

ORDINANCE #13

CIVIL INFRACTIONS ORDINANCE

AN ORDINANCE DESIGNATING CERTAIN VIOLATIONS AS MUNICIPAL CIVIL INFRACTIONS AND DEFINING THE SAME; PROVIDING A CIVIL FINE FOR SUCH VIOLATIONS; DESIGNATING AN AUTHORIZED VILLAGE OFFICIAL TO ISSUE MUNICIPAL INFRACTIONS; ESTABLISHING A MUNICIPAL ORDINANCE VIOLATION BUREAU; AND ESTABLISHING A PROCEDURE FOR MUNICIPAL CIVIL INFRACTION ACTIONS, PURSUANT TO ACT NO. 236 OF THE PUBLIC ACTS OF MICHIGAN OF 1961, AS AMENDED.

THE VILLAGE OF SPRINGPORT ORDAINS:

SECTION 1. **TITLE:** This Ordinance may be referred to as the “Springport Village Municipal Civil Infraction Ordinance.”

SECTION 2. **DEFINITIONS.** As used in the Ordinance:

- A. “**ACT**” – means Act No. 236 of the Public Acts of 1961, as amended.
- B. “**AUTHORIZED LOCAL OFFICIAL**” – means a public safety officer or other personnel of the Village of Springport designated by this Ordinance or an agency designated by the Village of Springport pursuant to interlocal agreements to be legally authorized to issue municipal civil infraction citations.
- C. “**AUTHORIZED VILLAGE OFFICIAL**” – means a public safety officer or other personnel of the Village or personnel of an agency designated by the Village of Springport pursuant to interlocal agreements authorized by this Ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- D. “**BUREAU**” – means the Village of Springport Municipal Ordinance Violations Bureau as established by this Ordinance.
- E. “**CITATION**” – means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of one or more municipal civil infractions by the person cited.

- F. **“MUNICIPAL CIVIL INFRACTION”** – means an act or omission that is prohibited by an ordinance enumerated herein or any ordinance of the Village but which is not a crime and for which civil sanctions including but not limited to fines, costs, damages and expenses may be ordered as authorized by Chapter 87 of 1961 PA 236, as amended. A Municipal civil infraction is not a lesser included offense of a violation of any ordinance of the Village of Springport that is a criminal offense.
- G. **“MUNICIPAL CIVIL INFRACTION ACTION”** – means a civil action in which a defendant is alleged to be responsible for a municipal civil infraction.
- H. **“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.
- I. **“MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE”** – means a written notice prepared by an authorized Village official, directing a person to appear at the Village of Springport Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the village, as authorized under sections 8396 and 8707(6) of the Act.

SECTION 3.

GENERAL PENALTIES AND SANCTIONS FOR MUNICIPAL CIVIL INFRACTIONS: CONTINUING VIOLATIONS: INJUNCTIVE RELIEF.

- A. Unless a violation of an ordinance of the Village is Specifically designated as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.
- B. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Ordinance or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of 1961 PA 236, as amended, and other applicable laws.
- C. Unless otherwise specifically provided for by this Ordinance or any ordinance, the civil fine for a municipal civil infraction violation shall be Fifty Dollar (\$50), plus costs and other sanctions, for each infraction within a 3-year period.*

- D.** Increased civil fines may be imposed for repeated violations of any requirement or provisions of this Ordinance or any ordinance by a person. As used in this section, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any six-month period (unless some other period is specifically provided by this Ordinance or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Ordinance or any ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
1. The fine for any offenses which is a first repeat offense within a 3-year period * shall be One Hundred Dollars (\$100.00) plus costs.
 2. The fine for any offense which is a second repeat offense or any subsequent repeat offense within a 3-year period * shall be Two Hundred Fifty Dollars (\$250) plus costs.

***Determined on the basis of the date of commission of the offense(s). Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.**

- E.** A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance or any ordinance; and any omission or failure to act as required by this Ordinance or any ordinance.
- F.** Each day on which any violation of this Ordinance or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- G.** In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Ordinance or any Village ordinance.

SECTION 4. COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION.

- A.** A municipal civil infraction action may be commenced upon the issuance by an authorized village official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Village of Springport’s municipal ordinance violations bureau. The plaintiff in a municipal civil infraction action is the Village of Springport.
- B.** Except as to persons under the age of 17 at the time of the occurrence of the violation, the district court has jurisdiction over municipal civil infraction actions. For persons cited for a municipal civil infraction under the age of 17 at the time of the occurrence of the violation, the Juvenile Division of the Probate Court of Jackson County shall have jurisdiction over the proceedings and shall proceed to hear and dispose of the case as provided by Chapter XILA of 1939 PA 288, as amended and supplemented.

- C. The time specified in the citation for appearance shall be within a reasonable time after the citation is issued.
- D. The place specified in the citation for appearance shall be the district court.

SECTION 5. ISSUANCE AND SERVICE OF MUNICIPAL CIVIL INFRACTION CITATIONS. Municipal civil infraction citations shall be issued and served by authorized village officials as follows:

- A. An authorized Village official who witnesses a person violate an ordinance, a violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible, and as completely as possible, an original and three (3) copies, except as provided in subsection (E).
- B. An authorized Village official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction. An authorized Village official may issue a 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 and if the prosecuting attorney or Village attorney approves in writing the issuance of the citation.
- C. Except as otherwise provided under subsection (D), the authorized Village official shall personally serve the third copy of the citation upon the alleged violator.
- D. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the 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 at the owner's last known address. A citation served under this subsection shall be processed in the same manner as a citation personally served upon a defendant.

- E. An authorized Village official may issue and serve a municipal ordinance violation notice, instead of a citation, under the same circumstances and upon the same persons as provided in this section for the issuance of a citation. If an authorized Village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and a civil fine and costs, if any, prescribed by ordinance for the violation are not paid at the Municipal Ordinance Violations Bureau, a citation may be filed with the court described in Section 8703(4) of the Act and a copy of the citation may be served by first class mail upon the alleged violator at his or her last known address. The citation filed with the court pursuant to this subsection need not comply in all particulars with Section 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the defendant how to respond to the citation. A citation issued under this subsection shall be processed in the same manner as a citation issued personally to a defendant pursuant to subsection A or B. A “municipal ordinance violation notice” may not be issued in place of a citation for a railway municipal civil infraction and instead such violation shall be prosecuted only by means of a municipal civil infraction action.

SECTION 6. FORM AND NUMBERING OF CITATION.

- A. 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 violator as provided by Section 8705 of the Act.
- B. 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 authorized Village 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.

SECTION 7.

CONTENTS OF MUNICIPAL CIVIL INFRACTION CITATIONS.

- A.** A municipal civil infraction citation shall contain the name of the plaintiff, the name and address of the defendant, the municipal civil infraction alleged, the place where the defendant shall appear in court, the telephone number of the court, the time at or by which the appearance shall be made, and the additional information required by this section..
- B.** The citation shall inform the defendant 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:
 - i. 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 a judge is requested by the village.
 - ii. 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 defendant of all of the following:
1. That if the defendant desires to admit responsibility “with explanation” in person or by representation, the defendant 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 defendant desires to deny responsibility, the defendant 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 defendant or the village.
 4. That at an informal hearing the defendant must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 5. That a formal hearing the defendant must appear in person before a judge with the opportunity of being represented by an attorney.

- D. The citation shall also contain a notice in boldfaced type that the failure of the defendant 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. Return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, return of the citation with an admission of responsibility with explanation, or a timely application to the court for a scheduled date and time for an appearance, or a hearing constitutes a timely appearance.

SECTION 8. VILLAGE OF SPRINGPORT MUNICIPAL ORDINANCE VIOLATION BUREAU.

A. *Bureau established.*

The Village of Springport hereby establishes a Municipal Ordinance Violations Bureau (“Bureau”), as authorized under section 8396 of the Act, to accept admissions of responsibility for municipal civil infraction in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this Ordinance.

B. *Location, supervision, rules and regulations.*

The Bureau shall be located at the Village hall and shall be under the supervision and control of the Village Clerk. The Administration Committee, subject to the approval of the Village Council, shall adopt rules and regulations for the operation of the Bureau and appoint any other necessary qualified Village employees to administer the Bureau, also subject to approval of the Village Council.

C. *Enforcement.*

The Zoning Administrator shall be authorized to enforce the zoning ordinance, ordinances that specify the Zoning Administrator’s authority, and violations thereof, and any designated public safety officer shall be authorized to enforce all other ordinances and they all shall automatically be “authorized village officials.

D. *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 notice (as compared with a citation) has been issued. Nothing in this ordinance shall prevent or restrict the Village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent 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.

E. *Bureau limited to accepting admissions of responsibility.*

The scope of the Bureau's authority shall be limited to accepting admissions 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 a 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.

F. *Municipal civil infraction violation notices.*

Municipal civil infraction violation notices shall be issued and served by authorized Village officials under the same circumstances and upon the same persons as provided for citations as provided in Section 5 (A), (B) of this Ordinance. In addition to any other information required by this Ordinance, 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 for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

G. *Appearance; payment of fines and costs.*

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. *Procedure where admission of responsibility not made or fine not paid.*

If an authorized Village official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fines 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 served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the Act, 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 9. AUTHORIZED VILLAGE OFFICIAL. The Village of Springport President, Zoning Administrator, and Building, Mechanical, Plumbing, Property Maintenance and Electrical Code Inspector(s) and personnel of an agency designated by the Village of Springport pursuant to interlocal agreements are hereby designated as the authorized Village officials to issue municipal civil infraction citations (directing alleged violators to appear in court) and municipal civil infraction violation notices (directing alleged violators to appear at the Village of Springport Municipal Ordinance Violations Bureau) as provided by this Ordinance.

SECTION 10. ORDINANCES PUNISHABLE AS CIVIL INFRACTIONS. A person who violates any provision of the Ordinances listed in this Section is responsible for a municipal civil infraction, subject to payment of a civil fine. Repeat offenses under this Ordinance shall be subject to increased fines as provided by Section 11 of this Ordinance. Violation of the following Village of Springport ordinances shall constitute a municipal civil infraction, unless otherwise state in the particular ordinance:

- A. Village of Springport Zoning Ordinance
- B. Enforce Michigan Building, Electrical, Mechanical and Plumbing Code Ordinance
- C. Pool and Billiard Rooms Ordinance
- D. Disorderly Conduct/Animals Ordinance
- E. Discharging Firearms in Village Ordinance
- F. Fire and Public Health and Safety Ordinance
- G. Sewer Regulation Ordinance
- H. Cross Connection Ordinance
- I. Snowmobile Ordinance
- J. Off Road Vehicle Ordinance
- K. Sidewalk Ordinance
- L. Bicycle riding on Business district Ordinance
- M. Cemetery Ordinance

SECTION 11. SCHEDULE OF CIVIL FINES ESTABLISHED. A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for violations is as follows:

- Violating any section of the Ordinances listed in Section 10.....\$50**
- First repeat offense.....\$100**
- Second (or any subsequent) repeat offense.....\$250**

The fines for unlicensed Building, Mechanical, Plumbing, Electrical Contractors is as follows:

- Violating any section of the Ordinances listed in Section 10.....\$200**
- First repeat offense.....\$350**
- Second (or any subsequent) repeat offense.....\$500**

A copy of the list of Ordinances and the above Schedule of Civil Fines as amended from time to time shall be posted at the Bureau.

SECTION 12. MUNICIPAL CIVIL INFRACTION: PENALTIES AND SANCTIONS.

- A.** *Municipal Civil Infraction.* A person who violates any provision of the ordinances referred to in Section 10 is responsible for a municipal civil infraction, subject to a payment of a civil fine of not less than \$50 or more than \$500, plus costs and other sanctions for each infractions. Repeat offenses shall be subject to increased fines consistent with the Schedule of Fines contained in Section 11.
- B.** *Costs.* If a defendant is ordered to pay a civil fine under Subsection A, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable under ordinance civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry or judgment. Costs of not less than \$9 or more than \$500 may be ordered. Except as otherwise provided by law, costs shall be payable to the General Fund of the plaintiff.
- C.** *Equitable Writ or Order.* In addition to ordering the defendant to pay a civil fine, costs, and damages and expenses, the judge or district court magistrate may issue a writ or order under Section 8302 of the Act, if expressly authorized by the chief judge.

- D. *Failure to Answer Citation.* A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor punishable by a fine of up to \$500 and/or 90 days in jail.
- E. *Lien Against Land, Buildings or Structures.* If a defendant does not pay a civil fine or costs or an installment ordered following a determination of responsibility within thirty (30) days after the date on which payment is due in a municipal civil infraction action brought for a violation against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the Register of Deed. In addition, a written notice of the lien shall be sent by the plaintiff by first class mail to the owner of record of the land, building, or structure at the owner's last known address. Said lien may be enforced and discharged in the manner described in Section 8731 of the Act.

SECTION 13. SEVERABILITY OF INVALID PROVISIONS. If any provision of this Ordinance shall be held invalid, its invalidity shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 14. SAVINGS CLAUSE. All suits, proceedings, or prosecution, whether civil or criminal, for causes arising, or acts done or committed prior to said amendment, may be commenced, maintained and/or prosecuted as if said amendment had not been made.

SECTION 15. EFFECTIVE DATE. This Ordinance shall take effect immediately after publication.

Adopted the _____ day of _____, 2002

Reviewed By:

Signed: _____
Mary Ward, Village President

Cynthia O. Twichell, Village Manager

Signed: _____
Tammy A. Schmidt, Village Clerk

Stuart Saunders, Village Attorney