

GARFIELD TOWNSHIP, CLARE COUNTY, MICHIGAN

CIVIL INFRACTIONS ORDINANCE

Ordinance No. 27 passed as 2023-1

At a meeting of the Township Board of Garfield Township, Clare County, Michigan, held at the Garfield Township Hall on January 23rd, 2023, at 6:30 p.m., Township Board Member Janet Clayton moved to enact the following Ordinance for final adoption, which motion was seconded by Township Board Member James Lard Roll Call Vote Clayton-Yes Lard-Yes Yarhouse-Yes Byl-Yes Roland-No 4 ayes 1 nay Motion Carried

An Ordinance to provide for the enforcement of Garfield Township Ordinance violations through the issuance of Municipal Civil Infraction Citations; to collect and retain civil fines/costs for such violations as prescribed herein, to establish that the Township Code Enforcement Officer, Township Supervisor, and members of the Clare County Sheriff's Department who provide services to the Township may issue Municipal Civil Infraction Citations, and to repeal all conflicting Ordinances or parts of Ordinances.

THE TOWNSHIP OF GARFIELD, CLARE COUNTY, MICHIGAN, ORDAINS:

Section 1: Title: This Ordinance shall be known and cited as the Garfield Township Civil Infractions Ordinance.

Section 2: Definitions: As used in this Ordinance:

- A. "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- B. "Authorized Township Official" means the Township Code Enforcement Officer, the Township Supervisor, a police officer, members of the Clare County Sheriff's Department who provide services to the Township, or other personnel of the Township designated by the Township Board to issue Municipal Civil Infraction Citations.
- C. "District Court" means the appropriate District Court of Clare 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" or "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.
- F. "Township" means Garfield Township, Clare County, Michigan.
- G. "Township Code Enforcement Officer" means that person designated by the Township Board to enforce the provisions of Township Ordinances.

Section 3: Municipal Civil Infraction Action; Commencement: A Municipal Civil Infraction Action may be commenced upon the issuance a Municipal Civil Infraction Citation directing the alleged violator to appear in District Court by an Authorized Township Official.

Section 4: Municipal Civil Infraction Citations; Issuance and Service: Municipal Civil Infraction Citations shall be issued and served by Authorized Township Officials 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 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 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 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 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.
- F. An Authorized Township Official 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 Authorized Township 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 Authorized Township Official as follows:
 - (1) Except as provided by Section 4(G)(2), an Authorized Township 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 by posting a copy on the land or attaching a 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 owners' last known address.

Section 5: Municipal Civil Infraction Citations; Contents

- A. A Municipal Civil Infraction Citation shall contain:
 - (1) A description of the violation;
 - (2) The amount of the scheduled fines and/or costs for the violation;
 - (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.

- 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.
 - (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 that 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: Schedule of Civil Fines/Costs: Unless a different schedule of civil fines is provided for by an applicable Ordinance, the civil fines payable for persons deemed responsible for a Municipal Civil Infraction Citation shall not exceed five-hundred dollars (\$500.00) per violation. In addition to the civil fines, costs in the amount of \$10.00 shall be assessed. On matters that proceed in District Court, the Township's costs, including attorney fees, may be assessed in an amount of up to five hundred dollars (\$500.00) per citation.

Section 7: 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 Citation. As to each Ordinance violation designated as a municipal civil infraction the Township may, at its sole discretion, take such other enforcement action as is authorized by law, including, without limitation, injunctive relief or criminal enforcement.

Section 8: Severability: The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

Section 9: Repeal: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 10: Effective Date: This Ordinance shall take effect immediately upon publication as required by law following adoption by the Township Board.

Roll Call Vote:

YEAS: Clayton Lard Yarhouse Byl

NAYS: Roland

ABSENT/ABSTAIN: 0
ORDINANCE DECLARED ADOPTED.

David Byl
Supervisor, Garfield Township

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Garfield Township Board at a duly scheduled and noticed meeting of that Township Board held on January 23, 2023, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Clare County Review newspaper, a newspaper that circulates within Garfield Township, on February 10th, 2023.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of Ordinances kept by me for that purpose, including the date of passage of the Ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Clare County Clerk on February 17th, 2023

ATTESTED:

Clerk, Garfield Township

GARFIELD TOWNSHIP, CLARE COUNTY, MICHIGAN
CIVIL INFRACTIONS ORDINANCE
ORDINANCE NO. 27 2023-1
NOTICE OF ADOPTION

Please take notice that on January 23rd, 2023, the Township Board of Garfield Township adopted Ordinance No. 27 2023-1, which provides for the enforcement of Garfield Township ordinance violations through the issuance of Municipal Civil Infraction Citations. Copies of the Ordinance may be obtained from the Garfield Township Clerk, at 9348 Terry St, Lake, MI 48632.

The Ordinance has the following sections and catch lines: Section 1: Title; Section 2: Definitions; Section 3: Municipal Civil Infraction Action; Commencement; Section 4: Municipal Civil Infraction Citations; Issuance and Service; Section 5: Municipal Civil Infraction Citations; Contents; Section 6: Schedule of Civil Fines/Costs; Section 7: Availability of Other Enforcement Options; Section 8: Severability; Section 9: Repeal; and Section 10: Effective Date, which is immediately upon this publication.

Published by Order of the Township Board
Garfield Township, Clare County, Michigan
9348 Terry St
Lake, MI 48632

Publication Date: February 10th, 2023