

**WAKEFIELD TOWNSHIP
MUNICIPAL CIVIL INFRACTIONS ORDINANCE**

ORDINANCE NO. 2-2018

An ordinance providing for municipal civil infractions of certain township ordinances and penalties pursuant thereto; establishing a municipal ordinance violations bureau and procedures relating thereto; authorization of which township officials can issue civil infraction tickets and appearance tickets; penalties; and procedures relating to such matters.

THE TOWNSHIP OF WAKEFIELD, GOGEBIC COUNTY, MICHIGAN, ORDAINS:

SECTION 1. TITLE

This ordinance shall be known as the “Wakefield Township Municipal Civil Infractions Ordinance.”

SECTION 2. DEFINITIONS

As used in this Ordinance:

- Act means Act No. 236 of the Public Acts of 1961, as amended, and Public Acts 12-26 of 1994, as amended.
- Authorized Township Official means the township supervisor, zoning administrator, building inspector, police officer, or other personnel or agent of the township authorized by this ordinance or any ordinance to issue municipal civil infraction citations.
- Bureau means the Wakefield Township Municipal Ordinance Violations Bureau as established by this ordinance.
- District Court means the 98th District Court, Gogebic County, Michigan.
- 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.

- Municipal Civil Infraction Violation Notice means a written notice prepared by an authorized township official, directing a person to appear at the Wakefield 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.
- Township means Wakefield Township.

SECTION 3. MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT

A municipal civil infraction action may be commenced upon the issuance by an authorized township official of:

- a. A municipal civil Infraction citation directing the alleged violator to appear in court; or
- b. A municipal civil infraction violation notice providing the alleged violator with an option to appear at the Bureau.

SECTION 4. 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.
- b. The place for appearance specified in a citation shall be the 98th District Court, Gogebic County, Michigan that has jurisdiction over Wakefield Township.
- 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 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.
- 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 to 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:
 - i. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;
or
 - ii. 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:
 - i. Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - ii. 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 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.

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:

- i. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - ii. Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or, in person, or by representation.
 - iii. Deny responsibility for the municipal civil infraction by doing either of the following:
 - 1) 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.
 - 2) 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:
 - i. 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.
 - ii. 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.
 - iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 - iv. 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.
 - v. 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. ESTABLISHMENT, LOCATION AND PERSONNEL OF THE MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- a. The township hereby establishes a Municipal Ordinance Violations Bureau as authorized under the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by this ordinance and any related ordinance.
- b. The Bureau shall be located at the Wakefield Township Hall, and shall be under the direct supervision and control of the township clerk. The township clerk, subject to the approval of the Township Board, may adopt rules and regulations for the operation of the Bureau and appoint the township treasurer or any other necessary qualified township employees to administer the Bureau.
- c. The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled for which a municipal civil infraction violation notice (as compared to a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this ordinance shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau, and instead may choose to have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- d. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions arising out of municipal civil infraction violation notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fee from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the veracity of any fact or matter relating to an alleged violation.

- e. Municipal civil infraction violation notices shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for citations as prescribed in this ordinance. In addition to any other information required by this ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

SECTION 7. SCHEDULE OF CIVIL FINES/COSTS

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 ordinance violation notices shall not exceed five hundred (\$500.00) dollars per violation. In addition to the 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 service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the Bureau. On matters that proceed in District Court, attorney fees may be assessed in an amount of up to five hundred (\$500.00) per violation.

SECTION 8. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF TOWNSHIP ORDINANCES; CONTINUING VIOLATIONS; INJUNCTIVE RELIEF

- a. Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction.
- b. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by a person within any twelve (12) month period (unless some other period is specifically provided by an ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

- i. The fine for any offense which is a first repeat offense shall be not less than \$100, plus costs.
 - ii. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$200, plus costs.
- c. A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.
- d. 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.
- e. 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 any township ordinance.

SECTION 9. 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/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 10. APPLICABILITY OF THE ACT

If this ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

SECTION 11. AVAILABILITY OF OTHER ENFORCEMENT OPTIONS

Nothing in this ordinance shall be deemed to require the township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation 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 12. 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 13. REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 14. EFFECTIVE DATE

This ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within Wakefield Township.

Adopted and approved by the Township Board of the Township of Wakefield, Gogebic County, Michigan, on the 4th day of December, 2018.

JOHN COX
Township Supervisor

MANDALYNN LAKE
Township Clerk

