

ORDINANCE 60

CIVIL INFRACTIONS ORDINANCE

THE VILLAGE OF MARTIN ORDAINS:

SECTION 1. PURPOSE AND INTENT

This Ordinance hereby establishes the authority for all individual ordinances of the Village of Martin that term violations "civil infractions" to provide the method and means for enforcing said "civil infractions" pursuant to statutes made and provided and to permit the issuance of civil infractions citations and enforce same.

SECTION 2. DEFINITIONS AND RULES OF CONSTRUCTIONS

As used herein:

- (1) "Act" means Act No. 236 of the Public Acts of Michigan of 1961, as amended.
- (2) "Authorized village official" means a law enforcement officer or other personnel of the Village of Martin authorized by this chapter to issue municipal civil infraction citations or municipal civil infraction violation notices.
- (3) "Bureau" means the village municipal ordinance violations bureau as established by this Ordinance.
- (4) "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (5) "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.
- (6) "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.

SECTION 3. COMMENCEMENT

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of a municipal civil infraction citation directing the alleged violator to appear in court; or a municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations bureau.

SECTION 4. MUNICIPAL CIVIL INFRACTION CITATIONS-ISSUANCE AND SERVICE.

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 57th District Court for the State of Michigan, serving Allegan County, Michigan.

(3) 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 Village of Martin and issued to the alleged violator as provided by section 8705 of the Act.

(4) 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."

(5) An authorized village official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and completely as possible all original and required copies of a citation.

(6) An authorized village 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 an infraction and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized village official as follows:

a. Except as provided by subsection b. of this subsection, an authorized village official shall personally serve a copy of the citation upon the alleged violator.

b. 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.

(8) 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 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 of Martin.

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) 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 village.

(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. MUNICIPAL ORDINANCE VIOLATIONS BUREAU

(1) Bureau established. The village hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under section 8396 of the Act to accept admissions of responsibility for municipal civil infraction 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 chapter.

(2) Location; supervision; employees; rules and regulations. The bureau shall be located at the Village of Martin Hall and shall be under the supervision and control of the Village Clerk. The clerk, subject to the approval of the village council, shall adopt rules and regulations for the operation of the bureau and appoint any other necessary qualified village employees to administer the bureau, also subject to approval of the village council.

(3) Enforcement. Pursuant to this chapter, the zoning administrator shall be authorized to enforce the zoning ordinance and violations thereof, and the law enforcement department shall be authorized to enforce all other ordinances and they all shall automatically be "authorized village officials" pursuant to this chapter.

(4) 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 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 chapter 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 accorded by law.

(5) 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 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 truth or falsity of any fact or matter relating to an alleged violation.

(6) 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 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.

(7) 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.

(8) Procedure where admission of responsibility not made or fine not paid. 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 fines 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 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 sections 8705 and 8709 of the Act, 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. (Ord. No. 88, 6, 10

SECTION 6. SCHEDULE OF CIVIL FINES ESTABLISHED

(1) 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 shall be contained within each individual ordinance and a composite schedule for various ordinances shall be maintained by the village clerk.

(2) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

SECTION 7. SEVERABILITY AND CAPTIONS.

(1) This article and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any party, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected thereby. The captions included at the beginning of each section are for convenience only and shall not be considered a part of this article.

SECTION 8. REPEAL

(1) All resolutions, ordinances, orders or other parts thereon in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 9. PUBLICATION

(1) This Ordinance shall be published in a paper that has general circulation for the Village of Martin and County of Allegan, qualified under state law to publish legal notices, within one week after its adoption and the same shall be recorded in the Village of Martin's Book of Ordinances, and such recording authenticated by the signatures of the Village President and Village Clerk.

SECTION 10. EFFECTIVE DATE

This Ordinance shall be effective after publication and shall take effect on _____
August 3, 2009.

Adopted on July 13, 2009.

ATTEST:

Joyce Merrill
Joyce Merrill
Village Clerk

Larry W. Harness
Larry Harness
Village President

I hereby certify that the foregoing ordinance was, on July 20, 2009, published in the Penasee Globe, a newspaper circulated in the Village of Martin.

Joyce Merrill
Joyce Merrill
Village Clerk

Dated: July 13, 2009

**VILLAGE OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

Schedule Of Civil Fines For Ordinance Violations

- Ordinance 1: Ordinance to Prohibit Use of Fire Arms and Air Guns
Ordinance 2: Ordinance to Prohibit Use of Public Streets for Peddling or Setting up
Stands for Retail Sales
Fines: 1st Offense-\$5.00 and costs; 2nd Offense-\$10.00 and costs; third offense-\$25.00
and costs
- Ordinance 3: Ordinance For the Control of Stray Dogs
Fines: \$5.00 plus \$2.50 impound and/or destroy
- Ordinance 4: Ordinance for Restriction Residential Construction
Fines: \$100.00
- Ordinance 5: Ordinance to Control and Regulate the Sale, Possession and Use of Air
Guns, Bows and Arrows and Sling Shots
Fines: \$25.00
- Ordinance 6: Ordinance Defining Automobile Trailers and House Cars, Licensing Same
and Regulating Their Use
Fines: \$100.00
- Ordinance 7: No Fines
- Ordinance 8: Ordinance to Regulate the Operation of Circuses, Menageries, Carnivals,
Theaters, Concerts and other Public Exhibitions
Fines: Circuses-\$10.00 per day not to exceed \$50.00
Circus Side Shows: \$5.00 per day not to exceed \$25.00
Carnival: \$10.00 per day not to exceed \$50.00
Concert: \$25.00 per day not to exceed \$100.00
- Ordinance 9: Ordinance Defining and Regulating the Use of Display Signs and
Advertising Banners.
Fines: \$100.00
- Ordinance 10: Ordinance to Regulate the Construction and Use of Mains, Service Pipes,
Conductors, Conduits, Pole or other Appliances Pertinent Thereto
Fines: \$100.00
- Ordinance 11: Ordinance Defining, Regulating, and Licensing Transient Merchants,
Interent Merchants and Interent Vendors
Fines: \$100.00

Ordinance 12: Ordinance to Regulate the Keeping of Horses, Colts, Mules, Cows, Goats, Sheep, Swine and Fowl

Fines: \$100.00

Ordinance 13: Ordinance to Define and Prohibit Public Nuisances

Fines: \$50.00

Ordinance 14: Ordinance to Prohibit Hunting in the Village

Ordinance 15: Ordinance to Prohibit the Destruction, Defacement or Injury to Village Property

Ordinance 16: Ordinance to Prohibit Drag Racing and Exhibition Driving

Fines: \$100.00

Ordinance 17: Ordinance Relating to Traffic Upon the Public Streets and Parking

Fines: Not less than \$5.00 not more than \$10.00

Ordinance 18: Ordinance Limiting Parking

Fines: \$25.00

Ordinance 19: No fines

Ordinance 20: Zoning Ordinance

Fines: \$100.00

Ordinance 21: No fines

Ordinance 24: Building Code Ordinance

Fines: \$100.00

Ordinance 25: No fines

Ordinance 26: Public School Protection Ordinance

Ordinance 27: Ordinance to Control Growth of Weeds and Noxious Plants

Ordinance 28: Ordinance to Control and Regulate the Parking and Storage of Unlicensed and Dismantled Vehicles

Ordinance 29: Ordinance to Regulate Burning of Trash

Fines: \$100.00

Ordinance 30: No fines

Ordinance 32: No fines

Ordinance 33: No fines

Ordinance 34: No fines

- Ordinance 35: No fines
- Ordinance 36: Ordinance Regulating the Use of Public and Private Sewers
Fines: \$500.00
- Ordinance 38: No fines
- Ordinance 39: No fines
- Ordinance 40: No fines
- Ordinance 41: No fines
- Ordinance 42: See State Traffic Code for fines
- Ordinance 43: No fines
- Ordinance 44: Ordinance Providing for the Planting, Care and Removal of Trees and
Shrubs in Public Streets, Parkways and Public Areas
Fines: \$ 500.00
- Ordinance 45: No fines
- Ordinance 46: No fines
- Ordinance 47: No fines
- Ordinance 48: No fines
- Ordinance 49: No fines
- Ordinance 50: No fines
- Ordinance 51: No fines
- Ordinance 52: No fines
- Ordinance 53: No fines
- Ordinance 54: No fines
- Ordinance 55: Ordinance to Regulate Yard Sales, Garage Sales, Rummage Sales
Fines: \$100.00
- Ordinance 56: No fines

Ordinance 57: Adult Regulated Use Licensing Ordinance
Fines: \$100.00

Ordinance 58: Rental Registration and Inspection Ordinance
Fines: \$100.00

Ordinance 58-1: No fines

Ordinance 59: Junk or Dismantled Vehicle Ordinance
Fines: \$100.00

Ordinance 60: No fines