



Village of Freeport
Ordinance # 44
Village Civil Infraction

Adopted: 08/09/2004
Effective: 09/16/2004

An ordinance to amend certain sections of the Village of Freeport Ordinances and Resolutions so as to make violations thereof a Village Civil infraction and to provide sanctions for violations thereof pursuant to Act 17 of the Public Acts of 1994: to establish a Village of Freeport Municipal Ordinance Violations Bureau pursuant to Act 12 of the Public Acts of 1994 for the purpose of accepting civil infractions admissions of responsibility for municipal civil infractions for which municipal violations notices have been issued and served by authorized officials: to collect and retain civil fines for such admissions as prescribed herein; to designate certain persons of Village Officials authorized to enforce the provisions of the ordinance by issuing municipal civil infraction citations or municipal civil infraction violation notices: and to repeal all ordinances or parts of resolutions in conflict herewith.

THE VILLAGE OF FREEPORT
BARRY COUNTY, MICHIGAN
ORDAINS;

SECTION 1

DEFINITION - This definition shall be placed immediately after the penalties section of all existing ordinances and resolutions.

MUNICIPAL CIVIL INFRACTION - "Municipal Civil infraction" means an act or omission that is prohibited by this ordinance or any ordinance of the Village but which is not a crime under this ordinance or any other ordinance, and for which civil sanction including without limitation, fines, damages, expenses and costs may be ordered as authorized by Chapter 87 of Act 236 of the Public Act of 1961, as amended. A municipal civil infraction is not a lesser included offense of any criminal offense in this ordinance.

SECTION II

GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF VILLAGE ORDINANCES AND RESOLUTIONS, CONTINUING VIOLATIONS INJUNCTIVE RELIEF.

- A. Unless a violation of this Ordinance or any ordinance of the Village is specifically designated in this ordinance as a municipal civil infraction the violation shall be deemed to be a misdemeanor.
- B. The penalty for a misdemeanor violation shall be a fine not exceeding \$400.00 (plus costs of prosecution). or imprisonment not exceeding 90 days. or both" unless a specific penalty is otherwise provided for the violation by this Ordinance or any ordinance.
- C. 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 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 violation by this Ordinance or any ordinance, the civil fine for a violation shall be not less than \$50.00 nor more than \$400.00 plus costs and other sanctions, for each infraction. Costs shall include all expenses, direct or indirect to which the Village has been put in connection with the municipal civil infractions.

2. Increased civil fines may be imposed for repeated violations by a person of any requirements or provisions of this Ordinance or any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (a) committed by a person within any three (2) year period unless some other period is specifically provided by this Ordinance or any ordinance, and (b) 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 civil infraction violation the increased fine for a repeat offense shall be as follows:

1st Violation within a 2year period * \$60.00

2nd Violation within a 2year period* \$135.00

3rd Violation within a2year period* \$260.00

4th or subsequent Violation within a 2year period* \$400.00

* determined on basis of the date of violation(s)

D. 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 where the act is required by this Ordinance or any ordinance.

E. Each act of violation and each day on which any violation of this Ordinance or any ordinance constitutes a separate offense and shall be subject to penalties or sanction as a separate offense.

F. 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 to the abatement of the violating condition any injunctive relief revocation of any permit or license. or their process.

G. The penalties and sanctions provided by this section unless another penalty or sanction as expressly provided- shall apply to the amendment of any section of this Ordinance whether or not such penalty or sanction is re-enacted in the amendatory ordinance.

SECTION III

MUNICIPAL ORIDINACE VIOLATIONS BUREAU

DEFINITIONS: The following words, terms and phrases when used in this division shall have the meaning ascribed to them in section except the context clearly indicates a different meaning:

A. "Act- means Act No. 236 of the Public Acts of 1961, as amended

B. *Authorized Township Official' means Ordinance Enforcement Officer designated Deputy Sheriff, Zoning Administrator and any other ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices-

C. "Bureau" means the Village of Freeport Municipal Ordinance Violations Bureau as established by this Article.

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 authorized official, 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 Village official, directing a person to appear at the Village of Freeport 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 Section 8396 and 8707 (6) of the Act.

ESTABLISHMENT, LOCATION AND PERSONNEL OF MUNICIPAL ORDINANCE VIOLATIONS BUREAU

A. Establishment: The Village of Freeport Municipal Ordinance Violation Bureau (hereafter "Bureau") is hereby established pursuant to 1994 Public Act 12 (MCL 600.8396) as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions and to collect and retain civil fines/costs for such violations as prescribed herein.

B. Location: The Bureau shall be located at the Village Office/Hall or such other location in the Village as may be designated by the Village Council.

C- Personnel: All personnel of the Bureau shall be Village employees. The Village Council may be by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Village Council.

BUREAU AUTHORITY

The Bureau shall only have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violations notice (as compared to a citation) has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this ordinance or other applicable ordinance. The Bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation or who admits responsibility the truth or falsity of any fact or matter relating to an alleged ordinance violation.

ORDINANCE VIOLATION NOTICE REQUIREMENTS, ADMISSION / DENIAL OF RESPONSIBILITY

A. Ordinance violation notice requirements. Municipal civil infraction violation notices shall be issued and served by authorized Village Officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:

1. The Violation
2. The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;
3. The amount of the scheduled final costs for the violation;
4. The methods by which the violation may be admitted or denied;
5. The consequences of failing to pay the required fines./costs or contact the Bureau within the required time;
6. The address and telephone number of the Bureau;
7. The days and hours that the Bureau is open

DENIAL OF RESPONSIBILITY. Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil final costs within the designated time period, the Bureau Clerk or other designated Village employee (s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter. The citation filed with the court shall consist of sworn complaint containing at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. A copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation shall thereafter be processed in the manner required by law.

SANCTIONS AND SCHEDULE OF CIVIL FINES/COSTS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute and punishable by civil fines.. Unless a different schedule of civil fines is provided for by the applicable ordinance, the civil fines payable to the Bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule:

1st Violation within a 2year period \$60.00

2nd Violation within a 2year period* \$135.00

3rd Violation within a 2year period \$260.00

4th Violation within a 2year period* \$4t0.00

* determined on the basis of the date of violation (s).

In addition to the above prescribed, costs in the amount of \$20.00 shall be assessed by the Bureau if additional court papers have to be served.

RECORDS AND ACCOUNTING

The Village Clerk or other designated Village official/employee shall retain a copy of all Municipal ordinance violation notices, and shall account to the Village Council once a month or at such other intervals as the Village Council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Bureau and the amount of fines/costs collected with respect to such violations. The civil fined costs collected shall be delivered to the Village Treasurer at such intervals as the Treasurer shall require and shall be deposited in the general fund of the Village.

AVAILABILTY 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 an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction the Village 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.

SEVERABTLITY

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.

REPEAL

All ordinances or part of ordinance or resolution in conflict with this ordinance are hereby repealed.

SECTION IV

ORDINANCE ENFORCEMENT OFFICER

The office of the Village of Freeport Ordinance Enforcement Officer designated Deputy-Sheriff, Zoning Administrator is hereby established.

APPOINTMENT

The Village Council is hereby authorized to appoint by motion/resolution any person or persons to the office of Ordinance Enforcement Officer, designated Deputy Sheriff. Zoning Administrator for such term or terms as may be designated in said motion/resolution for such compensation as the Village Council may determine. The Village Council may further by motion/resolution, remove any person from said office, in the discretion of the Village Council.

AUTHORITY

The Ordinance Enforcement Officer designated Deputy Sheriff 7-ZoningAdministrator is hereby Authorized to enforce all ordinances of the Village 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 the 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, designated Deputy Sheriff, Zoning Administrator shall be in addition and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer, designated Deputy Sheriff. Training Administrator shall, in the performance of the officer's duties be subordinate and responsible to the Village President or such other Village Council member as the Village Council may from time to time designate.

DUTIES

The Ordinance Enforcement Officers, designated Deputy Sheriff, Training Administrator duties shall include the following: investigation of ordinance violations: issuing an serving ordinance violation notices: issuing and serving appearance tickets as authorized under 196& Public Act 147 as amended (MCL 764.9a), issuing and serving municipal ordinance violation notices and

Municipal civil infractions citations as authorized under 1994, Public Act 12 as it may from time to time be amended (MCL. 600.8701 et seq); appearance in court or other judicial or quasi judicial proceeding to assist in the prosecution of ordinance violations; and such other ordinance enforcing duties as may be delegated by the Village Council

SEVERABLE TV

The provisions of the 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.

SUPPLEMENTARY EFFECT

All ordinances of the Village heretofore or hereafter adopted shall be considered to be supplemented by the terms of this Ordinance.

EFFECTIVE DATE

This Ordinance shall take effect immediately upon publication as required by law following adoption by the Village Council.

Village Clerk
Village of Freeport

Section V

Publication/Effective Date:

This ordinance shall be published within fifteen (15) days after its passage and shall become effective thirty (30) days from the date of publishing in a local paper.


This Ordinance was duly adopted on the 9 day of August, 2004 at a regular meeting of the Village Council.

Yeas: 7

Nays: 0

Absent: 0

I hereby certify that the above Ordinance N0. 44 was adopted by the Village of Freeport's Village Council on 9 day of August, 2004.


Yvonne M. Aspinall
Village Clerk
Village of Freeport