

STATE OF MICHIGAN
COUNTY OF ARENAC
TOWNSHIP OF AUGRES

ORDINANCE NO. 09-_____

Adopted: _____, 2009

Effective: _____, 2009

CIVIL INFRACTIONS ORDINANCE

AN ORDINANCE THAT ESTABLISHES PROCEDURES FOR CITING CIVIL INFRACTIONS. THIS ORDINANCE PROVIDES AUTHORIZED TOWNSHIP OFFICIALS WITH THE AUTHORITY TO DETERMINE VIOLATIONS, ISSUE CITATIONS, AND ESTABLISHES PENALTIES THAT INCLUDE COLLECTION OF FINES AND/OR CRIMINAL PROSECUTION WHEN ENFORCING LAWS AND/OR ORDINANCES OF THE TOWNSHIP OF AUGRES.

THE TOWNSHIP OF AUGRES DOES HEREBY ORDAIN:

SECTION 1. VIOLATIONS: A violation of any Township ordinance, regardless of the Ordinance's cited penalty, may be cited as a civil infraction, when allowed by law. When a violation of a Township ordinance has been cited as a civil infraction the procedures herein shall be followed. Civil Infractions may include any act that is prohibited by way of ordinance, and/or omission and/or failure to act where action is required by any Township ordinance. The remedies as set forth within this ordinance shall be followed instead of the remedies as set forth in any other section of Township ordinance, or other laws, whether they be local, state, or federal when a violation of a Township ordinance is cited as a Civil Infraction. The Township is not required to cite a violation herein, as a civil infraction, and may instead cite same as a misdemeanor, as allowed, or pursue any other remedy provided by any Township ordinance, or by any other law.

SECTION II. SANCTIONS: The Sanction for any Civil Infraction shall be a civil fine that does not exceed \$200.00 for each day the violation continues after the first notice as provided herein, as set to any defendant by first class mail as established by way of the most recent Township tax rolls. The progression of penalties to be followed for repeated violations are provided in Section III of this ordinance. In addition to ordering the Defendant, determined to be responsible for a municipal civil infraction, to pay a civil fine, plus additional costs incurred, whether administrative, legal, or otherwise incurred in the enforcement of this ordinance and for any damages, the judge or magistrate shall be authorized to enforce, or enjoin violation of, ordinances as allowed by law.

Furthermore, in addition to any other available remedies, the Zoning Administrator and/or any other township personnel, shall be allowed to go onto the premises and correct the cited violation after the property owner has been notified of same and be able to place all reasonable incurred costs either as a lien upon the concerned property, or cause said costs to be added to the taxrolls of said parcel.

SECTION III. PROGRESSION OF PENALTIES:

1. A person, corporation or firm, who as a result of violating a provision of a TOWNSHIP ordinance, may be issued with a "Civil Infraction Notice of Violation" which directs the person alleged to be responsible to appear at the 81st District Court of Arenac County, State of Michigan. The following civil fines shall apply in the event of a determination of responsibility for a municipal Civil Infraction Notice of Violation:

A. First offense. A civil fine for a first offense violation shall be in the amount of \$50.00 for each day the violation continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

B. Second occurrence of the same violation during one year (within 365 days from the first occurrence) shall be fined \$100.00 for each day the violation

continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

C. Third occurrence of the same violation during one year (within 365 days of the first occurrence) shall be fined \$200.00 for each day the violation continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

2. A person, corporation or firm who fails to comply with a "Civil Infraction Notice of Violation", or, at the discretion of a Civil Infraction Enforcement Officer, may be cited with a "Civil Infraction Citation" that directs the person alleged to be responsible to appear in court and he/she shall then be subject to the findings of a Judge or magistrate in a court of competent jurisdiction plus any other remedies allowed by law.

3. Further, the Township shall have the ability, as an alternative to proceeding by way of enforcing this Ordinance, by way of Township Civil Infraction, proceeding with any other remedy it may have at law, including, but not limited to, seeking Circuit Court enforcement of either any rights preserved to the Township, pursuant to Michigan Public Act 288 of 1967, as amended, being the Land Division Act of 1997, MCLA 560.101, et seq., or seeking other equitable relief available at law to the Township in Circuit Court.

SECTION IV. COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION:

1. A municipal civil infraction action may be commenced upon the issuance by an authorized official vested with the authority to do so pursuant to a majority vote of the Township Board to perform the following procedures:

A. Issuing a municipal Civil Infraction Notice of Violation. Any person,

corporation or firm receiving a Civil Infraction Notice of Violation shall have seven (7) days from the date they receive same to correct said violation. Failure to correct any violation within said time-frame shall subject said person, corporation or firm to the penalty provisions as contained herein. Furthermore, the following procedures shall be strictly adhered to by the enforcement officer.

B. Issuance of a municipal Civil Infraction Citation, directing the person alleged to be responsible, to appear in court.

2. The form of citations used to charge municipal civil infraction violations shall be in accordance with state law.

3. The basis for issuance of a municipal civil infraction citation shall be as set forth below:

A. An authorized official who witnesses a person violate an ordinance, and/or observes a property that is in violation of township ordinance, the violation of which may be cited as a municipal civil infraction, shall prepare and subscribe, as soon as possible, and as completely as possible, an original and three copies of a Notice of Violation or a Civil Infraction Citation.

B. An authorized official may issue a Notice of Violation or a Civil Infraction Citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for an ordinance violation, based upon approval by the Township Supervisor and majority vote of the Township Board.

C. An authorized official may issue a Notice of Violation or a Civil Infraction Citation to a person if, based upon investigation of a complaint by someone

who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction, based upon approval by the Township Supervisor and majority vote of the Township Board.

4. A Notice of Violation or Civil Infraction Citation shall be served in the following manner:

A. Except as otherwise provided below, the authorized official shall serve a copy of the citation upon the alleged violator as allowed by law, or

B. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure (including but not limited to blight, property maintenance and/or nuisance), a copy of the Notice of Violation and Civil Infraction Citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching a copy to the building or structure. In addition, a copy of the Notice of Violation or Civil Infraction 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 displayed on the most recent Township property tax roll.

SECTION V. CIVIL INFRACTION ENFORCEMENT OFFICER:

1. The Township Board is hereby authorized to appoint by way of resolution, a person or persons as Civil Infraction Enforcement Officer(s) for such term or terms as may be designated in said resolution for the purpose of carrying out the duties and responsibilities specified by this ordinance as an "authorized official" that is charged with enforcement of the Township ordinances. The Township Board may further, by motion or

resolution, remove any person from such office.

2. An appointed Civil Infraction Enforcement Officer is authorized to enforce all provisions of this ordinance, whether or not any particular provision of a Township ordinance specifies or designates a different enforcing official. Where a particular officer is designated in any ordinance provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and authority of the Civil Infraction Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer.

SECTION VI. ELECTION OF PERSON CHARGED WITH VIOLATION: Any person receiving a municipal civil infraction Notice of Violation and/or a Citation, shall be permitted to dispose of the charge alleged in the Notice and/or Citation, by making a payment of the fine and/or cost as directed by the Notice and/or Citation, or as otherwise mandated by law.

SECTION VII. EFFECT: The provisions of this Ordinance are hereby ordered to take effect immediately upon publication in the manner prescribed by law.

SECTION VIII. SEVERABILITY: The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Moved by:

Supported by:

Yeas:

Nays:

Absent:

Publication:

First Publication Date:

Second Publication Date:

I, SHARILYN HADDEN, TOWNSHIP OF AUGRES Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 09- _____ as adopted by the Board of Trustees of the TOWNSHIP OF AUGRES, County of Arenac, State of Michigan.

Date:

Signature: _____

Sharilyn Hadden
AuGRES Township Clerk

Date:

Signature: _____

Chester Pawalczyk
AuGRES Township Supervisor