

Kinross Charter Township Ordinance No. 1.132

CIVIL INFRACTIONS ORDINANCE UPDATED 12/12/22

An ordinance to provide for the enforcement of Kinross Charter Township ordinance violations through the issuance of Ordinance Violation Citations and establish that members of the Township Police Department may issue Ordinance Violation Citations.

THE TOWNSHIP BOARD OF 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 Ordinance Violation Citations and establish that members of the Township Police Department may issue Ordinance Violation Citations.

Section 2 Definitions

As used in this ordinance:

- A. **Act:** Act No. 236 of the Public Acts of 1961, as amended.
- B. **Authorized Township Official:** a police officer or other personnel of the Township authorized by this Ordinance or any ordinance to issue Ordinance Violation Citations, 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. **District Court:** the 91st District Court, Chippewa County, Michigan.
- D. **Ordinance Violation Action:** a civil action in which the defendant is alleged to be responsible for an ordinance violation infraction.
- E. **Ordinance Violation Citation:** a written complaint or notice prepared by an Authorized Township Official, directing a person to appear at the Township Hall Administrative Office 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.
- F. **Township:** Kinross Charter Township.
- G. **Repeat offense:** 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 3 Ordinance Violation Action: Commencement

An Ordinance Violation Action may be commenced upon the issuance by an Authorized Township Official of an Ordinance Violation Citation.

Section 4 Ordinance Violation Citations: Issuance and Service

Ordinance Violation Citations shall be issued and served by the 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 Township Administrative Office.
- 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 Township. 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 an ordinance violation 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 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 an ordinance violation 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 an ordinance violation; or
 - 2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit an ordinance violation, the Authorized Township Official has reasonable cause to believe that the person is responsible for a violation and if the prosecuting attorney or Township attorney approves in writing the issuance of the Citation.
- G. Ordinance Violation 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 Ordinance Violation 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 Ordinance Violation Citations: Contents

- A. An Ordinance Violation Citation shall contain:
 - 1) A description of the violation;

- 2) The amount of the scheduled fines/costs for the violation;
 - 3) The full name, date of birth, and address of the alleged violator;
 - 4) The location of the Kinross Charter Township Administrative Office, including phone number, where the alleged violator shall pay or contest the citation;
- B. The Citation shall inform the alleged violator that he or she may do one of the following:
- 1) Pay the fine listed on the citation for the ordinance violation.
 - 2) Appeal the citation to the Kinross Charter Township Police Board.
- 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 Kinross Charter Township Police Board 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 will be subject to Court action.

Section 6 Kinross Charter Township Police Board

- A. It is the responsibility of the Kinross Charter Township Police Board to collect and retain civil fines/costs as prescribed by this ordinance and any related ordinance.
- B. The Kinross Charter Township Police Board may dispose only of ordinance violations for which a fine has been scheduled and for which an ordinance 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 Kinross Charter Township Police Board. Nothing in this Ordinance shall prevent or restrict the Township from issuing an ordinance citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of an ordinance citation at the Kinross Charter Township Police Board, 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 Kinross Charter Township Police Board shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

- C. The Kinross Police Board shall only accept admissions of responsibility, or admissions of responsibility with explanation, for Ordinance Violation Actions arising out of Ordinance Violation Citations. Township Administration shall collect and retain civil fines/costs as a result of those admissions. Under no circumstances shall payment be collected from any person who denies having committed the offense. In no event shall the Kinross Police Board determine, or attempt to determine, the veracity of any fact or matter relating to an alleged violation.
- D. Ordinance Violation Citations shall be issued and served by Authorized Township Officials. In addition to any other information required by this Code of Ordinances, the citation shall indicate the time by which the alleged violator must appear at the Township Office to make payment, the methods by which an appearance may be made, the address and telephone number of the Township Office, the hours during which the Township Office 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.
- E. An alleged violator receiving an Ordinance Violation Citation shall respond and pay the specified fine and costs at or by the time specified in the Ordinance Violation Citation. A response may be made by mail, in person, or by representation.
- F. If an Authorized Township Official issues and serves an Ordinance Violation Citation to which an admission of responsibility is not made and any fines/costs are not paid: an Ordinance Violation Citation may be filed with the District Court; a copy of the Citation may be served by first class mail upon the alleged violator at the alleged violator's last known address.

Section 7 Records and Accounting

The designated Township official shall retain a copy of all Ordinance Violation Citations and shall account to the Township Board as the Township Board may require. The civil fines/costs collected shall be delivered to the Treasurer, and shall be deposited in the police fund of the Township.

Section 8 Schedule of Civil Fines Established

- A. Any person who is found responsible or admits responsibility for an Ordinance Violation Action 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 Ordinance Violation Action, up to the entry of judgment.

- 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
Firework Safety Act (determined by state law)	\$1,000.00

Section 9 Availability of Other Enforcement Options

Nothing in this Ordinance shall be deemed to require the Township to initiate its enforcement. As to each ordinance violation designated, the Township may, at its sole discretion, proceed directly with the issuance of an Ordinance Violation 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.