

**ALAMO TOWNSHIP**  
**KALAMAZOO COUNTY, MICHIGAN**

**ORDINANCE 48-M**

**AN ORDINANCE TO MAKE CERTAIN ORDINANCE VIOLATIONS ENUMERATED HEREIN MUNICIPAL CIVIL INFRACTIONS; TO ESTABLISH APPROPRIATE CIVIL SANCTIONS; TO ESTABLISH THE ALAMO TOWNSHIP ORDINANCE VIOLATION BUREAU; TO AUTHORIZE TOWNSHIP OFFICIALS TO ISSUE APPEARANCE TICKETS; TO ESTABLISH PROCEDURES FOR THE PROCESSING OF CIVIL INFRACTION CITATIONS; TO AMEND THOSE ORDINANCES ENUMERATED HEREIN FROM MISDEMEANORS TO MUNICIPAL CIVIL INFRACTIONS; TO PROVIDE FOR SEVERABILITY AND THE REPEAL OF ORDINANCES INCONSISTENT HERewith AND TO SET AN EFFECTIVE DATE.**

**ALAMO TOWNSHIP ORDAINS:**

**Section 1. Title.**

This Ordinance may be known and hereinafter cited as the "Alamo Township Municipal Civil Infractions Ordinance".

**Section 2. Definitions.**

The following terms, as used in this Ordinance, shall have the meanings herein ascribed to them:

*Bureau* shall mean the Municipal Ordinance Violations Bureau established in the following section.

*Citation or Court Citation* means a written complaint or notice prepared by an authorized person directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction.

*Municipal Civil Infraction* shall mean a violation of a provision of this 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 an ordinance 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:

- a. An admission of responsibility for the municipal civil infraction.
- b. An admission of responsibility for the municipal civil infraction, "with explanation".
- c. A preponderance of the evidence at an informal hearing or formal hearing.
- d. A Default Judgment for failing to appear at a scheduled appearance.

*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.

*Person* means a natural person, or the principal, officer, director, partner or agent of any other entity, wherein he or she acted in bringing about a violation or municipal infraction.

*Repeat Offense* shall mean a determination of responsibility for second or any subsequent municipal civil infraction with regard to the same code provisions committed by the same person.

*Responsible or Responsibility* shall mean a voluntary admission or determination entered by a Court or Magistrate that a person is in violation of a provision of this 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 this Ordinance, including affirmative acts as well as omissions and/or failure to act where the act is required by this Ordinance.

*Zoning Violation* means any violation or municipal civil infraction of the Sections of the Township Code adopted pursuant to the Township Zoning Act, Act 184 of the Public Acts of 1943, as amended. A zoning violation is declared a nuisance per se in accordance with Section 24 of the Act.

### **Section 3. Establishment of Alamo Township Civil Infraction Violations Bureau.**

The Alamo Township Civil Infraction 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.

Payments made to the bureau shall be retained and accounted for as fines and

costs, and shall be deposited in the general fund of the Township.

The Bureau shall be located in the office of the Township Treasurer and shall be under the supervision and control of the Township Treasurer and Supervisor, subject to the review of the Township Board.

The fines and costs shall be in an amount in accordance with the schedule thereof for each offense in accordance with Section 10 herein or in accordance with amendments thereto as established by the Township Board Resolution. The Bureau is not authorized to alter the amount of the fines and costs or to adjudicate the violation in any way.

#### **Section 4. Violation Notice; Payment at Municipal Ordinance Violations Bureau.**

Prior to the issuance of a court citation, authorized local officials may issue a violation notice for the commission of a civil infraction to any person responsible therefor under the law. The violation notice form shall be approved by the State Court Administrator within the time allowed on the Notice of Civil Infraction, the person or entity designated as reasonable therefore may avoid the issuance of Ordinance continued: court citation by the acknowledgment of responsibility on the Notice, together with payment of the fines and costs, as prescribed on the established scheduled of fines and costs, at the Alamo Township Civil Infraction Violations Bureau, in person or by mail.

Failure to pay the fines and costs within the time allowed on the notice may result in a court citation being filed pursuant to MCL 600.8707 and Section 8.

#### **Section 5. Service of Municipal Civil Infraction Violation Notice.**

- a. Except as provided in subparagraph (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 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.

#### **Section 6. Grounds for Issuance of Violation Notice or Court Citation.**

The basis for issuance of a Municipal Civil Infraction Notice or Court Citation shall be as set forth below, as the case may be:

- a. An authorized official who witnesses a person violate an Ordinance, 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 (3) copies of a citation unless such official issues a Municipal Civil Infraction Violation Notice.
- b. An authorized official may issue a violation notice or 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.
- c. An authorized official may issue a violation notice or a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an Ordinance, 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 attorney for the Township for whom the authorized local officer is acting approves in writing the issuance of the citation.

**Section 7. Municipal Civil Infraction Violations Notice Unresolved; Issuance of Court Citation; Service by First-Class Mail.**

In the event a person elects not to admit responsibility and pay the specified civil fine and 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 the 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 Violation Notice and shall fairly inform the Defendant how to respond to the citation. The citation shall comply with MCL 600.8707. The citation or complaint may contain a request by the Code Officer or attorney issuing it to the Court that, upon the entry of a not responsible plea, the matter shall be set for a formal hearing. Without such designation by the Code Officer, the Defendant shall have the option of an informal or formal hearing.

**Section 8. Appearance Tickets.**

- a. Officers, employees and other individuals employed by and in the service of the Township who are authorized by state law and/or the provisions of the Ordinances of the Township to enforce the provisions of such Ordinances, including, but not limited to, the Zoning and Ordinance Enforcement Officers, Building Inspector, Fire Inspector, Fire Officer, Firefighters and their assistants, are hereby specifically authorized in accordance with state law, including MCL 764.9 et seq., MSA 28.868(3) et seq.; to issue and serve upon a person an appearance ticket if the officer, employee or other

individual employed by or in the service of the Township has reasonable cause to believe that the person has committed a violation of the provisions of the Ordinances of the Township or state law, except where the issuance of such an appearance ticket is expressly prohibited by the provisions of the Ordinances or applicable state law.

b. An appearance ticket, as used above, means a complaint or written notice issued and subscribed by a police officer or other officer, employee or individual employed by or in the service of the Township who is by law or Ordinance authorized to issue it, directing a designated person to appear in the designated local criminal court at a designated future time in connection with his alleged infraction. The appearance ticket shall be numbered consecutively, be in such form as determined by the Attorney General, the State Court Administrator and the Director of the Department of State Police and shall consist of the following parts:

1. The original, which shall be a complaint or notice to appear by the officer, employee or other individual filed with the Court.
2. The first copy, which shall be an abstract of court records.
3. The second copy, which shall be retained by the appropriate local enforcement agency.
4. The third copy, which shall be delivered to the alleged violator.

With the prior approval of such state officials, the appearance ticket may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local Court procedures and practices.

### **Section 9. Failure to Respond to Court Citation; Criminal Sanctions.**

In the event a person fails to appear and respond to a court citation issued herein, such person shall be deemed to have admitted responsibility and Default Judgment shall be entered, in accordance with Sections 10, 11 and 12 of this Ordinance. The issuance of a Default Judgment for failure to appear before the court for a civil infraction court citation shall be in accordance with the procedures set forth by law and this Ordinance.

### **Section 10. Bureau Schedule of Fines and Costs.**

The following fines and costs shall apply where an admission of responsibility is

made at the Alamo Township Civil Infraction Violations Bureau, unless stated otherwise in the Code of Ordinances:

- a. For the initial violation, fines and costs of \$75.00 are due and payable to the Bureau.
- b. In the case of another offense within one year of the date of the initial infraction, the fines and costs shall be \$100.00. This shall be known as the second offense.
- c. In the case of another offense within one year of the date of the second offense, the fines and costs shall be \$250.00. This shall be known as the third offense.
- d. In the case of another offense within one year of the date of the third offense, the fines and costs shall be \$500.00. This shall be known as the fourth offense. All subsequent offenses shall be \$500.00.

**Section 11. Sanctions for Civil Infraction Court Citation.**

- a. Determination of responsibility or responsibility with explanation. Upon being found responsible or responsible with explanation, the District Court or other Court of competent jurisdiction shall order the Defendant to pay a civil fine as set forth in Section 10 above, Court costs of not less than \$25.00 nor more than \$500.00, plus the Township's actual costs of enforcement and litigation including, but not limited to, subpoena fees, costs of Township Officials having to appear at hearings and actual attorney's fees and expenses incurred.

**Section 12. Remedies Not Exclusive.**

In addition to any remedies provided for in this Ordinance, the Township may seek additional relief under all other provisions of law or equity, including injunctions to abate Code violations and Compliance Orders.

**Section 13. Amendment of Ordinance 11-M, Section 4.**

Ordinance 11-M, Section 4, Violation and Penalties, is hereby amended and shall now read:

"Section 4. Violation – Penalties.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 14. Amendment of Ordinance 16-M, Vehicle Storage and Repair Ordinance, Section 7.**

Ordinance 16-M, Vehicle Storage and Repair Ordinance, Section 7, is hereby amended and shall now read:

"Section 7. Violation.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 15. Amendment of Ordinance 26-M, Section 7.**

Ordinance 26-M, Section 7, Penalties, is hereby amended and shall now read:

"Section 7. Penalties.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 16. Amendment of Ordinance 27-M, Section 6.**

Ordinance 27-M, Section 6, is hereby amended and shall now read:

"Section 6.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 17. Amendment of Ordinance 34-M, Section 3.**

Ordinance 34-M, Section 3, Violation – Penalties, is hereby amended and shall now read:

"Section 3. Violation – Penalties.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 18. Amendment of Ordinance 38-M, Section 14.**

Ordinance 38-M, Section 14, Penalties, is hereby amended and shall now read:

"Section 14. Penalties.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 19. Amendment of Ordinance 41-M, Section 5.**

Ordinance 41-M, Section 5, Penalties, is hereby amended and shall now read:

"Section 5. Penalties.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 20. Amendment of Ordinance 46-M, Section 4.**

Ordinance 46-M, Section 4, Penalties and Enforcement, is hereby amended and shall now read:

"Section 4. Penalties and Enforcement.

Violation of this Ordinance shall be a municipal civil infraction with civil penalties as set forth in Ordinance 48-M."

**Section 21. Severability Clause.**

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court or competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

**Section 22. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed and shall be of no further force or effect upon the effective date of this Ordinance.

**Section 23. Effective Date.**

This Ordinance shall take effect on \_\_\_\_\_, 2004.