

ORDINANCE NO. 01-2008

Civil infractions and Violations Bureau Ordinance

An ordinance setting forth the authority and procedures for designating violations of village ordinances as municipal civil infractions, establishing a municipal ordinance violations Bureau for the purpose of accepting admissions of responsibility for ordinance violations, authorizing the issuance of civil infraction notices and citations and the manner of serving the same; establishing sanctions for municipal civil infractions; authorizing the collection and retention by the village of civil fines / costs for such violations as prescribed herein and to repeal all conflicting ordinances or parts of ordinances.

The Village of Waldron ordains:

Section 1. Title

This ordinance shall be known and cited as the Village of Waldron Civil Infractions and Violations Bureau Ordinance.

Section 2. Definitions: As used in this Ordinance:

- 2.01 “**Act**” means Act No. 236 of the Public Acts of 1961, as amended.
- 2.02 “**Authorized village official**” means a police officer/code enforcement officer or other personnel of the village authorized by this ordinance or any other village ordinance to issue municipal civil infraction citations.
- 2.03 “**Municipal civil infraction**” means an act or omission that is prohibited by any ordinance of the village, but which is not a crime under the ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and cost, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of any village ordinance that is a criminal offense.
- 2.04 “**Municipal civil infraction citation**” means a written complaint prepared by an authorized village official and filed with the court, in those cases where the alleged violator either denies responsibility or admits responsibility with explanation following the issuance of a municipal civil infraction notice.
- 2.05 “**Municipal civil infraction violation notice**” means a written notice, prepared by an authorized Village 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 Village, as authorized under Sections 8396 and 8707(6) of the Act.

Section 3. Establishment, Location and Personnel of Municipal Ordinance Violations Bureau.

- 3.01 Establishment of Bureau. The Village of Waldron Municipal Ordinance Violations Bureau (hereafter the “Bureau”) is hereby established pursuant to Section 8396 of the Act (MCL 600.8396), for the purpose of accepting admission of responsibility or ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.
- 3.02 Location of Bureau. The Bureau shall be located at the Village Hall or other such location in the Village as may be designated by the Village Council.
- 3.03 Personnel. All personnel of the Bureau shall be Village employees. The Village Council may by resolution designate Bureau personnel and a Bureau clerk with the duties prescribed herein and as otherwise may be designated by the Village Council.

Section 4. 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 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.

Section 5. Civil Infraction Action.

- 5.01 Commencing Action. A municipal civil infraction action shall be commenced by the issuance of a municipal civil infraction notice by an authorized village official directing the alleged violator to contact the Bureau for purposes of admitting or denying responsibility for the violation.
- 5.02 Grounds for issuing Notice. An authorized village official may issue a municipal civil infraction notice to a person if:
- A. The authorized village official witnesses that person commit a municipal civil infraction, or
 - B. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - C. Based upon investigation of a complaint by someone who allegedly witnessed that person commit a municipal civil infraction, the official has reasonable

cause to believe that that person is responsible for an infraction and if the village attorney approves in writing the issuance of the municipal civil infraction notice.

Section 6. Civil Infraction Notice

6.01 Contents of Notice. A municipal ordinance notice shall at a minimum contain the following information:

- A. The name and address of the alleged violator;
- B. The municipal civil infraction alleged;
- C. The address and telephone number of the Bureau;
- D. The days and hours that the Bureau is open;
- E. The amount of the scheduled fines/costs for the violation;
- F. The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;
- G. The methods by which the violation may be admitted or denied; and
- H. The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;

6.02 Right of Violator. Further, the municipal civil infraction notice shall inform the alleged violator that he or she may do one of the following:

- A. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- B. Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or, in person, or by representation.
- C. Deny responsibility for the municipal civil infraction by doing either of the following:
 - 1. Request an informal hearing in which event he or she shall appear in person for an 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 Village; or
 - 2. Request a formal hearing before a judge, with the opportunity of being represented by an attorney.

- 6.03 Effect of Failure to Admit. The municipal civil infraction notice shall also inform the alleged violator that in the event the alleged violator admits responsibility “with explanation”, denies responsibility or fails to contact the Bureau within the prescribed time, a municipal civil infraction citation shall be issued and served.

Section 7. Civil Infraction Citation

- 7.01 When Citation Shall issue. 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 Village employee(s) shall advise the authorized city official to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter.
- 7.02 Contents of Citation. The citation filed with the court and served on the alleged violator shall contain the following information:
- A. The name and address of the alleged violator;
 - B. A sworn complaint containing all the allegations regarding the violation as set forth in the municipal civil infraction notice;
 - C. The place where the alleged violator shall appear in court;
 - D. The address and telephone number of the court; and
 - E. The time as or by which the appearance shall be made.
 - F. Clear and unambiguous information on how the alleged violator must respond to the citation.
 - G. 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.
- 7.03 Rights of Violator. The citation shall also inform the alleged violator of his or her right to admit or deny the violation, as more fully set forth Section 6b of this ordinance.
- 7.04 Service of the Citation. A copy of the citation may be served on the alleged violator either by personal service or by first class mail sent to the alleged violator’s last known address. The citation shall thereafter be processed in the manner required by law.

Section 8. Schedule of Civil Fines/costs

Unless a different schedule of civil fines is provided for by an 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 and on the basis of the date of the violation(s):

- First violation \$50.00
- Second violation for the same offence within a 4-year period \$125.00
- Third violation for the same offence within a 4-year period \$250.00
- Fourth or subsequent violation for the same offence within a 4-year period \$400.00

In addition to the above prescribed civil fines/costs \$10.00 shall be assessed by the Bureau if the fine and costs are not paid within 10 days of the date of service of the municipal ordinance violation notice, unless a formal or informal hearing has been requested.

Section 9. Record and Accounting

The Bureau 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 a 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 fines/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.

Section 10. Availability of Other Enforcement Options

Nothing in this ordinance shall be deemed to require the Village to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as 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.

Section 11. Severability

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.

Section 12. Repeal

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

Section 13. Effective Date

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

YEAS: {6} *Rick Bays, Roy Hall, Harold Douglas, Brad Frey, Shawn Barnhart, and President Richard Buck.*

NAYS: {0} *None*

ABSENT: {1} *Jeffery Bernath*

Ordinance declared adopted on March 11, 2008.

Richard Buck

Richard Buck, President
Village of Waldron

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Ruth Hotchkiss, the duly elected Clerk of the Village of Waldron certify that the foregoing ordinance is a true and correct copy of the ordinance enacted by the Village Council of the Village of Waldron on March 11, 2008 and published in part in a newspaper circulated in the Village of Waldron on March 18, 2008.

Ruth Hotchkiss

Ruth Hotchkiss, Clerk
Village of Waldron