

OCEANA COUNTY, MICHIGAN

Ordinance No. 5

OCEANA COUNTY

MUNICIPAL CIVIL INFRACTION ORDINANCE

**AN ORDINANCE TO PROVIDE FOR A MUNICIPAL CIVIL INFRACTION
AND TO PROVIDE FOR THE SANCTIONS FOR VIOLATIONS OF
MUNICIPAL CIVIL INFRACTIONS;
TO ADOPT A SAVINGS CLAUSE; AND
TO PROVIDE AN EFFECTIVE DATE**

THE COUNTY OF OCEANA ORDAINS:

SECTION 1. DEFINITIONS.

- (1) “ACT” means Act No. 236 of the Public Acts of 1961, as amended.
- (2) “AUTHORIZED COUNTY OFFICIAL” means an Oceana County Sheriff’s Deputy, the Oceana County Building Department employees registered with the State of Michigan under Public Act 54 of 1986, or other personnel of Oceana County authorized by this Ordinance to issue municipal civil infraction violation citations or municipal civil infraction violation notices.
- (3) “THE CODE” means the Stille-DeRossett-Hale Single State Construction Code Act.
- (4) “MUNICIPAL CIVIL INFRACTION ACTION” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction for violation of the Stille-DeRossett-Hale Single State Construction Code Act.
- (5) “MUNICIPAL CIVIL INFRACTION CITATION” means a written complaint or notice prepared by an authorized County official, directing a person to appear in court regarding the occurrence or existence of one or more municipal civil infraction violations by the person cited.

SECTION 2. SCOPE AND AUTHORITY.

That Oceana County is subject to the Michigan Construction Code known as the Stille-DeRossett-Hale Single State Construction Code Act (The Code) with regard to Mechanical, Electrical, Plumbing, and Building Construction requirements, and hereby adopts a Municipal Civil Infraction Ordinance to enforce The Code.

SECTION 3. MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT.

A municipal civil infraction action is commenced upon the issuance by an authorized County official of a municipal civil infraction citation directing the alleged violator to appear in the 78th District Court of Oceana County.

SECTION 4. MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE

- (1) Issuance. A municipal civil infraction citation shall be issued by an authorized County official as follows:
 - (a) The time for appearance by the alleged violator 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 78th District Court of Oceana County.
 - (c) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation, which is a complaint and notice to appear, shall be filed with the 78th District Court. Copies of the citation shall be retained by the County and issued to the alleged violator as provided by Section 8705 of the Act, being MCL 600.8705.
 - (d) A citation for a municipal civil infraction signed by an authorized County official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized County 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 County 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 all required copies of a citation.

- (f) An authorized County official may issue a citation to a person if:
 - (i) based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (i i) based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction and if the prosecuting attorney approves in writing the issuance of the citation.

(2) Service. A municipal civil infraction citation shall be served by an authorized County official as follows:

- (a) If the municipal civil infraction action involves the use or occupancy of land, 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.
- (b) In all other cases, an authorized County official shall personally serve a copy of the citation upon the alleged violator.

SECTION 5. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS, AND APPEARANCE.

- (1) A municipal civil infraction citation shall contain 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, the date and the time at or by which the appearance shall be made, and shall inform the alleged violator of the following information and that he or she may respond as provided for in this section.
- (2) A person to whom a citation is issued under this Ordinance shall appear by or at the time specified in the citation except as otherwise provided for herein, and respond to the allegations in the citation as follows:
 - (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, in person or by representation by the time specified for appearance;
- (c) Upon an admission of responsibility, with or without explanation, the Court shall impose sanctions under Section 6 of this Ordinance.
- (d) Deny responsibility for the municipal civil infraction by doing either of the following:
 - (i) Appearing in person for an informal hearing before a District Court Judge or Magistrate, without the opportunity of being represented by an attorney; or
 - (ii) Appearing in person for a formal hearing before a District Court Judge, with the opportunity of being represented by an attorney.
- (e) If the alleged violator decides to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the District 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 and enter his or her plea with explanation.
- (f) If the alleged violator desires to deny responsibility, the alleged violator must apply to the District 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.
- (g) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the authorized County official and the Prosecuting Attorney.
- (h) At an informal hearing, the alleged violator must appear in person before a District Court Judge or Magistrate without the opportunity of being represented by an attorney. An informal hearing shall be conducted pursuant to the provisions of MCL 600.8719.
- (i) At a formal hearing the alleged violator must appear in person before a District Court Judge with the opportunity of being represented by an attorney. A formal hearing shall be conducted pursuant to the provisions of MCL 600.8721.

SECTION 6. DEFAULT; CIVIL CONTEMPT; LIEN AND VIOLATIONS
INVOLVING LAND, BUILDINGS, OR STRUCTURES; SANCTIONS;
CONTINUING VIOLATIONS; INJUNCTIVE RELIEF.

- (1) The citation shall contain a notice in bold face 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, and may result in the issuance of an arrest warrant.
- (2) If a defendant fails to comply with the order of the Court or defaults in the payment of a civil fine or costs, the Court, upon motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt, pursuant to MCL 600.8729.
- (3) If the municipal civil action involves the use or occupation of land or a building or other structure, and the defendant defaults, the Court may order a lien against the land, building or structure in compliance with MCL 600.8729 and MCL 600.8731, as amended.
- (4) A schedule of civil fines payable to the 78th District Court for admissions of responsibility or if found responsible by the Court is hereby established. Unless another fine schedule is adopted in another ordinance, the fines payable at the 78th District Court shall be as follows:

First offense	\$ 100.00 fine, plus costs
First repeat offense (second offense)	\$ 250.00 fine, plus costs
Second repeat (or any subsequent) offense	\$ 500.00 fine, plus costs

- (5) A copy of the schedule, as amended from time to time, may be posted at the 78th District Court.
- (6) If a defendant admits responsibility for a municipal civil infraction “with explanation”, the Court shall accept the admission as though the defendant has admitted responsibility and may consider the defendant’s explanation by way of mitigating any sanction, including fines, costs, damages and expenses, which the Court may order. If the defendant has appeared by representation or mail, the Court may accept the admission with the same effect as though the defendant personally appeared in court, but the Court may require the defendant to provide further explanation or to appear in court personally.
- (7) If a defendant pleads responsible or is found responsible by the Court, in addition to the sanctions provided for herein, the Court may order the abatement of the violation and order immediate compliance with the Code.

- (8) A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by Ordinance; and any omission or failure to act where the act is required by Ordinance.
- (9) Each day on which any violation of the Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (10) In addition to any remedies available at law, the County may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Ordinance.

SECTION 7. REPEALER; SEVERABILITY; SAVINGS CLAUSE.

All ordinances in conflict are repealed only to the extent necessary to give this Ordinance full force and effect. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any part, clause, sentence, paragraph, or section of this Ordinance be found invalid or unconstitutional for any reason by any court of competent jurisdiction; any such decision shall not affect the validity of the remainder of this Ordinance. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance becomes effective are saved and may be consummated according to the law in force when they were commenced.

SECTION 8. EFFECTIVE DATE.

The provisions of this Ordinance shall take effect immediately after publication in the Oceana’s Herald-Journal.

This Ordinance was approved and adopted by the Oceana County Board of Commissioners on April 27, 2006.

Larry Van Sickle, Chairman
Oceana Board of Commissioners

I, Rebecca Griffin, Oceana County Clerk, certify that this Ordinance was adopted by the Oceana County Board of Commissioners and published on May 4, 2006.

Rebecca Griffin
Oceana County Clerk