

**STATE OF MICHIGAN
COUNTY OF HURON
VILLAGE OF PORT AUSTIN**

ORDINANCE NO. 90-04
MUNICIPAL CIVIL INFRACTIONS.

**AN ORDINANCE TO ESTABLISH A PROCEDURE FOR ENFORCING CIVIL INFRACTIONS AND TO EXPLAIN
THE PENALTIES.**

THE VILLAGE OF PORT AUSTIN ORDAINS:

At a special meeting held in chambers on the 30th day of July, 2004

The Village of Port Austin ordains:

1.00.00 CIVIL INFRACTIONS

1.01.00 Definitions

- A.) *“Act”* means the Michigan Revised Judicature Act, 1961 PA 236, as amended.
- B.) *“Authorized Village official”* means a police officer or other personnel of the Village authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- C.) *“Bureau”* means the Village of Port Austin Municipal Ordinance Violations Bureau as established by this Article.
- D.) *“Municipal civil infraction action”* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- E.) *“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.
- F.) *“Municipal civil infraction violation notice”* means a written notice prepared by an authorized official, directing a person to appear at the Village of Port Austin Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines under 1.06.00, as authorized under Sections 8396 and 8707(6) of the RJA.

1.02.00 Municipal Ordinance Violations Bureau

- A.) Bureau established.
The Village hereby establishes a Municipal Ordinance Violations Bureau (“Bureau”) as authorized under Section 8396k of the Act 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 Port Austin Village ordinances.
- B.) Location; supervision; employees; rules and regulations.
The Bureau shall be located at the Village Hall or such other place as the Village Council may designate, and shall be under the supervision and control of the Treasurer of the

Village of Port Austin. The Treasurer, subject to approval of the council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified employees to administer the Bureau.

C.) Disposition of Violation.

- 1.) The Bureau may dispose of only municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction notice (as opposed to a citation) has been issued.
- 2.) 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.
- 3.) Payment of a civil infraction fine does not relieve a defendant of the obligation to remedy the violation.
- 4.) Nothing in the Article shall prevent or restrict an official of the Village of Port Austin from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.

D.) Bureau scope of authority limited.

- 1.) 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.
- 2.) 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, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- 3.) 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.
- 4.) 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.

1.03.00 Municipal Civil Infraction Violation Notices, Commencement

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

- A.) A municipal civil infraction violation notice directing the alleged violator to appear at the Village Municipal Ordinance Violation Bureau to accept responsibility, or
- B.) A municipal civil infraction citation directing the alleged violator to appear in court; either because of failure to admit responsibility for a Violation Notice or as initially issued.

1.04.00 Municipal Civil Infraction Violation Notices

A.) Form.

Municipal civil infraction violation notices shall be issued and served by the authorized Village officials under the same circumstances and upon the same persons as required for citations as provided herein.

- 1.) In addition to any other information required by this ordinance or other Village ordinances, the notice of violation shall indicate:
 - a.) The time by which the alleged violator must appear at the Bureau,
 - b.) The methods by which an appearance may be made,

- c.) The address and telephone number of the Bureau,
 - d.) The hours during which the Bureau is open,
 - e.) The amount of the fine scheduled for the alleged violation, and
 - f.) The consequences for failure to appear and pay the required fine within the required time.
- B.) Appearance; payment of fines and costs.
 An alleged violator receiving a municipal civil infraction violation 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 by mail, in person, or by representation.
- C.) 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 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 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.

1.05.00 Municipal Civil Infraction Citations; Contents; Issuance; Service

- A.) Contents.
 The municipal ordinance citation shall contain:
- 1.) The name and address of the alleged violator,
 - 2.) The ordinance alleged to have been violated as a municipal civil infraction,
 - 3.) The place where the alleged violator shall appear in court,
 - 4.) The telephone number of the court,
 - 5.) The date and time at or by which the appearance shall be made,
 - 6.) The alternative responses open to the Defendant
 - a.) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - b.) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
 - i) 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 appearance.
 - c.) Deny responsibility for the municipal civil infraction.
 - i) 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. The hearing will be either:

1. An informal hearing, before a judge or district court magistrate, without the opportunity of being represented by an attorney, or
 2. A formal hearing, with attorneys, before the district judge.
 - ii) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Village.
- 7.) Default Notice.
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.
- B.) Municipal civil infraction issuance and service.
Municipal civil infraction citations shall be issued and served by authorized Village officials as follows:
- 1.) Information.
 - 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 district court.
 - c.) Each citation shall be numbered consecutively and shall be in a form approved by the court. The original citation shall be filed with the district court. Copies of the citation shall be retained by the Village and issued to the alleged violator as provided by Section 8705 of the Act.
 - 2.) Affirmation.
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 penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."*
 - 3.) Preparation.
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 the citation.
 - 4.) Service.
 - a.) Except as provided in section "b", below, an authorized Village official shall personally serve a copy of the citation upon the alleged violator.
 - b.) If the municipal civil infraction 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. 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.

1.06.00 Schedule of Civil Fines Established

- A.) A schedule of civil fines payable to the Bureau is hereby established as part of the Annual Fee Resolution. Persons served with municipal civil infraction violation notices may pay said fines directly to the Bureau.
- B.) Unless otherwise specifically designated, offenses designated as civil infractions in the Village of Port Austin Code of Ordinances shall be considered as GRADE A violations.
- C.) Each and every day that a violation continues unabated is deemed a separate offense. However, correction of the violation and payment of the fine within seven (7) days of initial issuance shall be considered a single day violation.
- D.) A copy of the fines shall be posted at the Bureau.

1.07.00 Publication and Effective Date

- A.) A summary of this ordinance shall be published in a newspaper in general circulation within the Village within seven (7) days.
- B.) This ordinance shall become effective 20 days after publication.

Presented at a special meeting of the Village of Port Austin held in the Village Hall on the 30th day of July, 2004

Motion by: _____ Seconded by: _____

Yeas: _____ Nays: _____

Absent: _____ Abstain: _____

Ordinance Adopted on the 30th day of July, 2004.

Judy Binkley, Clerk

Marilyn Bruce, President

Clerk's Certification

Judy Binkley, Clerk of the Village of Port Austin, certifies that:

- 1.) A special meeting on the amendment was conducted in the Village Hall on the 30th day of July, 2004 at 9:00 a.m.
- 2.) The ordinance was adopted on the 30th day of July, 2004.
- 3.) The ordinance or a synopsis thereof was published on the _____ day of _____, 2004.
- 4.) The Ordinance is effective 20 days thereafter, on the _____ day of _____, 2004.
- 5.) An executed copy of the adopted ordinance was submitted to the Village attorney on the _____ day of _____, 2004.