

VILLAGE OF MATTAWAN
CIVIL INFRACTIONS ORDINANCE
ORDINANCE NO. 146

ORDINANCE TO PROVIDE FOR MUNICIPAL CIVIL INFRACTIONS AND A MUNICIPAL ORDINANCE VIOLATIONS BUREAU; AND TO PROVIDE FOR SANCTIONS FOR VIOLATIONS OF MUNICIPAL CIVIL INFRACTIONS.

THE VILLAGE OF MATTAWAN ORDAINS:

1. MUNICIPAL CIVIL INFRACTIONS

SECTION 1 DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.101 et seq., MSA 27A.101 et seq.), as amended.

Authorized Village Official means a police officer or other personnel of the village authorized by this ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the village municipal ordinance violations bureau, as established by this ordinance.

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 village 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 village official, directing a person to appear at the village 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 village, as authorized under sections 8396 and 8707(6) of the act (MCL 600.8396, 600.8707(6), MSA 27A.8396, 27A.8707(6)).

Repeat offense means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any six-month period, unless some other period is specifically provided by this Code or any ordinance, and for which the person admits responsibility or is determined to be responsible.

SECTION 2 DESIGNATION OF AUTHORIZED VILLAGE OFFICIALS

The following personnel of the village have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this ordinance:

- A. Police officers;
- B. Building services inspector;
- C. Code enforcement officer;
- D. Department of public works director; and
- E. Village manager.

SECTION 3 MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT

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

- A. A municipal civil infraction citation directing the alleged violator to appear in court; or

- B. A municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations bureau.

SECTION 4 MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- A. Bureau established. The village hereby establishes a municipal ordinance violations bureau (Bureau), as authorized under section 8396 of the act (MCL 600.8396, MSA 27A.8396) to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this ordinance or any ordinance.
- B. Location; supervision; employees; rules and regulations. The bureau shall be located at the village police department, and shall be under the supervision and control of the police chief. The police chief, subject to the approval of the village council, shall adopt rules and regulations for the operation of the bureau.
- C. Disposition of violations. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice, as compared with 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 village 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 may 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 afforded by law.
- D. Bureau limited to accepting admissions of responsibility. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, the truth or falsity of any fact or matter relating to an alleged violation.
- E. Municipal civil infraction violation notices. Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations in Section 6(d) and 6(e) of this ordinance. In addition to any other information required by this ordinance or other 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.
- F. Appearance; payment of fines and costs. An alleged violator receiving a municipal civil infraction violation 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 violation notice. An appearance may be made by mail, in person, or by representation.
- G. Procedure where admission of responsibility not made or fine not made. If an authorized village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by section 8705 and 8709 of the act (MCL 600.8705, 600.8709, MSA 27A.8705, 27A.8709), but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

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 to have been violated, 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/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 village.
 - b. 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:
 - (1) 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) 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) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the village.
 - (4) 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) 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 judgement against the alleged violator on the municipal civil infraction.

SECTION 6 SAME – ISSUANCE AND SERVICE

A. Municipal civil infraction citations shall be issued and served by authorized village officials as follows:

1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
2. The place for appearance specified in a citation shall be the 7th District Court, East Division.
3. Each citation shall be numbered consecutively and shall be in a form approved by the state court

administrator. The original citation shall be retained by the village and issued to the alleged violator as provided by section 8705 of the act (MCL 600.8705, MSA 27A.8705).

- B. A citation for a municipal civil infraction signed by an authorized village 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."
- C. An authorized village 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.
- D. An authorized village 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 village attorney approves in writing the issuance of the citation.
- E. Municipal civil infraction citations shall be served by an authorized village official as follows:
 - 1. Except as provided by subsection 6(e)(2) of this section, an authorized village 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 of the citation 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 7 FAILURE TO APPEAR; PENALTY

A person served with a municipal civil infraction citation, as provided in section 6(e), who fails to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than \$500.00. Failure to appear will also result in the entry of a default judgement on the municipal civil infraction.

SECTION 8 SCHEDULE OF CIVIL FINES ESTABLISHED

- A. A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows:

	Ordinance No.	Offense (Violation)	Fine
1	52 As amended by Ordinance No. 150	Violation of Ordinance No. 52 – Controlling Dog Ordinance	\$ 50.00
		First repeat offense	100.00
		Second repeat offense	200.00
		Third (or any subsequent) repeat offense	400.00
2	53 As amended by Ordinance No. 149	Violation of Ordinance No. 53 – Curfew Ordinance	\$ 50.00
		First repeat offense	100.00
		Second repeat offense	200.00
		Third (or any subsequent) repeat offense	400.00
3	148	Violation of Ordinance No. 148 – Littering in Public Places Ord.	\$ 50.00
		First repeat offense	100.00
		Second repeat offense	200.00
		Third (or any subsequent) repeat offense	400.00
4	151	Violation of Ordinance No. 151 – Grass and Noxious Weeds Ord.	\$ 50.00
		First repeat offense	100.00
		Second repeat offense	200.00
		Third (or any subsequent) repeat offense	400.00

- B. A copy of the schedule, as amended from time to time, shall be posted at the bureau.

SECTION 9 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 10 EFFECTIVE DATE

This ordinance shall become effective immediately upon publication in a newspaper in general circulation within the Village of Mattawan.

- II. This Ordinance shall become effective upon publication. (Ord. No. 146, eff. 09/01/95, amended by Ord. No. 154, eff. 03/01/96)