

RESOLUTION ADOPTING CIVIL INFRACTIONS ORDINANCE

At a special meeting of the Township Board of Danby Township, Ionia County, State of Michigan, held at the Township Hall in said Township on the 23rd day of November, 1998, at 8:00 P.M.

PRESENT: Supervisor Gary R. Reisbig; Clerk Carol S. Brown;

Trustee Mary K. Price; Trustee William J. Nichols

ABSENT: Treasurer Daniel L. Spitzley

The following Resolution was offered by Nichols

and seconded by Price

WHEREAS, the Township General Ordinance Statute, Michigan Public Act 246 of 1945, as amended, authorizes a township board to adopt ordinances regulating the public health, safety, and general welfare of persons and property, and

WHEREAS, Michigan Public Acts 12 and 14 of 1994, as amended, authorizes the Township Board to designate violations of ordinances as municipal civil infractions subject to a civil fine.

BE IT RESOLVED BY THE TOWNSHIP BOARD OF DANBY TOWNSHIP, IONIA COUNTY, STATE OF MICHIGAN, AS FOLLOWS:

TOWNSHIP OF DANBY

ORDINANCE NO. 17

CIVIL INFRACTIONS

An Ordinance to provide for the enforcement of Township ordinance violations through the issuance of civil infraction citations.

DANBY TOWNSHIP ORDAINS:

SECTION 1 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 a police officer or other personnel of the township authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.

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

Section 2 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 3 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 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 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 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 3(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 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 4 Municipal civil infraction citations: contents.

- A. 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.
- 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.

SECTION 5 Schedule of civil fines established.

A. Any person who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. The civil fines are set forth in Section 5(B), unless otherwise specified in the Code of Ordinances. Further, the judge or district

court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in an ordinary 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 of judgment. However, in no case shall costs of less than \$9.00 or more than \$500.00 be ordered.

- B. Each violation shall be considered a separate offense. The fines for the violations listed below shall be as follows:

<u>ORDINANCE</u>	<u>OFFENSE (VIOLATION)</u>	<u>FINE</u>
Public Nuisance	Failure to comply with any provision of the Ordinance.	Not less than \$100.00
Public Nuisance	First repeat offense.	\$250.00
Public Nuisance	Second (or any subsequent repeat offense.	\$500.00

- C. "Repeat offense" means any second or subsequent violation of the same ordinance, for which the person is found responsible or admits responsibility, committed by the person within one (1) year of a violation.

SECTION 6 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 hereby.

SECTION 7

The following ordinance may be enforced by issuance of a Municipal Civil Infraction Citation or institution of a Municipal Civil Infraction action:

- A. The Danby Township Public Nuisances Ordinance, Ordinance No. 16 adopted on November 23, 1998.

SECTION 8 Effective Date.

This Ordinance shall become effective thirty (30) days after publication of a summary of the ordinance in a newspaper in general circulation within Danby Township.

Gary F. Reisbig
Gary F. Reisbig Township Supervisor

Carol S. Brown
Carol S. Brown, Clerk

STATE OF MICHIGAN)
)
COUNTY OF IONIA)

I, the undersigned, the duly qualified and acting Clerk of the Township of Danby, Ionia County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of a resolution adopted at a special meeting of the Township Board on the 23rd day of November, 1998.

Carol S. Brown
Carol Brown, Township Clerk