

## **CHARTER TOWNSHIP OF CALUMET ORDINANCE NO. 41a**

AN ORDINANCE TO AMEND CHARTER TOWNSHIP OF CALUMET ORDINANCE NO. 41 WHICH WAS ADOPTED ON DECEMBER 30<sup>TH</sup>, 2015.

Charter Township of Calumet Ordinance No. 41 (hereinafter the “Ordinance”) shall be amended to read as follows:

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 INFRACTIONS TICKETS AND APPEARANCE TICKETS; ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU FOR THE PURPOSE OF ACCEPTING ADMISSIONS OF RESPONSIBILITY FOR ORDINANCE VIOLATIONS DESIGNATED AS MUNICIPAL CIVIL INFRACTIONS FOR WHICH MUNICIPAL ORDINANCE VIOLATION NOTICES HAVE BEEN ISSUED AND SERVED BY AUTHORIZED OFFICIALS; PENALTIES; AND PROCEDURES RELATING TO SUCH MATTERS.

THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF CALUMET ORDAINS:

### **Section 1. Title**

This Ordinance shall be known as the “Charter Township of Calumet Municipal Penalty, Civil Infractions, Appearance Tickets, and Municipal Ordinance Violations Bureau Ordinance.”

### **Section 2. Definitions**

As used in this Ordinance:

- “Act” means Act No. 236 of the Public Act of 1961, as amended, and Public Act 12 of 1994, as amended.
- “Authorized Township official” means a Township official, police officer, or other personnel or agent of the Township authorized in this Ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.
- “Municipal civil infraction action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

- “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.
- “Municipal civil infraction violation notice” means a written notice prepared by an authorized Township official, directing a person to appear at the Charter Township of Calumet Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the scheduled of civil fines adopted by the Township as authorized under the Act.
- “Township” means the Charter Township of Calumet.

### **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 or a municipal civil infractions violation notice directing the alleged violator to appear at the Charter Township of Calumet Municipal Ordinance Violations Bureau.

### **Section 4. Municipal Civil Infraction Citations; Issuance and Service**

Municipal civil infraction citations shall be issued and served by authorized Township official 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 the citation shall be the District Court that has jurisdiction over the Charter Township of Calumet.
- 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 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.”
- E. An authorized Township official who witnesses a person 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:

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

(ii) 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 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:

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

(ii) 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 owner's last known address.

### **Section 5. 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. Further, the citation shall inform the alleged violator that he or she may do one of the following:

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

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

(iii) 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 a 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:

(i) 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.

(ii) 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.

(iii) That hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator of the Township.

(iv) 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.

(v) 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 boldface 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. Charter Township of Calumet Municipal Ordinance Violations Bureau**

**A. Establishment.** The Charter Township of Calumet Municipal Ordinance Violations Bureau (hereinafter the "Bureau") is hereby established pursuant to Public Act 12 of 1994 (MCL 600.8396), as amended, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions upon which municipal civil infraction violation notices have been issued and served by authorized Township offices, and to collect and retain civil fines/costs for such violations as prescribed herein or by other municipal civil ordinances.

**B. Location.** The Bureau shall be located at the Township Office or such other location in the Township as may be designated by the Township Board.

**C. Personnel.** All personnel of the Bureau shall be Township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Township Board.

The Township Supervisor, Clerk, and Treasurer are hereby delegated as authorized local officials, legally authorized to issue municipal infraction citations and to accept admissions of responsibility. The foregoing designees and the Township Secretary may also collect scheduled civil fines/costs as specified herein. Civil fines/costs shall be paid during Charter Township of Calumet's normal business hours.

**D. 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 only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

**E. Ordinance Violation Notice Requirements.** Municipal civil infraction violation notices shall be issued and served by authorized Township officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:

- i. The violation;
- ii. The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;
- iii. The amount of the scheduled fines/costs for the violation;
- iv. The methods by which the violation may be admitted or denied;
- v. The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
- vi. The address and telephone number of the Bureau;
- vii. The days and hours that the Bureau is open.

**F. 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 fines/costs within the designated time period, the Bureau Clerk or other designated Township 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 a 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.

**G. Records and Accounting.** The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the Township Board once a month or at such other intervals as the Township Board 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 fines/costs collected shall be delivered by the foregoing designated legally authorized local officials to the Township Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

**H. Records and Accounting.** The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the Township Board once a month or at such other intervals as the Township Board 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 fines/costs collected shall be delivered by the foregoing designated legally authorized local officials to the Township Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

**I. 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 an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction the Township 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.

**J. Schedule of Civil Fines/Costs.** The civil fines payable to the Bureau upon admissions of responsibility by persons served with municipal civil ordinance violation ordinances shall correspond with the civil fine and costs scheduled provided for in Section 7 General Penalties and Sanctions for Violations of Township Ordinances, below.

### **Section 7. General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations; Injunctive Relief**

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

B. The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 93 days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.

C. 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 Act No. 236 of the Public Acts of 1961, as amended, Public Acts 12-26 of 1994, as amended, and other applicable laws.

(i) Unless otherwise specifically provided for a particular municipal civil infraction violation by ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than \$ 125.00, plus costs and other sanctions, for each infraction.

(ii) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of any ordinance. As used in this Ordinance, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by the same person for the same property within any twelve (12) month period (unless some other period is specifically provided by an ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by an ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(a) The fine for any offense which is a first repeat offense shall not be less than \$250.00, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$500.00, plus costs.

D. 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.

E. 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.

F. 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 off any Township ordinance.

### **Section 8. Authorized Persons – Civil Infractions Tickets**

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Charter Township of Calumet 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 Houghton County Sheriff and all other deputy county sheriffs of said county
- The Township Supervisor
- The Township ordinance enforcement officer
- The Township zoning administrator
- The Township clerk

### **Section 9. Authorized Persons – Misdemeanor Appearance Tickets**

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Charter Township of Calumet ordinance to the contrary, the following officials are empowered to issue and serve appearance tickets for violations of Township ordinances that contain criminal misdemeanor penalties for violations of the ordinance involved:

- The Houghton County Sheriff and all other deputy county sheriffs of said county
- The Township Supervisor
- The Township ordinance enforcement officer
- The Township zoning administrator
- The Township clerk

### **Section 10. 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.

### **Section 11. Other Ordinances**

All other ordinances and parts of ordinances, or amendments thereto, the Charter Township of Calumet in conflict with the provisions of this Ordinance are hereby repealed.

### **Section 12. 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.