIVIL INFRACTION ORDINANCE

An Ordinance to designate violations of certain TOWNSHIP Ordinances as civil infractions, and establish civil fines pursuant to a schedule as prescribed by ordinance.

THE TOWNSHIP OF MELROSE ORDAINS:

Section 1. MUNICIPAL CIVIL INFRACTION DEFINED

A municipal civil infraction means any act or omission prohibited by the following MELROSE Ordinances or any other ordinance adopted by the TOWNSHIP of MELROSE that specifically designates the violation thereof as a civil infraction:

Ordinance No. 1	Commercial Refuse Haulers
Ordinance No. 2	Township Park
Ordinance No. 3	Zoning Ordinance
Ordinance No. 4	Mass Gathering Ordinance
Ordinance No. 5	Cemetery

Section 2. DEFINITIONS

ACT means Act No. 236 of the Public Acts of 1961, as amended.

AUTHORIZED TOWNSHIP OFFICIAL means the TOWNSHIP Supervisor, the TOWNSHIP Clerk, a Police Officer, Zoning Administrator, or other personnel of the TOWNSHIP duly authorized by the TOWNSHIP Supervisor to issue municipal civil infraction citations.

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 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.

MUNICIPAL CIVIL INFRACTION DETERMINATION means a determination that a defendant is responsible for a municipal civil infraction by one (1) of the following:

- (a) An admission of responsibility for the municipal civil infraction;
- (b) An admission of responsibility for the municipal civil infraction, "with explanation";

- © A preponderance of the evidence at an informal hearing or formal hearing on the question under section 8719 or 8721 of the Act;
- (d) A default judgment for failing to appear as directed by a citation or other notice at a scheduled appearance under section 8715(3)(b) or (4) of the Act, at an informal hearing under section 8719 of the Act, or at a formal hearing under section 8721 of the Act.

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 a reasonable time after the citation is issued, pursuant to District Court procedures.
- (b) The place for appearance specified in a citation shall be the district court.
- © 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 citations 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 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 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 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.
- (g) Municipal civil infraction citations shall be served by an authorized TOWNSHIP official as follows:

- (1) Except as proved by Section 4(g)(2) and (3), 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 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.
- (3) If the municipal civil infraction action involves the use of a motor vehicle, boat or snowmobile, a copy of the citation does not need to be personally served upon the alleged violator, but may be served by attaching the copy to the motor vehicle, boat or snowmobile. In addition, a copy of the citation shall be sent by first-class mail to the registered owner of the motor vehicle, boat or snowmobile at the owner's last known address.

Section 4. 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.
 - (B) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- © 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 5. SANCTIONS/PENALTIES

- (a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount prescribed by the schedule of fines adopted by TOWNSHIP BOARD resolution and in effect on the date of the offense, 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) The sanctions/penalties provided in this ordinance for a violation of the municipal civil infractions defined in Section 1 of this ordinance shall supersede and replace any sanctions/penalties set forth in those particular ordinances.
- (c) Unless otherwise specifically provided for a particular municipal civil infraction violation by this ordinance or the schedule of fines adopted by TOWNSHIP BOARD resolution, the civil fine for a violation of this ordinance shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
- (d) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (I) committed by a person within any 6 month period (unless some other period is specifically

provided by this ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this ordinance or the schedule of fines adopted by TOWNSHIP BOARD resolution for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

- (1) The fine for any offense which is a first repeat offense shall be no less than \$250.00, plus costs.
 - (2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00, plus costs.
- (e) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this or any other ordinance; and any omission or failure to act where the act is required by this or any other ordinance.
- (f) Each day on which any violation of this ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (g) In addition to any remedies available at law, the TOWNSHIP may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this TOWNSHIP Ordinance.

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 thereby.

Section 7. EFFECTIVE DATE

This Ordinance shall become effective upon publication.

ADOPTED: July 24, 1995


MELROSE TOWNSHIP CLERK


MELROSE TOWNSHIP SUPERVISOR

Ordinance was published in the Petoskey News Review on Monday, July 31, 1995

3 Graham
Melrose
533-8635
- civil infraction adopted