

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Township of Southfield shall be designated as the "Southfield Township Code."

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF TRUSTEES. The Southfield Township Board of Trustees.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This township code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Oakland County, Michigan.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this township unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION**. Includes a mark when the person cannot write.

STATE. The state of Michigan.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TOWNSHIP. The Township of Southfield, Michigan.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this township shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND** or **OR**. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES OR OFFICERS.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this township exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when use of another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words shall be supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text, as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state or federal laws, shall be the official time within this township for the transaction of all township business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a Sunday or a legal holiday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

Southfield Township, Michigan Code of Ordinances

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (M.C.L. § 15.231) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a “Statutory Reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This township shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see Public Act 442 of 1976, being M.C.L. §§ 15.231 et seq.

§ 10.19 AUTHORITY TO ADOPT CODE.

Pursuant to M.C.L. § 41.181 and M.C.L. §§ 125.251 *et seq.*, the township is authorized to adopt the code of ordinances.

§ 10.99 GENERAL PENALTY.

(A) *General provisions.*

(1) *Presumption of civil infraction.* Unless a violation of a provision of this code of ordinances is specifically designated in the text of the code to be a misdemeanor, a violation shall be deemed to be a municipal civil infraction.

(2) *Penalties, sanctions, and remedies for code violations.*

(a) *Penalties for misdemeanors.*

1. *Generally.* Except as otherwise specifically provided in this code, a person convicted of a violating a code provision punishable as a misdemeanor shall be guilty of a misdemeanor, and shall be sentenced by the court for a period not to exceed 90 days in jail and/or ordered to pay a fine not to exceed \$500.

2. *Continuing offense.* Each act of violation, and each day upon which any such violation shall occur, shall constitute a separate offense.

3. *Penalties not exclusive.* In addition to any penalties provided for in a township ordinance, any equitable or other remedies available may be sought.

(b) *Penalties for municipal civil infraction.*

1. *Fines.* The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular code provision.

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(i) *First offense.* A civil fine for a first offense violation shall be in an amount of \$75, plus costs and other sanctions, for each offense.

(ii) *Repeat offense.* A civil fine for any offense which is a repeat offense shall be in an amount of \$150, plus costs and other sanctions, for each offense.

2. *Issue of judgement.* In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages, and expenses, the judge or magistrate shall be authorized to issue any judgment, writ, or order necessary to enforce or enjoin violation of the code.

3. *Continuing offense.* Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

4. *Remedies not exclusive.* In addition to any remedies provided for by township code of ordinances, any equitable or other remedies available may be sought.

5. *Damages.* The judge or magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.

(c) *Criminal offense.* A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

(3) *Commencement of municipal civil infraction action*

(a) A municipal civil infraction action may be commenced upon the issuance by an authorized official of either of the following.

1. A municipal civil infraction citation directing the person alleged to be responsible to appear in court.

2. A municipal civil infraction violation notice directing the person alleged to be responsible to appear at the Township Ordinance Violations Bureau.

(b) The form of citations used to charge municipal civil infraction violations shall be in accordance with state law.

(c) The basis for issuance of a municipal civil infraction citation shall be as set forth below.

1. An authorized official who witnesses a person violate a code provision, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three copies of a citation unless such official issues a municipal civil infraction violation notice;

2. An authorized official may issue a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction; and

3. An authorized official may issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate a code provision, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the prosecuting attorney or other attorney for the township for whom the authorized local office is acting approves in writing the issuance of the citation.

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(d) Municipal civil infraction citations shall be served in the following manner.

1. Except as otherwise provided below, the authorized official shall personally serve a copy of the citation upon the alleged violator.

2. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not 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 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.

3. A citation served as provided in subdivision 2. above, for a violation involving the use or occupancy of land where a building or other structure, shall be processed in the same manner as a citation served personally upon a defendant.

(4) *Ordinance Enforcement Officer.*

(a) The Township Board is hereby authorized to appoint by motion or resolution any person or persons as Ordinance Enforcement Officers for such term or terms as may be designated in the motion or resolution for purposes of carrying out the duties and responsibilities specified in this section for officials charged with the enforcement of the township ordinances. The Board may further, by motion or resolution, remove any person from such office, in the discretion of the Board.

(b) An appointed Ordinance Enforcement Officer is authorized to enforce all provisions of this code, whether or not any particular provision specifies or designates a different enforcing official. Where a particular officer is designated in any code provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and the authority of the Ordinance Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer.

(c) The Ordinance Enforcement Officer's duties shall include the following: investigation of code violations; issuance and service of municipal ordinance violation notices and municipal civil infraction citations, and municipal civil infraction violation notices; appearance in court or other judicial or quasi judicial proceedings in the administration of the township code of ordinances.

(B) *Definitions.*

MUNICIPAL CIVIL INFRACTION shall mean a violation of a provision of any township ordinance for which the remedy and/or penalty is prescribed to be a civil fine, or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser included offense of a criminal offense or of a code violation that is not a civil infraction.

MUNICIPAL CIVIL INFRACTION DETERMINATION shall mean a determination that a defendant is responsible for a municipal civil infraction by one of the following.

(1) An admission of responsibility for the municipal civil infraction.

(2) An admission of responsibility for the municipal civil infraction, "with explanation."

(3) A preponderance of the evidence at an informal hearing or formal hearing.

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(4) A default judgment for failing to appear at a scheduled appearance.

REPEAT OFFENSE shall mean a determination of responsibility for a second, or a subsequent, municipal civil infraction with regard to the same code provision, committed by the same person within any three-year period, unless some other period is specifically provided with regard to a specific code provision.

RESPONSIBLE or **RESPONSIBILITY** shall mean a determination entered by a court or magistrate that a person is in violation of a provision of any township ordinance prescribed to be a municipal civil infraction.

VIOLATION shall mean any act which is prohibited or made or declared to be unlawful or an offense under any township ordinance, including affirmative acts as well as omissions and/or failures to act where the act is required by this code.

(C) *Municipal Ordinance Violations Bureau.*

(1) *Definitions.*

For purposes of this section, the following definitions shall apply.

BUREAU shall mean the Municipal Ordinance Violations Bureau established in the following subdivision (C)(2).

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE shall mean a written notice prepared by an authorized official, directing a person to appear at the Township Ordinance Violations Bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

(2) *Establishment of Bureau.*

(a) A Township Municipal Ordinance Violations Bureau is hereby established for the purpose of accepting admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices.

(b) Payments made to the Bureau shall be retained and accounted for as fines and costs, respectively, and shall be deposited in the general fund.

(c) The Bureau shall be located in the Township Hall, and shall be under the supervision and control of the Township Treasurer.

(3) *Service of municipal civil infraction violation notice.*

(a) Except as provided in subdivision (C)(3)(b) below, an authorized official shall personally serve a copy of the municipal civil infraction violation notice upon an alleged violator.

(b) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the municipal civil infraction violation notice need not 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 on the land or attaching the copy to the building or structure. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(4) *Authority of Bureau.*

(a) The Bureau is authorized to accept payment of fines and costs in response to municipal civil infraction violation notices, and shall not be authorized to accept monies or admissions of responsibility in response to municipal civil infraction citations.

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(b) The Bureau shall not accept payment of a fine or costs from any person who denies having committed a municipal civil infraction charged in a municipal civil infraction violation notice.

(c) The Bureau shall not have authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter related to an alleged violation.

(5) *Election of person charged with violation.*

(a) Any person receiving a municipal civil infraction violation notice shall be permitted to dispose of the charge alleged in the notice by making a payment of the fine and/or costs to the Bureau. However, a person shall have the right to elect not to have the violation processed by the Bureau and to have the alleged violation processed in a court of competent jurisdiction. The unwillingness of any person to dispose of a violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protections afforded by law.

(b) A person electing to have the alleged violation processed at the Bureau shall appear at the Bureau and pay the specified fine and/or costs within the time specified for appearance in the municipal civil infraction violation notice. Such appearance may be by mail, in person, or by representation, provided if appearance is by mail, the person charged in the notice shall have the responsibility for timely delivery of the fine and/or costs within the time specified in the municipal civil infraction violation notice.

(6) *Procedure for persons electing not to respond to municipal civil infraction notices.* In the event a person elects not to admit responsibility and pay the specified civil fine and/or costs prescribed for the respective violation, a municipal civil infraction citation may be filed with the district court, in which case a copy of the citation shall be served by first class mail upon the person charged with a municipal civil infraction at such person's last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violations notice and shall fairly inform the defendant how to respond to the citation.