

Ordinance #2012-07

Municipal Civil Infraction Ordinance

The Township of Big Creek in Oscoda County, State of Michigan, hereby ordains this ordinance to designate that violations of Big Creek Township ordinances are municipal civil infractions.

Section 101: Short Title

This ordinance shall be known and may be cited as the Municipal Civil Infraction Ordinance of Big Creek Township, Oscoda County, Michigan.

Section 102: Definitions

As used in this ordinance, the following words and phrases shall have the following meanings:

Act, means Act number 236 of the Public Acts of 1961, as amended, being MCL 600.8701 et seq.

Authorized Township Officials, means the Big Creek Township Supervisor, the Big Creek Township Attorney, and any other Big Creek Township official authorized by this ordinance or a subsequent ordinance to issue municipal civil infraction citations.

Municipal Civil Infraction Action, means a civil action in which the defendant is alleged to have violated a township ordinance.

Municipal Civil Infraction, means an action or omission that violates a township ordinance that is not a misdemeanor, or a felony, for which, upon a finding of responsibility by a court of competent jurisdiction, the defendant may be ordered to pay fines, damages, expenses, and costs as authorized by law.

Municipal Civil Infraction Citation, means a written complaint or notice prepared by an authorized township official, alleging a violation of a township ordinance.

Township, means the Township of Big Creek in the County of Oscoda in the State of Michigan.

Section 103: Commencement of a Municipal Civil Infraction Action

A municipal civil infraction action is commenced by the issuance, by an authorized township official, of a municipal civil infraction citation alleging the violation of a township ordinance.

Section 104: Issuance and Service of Municipal Civil Infraction Citations

Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

1. The time for the defendant's appearance in court specified in the citation shall be within a reasonable time after the citation is issued.
2. The place for appearance specified in a citation shall be the 81st District Court for the County of Oscoda located at 105 S. Court Street in Mio, Michigan.
3. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The citation shall consist of the original citation and three copies. The original citation shall be filed with the 81st District Court. A copy of the citation shall be retained by the township with a copy provided to the defendant as provided by MCL 600.8705.
4. 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."
5. 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.
6. An authorized township official may issue a citation to a person if:
 - A. Based upon investigation, the official has reasonable cause to believe that the person has violated a township ordinance; or
 - B. Based upon investigation of a complaint by a person who allegedly witnessed the person commit a violation of a township ordinance, official has reasonable cause to believe that the person has committed a violation of a township ordinance, and if the township attorney approves the issuance of the citation in writing.
7. Municipal civil infraction citations shall be served by authorized township officials as follows:
 - A. Except as provided below in paragraph B, the authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - B. If the municipal civil infraction 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 the owner or occupant of the land, building, or structure by posting the copy of the citation on the land, 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.

8. A township official shall not accept a fee for issuing a municipal civil infraction citation.
9. The Following township officials are authorized to use this ordinance to issue municipal civil infraction citations:
 - A. The Big Creek Township Supervisor
 - B. The Big Creek Township Clerk
 - C. The Big Creek Township Attorney

Section 105: Contents of Municipal Civil Infraction Citations

1. A municipal ordinance citation shall contain the name of the plaintiff, the name and address of the defendant, a reference to the ordinance alleged to have been violated, the address and telephone number of the 81st District Court for the County of Oscoda where the defendant must appear, and the date by which the defendant must appear.
2. The municipal civil infraction citation shall inform the defendant that he or she may do one of the following:
 - A. Admit responsibility for the alleged violation by mail, in person, or by representation at or by the time specified for appearance in the citation.
 - B. Admit responsibility for the alleged violation with an explanation by mail, in person, or by representative by the time specified for appearance in the citation.
 - C. Deny responsibility for the alleged violation by doing either of the following:
 - i. Appearing in person for an informal hearing before a judge or a magistrate, without the opportunity for representation by legal counsel, unless a formal hearing before the District Court Judge is requested by the township.
 - ii. Appearing in court for a formal hearing before the District Court Judge with the opportunity to be represented by legal counsel.
3. The municipal civil infraction citations shall also inform the defendant of the following:
 - A. That if the defendant desires to admit responsibility with an explanation in person or by representation, the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified in the citation for appearance and obtain a date for an appearance.
 - B. That if the defendant desires to deny responsibility, the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance in the citation and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

- C. That hearing shall be an informal hearing unless a formal hearing is demanded by the defendant or the township.
 - D. That at an informal hearing the defendant must appear in person before a judge or magistrate without the opportunity of being represented by legal counsel.
 - E. That at a formal hearing the defendant must appear in person before the District Court Judge with the opportunity of being represented by legal counsel.
4. The citation shall contain a notice in boldface type that the failure of the defendant 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 defendant on the municipal civil infraction.

Section 106: Severability

This ordinance and its various parts, sections, subsections, and clauses are intended to be severable, in that if any part is adjudged unconstitutional or invalid the remainder shall not be affected.

Section 107: Effective Date

This Ordinance shall take effect 30 days following the publication of the notice of its adoption in The Oscoda County Herald.

RESOLUTION

Therefore, be it ordained that the Township Board of Big Creek Township adopts this Municipal Civil Infraction Ordinance for Big Creek Township, County of Oscoda, Michigan at a regular meeting duly called and held on February 21, 2012.

Big Creek Township Clerk, Judy Berney

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Big Creek Township Board at a Regular meeting held on February 21, 2012, at the Big Creek Township Hall, pursuant to the required statutory procedures.

Dated: February 21, 2012

Respectfully submitted,



By Judy Berney, Big Creek Township Clerk