

AN ORDINANCE ADOPTED PURSUANT TO 1994 PA 12, BEING MCL 600.8396, ET SEQ. AND 1985 PA 3, BEING MCL 66.2, ET. SEQ. FOR THE PURPOSE OF ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU; ESTABLISHING MUNICIPAL ORDINANCE VIOLATION ENFORCEMENT AUTHORITY; SETTING FORTH THE REQUIREMENTS FOR INITIATION OF CIVIL INFRACTION ACTIONS AND ISSUANCE, NOTICE AND SERVICE REQUIREMENTS FOR CIVIL INFRACTION CITATIONS AND NOTICES, AND AMENDED BY ORDINANCE NUMBER 01 OF 2015.

THE VILLAGE COUNCIL OF THE VILLAGE OF ONEKAMA ORDAINS:

**SECTION 1: TITLE**

This Ordinance shall be known and cited as the Village of Onekama Municipal Ordinance Violations Bureau Ordinance, Ordinance #30.

**SECTION 2: DEFINITIONS:**

As used in this Ordinance:

ACT: means Act No. 236 of the Public Acts of Michigan of 1961, as amended.

AUTHORIZED VILLAGE OFFICIAL: means a person authorized by this 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 fines and costs, if any prescribed for the violation. by the schedule of fines adopted by the village, as authorized by Section 8396 and 8707(6) of the Act.

**SECTION 3: ESTABLISHMENT, LOCATION AND PERSONNEL OF MUNICIPAL VIOLATIONS BUREAU.**

- (A) **Establishment:** The Onekama Village Municipal Ordinance Violations Bureau (hereinafter "Bureau") is hereby established pursuant to 1994 Public Act No. 12 (MCL 600.8396) and 1895 PA 3 (MCL 66.2), as same

may be amended from time to time, for the purpose of accepting admissions of responsibility for municipal civil infraction notices issued and served by authorized village officials, and to collect and retain civil fines and/or costs for such violations as prescribed herein.

- (B) **Location:** The Bureau shall be located within the Village Offices or such other location within the Village as may be designated by the Village Council.
- (C) **Personnel:** All personnel of the Bureau shall be Village employees. The Village Council may, by resolution, designate a Bureau Clerk, with the duties prescribed herein and as otherwise may be delegated by the Village Council, including the authority to adopt rules and regulations for the operation of the Bureau and to appoint any other necessary qualified village employees to administer the Bureau, subject to the approval of the Village Council. The Village Clerk is designated as the Bureau Clerk.
- (D) **Enforcement:** The Onekama Village Zoning Administrator shall be authorized to enforce the Onekama Village Zoning Ordinance and to have necessary legal action initiated pursuant to Section 9805 of the Zoning Ordinance. The Zoning Administrator shall be an "authorized village official" pursuant to this Ordinance and shall be the Enforcement Officer under Section 6.B of the Village of Onekama Property Maintenance Ordinance, Number 42. The Zoning Administrator shall have the authority under the circumstances set forth in this Ordinance to issue Municipal Civil Infraction Violation Notices and Municipal Civil Infraction Citations for violations of the Zoning Ordinance and for violations of Ordinance #42. The Village Council President shall be authorized to enforce all other ordinances and shall be an "authorized village official" pursuant to this Ordinance.

#### **SECTION 4: BUREAU AUTHORITY.**

- (A) The Bureau's authority shall be limited to accepting admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violation notice (as compared to a citation) has been issued and served, and to collect and retain the scheduled civil fines and costs for such violations as specified in this Ordinance and/or other applicable ordinances.
- (B) The Bureau shall not have authority to accept payment of fines or costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation.
- (C) Under no circumstances shall the Bureau determine or attempt to determine the truth or falsity of any fact or matter relating to the alleged ordinance violation.

#### **SECTION 5: INITIATION OF MUNICIPAL CIVIL INFRACTION ACTION:**

A municipal civil infraction action may be initiated by (a) by the issuance and service by an authorized village official of a municipal civil infraction citation directing the alleged violator to appear in court, or (b) the issuance and service by an authorized village official of a municipal civil infraction violation notice directing the alleged violator to appear at the village municipal ordinance violations Bureau.

**A. INITIATION BY ISSUANCE OF CIVIL INFRACTION VIOLATION CITATION;  
ISSUANCE, NOTICE AND SERVICE REQUIREMENTS:**

Municipal civil infraction citations shall be issued and served by an authorized village official as follows:

- ( 1) 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;
  - (i) 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."
- (2) An authorized village official may issue a citation to a person if:
  - (i) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - (ii) 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.
- (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 and issued to the alleged violator as provided by section 8705 of the Act;
- (4) The 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.

- ( 5) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued;
- ( 6) The place for appearance shall be specified in the citation and shall be the 85th District Court for the County of Manistee, State of Michigan;
- ( 7) The municipal ordinance citation shall also inform the alleged violator that he 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 infraction by doing either of the following:
    - (a) Appearing in person for an informal hearing before the District Court Judge or Magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before the District Court Judge is requested by the Village;
    - (b) Appearing in court for a formal hearing before the District Court Judge, with the opportunity of being represented by an attorney.
- (8) The Municipal Civil Infraction 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 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 the appearance.
  - (ii) 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;
  - (iii) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or by the Village within 10 days before the hearing date. The request for a formal hearing may be made in person, by representation, by mail or by telephone and notice of the request must be given to the other party or parties at least 10 days before the hearing date;

- (iv) That at an informal hearing the alleged violator must appear in person before the District Court Judge or Magistrate, without the opportunity to be represented by an attorney;
- (v) That at a formal hearing, the alleged violator must appear in person before the District Court Judge with the opportunity to be represented by an attorney.
- (vi) The Municipal Civil Infraction Citation shall contain a notice in boldfaced type that the failure of the alleged violator to answer the citation or 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.

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

- (i) Except as provided by subsection ii, hereof, an authorized village official shall personally serve a copy of the citation upon the alleged violator;
- (ii) 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.

**B. INITIATION BY ISSUANCE OF CIVIL INFRACTION VIOLATION NOTICE;  
ISSUANCE, NOTICE AND SERVICE REQUIREMENTS:**

A Municipal Civil Infraction Violation Notice may be issued and served by an authorized village official as follows:

- (1) Notice Requirements: The Municipal Civil Infraction Notice shall include, at a minimum, the following information:
  - (i) A description of the violation, including reference to the applicable Village Ordinance section;
  - (ii) The time within which the person must contact the Bureau for the purpose of admitting or denying responsibility for the alleged violation;

- (iii) The amount of the scheduled fines and costs for the violation;
  - (iv) The methods by which the violation may be admitted or denied which include appearing in person at the Bureau, or by mail or by representation on or before the specified time;
  - (v) The consequences of failing to pay the required fines and costs or of failing to contact the Bureau within the required time period;
  - (vi) The address and telephone number of the Bureau; and
  - (vii) The days and hours the Bureau is open.
- (2) Service of Notice: The Municipal Civil Infraction Notice shall be served in the same manner prescribed at paragraphs 8(i) and 8(ii), above.
- (3) Effect of Denial of Responsibility or Failure to Appear or Pay Fines and Costs: If a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil fines and costs within the designated time period, the Bureau Clerk or other designated village employee shall advise the authorized village official (complainant) to issue and file a municipal civil infraction citation for such violation with the 85th District Court, Manistee County, Michigan according to the provisions of Section 5:A, herein EXCEPT THAT the service of the citation may be made by first class mail upon the alleged violator at his or her last known address.

**SECTION 6: SCHEDULE OF CIVIL FINES AND COSTS.**

Unless a different schedule of fines and costs is provided for an applicable ordinance or resolution, the civil fines payable to the Bureau upon admission of responsibility by persons served with municipal ordinance violation notice(s) shall be determined pursuant to the following schedule:

1st violation within a 3-year period:	\$50.00
2nd violation within a 3-year period:	\$125.00
3rd violation within a 3-year period:	\$250.00
4th or subsequent violation within a 3-year period:	\$400.00

The 3-year period is determined on the basis of the date of the violation.

In addition to the above civil fines, the Bureau shall assess costs in the amount of \$10.00 if the fine and the costs are paid within 10 days of the date of service of the municipal ordinance violation notice. In the event that the fine and costs are not paid within 10 days of the date of the service of the municipal ordinance violation notice, the Bureau shall assess costs of \$20.00.

A Schedule of Fines and Costs shall be posted at the Bureau.

**SECTION 7: RECORDS AND ACCOUNTING:**

The Bureau Clerk or other designated village official or employee shall retain a copy of all municipal ordinance violations notices, and shall account to the Village Council once a month or at such other intervals as the Village Council may require, concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Bureau and the amount of fines and costs collected with respect to such violations. The civil fines and costs collected shall be delivered to the Village Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Village.

**SECTION 8: AVAILABILITY OF OTHER ENFORCEMENT REMEDIES:**

Nothing in this Ordinance shall be deemed to require the Village to initiate its municipal civil infraction activity through the issuance of an ordinance violation notice. As to each Ordinance violation designated as a municipal civil infraction, the Village may, in its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

**SECTION 9: SEVERABILITY.**

The provision of this Ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

**SECTION 10: REPEAL.**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 11: EFFECTIVE DATE.**

This Ordinance shall take effect on the 21st day following publication as required by law.

THOSE VOTING IN FAVOR: Miller, Drumm, Hendricks, Milasich, Bauer, Burger

THOSE VOTING AGAINST:

THOSE ABSENT OR ABSTAINING: Hudson

**CERTIFICATION BY VILLAGE PRESIDENT**

I, ROGER BURGER, President of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of Ordinance No. 30 as amended by Ordinance No. 1 of 2015 and as adopted by the Village Council at a meeting held on the 20th day of May, 2015.

Dated: May 20, 2015

/s/ Roger Burger  
Roger Burger, President

**CERTIFICATION BY TEMPORARY CLERK OF THE VILLAGE OF ONEKAMA**

I, ALICE E. HENDRICKS, Temporary Clerk of the Village of Onekama, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of Ordinance No. 30 as amended by Ordinance No. 1 of 2015 and as adopted by the Village Council at a meeting held on the 20th day of May, 2015.

Dated: May 20, 2015

/s/ Alice E. Hendricks  
Temporary Clerk  
Village of Onekama