

**KINROSS CHARTER TOWNSHIP
CIVIL INFRACTIONS ORDINANCE
ORDINANCE NO. 1.132**

Adopted: 02/16/10
Published: 12/20/09 & 02/25/10
Effective Date: 03/20/10

An ordinance to provide for the enforcement of Kinross Charter Township ordinance violations through the issuance of Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices, establish the Kinross Charter Township Municipal Ordinance Violations Bureau, and establish that members of the Township Police Department may issue Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices.

**THE CHARTER TOWNSHIP OF KINROSS, CHIPPEWA COUNTY,
MICHIGAN, ORDAINS:**

SECTION 1: Purpose.

The purpose of this Ordinance is to provide for the enforcement of Kinross Charter Township ordinance violations through the issuance of Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices, establish the Kinross Charter Township Municipal Ordinance Violations Bureau, and establish that members of the Township Police Department may issue Municipal Civil Infraction Citations and Municipal Civil Infraction Violation Notices.

SECTION 2: Definitions.

As used in this Ordinance:

- A. *"Act"* means Act No. 236 of the Public Acts of 1961, as amended.
- B. *"Authorized Township Official"* means a police officer or other personnel of the Township authorized by this Ordinance or any ordinance to issue Municipal Civil Infraction Citations or Municipal Civil Infraction Violation Notices, including Kinross Auxiliary Police Officers, Sault Tribe Police Officers, members of the Chippewa County Sheriff's Department who provide services to the Township and Michigan State Police.
- C. *"Bureau"* means the Kinross Charter Township Municipal Ordinance Violations Bureau as established by this ordinance.

- D. *"District Court"* means the 91st District Court, Chippewa County, Michigan.
- E. *"Municipal Civil Infraction Action"* means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- F. *"Municipal Civil Infraction Citation"* or *"Citation"* means a written complaint or notice prepared by an Authorized Township Official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- G. *"Municipal Civil Infraction Violation Notice"* means a written notice prepared by an authorized township official, directing a person to appear at the Kinross Charter Township Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township, as authorized under Sections 8396 and 8707(6) of the Act.
- H. *"Township"* means Kinross Charter Township.

SECTION 3: Municipal Civil Infraction Action; Commencement.

A Municipal Civil Infraction Action may be commenced upon the issuance by an Authorized Township Official of:

- A. A Municipal Civil Infraction Citation directing the alleged violator to appear in District Court; or
- B. A Municipal Civil Infraction Violation Notice providing the alleged violator with an option to appear at the Bureau.

SECTION 4: Municipal Civil Infraction Citations; Issuance and Service.

Municipal Civil Infraction Citations shall be issued and served by Authorized Township Officials as follows:

- A. The time for appearance specified in a 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 form 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 Township 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 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 information, knowledge, and belief."*
- E. 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, an original and required copies of a citation.
- F. An Authorized Township 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 Authorized Township Official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or township attorney approves in writing the issuance of the Citation.
- G. Municipal Civil Infraction Citations shall be served by an Authorized Township Official as follows:
 - (1) Except as provided by Section 4(G)(2), an Authorized Township Official shall personally serve a copy of the Citation upon the alleged violator.

- (2) If the Municipal Civil Infraction Action 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 a copy on the land or attaching a copy to the building 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 owners' last known address.

SECTION 5: Municipal Civil Infraction Citations; Contents.

- A. A Municipal Civil Infraction Citation shall contain
 - (1) A description of the violation;
 - (2) The amount of the scheduled fines and/or costs for the violation;
 - (3) The name and address of the alleged violator; and
 - (4) The place where the alleged violator shall appear in court; and
 - (5) The telephone number of the court, and the time at or by which the appearance shall be made.
- B. 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 the judge is requested by the Township.

- (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 Township.
 - (4) 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.
 - (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 Citation.

SECTION 6: Municipal Ordinance Violations Bureau.

- A. The Township hereby establishes a Municipal Ordinance Violations Bureau as authorized under the Act to accept admissions of responsibility for municipal civil infractions in response to Municipal Civil Infraction Violation Notices issued and served by Authorized Township Officials, and to collect and retain civil fines and costs as prescribed by this ordinance and any related ordinance.
- B. The Bureau shall be located at the Kinross Charter Township Hall, and shall be under the direct supervision and control of the Township Supervisor. The Township Supervisor, subject to the approval of the Township Board, may adopt rules and regulations for the operation of the Bureau and appoint the Township Treasurer or any other necessary qualified Township employees to administer the Bureau.
- C. 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 (as compared to a Citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this Ordinance shall prevent or restrict the Township from issuing a Municipal Civil Infraction Citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a Municipal Civil Infraction Violation at the Bureau, and instead may choose to have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- D. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility or any person who admits responsibility only with explanation, for municipal civil infractions arising out of Municipal Civil Infraction Violation Notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fee from any person who denies having committed the offense and in no event shall the Bureau determine, or attempt to determine, the veracity of any fact or matter relating to an alleged violation.

- E. Municipal civil infraction violation notices shall be issued and served by Authorized Township Officials under the same circumstances and upon the same persons as provided for citations as prescribed in this Ordinance. In addition to any other information required by this Code of Ordinances, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- F. An alleged violator receiving a Municipal Civil Infraction Violation Notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in The Municipal Civil Infraction Violation Notice. An appearance may be made by mail, in person, or by representation.
- G. If an Authorized Township Official issues and serves a Municipal Ordinance Violation Notice, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a Municipal Civil Infraction Citation may be filed with the District Court and 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 filed with the District Court does not need to comply in all particulars with the requirements for Citations as provided by this Ordinance, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the Citation.

SECTION 7: Records and accounting.

The Bureau clerk or other designated Township official shall retain a copy of all Municipal Civil Infraction Citations and Municipal Civil Infraction 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

Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

SECTION 8: Schedule of Civil Fines Established.

- A. 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 Section 8(B), unless otherwise specified in the Code of Ordinances. 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 an ordinary civil actions and may include all expenses, direct and indirect, including attorney fees, 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 costs of less than \$9.00 or more than \$500.00 be ordered.
- B. Each violation shall be considered a separate offense. The fines for the violations listed below shall be as follows:

Offense (Violation)	Fine
Failure to comply with any provision of the Ordinance.	Not less than \$100.00
First repeat offense.	\$250.00
Second (or any subsequent) repeat offense.	\$500.00
Any violation of Michigan Fireworks Safety Act	\$1,000.00

- C. "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 (1) year of a violation.

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 activities through the issuance of a municipal civil infraction 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 any such other enforcement action as is authorized by ordinance or law.

SECTION 10: Severability.

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 hereby.

SECTION 11: Effective Date.

This Ordinance shall become effective thirty (30) days after publication in a newspaper in general circulation within Kinross Charter Township.

ADOPTED BY THE TOWNSHIP BOARD:

Lawrence Palma
Kinross Charter Township Supervisor

STATE OF MICHIGAN)
) ss
COUNTY OF CHIPPEWA)

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Kinross, Chippewa County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Township Board on the _____ day of _____, 2010, and that such ordinance was duly published in the _____ on the _____ day of _____, 2010.

Marvin Besteman
Kinross Charter Township Clerk