Sandstone Charter Township

Municipal Civil Infractions and Ordinance Enforcement

~~#52~~ # 5 2012 (#53-2012)

An ordinance providing for municipal civil infractions of certain township ordinances and penalties pursuant thereto; establishing procedures relating thereto; authorization of which township officials can issue civil infraction tickets and misdemeanor tickets; establishing penalties for violations of misdemeanors and civil infractions; and procedures relating to such matters.

THE CHARTER TOWNSHIP OF SANDSTONE CHARTER, JACKSON COUNTY, MICHIGAN, ORDAINS:

Section 1. Title

This Ordinance shall be known as the "Sandstone Charter Township Municipal Infractions Ordinance."

Section 2. Definitions.

As used in this Chapter:

2.1 "Act" means Act No. 236 of the Public Acts of 1961, as amended, and Public Acts 1226 of 1994, as amended.

2.2 "Authorized township official" means a township official, police officer or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.

2.3 "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

2.4 "Municipal civil infraction citation" means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

2.5 "Township" means Sandstone Charter Township.

Section 3. Municipal Civil Infraction Action; Commencement

A municipal civil infraction action may be commenced upon the issuance by an authorized township official of a municipal civil infraction citation directing the alleged

violator to appear in court.

Section 4. Municipal Civil Infraction Citations; Issuance and Service

Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

4.1 The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

4.2 The place for appearance specified in a citation shall be the 2-A District Court that has jurisdiction over Township.

4.3 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 township and issued to the alleged violator as provided by Section 8705 of the Act.

4.4 A citation for a municipal civil infraction signed by an authorized township 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 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."

4.5 An authorized township 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.

4.6 An authorized township official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official bas reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.

4.7 Municipal civil infraction citations shall be served by an authorized township official as follows:

a. Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.

b. 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 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

5.1 A 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.

5.2 Further, the citation shall inform the alleged violator that he or she may do one of the following:

a. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

b. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.

c. Deny responsibility for the municipal civil infraction by doing either of the following:

(1) 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 township.

(2) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

5.3 The citation shall also inform the alleged violator of all of the following:

a. 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.

b. 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

c. That a hearing shall be an informal hearing unless a formal hearing is

requested by the alleged violator or the township.

d. 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.

e. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

5.4 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.

Section 6. General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations, Injunctive Relief

6.1 Unless a violation of an ordinance of the Sandstone Charter Township is specifically designated in the ordinance as a criminal misdemeanor, the violation shall be deemed to be a municipal civil infraction.

6.2 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 the Michigan Revised Judicature Act, as amended, MCL 600.8701 *et seq.* and other applicable laws.

6.3 If amount of the civil is not specifically provided for a particular municipal civil infraction violation by an ordinance the civil fine for a municipal civil infraction violation shall be as follows:

a. First offense.....$100.00, plus costs.

b. Second offense.....$250.00 plus costs.

c. Third and subsequent offenses....$500 plus costs

6.4 Except for violations of MCL 257.625(1)(c), the penalties provided by the Uniform Traffic Code and the provisions of the state laws hereinabove adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this Ordinance.

6.5 Pursuant to MCL 42.21(5) violations of MCL 257.625(1)(c) are a misdemeanor punishable by 1 or more of the following:

(a) Community service for not more than 360 hours.

(b) Imprisonment for not more than 180 days.

(c) A fine of $700.00.

6.6 A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.

6.7 Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

6.8 In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any Township ordinance.

Section 7. Authorized Persons-Civil Infractions Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Sandstone Charter Township ordinance to the contrary, the following officials are hereby designated as the authorized Township officials to issue and serve municipal civil infraction citations for violations of Township ordinances which provide for a municipal civil infraction for a violation thereof:

- The Township ordinance enforcement officer.
- The Jackson County Sheriff and all other deputy county sheriffs of said county
- The Township supervisor
- Any certified officers of a private company or companies contracted with the township for enforcement purposes

Section 8. Authorized Persons-Misdemeanor Appearance Tickets.

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Sandstone Charter Township ordinance to the contrary, the Jackson County Sheriff and all other deputy county sheriffs of said county are hereby empowered to issue and serve appearance tickets for violations of Township ordinances that contain criminal misdemeanor penalties for violations of the ordinance involved.

Section 9. 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. This Ordinance shall apply to all Township ordinances that provide for civil infractions as a penalty for violations.

Section 10. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the

Ordinance shall not be affected thereby.

Section 11. Effective Date

This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within Sandstone Charter Township.

On motion by Cheryl Marks, second by Dwight VanWinkle.

YEAS: VanWinkle, Pardee, Taylor, Stewart, Marks, Wellman & Acker
NAYS: 0
ABSENT: 0

Ordinance declared adopted on 10/1/12, 2012.

L. Keith Acker
Township Supervisor
Charter Township of Sandstone

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Priscilla Sutliff, the duly elected Clerk of the Charter Township of Sandstone certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the Township Board of the Charter Township of Sandstone on October 3, 2012 and published in the Jackson Citizen Patriot, a newspaper circulated in the Charter Township of Sandstone on October 12, 2012.

Priscilla J. Stewart

Priscilla ~~Sutliff~~
Township Clerk
Charter Township of Sandstone