

Municipal Civil Infraction Actions and Citations
Municipal Ordinance Violations Bureau

Chapter 203 Municipal Civil Infractions

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The Township of Pentwater Ordains:

Section 1 Definitions.

As used in this chapter:

- (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 any Township ordinance to issue Municipal civil infraction citations or Municipal civil infraction violation notices.
- (c) "Bureau" means the Municipal Ordinance Violation Bureau, as established by this chapter.
- (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 Township 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 Township official, directing a person to appear at the 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, as authorized under Section 8396 and 8707(6) of the Act.

Section 2 COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION.

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 infraction violation notice directing the alleged violator to appear at the Municipal Ordinance Violations Bureau.

Section 3 ISSUANCE AND SERVICE OF MUNICIPAL CIVIL INFRACTION CITATIONS. 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 the 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 District Court. Copies of the citation shall be retained by the Township and issued to the alleged violator as provided by Section 8704 of the Act.
- (d) A citation for a Municipal civil infraction signed by an authorized Township official shall be treated as if it were 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 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:

- (1) Except as provided in paragraph (g)(2) hereof, an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
- (2) If the Municipal civil infraction 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 posing the copy on the land or attaching the 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 4 CONTENTS OF A MUNICIPAL CIVIL INFRACTION CITATIONS.

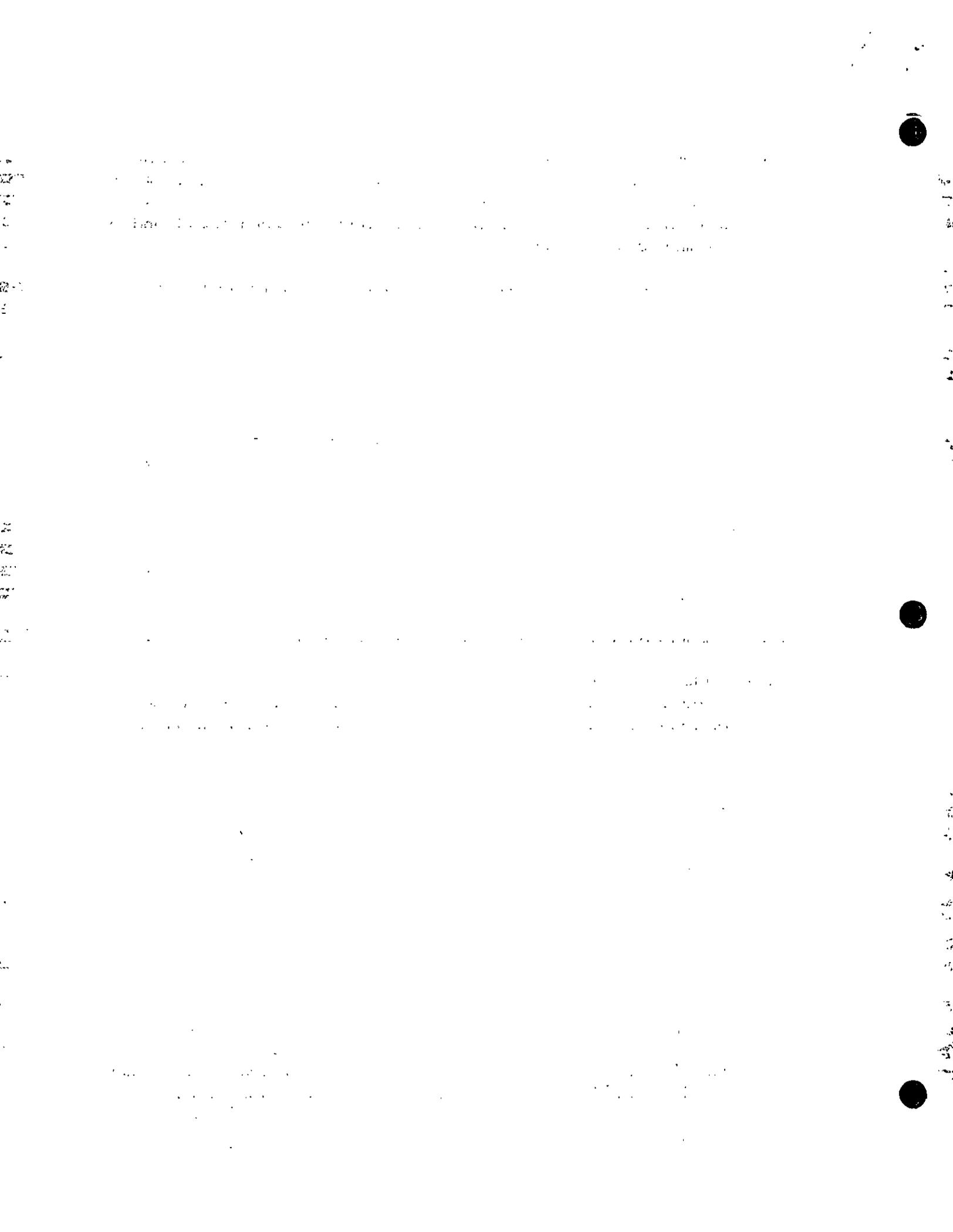
(a) A Municipal civil infraction citation shall contain the name and address of the alleged violator, the Municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he or she may do one of the following:

- (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 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:

- (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 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 or District Court magistrate, with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldfaced type stating 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 MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

- (a) **Establishment.** There is herein established a Municipal Ordinance Violations Bureau (the Bureau), as authorized under Section 8396 of the Act, to accept admissions of responsibility for Municipal civil infractions in response to Municipal civil infraction violation notices issued and served by authorized Township officials, and to collect and retain violation notices issued and served by authorized Township officials, and to collect and retain violation notices issued and served by authorized Township officials, and to collect and retain civil fines and costs as prescribed by any Township ordinance.
- (b) **Location: Supervision: Employees: Rules and Regulations.** The Bureau shall be located at the Township Hall and shall be under the supervision and control of the Township Treasurer. The Township Treasurer, subject to the approval of the Township Board, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified Township employees to administer the Bureau.
- (c) **Disposition of Violations.** The Bureau may dispose only of Municipal civil infraction violations for which a fine has been scheduled and for which a Municipal civil infraction violation notice (as compared with a citation) has been issued. The fact alone that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the Township from issuing a Municipal civil infraction for any

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violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a Municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

- (d) **Scope of Authority.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for Municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.
- (e) **Municipal Civil Infraction Violation Notices.** Municipal civil infraction violation notices shall be issued and served by authorized Township officials under the same circumstances and upon the same persons as are provided for citations in Section 3(f) and (g). In addition to any other information required by any Township ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation and the consequences for failure to appear and pay the required fine within the required time.
- (f) **Appearance: Payment of Fines and Costs.** An alleged violator receiving a Municipal civil infraction violation notice shall 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.
- (g) **Procedure Where Admission of Responsibility Not Made or Fine Not Paid.** If an authorized Township official issues and serves a Municipal ordinance 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 set forth in Section 6 for the violation, are not paid at the Bureau, a Municipal civil infraction citation may be filed with the District Court, 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. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the Municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

Section 6 SCHEDULE OF CIVIL FINES.

(a) A schedule of civil fines payable to the Municipal Ordinance Violations Bureau for admissions of responsibility served with Municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows:

- 1. First Offense \$ 50.00
- 2. Second Offense \$100.00
- 3. Third Offense \$250.00

(b) A separate offense shall be deemed committed each day on which a violation or noncompliance occurs or continues, unless otherwise provided.

Section 7 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.

Section 8 EFFECTIVE DATE.

This Ordinance shall become effective immediately upon publication.

Ordinance No. 5-12-99 was adopted on the 12th day of May, 1999, by the Pentwater Township Board as follows:

Motion by: Daniel Ellinger
 Seconded by: Terry Cluckey
 Yeas: Daniel Ellinger, Terry Cluckey, Mike Flynn, Janice Siska
 Nays: Barbara Burke
 Absent: NONE

Barbara Burke
 Barbara Burke, Township Clerk

I certify that this is a true copy of Ordinance No. 5-12-99 that was adopted at a regular meeting of the Pentwater Township Board on May 12, 1999 and published in the Oceana's Herald Journal on May 20, 1999.

Dated: May 17, 1999

Barbara Burke
 Barbara Burke, Township Clerk