

LYNDON TOWNSHIP

MUNICIPAL CIVIL INFRACTION ORDINANCE

WASHTENAW COUNTY, MICHIGAN

**EFFECTIVE DATE
JUNE 5, 2015**

RESOLUTION NO. 15-03

**A RESOLUTION ADOPTING THE LYNDON TOWNSHIP MUNICIPAL CIVIL
INFRACTION AND VIOLATIONS BUREAU ORDINANCE**

At a regular meeting of the Township Board for the Township of Lyndon, Washtenaw County, Michigan, held at the Township Hall, 17751 N. Territorial Rd, Chelsea, MI 48118, on the 14th day of April, 2015 at 7:00 p.m.

PRESENT: Marc Keezer, Linda Reilly, Mary Jane Maze, John Francis, Robert Mester

ABSENT: None

The following preamble and resolution were offered by Keezer
and seconded by Mester.

1. The Township General Ordinance Statute, Michigan Public Act 246 of 1945, as amended, authorizes the Township Board to adopt ordinances regulating the public health, safety and general welfare of persons and property; and

2. Michigan Public Act 236 of 1961, as amended, Act 14 of 1994, as amended, and Act 12 of 1994, as amended, authorize the Township Board to designate violations of ordinances as municipal civil infractions subject to a civil fine, and to provide for enforcement and penalties of those violations; and

3. Under that authority, the Township Board previously adopted a municipal civil infraction ordinance, in about February 1998; and

4. The Township Board has determined that it is in the best interest of the public health, safety, and general welfare of persons and property to adopt an updated municipal civil infraction ordinance to enable itself to enforce some violations of Township ordinances as municipal civil infractions, to set penalties for those violations, and to create a violations bureau to collect payments for those violations; and

4. The Township Board has determined that adopting the Municipal Civil Infraction and Violations Bureau Ordinance attached as **Exhibit A** is in the best interest of the public health, safety, and welfare of the Township's residents.

THEREFORE, the Township Board resolves as follows:

1. The Township adopts Ordinance No. 2015-03, the Lyndon Township Municipal Civil Infraction and Violations Bureau Ordinance (the "Ordinance," attached as **Exhibit A**).

2. The Ordinance must be filed with the Township Clerk.

3. The Township Clerk, per MCL 41.184, must publish either a true copy or summary of the Ordinance in a newspaper of general circulation in the Township within 30 days after the Township approves the Ordinance.

4. Any resolution that conflicts with this Resolution is repealed upon the effective date of the Ordinance.

A vote on the above Resolution was taken and was as follows:

ADOPTED:

YEAS: Mester, Francis, Keezer, Maze, Reilly

NAYS: None

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Lyndon, Washtenaw County, Michigan, HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a regular meeting held on the 14th day of April, 2015.


Linda Reilly, Township Clerk

**TOWNSHIP OF LYNDON
ORDINANCE NO. 2015-03**

MUNICIPAL CIVIL INFRACTION AND VIOLATIONS BUREAU ORDINANCE

Section 1: Title.

This ordinance must be known and cited as the "Lyndon Township Municipal Civil Infraction Ordinance."

Section 2: Definitions.

As used in this Ordinance, the following terms have the following meanings:

- A. *Act* means Act 236 of Public Acts of 1961, as amended.
- B. *Authorized township official* means the person or agency the Township Board assigns; authorizes by resolution adopted under this Ordinance; or contracts with to issue municipal civil infraction citations or municipal civil infraction violation notices.
- C. *Bureau* means the Township of Lyndon Municipal Ordinance Violations Bureau as established by this Ordinance.
- D. *Municipal civil infraction* means an act or omission that is prohibited by any Township ordinance that specifies the violation as a municipal civil infraction. A municipal civil infraction is not a lesser included offense of a violation of any Township ordinance that is a criminal offense.
- E. *Municipal civil infraction action* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- F. *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.
- G. *Municipal civil infraction notice* means a written notice prepared by an authorized Township official directing a person to appear at the Township of Lyndon 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 Township Board, as authorized under Sections 8396 and 8707 of the Act.

- H. *Repeat offense* means any second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any one (1) year period (unless some other period is specifically provided by any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible.
- I. *Township* means Lyndon Township, Washtenaw County, Michigan.
- J. *Violation* means an act that is prohibited and declared to be a municipal infraction by any Township ordinance, including any or failure to act where the ordinance requires action.
- K. *Warning* means a correspondence prepared by an authorized Township official advising the recipient of a possible municipal civil infraction and directing the person to correct the alleged violation.

Section 3: Ordinances Enforced.

The Township, as permitted by law, may enforce ordinances designated as municipal civil infractions by issuing a municipal civil infraction warning, municipal civil infraction violation notice, municipal civil infraction citation or by any other means permitted by law.

Section 4: Establishment, Location and Personnel of Bureau. (Section 46-4)

A. Establishment.

The Township establishes the Lyndon Township Municipal Civil Infractions Bureau ("Bureau") pursuant to Public Act 236 of 1961 (MCL 600.8396). The Bureau's purpose is to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violations that an authorized Township official issues, and to collect and retain civil fines and costs for such violations as prescribed herein.

B. Location.

The Bureau must be located at the Lyndon Township Hall.

C. Personnel.

All personnel of the Bureau must be Township employees. The Township Clerk (or the Clerk's designee) is designated as the Bureau Clerk with the duties prescribed herein.

Section 5: Bureau Authority.

The Bureau must 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 and costs for such violations specified pursuant to this Ordinance or other applicable ordinances. The Bureau must not accept payment of fines and costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The Bureau must not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

Section 6: Records and Accounting.

The Bureau Clerk (or the Clerk's designee) must retain a copy of all Municipal civil infraction violation notices, and must account to the Township Board in an annual report 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 Bureau's jurisdiction and the amount of fines and costs collected with respect to such violations. All civil fines and costs collected must be delivered to the Township Treasurer on the business day received and must be deposited in the general fund of the Township.

Section 7: Ordinance Violation Notice Requirements.

Municipal civil infraction violation notices must be issued and served by an authorized Township official in the same manner as provided for citations. In addition to any other information other Township ordinances require, the notice of violation must indicate 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 fines and 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 and 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.

Section 8: Disposition of the Notice.

A. Appearance; payment of fines and costs.

An alleged violator receiving a municipal civil infraction violation notice must appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

B. Denial or admission with explanation of responsibility.

The Bureau must not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation. Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil fines and costs within the designated time period, the Bureau Clerk (or Clerk's designee) must issue and file a municipal civil infraction citation for such violation with the district court having jurisdiction of the matter, pursuant to Section 11.

C. Procedure where admission of responsibility is not made or fine is not paid.

If an authorized Township official issues and serves a municipal civil infraction violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the district court having jurisdiction and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address, pursuant to Section 11, Municipal civil infraction action.

Section 9: Schedule of Civil Fines Payable to the Bureau.

A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal civil infraction violation notice is established as follows:

1. For violation of the provisions of this Ordinance governing the approval, operation, or maintenance of Special Land Uses in any **Zoning District**:

- a. First violation: five hundred dollars (\$500.00);
- b. Second violation within a three (3) year period from the date of the first violation: one thousand dollars (\$1,000.00);

- c. Third violation within a three (3) year period from the date of the first violation: two thousand dollars (\$2,000.00);
 - d. Fourth and any subsequent violations within a three (3) year period from the date of the previous violation: five thousand dollars (\$5,000.00);
2. For violation of any other provision of this Ordinance in any **Zoning District**:
- a. First violation: fifty dollars (\$50.00);
 - b. Second violation within a three (3) year period from the date of the first violation: one hundred dollars (\$100.00);
 - c. Third violation within a three (3) year period from the date of the first violation: two hundred dollars (\$200.00);
 - d. Fourth and any subsequent violations within a three (3) year period from the date of the previous violation: five hundred dollars (\$500.00);

Section 10: 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 11: Municipal Civil Infraction Citations; Issuance and Service.

Municipal civil infraction citations must be issued and served by an authorized Township official as follows:

- A. The time for appearance specified in a citation must be within 10 days after the citation is issued.
- B. The place for appearance specified in a citation must be the district court having jurisdiction over the matter (currently, the 2A District Court).
- C. Each citation must be numbered consecutively and must be in a form approved by the state court administrator. The original citation must be filed with the court. One copy must be retained by the Township. A second copy must be issued to the alleged violator.
- D. A municipal civil infraction citation signed by an authorized Township official must be treated as made under oath if the violation alleged in the citation occurred in the presence

of the official signing the citation 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 must prepare and, 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 must be served by an authorized Township official as follows:
 - 1. Except as provided below (Section 12 G.2.), an authorized Township official must 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 must be sent by first class mail to the owner of the land, building, or structure at the owners' last known address.

Section 12: Municipal Civil Infraction Citations; Contents.

- A. A municipal civil infraction citation must contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator must appear in court, the telephone number of the court, and the time by which the appearance must be made.
- B. The citation must 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:
 - i) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity to be represented by an attorney, unless a formal hearing before the judge is requested by the Township.
 - ii) Appearing in court for a formal hearing before a judge, with the opportunity to be represented by an attorney.

C. The citation must 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 must be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.
4. 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.
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 must contain a municipal civil infraction 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 13: Schedule of Civil Fines and Costs.

- A. The penalty for violation of civil infractions must be the amount set forth in Section 9, unless otherwise specified in Township ordinances, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Act, and any other applicable laws.
- B. Further, the judge or district court magistrate must 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.
- C. Each day on which any violation of this Ordinance or any Ordinance continues constitutes a separate offense and must be subject to penalties or sanctions as a separate offense.
- D. In addition to any remedies available by 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 Ordinance or any other Township Ordinance.

Section 14: Availability of Other Enforcement Options.

Nothing in this Ordinance requires the Township to initiate this Ordinance's enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction violation notice, the Township may proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

Section 15: Failure to Appear Penalty.

A person served with a municipal civil infraction citation as provided herein who fails to appear within the time specified in the citation or at the time scheduled for hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

Section 16: Severability.

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

Section 17: Repeal.

All ordinances or part of ordinances in conflict with this Ordinance are repealed, including Ordinance No. 3-A, an Ordinance to Amend the Lyndon Township Zoning Ordinance, Ordinance No. 3, and to Establish and Provide for Civil Infraction Fines for Violation of the Ordinance in Addition to Other Remedies.

Section 18: Effective Date.

The Ordinance takes effect 30 days after it (or a proper summary of it) is published as required by law after the Township Board adopts it.

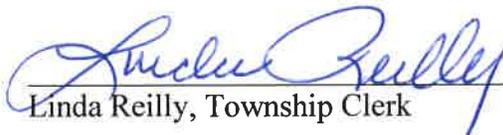
ADOPTED:

YEAS: Mester, Francis, Keezer, Maze, Reilly

NAYS None

STATE OF MICHIGAN)
)
WASHTENAW COUNTY)

I, Linda Reilly, the duly elected clerk for Lyndon Township, Washtenaw County, Michigan, do certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Lyndon Township Board on April 14, 2015, and that a summary of the ordinance was published in the Sun Times News on the 6th day of May, 2015.



Linda Reilly, Township Clerk