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ORDINANCE NO. 72

MUNICIPAL CIVIL INFRACTIONS ORDINANCE

AN ORDINANCE to establish the authority and procedures for the issuance of municipal civil infraction notices and citations; to establish a municipal ordinance violations bureau; and to provide generally for penalties and sanctions for municipal civil infraction violations.

THE VILLAGE OF FAIRGROVE HEREBY ORDAINS:

Section 1. Amendment of Title XIII.

The Village Council hereby amends Ordinance 100 of the Code of Ordinances to adopt a new Chapter 101, entitled "Municipal Civil Infractions," to read as follows:

Municipal Civil Infractions

Ordinance 100 Definitions.

As used in this Ordinance:

Act@ means Act No. 236 of the Public Acts of 1961 [MCL 600.8701, et seq], as amended.

Authorized village official" means police officer or other personnel of the village authorized by this or any other ordinance of the village to issue municipal civil infraction citations or municipal civil infraction violation notices. "Bureau" means the Village of Fairgrove Municipal Ordinance Violations Bureau as established by this ordinance.

"Municipal Civil Infraction@" means an act or omission that is prohibited by this or any other ordinance of the village, but which is not a crime under this or such other ordinance, and for which civil sanctions,

including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended.

"Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction. "Municipal Civil Infraction Citation" means a written complaint or notice prepared by an authorized village official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

"Municipal Civil Infraction Violation Notice" means a written notice prepared by an authorized village official, directing a person to appear at the Village of Fairgrove 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 village, as authorized under Section 8396 [MCL 600.8396] and 8707(6) [MCL 600.8707(6)] of the Act.

134.02. Municipal Civil Infraction Action; Commencement; Dismissal.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Village of Fairgrove Municipal Ordinance Violations Bureau.

134.03. Municipal Civil Infraction Citations; Issuance and Service.

Municipal civil infraction citations shall be issued and served by authorized village 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 village and issued to the alleged violator as provided by Section 8705 of the Act [MCL 600.8705].

(d) A citation for a municipal civil infraction signed by an authorized village 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 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 village 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 village 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; of

(2) 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 the person is responsible for an infraction and if the prosecuting attorney or village attorney approves in writing the issuance of the citation.

(g) Municipal civil infraction citations shall be served by an authorized village official as follows:

(1) Except as provided by Section 8707 of the Act [MCL 600.8707], an authorized village 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 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.

134.04. Municipal Civil Infraction Citations; Contents.

(a) A municipal ordinance 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, and the time at or by which the appearance shall be made.

(b) Further, 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:

(i) 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 a judge is requested by the village;

(ii) 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 village;

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney; and (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 hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

134.05. Municipal Ordinance Violations Bureau.

(a) Bureau established; Employees. The village hereby designates the village clerk as the Municipal Ordinance Violations Bureau (A Bureau@) as authorized under Section 8396 of the Act [MCL 600.8396] to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village officials, and to collect and retain civil fines and costs as prescribed by this or any other ordinance of the village. The village clerk may assign the functions and responsibilities of bureau operation to a deputy or, with the approval of the village board, to any qualified village employee.

(b) Location; Supervision. The Bureau shall be located at the Fairgrove Village Hall, 5005 Center St., Fairgrove, Michigan 48733, and shall be under the supervision and control of the village clerk.

(c) Disposition of Violations. 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 with 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 village from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent 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 persons rights, privileges and protection accorded by law.

(d) Bureau Limited to Accepting Admissions of Responsibility. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) Municipal Civil Infraction Violation Notices. Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations as provided in this ordinance. In addition to any other information required by this or any other ordinance of the village, 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) Appearance; Payment of Fines and Costs. 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) Procedure Where Admission of Responsibility not made or Fine not Paid. If an authorized village 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 district court and a copy of the citation maybe served by first class mail upon the alleged violator at the alleged violators last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 [MCL 600.8705 and 600.8709] of the Act, 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. 134.06. Penalties and Sanctions.

(a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this or any other village ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, et seq], and other applicable laws.

(1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this or any other village ordinance, the civil fine for a violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this or any other village ordinance. As used in this section, A repeat offense@ means a second (or any subsequent) municipal infraction violation of the same requirement or provision

(i) committed by a person within any six-month period (unless some other period is specifically provided by this or any other village ordinance) and

(ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this or any other village ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(a) The fine for any offense which is a repeat offense shall be no less than \$150.00, plus costs.

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$200.00, plus costs.

(c) A violation@ includes any act which is prohibited or made or declared to be unlawful or an offense by this or any other village ordinance; and any omission or failure to act where the act is required by this or any other village ordinance.

(d) Each day on which any violation of this or any other village ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(b) In addition to any remedies available at law, the village may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this or any other village ordinance.

Section 2. Effective Date

This Ordinance shall take effect 10 days after publication.

At a regular meeting of the Village Council held June 5, 2023, Harrison moved for adoption of this ordinance

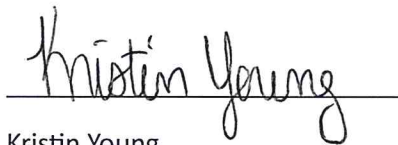
and Phelps supported that motion.

Voting for: Harrison/ Phelps/ Young

Voting against: None

Absent: Sebert

The President declared the ordinance adopted.

A handwritten signature in cursive script that reads "Kristin Young". The signature is written in black ink and is positioned above a horizontal line.

Kristin Young

Village President ORDINANCE DECLARED ADOPTED

STATE OF MICHIGAN)

COUNTY OF TUSCOLA)

I, the undersigned, Village Clerk for the Village of Fairgrove, Tuscola County, Michigan, do hereby certify that Ordinance No.72, adopted by the Village of Fairgrove Council on the 5th day of June 5,2023, was recorded in full in the Minutes of the Meeting of said Village Council on said date, and was signed by the President and the Clerk of the Village of Fairgrove.

Dated: June 5, 2023



CRISTI SMITH, Clérk

Date of Publication: April 19, 2023

Newspaper: Tuscola County Advertiser