

Township of Alcona
Ordinance Number 2022-01
Municipal Civil Infraction Ordinance

Ordinance to Provide that: Violations of Alcona Township ordinances are municipal civil infractions and to establish the process and penalties for resolution.

Section 1: Definitions

As used in this ordinance, the following words and phrases shall have the following meanings:

“Act” means Act Number 236 of the Public Acts of 1961, as amended, being MCL 600.8701 *et seq.*

“Authorized Township Officials” means the Alcona Township Supervisor, the Alcona Township Zoning Administrator, and any other Alcona Township official authorized by this ordinance or a subsequent ordinance to issue municipal civil infraction citations.

“Municipal Civil Infraction” means an action or omission that violates a Township ordinance that is not a misdemeanor, or a felony, for which, upon a finding of responsibility by a court of competent jurisdiction, the defendant may be ordered to pay fines, damages, expenses, and costs as authorized by law. The Township has the authority to remove offending materials from the premises as well as place liens on the property and amounts on the tax rolls.

“Municipal Civil Infraction Action” means a civil action in which the defendant is alleged to have violated a Township ordinance.

“Municipal Civil Infraction Citation” means a written complaint or notice prepared by an authorized Township official, alleging a violation of a Township ordinance.

“Township” means the Township of Alcona in the County of Alcona in the State of Michigan.

Section 2: Commencement of a Municipal Civil Infraction Action

A municipal civil infraction action is commenced by the issuance of a municipal civil infraction citation by an authorized Township official alleging the violation of a Township ordinance.

Section 3: Issuance and Service of Municipal Civil Infraction Citations

Municipal civil infraction citations may be issued and served by authorized Township officials as follows:

- A. The time for the defendant’s appearance in court specified in the citation shall be within a reasonable time after the citation is issued.

- B. The place for appearance specified in a citation shall be the 81st Trial Court for the County of Alcona located at 106 N. 5th St., Harrisville, Michigan.
- C. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The citation shall consist of the original citation and ~~three~~ two copies (June 13, 2023, amended by scrivener correction). The original citation shall be filed with the 81st Trial Court. A copy of the citation shall be retained by the Township with a copy provided to the defendant.
- D. 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, a formal notice of violation with a copy of ordinance in question and a time frame for compliance. Failure to comply within the allotted time frame will result in issuance of citation.
- E. An authorized Township official may issue a citation to a person if, based upon investigation, the authorized Township official has reasonable cause to believe that the person has violated a Township ordinance.
- F. Municipal civil infraction citations shall be sent by first class mail to the owner of the land, building, or structure involved with the infraction to the owner's last known address on the tax rolls by authorized Township officials. A copy of the citation does not need to be personally served upon the alleged violator but may be served upon the owner or occupant of the land, building, or structure by posting the copy of the citation on the land, building, or structure.

Section 4: Contents of Municipal Civil Infraction Citations

- A. A municipal ordinance citation shall contain the name of the plaintiff, the name and address of the defendant, a reference to the ordinance alleged to have been violated, the address and telephone number of the 81st Trial Court for the County of Alcona where the defendant must appear, and the date by which the defendant must appear.
- B. The municipal civil infraction citation shall inform the defendant that he or she may do one of the following:
 - 1. Admit responsibility for the alleged violation by mail, in person, or by representation at or by the time specified for appearance in the citation.
 - 2. Admit responsibility for the alleged violation with an explanation by mail, in person, or by representative by the time specified for appearance in the citation.
 - 3. Deny responsibility for the alleged violation by doing either of the following:
 - a) Appearing in person for an informal hearing before a judge or a magistrate, without the opportunity for representation by legal

counsel, unless a formal hearing before the Trial Court Judge is requested by the Township.

- b) Appearing in court for a formal hearing before the Trial Court Judge with the opportunity to be represented by legal counsel.

C. The municipal civil infraction citation shall also inform the defendant of the following:

1. That if the defendant desires to admit responsibility with an explanation in person or by representation, the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified in the citation for appearance and obtain a date for an appearance.
2. That if the defendant desires to deny responsibility, the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance in the citation 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 demanded by the defendant or the Township
4. That at an informal hearing the defendant must appear in person before a judge or magistrate without the opportunity of being represented by legal counsel.
5. That at a formal hearing the defendant must appear in person before the Trial Court Judge with the opportunity of being represented by legal counsel.

D. The citation shall contain a notice in boldface type that the failure of the defendant 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 defendant on the municipal civil infraction.

Section 5: Penalty

This ordinance may be enforced by way of civil infraction, or by way of misdemeanor. It shall also comply with the notice provisions as set forth in the relevant Civil Infraction Ordinance and/or any amendment thereto. The fine set forth for violations of this ordinance shall be not less than \$100.00 and not more than \$500.00, and if prosecuted as a misdemeanor, imprisonment for no longer than ninety (90) days in jail, or cumulatively all of these penalties, as well as any other penalty as deemed appropriate within the discretion of the sentencing Judge. Reimbursement of the Township expense, including cost of prosecution and administrative personnel, shall also be ordered by the court. Lastly, each respondent and/or defendant may also be subject to oversight by the 81st Trial Court for an appropriate period of time by way of probation or any other method deemed within the discretion of the court to be advisable.

Section 6: Election of Remedies

The method of civil infractions to address claimed violations shall be cumulative to any other legal remedies the Township may have at law.

Section 7: Conflicting Laws

If any terms of this ordinance conflicts with any previous ordinance, this ordinance shall prevail. Unless otherwise provided for herein, any section of any previous ordinance shall remain in full force and effect.

Section 8: Severability

This ordinance and its various parts, sections, subsections, and clauses are intended to be severable, in that if any part is adjudged unconstitutional or invalid the remainder shall not be affected.

Section 9: Effective Date

This Ordinance shall take effect 30 days following the publication of the notice of its adoption in the Alcona Review.

RESOLUTION

Therefore, be it ordained that the Township Board of Alcona Township adopts this Municipal Civil Infraction Ordinance for Alcona Township, County of Alcona, Michigan at a meeting duly called and held on _____, 2022.

Voting for:

Voting against:

The Supervisor declared the amended Ordinance adopted.

Dated:

By: Marlana MacNeill
Its: Supervisor

Dated:

By: Dawn LaLonde
Its: Clerk

CERTIFICATION

The foregoing is a true copy of Ordinance Number 2202-01, which was enacted by the TOWNSHIP OF ALCONA Board at a regular meeting on the _____, 2022 and amended at a regular meeting on March 14, 2023.

By: Dawn LaLonde
Its: Clerk