

STATE OF MICHIGAN
COUNTY OF IOSCO

THE CHARTER TOWNSHIP OF AUSABLE

ORDINANCE NUMBER 98

CIVIL INFRACTIONS ORDINANCE

Adopted: November 19, 2007

Effective: December 19, 2007

(Replacing Ordinance Number 95)

AN ORDINANCE THAT ESTABLISHES PROCEDURES FOR CITING CIVIL INFRACTIONS. THIS ORDINANCE PROVIDES AUTHORIZED TOWNSHIP OFFICIALS WITH THE AUTHORITY TO DETERMINE VIOLATIONS, ISSUE CITATIONS, AND ESTABLISHES PENALTIES THAT INCLUDE COLLECTION OF FINES AND/OR CRIMINAL PROSECUTION WHEN ENFORCING LAWS AND/OR ORDINANCES OF THE CHARTER TOWNSHIP OF AUSABLE.

THE CHARTER TOWNSHIP OF AUSABLE DOES HEREBY ORDAIN:

SECTION I. VIOLATIONS: A violation of any TOWNSHIP ordinance, whether zoning or general in nature, regardless of the Ordinance's cited penalty, may be cited as a civil infraction, when allowed by law. When a violation of a TOWNSHIP ordinance has been cited as a civil infraction the procedures herein shall be followed. Civil Infractions may include any act that is prohibited by way of ordinance, and/or omission and/or failure to act where action is required by any TOWNSHIP ordinance. The remedies as set forth within this ordinance shall be followed instead of the remedies as set forth in any other section of TOWNSHIP ordinance, or other laws, whether they be local, state or federal when a violation of a TOWNSHIP ordinance is cited as a Civil Infraction. The TOWNSHIP is not required to cite a violation herein, as a civil infraction, and may instead cite same as a misdemeanor, as allowed, or pursue any other remedy provided by any TOWNSHIP ordinance, or by any other law.

SECTION II. SANCTIONS: The Sanction of any Civil Infraction shall be a civil fine that does not exceed \$500.00. In addition to ordering the Defendant, determined to be responsible for a municipal civil infraction, to pay a civil fine, plus additional costs incurred, whether administrative, legal, or otherwise incurred in the enforcement of this ordinance and for any damages, the judge or magistrate shall be authorized to enforce, or enjoin violation of, ordinances as allowed by law, plus any other relief available to this court. Nothing herein shall restrict the ability of the TOWNSHIP to enforce its general ordinances by way of seeking criminal penalty as provided therein, or any other available lawful remedy.

The Zoning Administrator and/or any other personnel as authorized by the Superintendent or Township Board, shall be allowed to go onto the premises and correct the cited violation after the property owner has been notified of same and be able to place all reasonable incurred costs either as a lien upon the concerned property, or cause said costs to be added to the taxrolls of said parcel. The remedies provided for herein shall be cumulative, and by choosing one remedy, the township is not thereafter prohibited from seeking additional remedies either as provided for herein, or as provided for in the ordinance sought to be enforced.

SECTION III. COMMENCEMENT OF MUNICIPAL CIVIL INFRACTION ACTION:

1. A municipal civil infraction action may be commenced upon the issuance by an authorized official of either of the following:
 - A. Issuing a municipal Civil Infraction Notice of Violation.
 - B. Issuance of a municipal Civil Infraction Citation, directing the person alleged to be responsible, to appear in court.
2. The form of citations used to charge municipal civil infraction violations shall be in accordance with state law.
3. Municipal civil infraction Notice of Violation or Civil Infraction Citation shall be served in the following manner:
 - A. Except as otherwise provided below, the authorized official shall serve a copy of the citation upon the alleged violator as allowed by law.
 - B. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the Notice of Violation and Civil Infraction Citation need not be personally served upon the alleged violator but may be served upon an owner and/or occupant of the land, building or structure by posting a copy on the land or attaching a copy to the building or structure. In addition, a copy of the Notice of Violation or Civil Infraction Citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address as shown on the most recent tax roll for the TOWNSHIP.
 - C. A Notice of Violation of Civil Infraction Citation served as provided in paragraph B, 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 when served personally upon a Defendant.
 - D. Service may also be affected by any utilization of any other procedure as allowed by law.

SECTION IV. CIVIL INFRACTION ENFORCEMENT OFFICER:

1. The TOWNSHIP Board is hereby authorized to appoint by way of resolution, a person or persons as Civil Infraction Enforcement Officer(s) for such term or terms as may be designated in said resolution for the purpose of carrying out the duties and responsibilities specified by this ordinance as an “authorized official” that is charged with enforcement of the TOWNSHIP ordinances. The TOWNSHIP Board may further, by motion or resolution, remove any person from such office, at the discretion of the Board.
2. An appointed Civil Infraction Enforcement Officer is authorized to enforce all provisions of this ordinance, whether or not any particular provision of a TOWNSHIP ordinance specifies or designates a different enforcing official. Where a particular officer is designated in any ordinance 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 authority of the Civil Infraction Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer.
3. The Civil Infraction Enforcement Officer’s duties shall include the following: Investigation of ordinance violations; issuance and service of municipal ordinance violation warning notices; issuance and service of fineable municipal ordinance Notice of Violation and municipal Civil Infraction Citations; appearance in court or other judicial or quasi-judicial proceedings in the administration of the TOWNSHIP’S ordinances. All notices of enforcement are outlined in Resolution 2007-17 Violation Notice Policy.

SECTION V. ELECTION OF PERSON CHARGED WITH VIOLATION: Any person receiving a municipal civil infraction Notice of Violation and/or a Citation, shall be permitted to dispose of the charge alleged in the Notice and/or Citation, by making a payment of the fine and/or cost as directed by the Notice and/or Citation, or as otherwise mandated by law.

SECTION VI. SEVERABILITY: The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION VII. REPEALER: This ordinance shall repeal that Civil Infractions Ordinance, known as Ordinance Number 75 and Ordinance Number 95.

SECTION VIII. EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days following adoption. At a regular meeting of the AuSable Township Board held on the 19th day of December 2007, adoption of the foregoing ordinance was moved by Paul Mayville and supported by Lynn Mitchell.

Voting for: Kevin Beliveau, Paul Mayville, Lynn Mitchell, Mary Jo Samotis, Jan Baldwin, Alanda Barnes.

Voting against: Dan Hayes.

Absent: None.

The Supervisor declared the Ordinance Adopted.

CHARTER TOWNSHIP OF AUSABLE

Dated: 11/19/07

Albert D. Hayes, Jr.
By: Albert D. Hayes, Jr.
Its: Supervisor

Dated: 11/19/07

Lynn A. Mitchell
By: Lynn A. Mitchell
Its: Clerk

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Township Board in a regular session held on November 19, 2007, and it was published in the Oscoda Press on November 28, 2007.

Lynn A. Mitchell
Lynn A. Mitchell, Township Clerk