

DEWITT CHARTER TOWNSHIP
CLINTON COUNTY, MICHIGAN
ORDINANCE NO. O2013-7-4

PREAMBLE

AN ORDINANCE ADOPTED PURSUANT TO CHAPTER 87 OF THE REVISED JUDICATURE ACT OF 1961, PUBLIC ACT 236 OF 1961, AS AMENDED, MUNICIPAL CIVIL INFRACTIONS (MCL 600.8701, *et seq.*), TO ESTABLISH A MUNICIPAL ORDINANCE VIOLATIONS BUREAU FOR DEWITT CHARTER TOWNSHIP FOR THE PURPOSE OF ACCEPTING ADMISSIONS OF RESPONSIBILITY FOR ORDINANCE VIOLATIONS DESIGNATED AS MUNICIPAL CIVIL INFRACTIONS FOR WHICH MUNICIPAL ORDINANCE VIOLATION NOTICES HAVE BEEN ISSUED AND SERVED BY AUTHORIZED OFFICIALS; TO COLLECT AND RETAIN CIVIL FINES AND COSTS FOR SUCH VIOLATIONS AS PRESCRIBED HEREIN; TO REPEAL ALL CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Charter Township of DeWitt, Clinton County, Michigan, ordains:

SECTION 1. TITLE.

This Ordinance shall be known as the “DeWitt Charter Township Civil Infraction and Violations Bureau Ordinance.”

SECTION 2. DEFINITIONS.

For purposes of this Ordinance, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Act means the Revised Judicature Act of 1961, being Act No. 236 of the Public Acts of 1961 (MCL 600.101 *et seq.*), as amended.
- (b) Authorized Township Official means a code official, police officer, fire official, community development director, building official, zoning inspector,

building inspector, or other personnel of the Township authorized by this Ordinance or any Ordinance or Resolution to issue municipal civil infraction citations or municipal civil infraction violation notices.

- (c) Bureau means the DeWitt Charter Township Municipal Ordinance Violations Bureau as established by this Ordinance.
- (d) Municipal Civil Infraction means a civil infraction as defined by the Act involving a violation of a DeWitt Charter Township Ordinance.
- (e) Citation means a written complaint or notice to appear in court upon which an authorized local official records the occurrence of one (1) or more municipal civil infractions by the person cited.
- (f) Violation Notice means a written notice prepared by an authorized Township official, directing a person to appear at the DeWitt Charter Township Violations Bureau and to pay a fine and costs prescribed for the violation by the Schedule of Civil Fines adopted by the Township, as authorized by the Act, including Sections 8395 and 8707(6) thereof (MCL 600.8395 and 600.8707(6)).

SECTION 3. ESTABLISHMENT, LOCATION, AND PERSONNEL OF MUNICIPAL ORDINANCE VIOLATION BUREAU.

(a) **Establishment.** The Township hereby establishes the Dewitt Charter Township Ordinance Violations Bureau pursuant to Public Act 12 of 1994 (MCL 600.8396), as amended, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.

(b) **Location.** The Bureau shall be located at the DeWitt Charter Township Hall and shall be under the supervision and control of the Township Treasurer. The 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) **Personnel.** All personnel of the Bureau shall be Township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Township Board.

SECTION 4. MUNICIPAL ORDINANCE VIOLATIONS BUREAU AUTHORITY.

(a) 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 has been issued. The Bureau may not dispose of civil infraction citations, and any citations received by the Bureau shall be transferred to the 65A Judicial District Court for processing and adjudication. 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.

(b) The Bureau shall only be authorized to accept admissions of responsibility (without explanation) for municipal civil infractions upon which a violation notice has been issued and served. The Bureau shall collect and retain civil fines and costs as set forth on the schedule of fines adopted by the Township Board. The Bureau shall not accept a payment of a fine from any person who denies having committed the offense or who admits responsibility only with an 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.

SECTION 5. INITIATION OF MUNICIPAL CIVIL INFRACTION ACTION.

A municipal civil infraction action is commenced upon the issuance by the authorized Township official of one (1) of the following:

- (1) A violation notice directing the alleged violator to appear at the Dewitt Charter Township Ordinance Violations Bureau; or
- (2) A citation directing the alleged violator to appear in court.

SECTION 6. GENERAL PROVISIONS.

(a) *Circumstances Leading To Issuance Of Violation Notice Or Citation.* At the discretion of the authorized Township Official, he or she may issue either a violation notice or citation under the following circumstances:

- (1) The authorized Township official witnesses a person commit a municipal civil infraction violation;
- (2) Based upon an investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction violation; or
- (3) Based upon the investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction violation, the official has reasonable cause to believe that the

person is responsible for a municipal civil infraction violation, and if the Township attorney approved in writing the issuance of the citation.

(b) *Service Of Violation Notices and Infraction Citations.* Municipal civil infraction violation notices and civil infraction citations shall be issued and served by authorized Township officials in accordance with the provisions of Sections 8707 and 8709 of the Act and as follows:

- (1) The time for appearance specified shall be in a reasonable time after the citation is issued.
- (2) The place for appearance for a civil infraction citation shall be the 65A Judicial District Court District that has jurisdiction over Dewitt Charter Township.
- (3) 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 court. Copies of the citation shall be retained by the Township and issued to the alleged violator as provided by section 8705 of the Act (MCL 600.8705).
- (4) A citation for a municipal civil infraction by an authorized Township 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 knowledge, information, and belief."
- (5) An authorized Township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and completely as possible, an original and required copies of a citation or violation notice.
- (6) Except as provided by (b)(7) of this section, an authorized township official shall personally serve a copy of the citation or violation notice upon the alleged violator.
- (7) If the municipal civil infraction involves the use or occupancy of land, a building, or other structure, a copy of the citation or violation notice 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 or violation notice shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(c) ***Municipal Civil Infraction Violation Notice Contents.*** A municipal civil infraction violation notice shall contain the information required under Section 8709 of the Act, including, at a minimum, all of 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 schedule fines/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/costs or contact the Bureau within the required time;
- (6) The address and telephone number of the Bureau; and
- (7) The days and hours that the Bureau is open.

(d) ***Municipal Civil Infraction Violation Citation Contents.*** A municipal civil infraction violation citation shall contain the information required under Section 8707 and 8709 of the Act, including, at a minimum, all of the following:

- (1) 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.
- (2) The citation shall inform the alleged violator that the violator 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; or

(C) 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 of being represented by an attorney, unless a formal hearing before the judge is requested by the township, or (ii) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(3) 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.

(4) The citation shall also inform the alleged violator that the violator may do one (1) of the following:

(A) 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;

(B) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township;

(C) That at an informal hearing that the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney; or

(D) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(5) 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.

(e) *Consequences For Failure To Appear.* 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 time specified on a civil infraction citation or at the time scheduled for a hearing or appearance, the Bureau Clerk or other designated Township employee(s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction over the matter.

The citation filed with the court shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. 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 shall thereafter be processed in the manner required by law.

SECTION 7. VIOLATIONS; SCHEDULE OF FINES.

(a) By Resolution the Township shall establish a schedule of fines for municipal civil infractions notices which are to be received at the Bureau.

(b) Any person who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. The civil fines are set forth in subsection (c) of this section, unless otherwise specified in this Code. Further, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in 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. However, in no case shall cost less than \$9.00 or more than \$500.00 be ordered.

(c) Each violation shall be considered a separate offense. The fines for the violations listed below shall be as follows:

<i>Offense (Violation)</i>	<i>Fine</i>
Failure to comply with any provision of the code of ordinances unless otherwise specified	Not less than \$500.00
First repeat offense unless otherwise specified	\$750.00
Second (or any subsequent) repeat offense unless otherwise specified	\$1,000.00
Failure to comply with wastewater treatment and collection ordinance as specified in the wastewater treatment and collection ordinance	up to \$1,000.00 per day

(d) The term, as used in this section, "repeat offense" means any second or subsequent violation of the same ordinance, for which the person is found responsible or admits responsibility, committed by the person within one year of a violation.

(e) As to violations of the International Property Maintenance Code, as adopted by the Township and as may hereafter be amended, violation of said Code shall result in a civil fine of Twenty-five and no/100 Dollars (\$25.00) for the first offense, a civil fine of One Hundred and no/100 Dollars (\$100.00) for the second repeat offense, and a civil fine of Two Hundred fifty and no/100 Dollars (\$250.00) for all subsequent offenses. Except for violations or conditions which constitute or have the potential for imminent personal injury or property damage, said Township Official shall not issue a violation notice or citation relating to a first offense, unless a written warning is issued and the violator is given a reasonable time to correct the condition found to be in violation of the Code, or to warn the violator of the existence of a violation. "Reasonable time" shall be determined in the discretion of the authorized Township official, based upon the nature of the existing condition or violation. No subsequent warning shall be required, and this section shall not be construed to prohibit requests for injunctive relief or other legal action if deemed appropriate by said official.

(f) A copy of the schedule of fines as amended from time to time shall be posted at the Bureau. The schedule of fines may be amended by Resolution of the DeWitt Charter Township Board of Trustees.

(g) If a violation notice is not returned to the Bureau with payment made within ten (10) calendar days of the time it is issued and served, the Bureau shall return the violation notice to the authorized Township official who issued the notice. The authorized Township official, upon receiving notice from the Bureau that a person accused of a civil infraction violation has failed to respond to the violation notice within ten (10) days, may issue a civil infraction citation by filing the original of the citation with the District Court and mailing a copy of the citation to the alleged violator by first class mail at the alleged violator's last known address. Service is complete upon mailing.

SECTION 8. RECORDS AND ACCOUNTING

The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the Township Board once a month 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 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 Township Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

SECTION 9. AVAILABILITY OF OTHER ENFORCEMENT OPTIONS.

Nothing in this Ordinance shall be deemed to require the Township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance

violation notice. As to each ordinance violation designated as a municipal civil infraction the Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action or legal action as permitted by law.

SECTION 10. 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 11. REPEAL.

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. Article II of Chapter 22 is hereby repealed, except for any violation charged under Article II of Chapter 22 before the effective date of this Ordinance.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days from and after its adoption and publication as required by law.

First Reading:	April 22, 2013
First Publication:	July 7, 2013
Second Reading:	July 22, 2013
Second Publication:	_____
Effective Date:	September 3, 2013

Rick Galardi, Supervisor

Diane K. Mosier, Clerk

I, Diane K. Mosier, Clerk of the Charter Township of DeWitt, hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. ____, duly adopted by the Board of Trustees of the Charter Township of DeWitt, Clinton County, Michigan, on the ____ day of _____, 2013, and that the same was posted and published as required by law on the ____ day of _____, 2013.

Diane K. Mosier, Clerk