

ORDINANCE NO. 201

**AN ORDINANCE TO ESTABLISH MUNICIPAL CIVIL INFRACTIONS
IN THE TOWNSHIP OF ALGANSEE.**

The Township of Algansee ordains:

Section 1. Definition. The Township hereby adopts the following definition, to be placed within its record of Ordinances:

Township Municipal Civil Infraction. The words "Township Municipal Civil Infraction" mean an act or omission as prohibited by this Code or any ordinance of the Township, but which is not a crime under this or any other ordinance of the Township and for which civil sanctions, including, but without limitations, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act 236 of Public Acts of 1961, as amended. A Township Municipal Civil Infraction is not a lesser included offense in violation of a Township ordinance that is a criminal offense.

Section 2. General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations; Injunctive Relief.

(a) Unless a violation of this or any other ordinance of the Township is specifically designated as a Township Municipal Civil Infraction, the violation shall be deemed a misdemeanor.

(b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation of this or any other Township ordinance.

(c) Sanctions for a violation which is a Township Municipal Civil Infraction shall be a civil fine in the amount as provided by this or any other Township ordinance, plus any costs, damages, expenses and other sanctions as authorized in Chapter 87 of Act 236 of the Public Acts of 1961, as amended, and other applicable laws.

(i) Unless otherwise specifically provided for a particular Township Municipal Civil Infraction violation of this or any other Township ordinance, the civil fine for a violation shall be not less than \$50 plus costs and other sanctions for each infraction.

(ii) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this or any other Township ordinance. As used in this section, "repeat offense" means a second (or any subsequent) Township Municipal Civil Infraction violation of the same requirement or provision (i)

committed by a person within any six month period (unless such other period is specifically provided by ordinance) and (ii) for which a person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by ordinance for a particular Township Municipal Civil Infraction violation, the increased fines for repeat offenses shall be as follows:

(A) The fine for any offense which is a first repeat offense shall be no less than \$100, plus costs;

(B) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$250, plus costs.

(d) A "violation" includes any act which is prohibited or made or declared to be unlawful or offense by this or any other Township ordinance; and any omission or failure to act where an act is required by this or any other Township ordinance.

(e) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties and sanctions as a separate offense.

(f) 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 this or any other Township ordinance.

Section 3. Definitions. In used in relation to Municipal Civil Infractions:

"Act" means Act 236 of Public Acts of 1961, as amended.

"Authorized Township Official" means Alganssee Township Supervisor or his or her designee or other personnel of the Township authorized by this Ordinance to issue Township Municipal Civil Infraction citations or Township Municipal Civil Infraction violation notices.

"Township Municipal Civil Infraction Action" means a civil action in which a defendant is alleged to be responsible for a Township Municipal Civil Infraction.

"Township 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 Township Municipal Civil Infraction violation by the person cited.

Section 4. Township Municipal Civil Infraction Action; Commencement. The Township Municipal Civil Infraction action may be commenced upon the issuance by the

authorized Township official of a Township Municipal Civil Infraction Citation or a Township Municipal Civil Infraction Violation Notice directing the alleged violator to appear in the District Court for Branch County.

Section 5. Township Municipal Civil Infraction Citations; Issuance and Service. Township Municipal Infraction Citations shall be issued and served by authorized Township officials as follows:

(a) Time for appearance specified in the citation shall be within a reasonable time after the citation is issued.

(b) Place for appearance specified in the citation shall be the District Court for Branch County.

(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 Township 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) If an authorized Township official witnesses a person commit a Township Municipal Civil Infraction, he or she shall prepare and subscribe, as soon as possible, and as completely as possible, an original and required copies of the citation.

(f) An Authorized Township official may issue a citation to a person:

(i) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a Township Municipal Civil Infraction; or

(ii) Based upon the investigation of a complaint by someone who allegedly witnessed a person commit a Township Municipal Civil Infraction, the official has reasonable cause to believe the person is responsible for an infraction and that if the prosecutor attorney approves in writing the issuance of a citation.

(g) Township Municipal Citation Infractions shall be served by an authorized Township official as follows:

(i) Except as provided by Section ii below, authorized Township officials shall personally serve a copy of the citation upon the alleged violator;

(ii) If the Township Municipal Infraction action involves the use or occupancy of land, or building or other structure, a copy of this 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 placing a copy on the land or attaching a copy to the building or structure. In addition a copy of this 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 6. Township Municipal Civil Infraction Citations; Contents.

(a) A Township Municipal Civil Infraction Citation shall contain the name and address of the alleged violator, the Township Municipal Civil Infraction alleged, the place where the alleged violator shall appear in Court, the time at or by which the appearance shall be made.

(b) Further, this 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:

(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 for 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) This 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 reply 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 the appearance.

(ii) That if the alleged violator desires to deny responsibility, the alleged violator must reply to the Court in person, by mail, or 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 boldface 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 for the Township Municipal Civil Infraction.

Section 7. Severability. The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is declared unconstitutional by Court of competent jurisdiction, the remainder of the Ordinance shall be not be effected hereby.

Section 8. Effective Date. This Ordinance shall become effective thirty days after publication in the newspaper of general circulation in Branch County, Michigan.

First Reading: June 1, 1998

Second Reading: July 6, 1998

Effective Date: August 9, 1998

Erica D. Ewers
Township Supervisor

Suzanne R. Preston
Township Clerk