TOWNSHIP OF MOORE

CIVIL INFRACTION ORDINANCE
ORDINANCE NO. 97-1

An ordinance establishing Municipal Civil Infraction Violations, enforcement procedures, and providing general penalties and sanctions for violations of Township ordinances.

THE TOWNSHIP OF MOORE ORDAINS:

Section 1. *DEFINITIONS* For the purpose of this Ordinance, certain terms are herein defined.

Act. Act No. 236 of the Public Acts of 1961, as amended.

Authorized official. Any public officer, agent or personnel authorized by ordinance to issue municipal civil infractions and any police officer having jurisdiction within the Township.

Municipal civil infraction. An act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs, 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 this Ordinance that is a criminal offense.

Municipal civil infraction action. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation. A written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Section 2. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF ORDINANCES; CONTNUING VIOLATIONS; INJUNCTIVE RELIEF.

(a) Unless a violation of an ordinance is specifically designated in the ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.

(b) The sanction for a violation, which is a Municipal Civil Infraction, shall be a civil fine in the amount as provided by this Code or any Ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Act of 1961, as amended, and other applicable laws.

(1) Unless otherwise specifically provided for, the civil fine for a particular Municipal Civil Infraction violation shall be not less than Fifty Dollars ($50.00), plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this Section, *"repeat offense"* means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision (i) committed by a person within any six-month period, unless some other person is specifically provided by Ordinance and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by Ordinance for a particular Municipal Civil Infraction violation, the increased fine for a repeat offense shall be as follows:

(A) The fine for any offense which is a first repeat offense shall be no less than One Hundred ($100.00) Dollars, plus costs.

(B) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than One Hundred Fifty ($150.00) Dollars, plus costs.

(c) A "violation" includes any act which is prohibited by any Ordinance or any omission or failure to act where the act is required by any Ordinance.

(d) Each day on which any violation of any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(e) 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 the Ordinance.

Section 3. ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance by an authorized official of a municipal civil infraction citation directing the alleged violator to appear in court.

Section 4. CITATIONS; ISSUANCE AND SERVICE.

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

(a) The time for appearance specified in a citation shall be within a reasonable time after 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 District Court.

(c) Each citation shall be numbered consecutively and shall be in a from 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 authorized official and issued to the alleged violator as provided by Section 8705 of the Act.

(d) A citation for a municipal civil infraction signed by an authorized 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".**

(e) An authorized 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 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 if the municipal attorney approves in writing the issuance of the citation.

(g) Municipal civil infraction citations shall be served by an authorized official as follows:

(1) Except as provided by Section 4 (g) (2), an authorized 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 posting the copy of the citation 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 5. CONTENTS.

(a)A municipal ordinance 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 authorized official or municipal attorney.

(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 authorized official.

(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 shall contain a 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.

Section 6. SEVERBILITY.

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 7. EFFECTIVE DATE.

This Ordinance shall become effective on the date of publication specified below.

The undersigned Supervisor and Clerk of the Township of Moore hereby certify that this ordinance was duly adopted by the Moore Township Board at a meeting held on the ____ day of _____, 1997 and was published in the _____ on the 30th day of July, 1997.

_____

Greg Dorman, Supervisor

_____

Gary Flynn, Clerk