

Village of Calumet

County of Houghton, State of Michigan

ORDINANCE NO. 149

MUNICIPAL CIVIL INFRACTIONS VIOLATIONS ORDINANCE

An Ordinance adopted pursuant to 1994 Public Act No. 12 to establish a Municipal Civil Infractions Ordinance Violations Bureau for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions for which municipal ordinance violation notices have been issued and served by authorized officials; to collect and retain civil fines and costs for such violations as prescribed herein; and to repeal all conflicting ordinances or parts of ordinances.

THE VILLAGE OF CALUMET HOUGHTON COUNTY, MICHIGAN ORDAINS:

Section 1 – TITLE

This ordinance shall be known and cited as the Village of Calumet Municipal Civil Infractions Violations Ordinance.

Section 2 – DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Act" means Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.101 et. seq.), MSA 27A.101 et seq.), as amended.

B. "Authorized Village Official" means peace officer or other personnel of the Village authorized by this article or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

C. "Bureau" means the Village municipal civil infractions ordinance violations bureau, as established by this ordinance.

D. "Municipal Civil Infraction Action" means a civil action in which a person is alleged to be responsible for a municipal civil infraction.

E. "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.

F. "Municipal Ordinance Civil Infractions Violation Notice" means a written notice prepared by an authorized Village official, directing a person to appear at the Village Municipal Civil Infractions 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.

Section 3 - ESTABLISHMENT, LOCATION AND PERSONNEL OF MUNICIPAL CIVIL INFRACTIONS ORDINANCE VIOLATIONS BUREAU

A. Establishment. The Village of Calumet Municipal Civil Infractions Ordinance Violations Bureau (hereafter "Bureau") is hereby established pursuant to 1994 Public Act 12 (MCL 600.8396), as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines and costs for such violations as prescribed herein.

B. Location. The Bureau shall be located at the Village Office, 340 6th Street, Calumet, Michigan 49913.

C. Personnel. All personnel of the Bureau shall be Village employees. The Village Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Village Board.

D. Operational Procedure. The Village Board may adopt rules and regulations for the operation of the Bureau.

Section 137.04 - BUREAU AUTHORITY - The Bureau shall only have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violation notice (as compared to a citation) has been issued and served, and to collect and retain the scheduled civil fines and costs for such violations as specified in a Resolution adopted pursuant to this Ordinance. The Bureau shall not accept payment of fines and costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

Section 5 - AUTHORIZED VILLAGE OFFICIALS -The following personnel are authorized to issue municipal civil infractions ordinance violation notices and/or municipal civil infraction citations:

- A. Any Peace Officer or Deputy Sheriff;
- B. Fire Department officers;
- C. Building or other duly authorized Code Inspector or officer;
- D. Ordinance Enforcement officers;
- E. Utilities and Public Works officers.

F. Village Administrator

The Village Board may by resolution authorize such other personnel to issue municipal civil infractions ordinance violation notices or municipal civil infraction citations as it deems necessary and proper.

Authorized Village officials also include any other individual authorized under any other ordinance of the Village of Calumet as an Authorized Village Official.

Section 6 - MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT

A municipal civil infraction action may be commenced upon the issuance by an authorized Village official of:

- A. A municipal civil infraction citation directing the alleged violator to appear in court; or
- B. A municipal civil infraction violation notice directing the alleged violator to appear at the Village Municipal Ordinance violations Bureau.

Section 7 - ISSUANCE AND SERVICE OF MUNICIPAL ORDINANCE VIOLATION NOTICE OR MUNICIPAL CIVIL INFRACTION CITATION

A. Issuance. An authorized local official may issue a municipal civil infractions ordinance violation notice or a municipal civil infraction citation to a person when:

- (1) The official witnesses a person violate an ordinance which is a municipal civil infraction;
- (2) Based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction; or
- (3) Based upon an investigation of a complaint by someone who allegedly witnessed the person violate a municipal civil infraction ordinance, the official has reasonable cause to believe that said person is responsible for a municipal civil infraction and the Village attorney approves in writing the issuance of a citation or notice pursuant to this ordinance.

B. Personal Service. The authorized local official must personally serve a copy of the municipal civil infractions ordinance violation notice or the municipal civil infraction citation upon the alleged violator, except as provided in (D) herein.

C. Exception to Personal Service for Citation After Notice of Violation. If an authorized local official issues and serves a municipal civil infractions ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, are not paid at the Municipal Civil Infractions Ordinance Violations Bureau, a municipal civil infraction citation may be filed with the Court and a copy of the citation may be served by first-class mail upon the alleged violator at his or her last known address.

D. Posting. If the alleged violation involves the use or occupancy of land, or a building or other structure, the municipal civil infractions ordinance violation notice or municipal civil infraction citation may be served by posting the notice or citation on the land, building or structure and mailing a copy by first- class mail to the owner of the land, building or structure at the owner's last known address.

Section 8 - ORDINANCE VIOLATION NOTICE REQUIREMENTS ADMISSION OR DENIAL OF RESPONSIBILITY

A. Ordinance Violation Notice Requirements. Municipal civil infraction violation notices shall be issued and served by authorized Village officials as provided in this ordinance and by law.

A municipal civil infractions ordinance violation notice shall include all of the following:

1. The name and address of the alleged violator;
2. The violation charged;
3. The time, date, and location of the alleged violation;
4. The time within which the person must appear at the Bureau for purposes of admitting or denying responsibility for the violation;
5. A statement that the alleged violator may appear at the Bureau in person or by mail;
6. The amount of the scheduled fines/costs for the violation;
7. The methods by which the violation may be admitted or denied;
8. The consequences of failing to pay the required fines/costs or appear at the Bureau within the required time;
9. The address and telephone number of the Bureau;
10. The days and hours that the Bureau is open.

B. Denial of Responsibility. Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil fines/costs within the designated time period, the Bureau Clerk or other designated Village employee(s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter. The citation filed with the court shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal civil infractions ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. A copy of the citation may be served by first class mail upon the alleged

violator at the alleged violator's last known address. The citation shall thereafter be processed in the manner required by law.

Section 9 - MUNICIPAL CIVIL INFRACTION CITATION REQUIREMENTS

Municipal civil infraction citations shall be issued and served by authorized Village officials as provided in this ordinance and by law. A Municipal civil infraction citation shall comply with the following requirements:

1. The citation shall be in a form approved by the state Court Administrator.
2. Citations shall be numbered consecutively.
3. The original shall constitute a complaint and notice to appear and shall be filed with the district court. Additional copies shall be distributed pursuant to section 8705 of the Act, being MCLA 600.8705; MSA 27A.8705.
4. The citation shall be signed by an authorized local official and shall be treated as made under oath.
5. The citation shall specify the time and place for the violator to appear in court.
6. The citation shall contain all of the following information:
 - (a) The name and address of the alleged violator;
 - (b) The violation charged;
 - (c) The name, address, and phone number where the alleged violator shall appear in Court;
 - (d) The time at or by which the appearance shall be made.
7. The citation shall advise the alleged violator of the following alternatives:
 - (a) The alleged violator may admit responsibility at or by the time set for appearance in court by mail, in person, or by representation.
 - (b) The alleged violator may admit responsibility with explanation. If the alleged violator wishes 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.
 - (c) The alleged violator may deny responsibility. 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.

(d) A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the municipality.

(e) At an informal hearing the alleged violator must appear in person before a judge or magistrate without the opportunity of being represented by an attorney.

(f) At a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(g) A notice 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.

Section 10 - SCHEDULE OF CIVIL FINES AND COSTS APPLIED TO MUNICIPAL CIVIL INFRACTIONS ORDINANCE VIOLATION NOTICES

The Village Council may establish by resolution a schedule of civil fines and costs payable to the Bureau upon admission of responsibility by persons served with municipal civil infractions ordinance violation notices.

The fine schedule is supplemental to any fine identified in an ordinance. To the extent the fine schedule is inconsistent with the ordinance, the ordinance will govern.

Section 11 - RECORDS AND ACCOUNTING

The Bureau Clerk or other designated Village official/employee shall retain a copy of all municipal civil infractions ordinance violation notices and citations, and shall account to the Village Council once a month or at such other intervals as the Village Council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Bureau and the amount of fines and costs collected with respect to such violations.

The civil fines and costs collected shall be delivered/paid to the Village Treasurer or his/her designated representative, and shall be deposited in the general fund of the Village.

Section 12 - AVAILABILITY OF OTHER ENFORCEMENT OPTIONS

Nothing in this ordinance shall be deemed to require the Village to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice.

As to each ordinance violation designated as a municipal civil infraction the Village may, at its discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

Section 13 – SEVERABILITY

The provisions of this ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

Section 14 – REPEAL

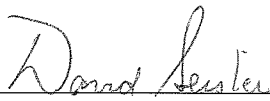
All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 15 - EFFECTIVE DATE

This Ordinance shall become effective 30 days after its publication, as required by law.

Passed and adopted by the Village Council of the Village of Calumet, County of Houghton, and State of Michigan on the 16th day of October, 2018.

VILLAGE OF CALUMET

By 
DAVID GEISLER,
Its President

PASSED AND ADOPTED this 16th day of October, 2018.

Attest:


JULIE DAHLSTROM,
Village Clerk

Yeas: Virginia Dwyer, Sandra Johnson, Roxanne King, Jeffrey P. Mihelcich, Darice Taylor, and David Geisler

Nays: Peggy Germain

Absent/Abstain: None

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 149, duly adopted by the Village Council of the Village of Calumet, County of Houghton, and State of Michigan, at a regular meeting held on October 16, 2018, and that this meeting was conducted and a public notice of this meeting was given, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan 1976, and that the minutes of this meeting were kept and will be or have been made available, as required by said Act.

I further certify that the following members were present at said meeting: Virginia Dwyer, Peggy Germain, Sandra Johnson, Roxanne King, Jeffrey P. Mihelcich, Darice Taylor, and David Geisler (Village President); and that no members were absent.

I further certify that the Ordinance has been recorded in the Ordinance Book of the Village, and that such recording has been authenticated by the signatures of the Village President and the Village Clerk.

JULIE DAHLSTROM,
Village Clerk