

**Charter Township of Portage
Municipal Civil Infraction Ordinance
Number _____**

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF PORTAGE ORDINANCE NO. 144 – MUNICIPAL CIVIL INFRACTION ORDINANCE, AND TO REPEAL ANY ORDINANCE IN CONFLICT HEREWITH.

AN ORDINANCE TO ESTABLISH PROCEDURES FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTIONS, SPECIFICALLY BY DESIGNATED TOWNSHIP OFFICIALS AUTHORIZED TO ISSUE MUNICIPAL CIVIL INFRACTIONS, BY DESIGNATING THE METHODS OF COMMENCING MUNICIPAL CIVIL INFRACTION CITATIONS AND OF MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES, BY ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU, AND BY PROVIDING FOR PENALTIES FOR FAILING TO APPEAR ON MUNICIPAL CIVIL INFRACTIONS.

THE CHARTER TOWNSHIP OF PORTAGE, MICHIGAN, ORDAINS:

SECTION 1 - TITLE: This Ordinance shall be known and may be cited as the "Municipal Civil Infraction Ordinance".

SECTION 2 – AUTHORITY: Michigan legislative authorization under MCL 600.8701 & 600.8745 gives the Township authority to establish Municipal Civil Infractions.

SECTION 3 - DEFINITIONS: For the purposes of the provisions of this ordinance, the following words and phrases shall be construed to have the meaning herein set forth, unless it is apparent from the context that a different meaning is intended:

- a. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- b. "Authorized Township Official" means a law enforcement officer, a Twp. Constable, or other personnel of Charter Township of Portage authorized by this ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- c. "Bureau" means the Charter Township of Portage Municipal Ordinance Violations Bureau as established by this ordinance.
- 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 document 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.

- f. "Municipal Civil Infraction Violation Notice" means a written document prepared by an authorized law enforcement officer, Constable, or authorized Township Official directing a person to appear at the Charter Township of Portage Municipal Ordinance Violations Bureau and to pay the fine and costs.

g. "Authorized Township Officials" mean Township Constables, Zoning Administrators, Township Supervisor, Planning Commission Chairperson, and Township Clerk, all of which are personnel of the Charter Township of Portage and have the authority to issue municipal civil infraction notices and citations pursuant to this ordinance.

SECTION 4 - ISSUANCE OF MUNICIPAL CIVIL INFRACTION NOTICE. Prior to issuance of a civil infraction citation, if the alleged violation is not one which poses a threat of imminent harm to the public, an authorized township official MAY issue a municipal civil infraction violation notice (hereinafter referred to as "violation notice"). The violation notice shall contain the following information: name and address of the alleged violator, the municipal civil infraction alleged, the action step which must be taken to remedy the municipal civil infraction and the time period in which to complete the remedial action. The violation notice shall also inform the alleged violator that a failure to comply with the actions required in the violation notice, shall result in a citation and enforcement pursuant to the township Municipal Civil Infraction Ordinance. If the violation is remedied within 30 days of receipt of the violation notice, the matter will be deemed resolved. If the violation continues after 30 days, a fine shall issue in accordance with the ordinance that was violated, if no fine is provided for in the ordinance, the initial fine shall be \$100. If after issuance of the initial fine, the violation is resolved and the fine is paid, the matter is complete. If, however, the violation continues for an additional 7 days, the subsequent fine shall be \$250. If the violation is not resolved after the second fine, the matter shall be pursued through a citation as outlined below.

SECTION 5 - COMMENCEMENT OF ACTION. A municipal civil infraction action may be commenced upon the issuance by an authorized township official of a municipal civil infraction citation directing the alleged violator to appear in court.

SECTION 6 - ISSUANCE AND SERVICE OF CITATIONS. Municipal civil infraction citations shall be issued and served by an authorized township official 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 before the Magistrate in District Court.
- c. 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 Township and a copy 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 committing a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an

original and required copies of the civil infraction citation.

- f. An authorized Township Official may issue a citation to a person if:
 - (a) Based upon investigation of a complaint by someone who allegedly witnessed the person committing a municipal civil infraction, the authorized Twp. 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:
 - (a) Except as provided by Section 8(g), an authorized Township 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.

SECTION 7 - CONTENTS OF CITATIONS.

- 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.

- 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 District 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 District 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 the District Court Magistrate, without the opportunity of being represented by an attorney.
 5. That at formal hearing, the alleged violator must appear in person before the District Judge, with the opportunity of being represented by an attorney.
- d. The citation shall contain a notice in bold faced type that the failure of the alleged violator to appear within the time specified in the citation or 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 8 - MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

- a. **Bureau Established.** The Township hereby establishes a Municipal Ordinance Violations Bureau ("Bureau") as authorized under Section 8396 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 Township Officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.
- b. **Location; Supervision; Employees; Rules and Regulations.** The Bureau shall be located in the Township Building and shall be under the supervision and control of the Township Supervisor. The Township Supervisor, subject to the approval of the Township Board, shall adopt rules and regulations for the operation of the Bureau.
- c. **Disposition of Violations.** The Bureau may dispose only of municipal civil infraction(s) where the Township will not further pursue the civil infractions because the alleged violator wishes to dispose of the scheduled fines. No person shall be required to dispose of a municipal civil infraction violation at the Bureau. They may choose to have the violation processed before a court with the appropriate jurisdiction. The unwillingness of any person to dispose of any civil infraction(s) at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded 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. 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.
- e. **Municipal Civil Infraction Violation Notices.** Municipal civil infraction violation notices shall be issued and served by authorized Township Officials, as provided in Sections 6(f) and (g). In addition to any other information required by this Code 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, penalties, and associated costs at or by the time specified for appearance in the municipal civil infraction violation notice. The fine may be paid by mail, in person, or by a representative.
- g. **Procedure Where Admission of Responsibility Not Made or Fine Not Paid.** If an authorized Township Official issues and serves a municipal ordinance notice and if an admission of responsibility is not made or the civil fine and associated costs are not paid, the municipal civil infraction may be filed in the District Court and a copy of the citation 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 MCL 8705 and 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 9 - FAILURE TO APPEAR: PENALTY. A person served with a municipal civil infraction citation as provided in Section 6(g) 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 less than Five hundred (\$500) dollars or imprisonment for not more than ninety (90) days or by both such fine and imprisonment at the discretion of the court. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

SECTION 10 - SEVERABILITY. If any Section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 11 - SAVINGS. If this ordinance is amended in the future, all pending infractions may be prosecuted according to the ordinance in force at that time.

SECTION 12 - REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 13 - EFFECTIVE DATE.

This ordinance shall become effective 30 days after the second publication.

This ordinance was introduced at the first reading by the Charter Township of Portage Board of Trustees meeting on the ____ day of _____, 20__.

This Ordinance was adopted by the Charter Township of Portage Board of Trustees upon its second reading on the ____ day of _____, 20__.

Final acceptance of the ordinance occurred on the ____ day of _____, 20__.

CHARTER PORTAGE TOWNSHIP:

Amy Skewes, Clerk

ATTEST:

Brandon Scholie, Supervisor

**CHARTER TOWNSHIP OF PORTAGE
OF HOUGHTON COUNTY, MICHIGAN**

ORDINANCE NO. 132 - AMENDED

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF PORTAGE ORDINANCE NO. 132 - NOISE CONTROL, TO PROVIDE FOR PENALTIES FOR A VIOLATION, AND TO REPEAL ANY ORDINANCE IN CONFLICT HEREWITH.

THE CHARTER TOWNSHIP OF PORTAGE ORDAINS:

Ordinance 132 -Amended - Noise Control:

1. **LOUD AND UNNECESSARY NOISE:** It shall be a violation of this Ordinance and unlawful for any person to make, continue to make, or cause any loud, unnecessary, or unusual noise, or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the Township in public and private places.

2. **SPECIFIC OFFENSES** The following acts are hereby declared to be violations of this Ordinance:

A., The continuous use of horns, signaling devices, or any device emitting harsh and unreasonably loud sounds emanating from a vehicle, other than to insure safe operation.

B. The operation of radios, television sets, phonographs, musical instruments, loud speakers, amplifiers, or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of neighboring inhabitants, by use of a louder volume than necessary for convenient hearing for the person or persons who are in a room, structure, vehicle, or other enclosure, in a public or private place, in which such machine or device is being played.

C. Continuous yelling, shouting, hooting, or singing in a public place at any time disturbing other persons in the vicinity.

D. The keeping of any animal, bird, or fowl causing continued noises disturbing the comfort, peace, and repose of -any person in the vicinity.

E. The operation of electric motors, compressors, or internal combustion engines on vehicles where the noise emanating therefrom endangers the health, well-being, and peace of others within the limits of the Township, between the hours of 10:00 p.m. and 7:00 a.m.

F. Making, aiding, countenancing, or assisting in the making of a false fire alarm.

G. The modification of any noise abatement device on any vehicle or engine, or the failure to maintain the same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle or engine as originally

manufactured.

H. The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and 10:00 p.m., except in cases of necessity in the interest of public health and safety.

I. The creation of loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

J. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose by the emission of loud and raucous noise, which shall be unreasonably disturbing to other persons in the vicinity.

K. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.

3. **EXCEPTIONS:** None of the prohibitions provided herein shall apply to or be enforced against:

A. Any police, fire, ambulance, or other type of responder vehicle while engaged in an emergency.

B. The excavation, repair, maintenance, or other type of activity with regard to bridges, streets, highways, or public utilities, including sewer and water installation, telephone, gas, and electrical lines, by or on behalf of the Township, County, or State during the nighttime, when the public safety, welfare, and convenience renders it impossible to perform such work during daylight hours.

4. **PENALTY:** Any person in violation of this Ordinance shall be penalized in accordance with the provisions of Ordinance No. 144, the Charter Township of Portage "Municipal Civil Infraction Ordinance".

5. **REPEAL:** Any other ordinance, or part thereof, in conflict with this Ordinance is repealed.

6. **EFFECTIVE DATE:** This Ordinance shall be in force 30 days after its passage and publication as required by law.

This Ordinance was first introduced and read by the Charter Township Board of Trustees on the ____ day of _____, 1997.

**Portage Charter Township
Ordinance 132 - Amended
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— This Ordinance is adopted by the Charter Township of Portage Board on the
day of _____, 1997.

CHARTER TOWNSHIP OF PORTAGE:

Amy Skewes, Clerk ATTEST:

Brandon Scholie, Supervisor

[SEAL]

