

VILLAGE OF HONOR ORDINANCE No. 47

VILLAGE OF HONOR  
MUNICIPAL CIVIL INFRACTIONS ORDINANCE  
*(based upon the County of Benzie Municipal Civil Infractions Ordinance)*

AN ORDINANCE TO ESTABLISH PROCEDURE FOR THE ISSUANCE OF MUNICIPAL, CIVIL INFRACTIONS, SPECIFICALLY BY DESIGNATING VILLAGE OFFICIALS AUTHORIZED TO ISSUE MUNICIPAL CIVIL INFRACTIONS, BY DESIGNATING THE METHODS OF COMMENCING A MUNICIPAL CIVIL INFRACTION ACTION, BY DESIGNATING THE FORM OF MUNICIPAL CIVIL INFRACTION CITATIONS AND OF MUNICIPAL CIVIL INFRACTION VIOLATION VOICES, BY ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU, AND BY PROVIDING FOR PENALTIES, FINES, COSTS, EXPENSES, AND ASSESSMENTS FOR MUNICIPAL CIVIL INFRACTIONS OR FAILING TO APPEAR ON SUCH CIVIL INFRACTIONS.

Pursuant to MCL 600.101 et seq. (including Chapters 83 and 87), MCL 125.224 and as otherwise authorized by law, the Village of Honor Ordains:

Section 1. SHORT TITLE. This Ordinance shall be known and may be cited as the "Municipal Civil Infraction Ordinance".

Section 2. DEFINITIONS. For the purpose 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 (MCL 600.101), including but not limited to Chapters 83 and 87.
- B. Assessment means Justice System Assessment as required by Section 8381 of the Act.
- C. Authorized Civil Official means the law enforcement officer or other personnel of the Village of Honor authorized by this ordinance, the Village of Honor zoning, or any ordinance to issue municipal civil infraction citations or municipal civil infraction violations.
- D. Bureau means the Village of Honor Municipal Ordinance Violations Bureau as established by this Ordinance.
- E. Municipal Civil Infraction Action means a civil proceeding or action pursuant to Chapter 87 of the Act, MCL 600.8701 et seq. in which the defendant is alleged to be responsible for a municipal civil infraction.
- F. Municipal Civil Infraction Citation means a written complaint or notice prepared by an authorized Village Official directing a person to answer

and appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

- G. Municipal Civil Infraction Violation Notice means a written notice prepared by an authorized Village Official directing a person to answer at the Village of Honor Municipal Ordinance Violations Bureau, and to pay the fine, costs, expenses, and assessment as provided for the violation by the schedule of civil fines adopted by the Village of Honor and as authorized under Chapter 83 and 87 of the Act.

### Section 3. DESIGNATION OF AUTHORIZED VILLAGE OF HONOR OFFICIALS.

The following personnel of the Village of Honor have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this Ordinance.

In addition, municipal civil infraction citations and municipal civil infraction violation notices may be issued by any person authorized to do so by any ordinance of the Village. (*example: the Village of Honor President or other person designated by the Village Council*)

Section 4. COMMENCEMENT OF ACTION. A municipal civil infraction action may be commenced upon the issuance by an authorized Village of Honor Official of (1) a municipal civil infraction citation directing the alleged violator to answer and/or appear in court, or (2) a municipal civil infraction citation directing the alleged violator to answer and/or appear at the Village of Honor Municipal Ordinance Violations Bureau.

Section 5. ISSUANCE AND SERVICE OF CITATIONS. Municipal civil infractions' citation shall be issued and served by an authorized Village of Honor 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 the 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 filed with the court or Bureau in which the appearance is to be made. The second copy shall be retained by the enforcement agency. The third copy shall be issued to the alleged violator.
- D. A citation of a municipal civil infraction signed by an authorized county official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized county 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 Village of Honor 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.
- F. An authorized Village of Honor may issue a citation to a person if:
  - 1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - 2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the County attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citation shall be served by an authorized Village of Honor Official as follows:
  - 1) Except as provided be Section 5 (G) (2), an authorized Village of Honor Official shall personally serve a copy of the citation upon the alleged violator.
  - 2) 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, including but not limited to the Village of Honor Zoning Ordinance, 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 as recorded in the files of the enforcing agency or reflected in the current tax assessment roll.

## Section 6. CONTENTS OF CITATIONS.

- A. A municipal ordinance citation shall contain (1) the name and address of the alleged violator; (2) the municipal civil infraction alleged; (3) the place where the violator shall answer or appear in court; (4) the telephone number of the court or bureau where the violator is to answer or appear, and (5) 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 information 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 Honor.
  - 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 of Honor.
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 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 itself a separate misdemeanor which is punishable by a fine of not more than five hundred (\$500.00) dollars or imprisonment for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the Court. Failure to appear shall also result in entry of a default against the alleged violator on the municipal civil infraction. In addition, a warrant for arrest may be issued for a failure to appear as provided in Chapter 87, Section 8711 of the Act.

Section 7. MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- A. Bureau Established. The Village of Honor hereby establishes a Municipal Ordinance Violations Bureau ("Bureau") as authorized under Section 8396 (MCL600.8396) of the Act as amended, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized Village of Honor Officials, and to collect, deposit, retain and disburse civil fines, costs, expenses, and assessments as provided by Chapter 87 of the Act and this Ordinance or other ordinance on which the civil infraction violation is based.
- B. Location; supervision, employees; rules and regulations. The Bureau shall be located in the Village office and shall be under the supervision and control of the Village Clerk. The subject to the approval of the Village President, shall adopt rules and regulations for the operation of the Bureau.
- C. 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 violation 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. 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 diminish the person's rights, privileges and protection accorded by law. Nothing in this chapter shall prevent or restrict the County from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.

- D. Bureau limited to accepting admissions of responsibility. The scope of the Bureau's authority shall be limited to accepting admission 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 the 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.
- E. Municipal Civil Infraction Violation Notices. Municipal civil infraction violation notices shall be issued and served by authorized Village of Honor Officials under the same circumstances and upon the same persons as provided for a citation, as provided for in Section 5 (F) and (G) of this Chapter. 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 or 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 if responsibility is admitted with or without explanation 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. All appearances, answers, communications, payments, and filing or return of citations shall be sent to and filed with the Bureau.

Procedure Where Admission of Responsibility Not Made or Fine Not Paid. If an authorized Village of Honor Official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine, costs, expenses, and assessments, if any, as provided by Chapter 87 of the Act and prescribed by the schedule of fines for the violations are not paid at the Bureau, a municipal civil infraction may be filed by the authorized Village of Honor Official 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 according to the records of the enforcing agency. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 (MCL 600.8705) and 8709 (MCL 600.9709) of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice 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 8. FAILURE TO APPEAR, PENALTY. A person served with a municipal civil infraction citation as provided in Section (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 more than five hundred (\$500.00) dollars or imprisonment for not more than ninety (90) days, or both such fine and imprisonment in the discretion of the Court. Failure to appear will also result in the entry of a default on the municipal civil infraction.

Section 9. MUNICIPAL CIVIL INFRACTION FINES, SANCTIONS, PENALTIES, COSTS, EXPENSES AND ASSESSMENTS.

- A. A person violating an ordinance which ordains that the penalty is in accordance with this ordinance for the first time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than One Hundred (\$100.00) dollars, plus costs, expenses, and assessments as provided by law.
- B. A person violating an ordinance which ordains that the penalty is in accordance with this ordinance for the second time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than One Hundred (\$100.00) dollars plus costs and expenses as provided by law.
- C. In addition to fines, costs, and expenses, the district court judge or magistrate shall require a defendant to pay One Hundred (\$100.00) dollars which sum shall be transmitted to the state treasurer for deposit in the justice system fund created by MCL 600.181.
- D. A person violating an ordinance which ordains that the penalty is in accordance with this ordinance for the third time, is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than One Hundred (\$100.00) dollars, plus costs, expenses and assessments as provided by law.
- E. Each subsequent violation of an ordinance which ordains that the penalty is in accordance with the ordinance is responsible for a municipal civil infraction and is subject to payment of a civil fine of One Hundred (\$100.00) dollars, plus costs, expenses, and assessments as provided by law.
- F. Appearances and answers to notices of any civil infraction violation and payment of any fine, sanction, penalty, cost, expenses or assessment related thereto shall be filed and made with the Village

of Honor Municipal Ordinance Violations Bureau. Appearances and answers to any citation or other civil process regarding prosecution for a civil infraction violation shall be filed and made with the Benzie County District Court

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 such holding shall not affect the validity of the remaining portions of this ordinance.

Section 11. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 12. REPEALER. All ordinance 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 June 01, 2015 , 2015. To adopt a Municipal Civil Infraction Ordinance pursuant to MCL 600.101 et seq., including Chapter 87 thereof, being MCL 600.8701 et seq., and MCL 125.224.

Be it ordained by the Village of Honor Council, Benzie County, State of Michigan, to adopt a Municipal Civil Infraction Ordinance this 11th day of May, 2015.

Dennis M Rodzik, President  
Village of Honor Council

#### CERTIFICATION

I, Laura Ward, as Clerk to the Village of Honor Council, do hereby certify that the foregoing Municipal Civil Infraction Ordinance was duly adopted by the Village of Honor Council at a regular meeting of said Council at which a quorum was present on the 11th day of May, 2015.

Date: May 11, 2015

Laura Ward, Clerk  
Village of Honor Council