

37.

TOWNSHIP OF BOIS BLANC
COUNTY OF MACKINAC, STATE OF MICHIGAN

TOWNSHIP ORDINANCE NO.37
ADOPTED: December 11, 2002
EFFECTIVE: February 5, 2003

CIVIL INFRACTION ORDINANCE

Section 1: Title

Bois Blanc Township Civil Infraction Ordinance

Section 2: Purpose

The Bois Blanc Township civil Infraction Ordinance is established to prosecute ordinance violations under the municipal civil infraction system. The words "Township Municipal Civil Infraction" mean an act or omission as prohibited by any ordinance of the township, but which is not a crime under this or any other ordinance of the township and for which civil sanctions, including, but without limitations, fines, damages, expenses and costs, may be ordered, as authorized by Public Acts 13 and 14 (MCL 42.21 – (Appendix G) and 41.183 – (Appendix H) and Public Act 24 of 1994 (MCL 125.294) (Appendix I – *does not exist*) as amended. A township Municipal Civil Infraction is not a lesser-included offense in violation of a township ordinance that is a criminal offense.

Section 3: General Penalties and Sanctions for Violations of Township Ordinances.

Unless a violation of this or any other ordinance of the township is specifically designated as a township municipal civil infraction, the violation shall be deemed a misdemeanor.

- The penalty for a misdemeanor violation shall be a fine not exceeding five hundred (\$500.00) dollars, plus costs of prosecution, or imprisonment not exceeding ninety (90) days, or both, unless a specific penalty is otherwise provided for the violation of this or any other township ordinance.
- Sanctions for a violation, which is a township municipal civil infraction, shall be a civil fine in the amount(s) as set forth in Section 11 of this ordinance. Said Section 11 sets forth the amount of the fine for first and repeated violations. As used in this section, "repeat violations" means a second (or any subsequent) township municipal civil infraction violation of the same requirement or

provision committed by a person within any six-month period (unless such other period is specifically provided by ordinance).

- A “violation” includes any act, which is prohibited or made or declared to be unlawful, or offense by this or any other township ordinance, and any omission or failure to act where an act is required by this or any other township ordinance.
- Each day on which any violation of this or any other ordinance continues constitutes a separate offense and shall be subject to penalties and sanctions as a separate offense.
- 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 this or any other township ordinance.

Section 4: Definitions

As used in relation to municipal civil infractions:

- “Authorized Township Official” means township supervisor or his/her designee or other personnel of the township authorized by this ordinance to issue Township Municipal Civil Infraction Notices or Township Municipal Civil Infraction Citations.
- “Township Municipal Civil Infraction Action” means a civil action in which a defendant is alleged to be responsible for a township municipal civil infraction.
- “Township Municipal Civil Infraction Notice” means a written complaint prepared by an authorized township official directing a person to assume responsibility for the violation without prejudice and pay the proper fine and costs to the Violations Bureau Clerk.
- “Township Municipal Civil Infraction Citation: means a written complaint prepared by an authorized township official directing a person to appear in court regarding the occurrence or existence of a township municipal civil infraction violation.

Section 5: Township Municipal Civil Infraction Action Commencement

The township municipal civil infraction action may be commenced upon the issuance by the authorized township official of a Township Municipal

Civil Infraction Notice or by a Township Municipal Civil Infraction Citation.

Section 6: Township Municipal Civil Infraction Notices –
Issuance and Service.

Township Municipal Infraction Notices shall be issued and served by authorized township officials as follows:

- Time for appearance specified in the notice shall be within 10 days of the notice date.
- Place for appearance and payment of fines specified in the notice shall be the Municipal Violations Bureau.
- Each notice shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office. The original notice shall be filed with the Bureau Clerk and a copy issued to the alleged violator.
- A notice for a township municipal civil infraction signed by an authorized official shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the official signing the complaint. The notice must also contain 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."
- If any authorized township official witnesses a person commit a township municipal civil infraction, he/she shall prepare and subscribe, as soon as possible, and as completely as possible, an original and required copies of the notice.
- Authorized township official(s) may issue a notice to a person if:
 - * based upon investigation, the official has reasonable cause to believe that the person is responsible for a township municipal infraction, or
 - * based upon the investigation of a complaint by someone who allegedly witnessed a person commit a township municipal civil infraction, the official has reasonable cause to believe the person is responsible for an infraction.
- Township Municipal Infraction Notices shall be served by an authorized township official either in person or by posting a notice

at the property and sending a copy of the notice to the alleged violator by first class mail.

Section 7: Township Municipal Civil Infraction Notice Contents

A Township Municipal Civil Infraction Notice shall contain the name and address of the alleged violator, the township municipal civil infraction alleged (with brief description), the fine and costs assessed, the required date of appearance at the violations bureau (ten days from date of notice), the consequences of failing to pay the required fine/costs or contacting the bureau within the required time, the address and telephone number of the bureau, and the days and hours that the bureau is open.

Further, the Notice shall inform the alleged violator the methods by which the violation may be admitted or denied.

- The alleged violator may admit responsibility for the municipal civil infraction by mailing the fine along with the notice to the violations bureau, or appearing in person and paying the fine.
- The alleged violator may admit responsibility for the municipal civil infraction “with explanation”, or deny responsibility for the infraction.

Section 8: Township Municipal Infraction Notice Denial

Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the bureau and pay the required civil fine/costs within the designated time period, the bureau clerk or other designated township employee(s) shall advise the enforcement officer to issue and file a Township Municipal 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 Township Municipal Infraction Notice and shall fairly inform the alleged violator how to respond to the citation. A copy of the citation may be personally served upon the alleged violator, or 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.

Section 9: Township Municipal Infraction Citation Issuance and Service

Township Municipal Infraction Citations shall be issued and served by authorized township officials as follows:

- Time for appearance specified in the citation shall be within a reasonable time after the citation is issued.
- Place for appearance specified in the citation shall be the District Court for Mackinac County.
- Each Citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office. The original shall be filed with the District Court. Copies of the citation shall be restrained by the township and issued to the alleged violator as provided by Section 8705 of Act 236 of Public Acts of 1961, as amended. (Appendix J)
- A citation for a township 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.*"
- Upon denial of a Township Municipal Infraction Notice, a Township Municipal Infraction citation will be issued by the enforcement officer with the court having jurisdiction of the matter. The citation shall include the allegations stated in the Township Municipal Infraction Notice and shall fairly inform the alleged violator how to respond to the citation.
- A Township Municipal Infraction Citation shall be served by an authorized township official as follows:
 - * Except as provided in the following paragraph, authorized township officials shall personally serve a copy of the citation upon the alleged violator.
 - * If the township municipal infraction action involves the use or occupancy of land, or 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 placing a copy of 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 10: Township Municipal Civil Infraction Citation Contents

A Township Municipal Civil Infraction Citation shall contain the name and address of the alleged violator, the township municipal civil infraction alleged (with brief description), the place where the alleged violator shall appear in court, the time at or by which the appearance shall be made.

Further, the Citation shall inform the alleged violator that he/she may do one of the following:

- Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance, or, in person, or by representation.
- Deny responsibility for the municipal civil infraction by doing either of the following:
 - * 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.
 - * Appearing in court for a formal hearing before Judge, with the opportunity of being represented by an attorney.
- The citation shall also inform the alleged violator of all of the following:
 - * That if alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must reply 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 the appearance.
 - * That if the alleged violator desires to deny responsibility, the alleged violator must reply to the Court in person, by mail, or by telephone, or by representation with 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.

- * That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
- * 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.
- * That at a formal hearing, the alleged violator must appear in person before a Judge with the opportunity of being represented by an attorney.

Section 11: Township Municipal Infraction Notice –
Schedule of Fines.

A schedule of civil fines for admission of responsibility by persons served with the Township Municipal Civil Infraction is hereby established. The fines for violations listed below shall be as follows:

Either:

Sanctions for Violations: Any person or other entity who violates any of the provisions of this ordinance is responsible for a municipal civil infraction as defined by Michigan Law and subject to a civil fine determined in accordance with the following schedule:

Minimum/Maximum

First violation within a 3-year period*	\$50 - \$500
Second violation within a 3-year period*	\$125 - \$500
Third violation with a 3-year period*	\$250 - \$500
Fourth or subsequent violation with a 3-year period	\$400 - \$500

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

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation, In no case, however, shall costs of less than \$9 or more than \$500 be ordered. a violator of this ordinance shall be also be subject to such additional sanctions, remedies and judicial orders as are authorized

under Michigan law. Each day a violation of this ordinance continues to exist constitutes a separate violation.

Or:

Sanctions for Violations: Any person or other entity who violates any of the provisions of this ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500, plus costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case, however, shall the costs of less than \$9 be ordered. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law. Each day a violation of this ordinance continues to exist constitutes a separate violation.

Section 12: Authorized Township Official

The Township Supervisor or his/her designee is hereby designated as the authorized township official to issue municipal civil infraction notices and citations as provided by the ordinance.

Section 13: Severability

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is declared unconstitutional by Court of competent jurisdiction, the remainder of the ordinance shall not be affected hereby.

Section 14: Effective Date

This ordinance shall become effective 30 days after publication as required by law following adoption by the Township Board.

Joan E. Schroka, Bois Blanc Township Clerk, does hereby certify that the foregoing Ordinance was adopted at a regular meeting of the Bois Blanc Township Board on December 11, 2002, and the same was caused to be published in the Cheboygan Tribune, on February 5, 2003; and, also, the fact that complete copies of the Code are available at the Office of the Clerk for inspection by and distribution to the public at all times.

Joan E. Schroka, Bois Blanc Township Clerk

