

**ALMENA TOWNSHIP
VANBUREN COUNTY**

ORDINANCE NO. 2024-05

ALMENA TOWNSHIP CIVIL INFRACTION ORDINANCE

At a regular meeting of the Township Board of Almena Township, Van Buren County, Michigan, held at the Almena Township Hall on October 16, 2024, at 6:30 p.m., Township Board Member P. Denny-Diget moved to adopt the following Ordinance, which motion was seconded by Township Board Member M. Roman:

An Ordinance providing for Municipal Civil Infractions for violations of certain Township Ordinances and penalties pursuant thereto; establishing procedures relating thereto; establishing the Almena Township Municipal Ordinance Violations Bureau for the purpose of accepting admissions of responsibility for ordinance violations; establishing an ordinance enforcement officer; authorization of Township officials to issue civil infraction citations and notices; penalties for violations; and procedures relating to such matters; and to repeal all conflicting ordinances or parts of ordinances, all to promote the health, safety, and welfare of the citizens of and visitors to Almena Township.

THE TOWNSHIP OF ALMENA ORDAINS:

SECTION 1. TITLE. This Ordinance shall be known as the “Civil Infraction Ordinance.”

SECTION 2. DEFINITIONS. As used in this Ordinance:

- A. “Act” means the Revised Judicature Act of 1961, Act No. 236 of the Public Acts of 1961, as amended.
- B. “Bureau” means the Almena Township Municipal Ordinance Violations Bureau as established by this Ordinance.
- C. “District Court” means the appropriate District Court of Van Buren County, Michigan.
- 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 complaint or notice prepared by an Ordinance Enforcement Officer, 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 notice prepared by an authorized township official, directing a person to appear at the Almena Township Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed

for the violation by schedule of civil fines adopted by the Township, as authorized under Section 8396 and 8707(6) of the Act.

- G. "Ordinance Enforcement Officer" means a Township official or other agent of the Township authorized by this Ordinance or any ordinance to issue Municipal Civil Infraction Citations or Municipal Civil Infraction Violation Notices.
- H. "Township" means Almena Township.

SECTION 3. MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT. A Municipal Civil Infraction Action may be commenced upon the issuance by an Ordinance Enforcement Officer of:

- A. A Municipal Civil Infraction Citation directing the alleged violator to appear in District Court; or
- B. A Municipal Civil Infraction Violation Notice providing the alleged violator with an option to appear at the Bureau.

SECTION 4. MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE. Municipal Civil Infraction Citations shall be issued and served by Ordinance Enforcement Officers 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 that has jurisdiction over Almena Township.
- 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 municipal civil infraction signed by an Ordinance Enforcement Officer 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 contained the following statement immediately above the date and signature to 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 Ordinance Enforcement Officer 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 Ordinance Enforcement Officer 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 civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or township attorney approves in writing the issuance of the citation.

G. Municipal Civil Infraction Citations shall be served by an Ordinance Enforcement Officer as follows:

1. Except as otherwise provided below, an Ordinance Enforcement Officer 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 the owner or occupant of the land, building or structure by posting a 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 5. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS.

A. A Municipal Civil Infraction Citation shall contain:

1. A description of the violation; and
2. The amount of the scheduled fines and/or costs for the violation; and
3. The name and address of the alleged violator; and
4. The place where the alleged violator shall appear in court; and
5. The telephone number of the court and the time at or by which the appearance shall be made.
6. The name of Almena Township, as Plaintiff.

B. 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 the judge is requested by the Township; or
 - 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 Township.
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 boldfaced 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 on the Municipal Civil Infraction Citation.

SECTION 6. ESTABLISHMENT, LOCATION, AND PERSONNEL OF THE MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

- A. The Township hereby establishes the Municipal Ordinance Violations Bureau (the “Bureau”) as authorized under the Act to accept admissions of responsibility for municipal civil infractions in response to Municipal Civil Infraction Violation Notices issued and served by Ordinance Enforcement Officers, and to collect and retain civil fines and costs as prescribed by this Ordinance and any related Ordinance.

- B. The Bureau shall be located at the Almena Township Hall and shall be under the direct supervision and control of the Township Supervisor. The Township Supervisor, subject to the approval of the Township Board, may adopt rules and regulations for the operation of the Bureau and appoint the Township Clerk or any other necessary qualified Township employees to administer the Bureau.
- C. 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 to 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. Nothing in this Ordinance shall prevent or restrict the Township from issuing a Municipal Civil Infraction for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a Municipal Civil Infraction violation at the Bureau and instead may choose to 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 way diminish the person's rights, privileges, and protection accorded by law.
- D. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions arising out of Municipal Civil Infraction Violation Notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fee 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 veracity of any fact or matter relating to an alleged violation.
- E. After accepting responsibility and collecting the fines and costs, final administrative processing of the Violation Notice may take up to 14 days. If the Ordinance Enforcement Officer determines that the violation has been abated before final administrative processing is complete, then the Bureau may dismiss the ticket and void the violation such that fines and costs are not processed. If any violation is voided, the Bureau shall notify the individual responsible and retain records that the Township no longer wishes to prosecute the violation because of timely abatement.
- F. Municipal Civil Infraction Violation Notices shall be issued and served by Ordinance Enforcement Officers under the same circumstances and upon the same persons as provided for Citations as prescribed in this Ordinance. In addition to any other information required by this Code of Ordinance, Municipal Civil Infraction Violation Notices 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.

- G. An alleged violator receiving a Municipal Civil infraction Violation Notice shall appear at the Bureau and 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.

- H. If an Ordinance Enforcement Officer issues and serves a Municipal Ordinance Violation notice, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a Municipal Civil Infraction Citation may be filed with the District Court and a copy of the citation may be personally served upon the alleged violator or by posting the copy on the land or attaching the copy to the building or structure where a use or occupancy of land or a building is the violation and by mailing by first class mail at the alleged violator's last known address. The citation filed with the District Court does not need to comply in all particulars with the requirements for citations as provided by this Ordinance, 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 7. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF TOWNSHIP ORDINANCE; CONTINUING VIOLATIONS; INJUNCTIVE RELIEF.

- A. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinances involved, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
 - 1. Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance, the civil fine for a first offense municipal civil infraction shall be set by Township Board resolution. The initial fine shall be \$100.00, plus costs, for each infraction.
 - 2. Increased civil fines may be imposed for repeated violations by any person of any requirement or provision of an ordinance. As used in this Ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by the same person or for the same property within any twelve (12) month period (unless some other period is specifically provided by an Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be set by Township Board Resolution. The initial fines for multiple violations shall be:
 - i. The fine for any offense, which is a second offense or any subsequent repeat offense, shall be not less than two hundred dollars (\$200.00), plus costs.
 - ii. The fine for any offense, which is a third offense or any subsequent repeat offense, shall be not less than five hundred dollars (\$500.00), plus costs.

- B. A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by any Township ordinance and any omission or failure to act where the act is required by an ordinance.
- C. Each day on which any violation of an ordinance continues constitutes a separate offense and may be subject to penalties or sanctions as a separate offense.
- D. In addition to any remedies available at law, the Township may bring an action for an injunction, equitable relief, or other process against a person or property to restrain, prevent, or abate any violation of any Township ordinance.
- E. In addition to the civil fines, costs in the amount of ten dollars (\$10.00) shall be assessed by the Bureau if the fine and costs are paid within ten (10) days of the date of service of the Municipal Civil Infraction Violation Notice. Otherwise, costs of twenty dollars (\$20.00) shall be assessed by the Bureau.

SECTION 8. ORDINANCE ENFORCEMENT OFFICER.

- A. The Township Board is hereby authorized to appoint by motion and/or resolution any person or persons to the office of Ordinance Enforcement Officer for such term or terms as may be designated in said motion and/or resolution and for such compensation as the Board may determine. The Township Supervisor is empowered to act as and has the rights and duties of an Ordinance Enforcement Officer. The Board may further, by motion and/or resolution, remove any person from said office, in the discretion of the Board.
- B. The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the Township, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different enforcing official or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance, that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this Ordinance, and the authority of the Ordinance Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer shall in the performance of the officer's duties be subordinate and responsible to the Supervisor or such other Township Board member as the Township Board may from time to time designate.
- C. The Ordinance Enforcement Officer's duties shall include the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as Ordinance Enforcement Officer under 1968 Public Act 147, as amended (MCL 764.9c); issuing and serving municipal ordinance violation notices and municipal civil infraction citations as Ordinance Enforcement Officer under MCL 600.8701 *et seq.*; appearance in court, formal hearing, informal hearings, or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators; and such other ordinance enforcing duties as may be delegated by the Township Board or Township Supervisor.

SECTION 9. RECORDS AND ACCOUNTING. The Bureau Supervisor or other designated Township official or employee shall retain a copy of all Municipal Civil Infraction Violation Notices, and shall account to the Township Board once a month or at such other intervals as the Township Board may require concerning the number of admissions and denials of responsibility for Ordinance violations within the jurisdiction of the Bureau, the number of admissions and prosecutions voided because of timely abatement, and the amount of fines and costs collected with respect to such violations. The civil fines and costs collected shall be delivered to the Township Treasurer at such intervals as the Treasurer shall require and shall be deposited in the general fund of the Township.

SECTION 10. AVAILABILITY OF OTHER ENFORCEMENT OPTIONS. Nothing in this Ordinance shall be deemed to require the Township to initiate its municipal civil infraction Ordinance enforcement activity through the issuance of a Municipal Civil Infraction Violation Notice. As to each Ordinance violation designated as a municipal civil infraction, the Township may, at 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, including, without limitation, injunctive relief or criminal enforcement in any Court of competent jurisdiction.

SECTION 11. APPLICABILITY OF THE ACT. If this Ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

SECTION 12. SEVERABILITY. Should any section, clause, or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be invalid.

SECTION 13. REPEAL & SAVINGS CLAUSE. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed. Existing prosecutions under any ordinance provision that is hereby repealed may be pursued to its natural conclusion.

SECTION 14. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days following publication after adoption by the Township Board.

YEAS: J. Wagner, K. Redmond, S. Rickli, T. Kloosterman, P. Denny-Diget, M. Roman, J. Leduc

NAYS: None

ABSENT: None

ORDINANCE DECLARED ADOPTED



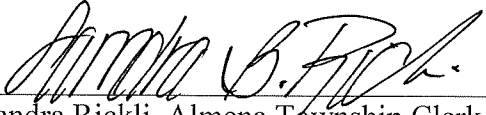
Joe Leduc, Almena Township Supervisor

CERTIFICATE

STATE OF MICHIGAN)
) ss
COUNTY OF VAN BUREN)

I, the undersigned, the duly qualified and acting Clerk for Almena Township, Van Buren County, Michigan, HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Almena Township Board at a meeting held on October 16th, 2024.

ATTESTED:



Sandra Rickli, Almena Township Clerk