

**STATE OF MICHIGAN  
COUNTY OF IOSCO  
TOWNSHIP OF WILBER**

**ORDINANCE NO. 07-02  
Adopted: March 5, 2007  
Effective: April 20, 2007**

**CIVIL INFRACTIONS ORDINANCE**

**AN ORDINANCE THAT ESTABLISHES PROCEDURES FOR CITING CIVIL INFRACTIONS. THIS ORDINANCE PROVIDES AUTHORIZED TOWNSHIP OFFICIALS WITH THE AUTHORITY TO DETERMINE VIOLATIONS, ISSUE CITATIONS, AND ESTABLISH PENALTIES THAT INCLUDE COLLECTION OF FINES AND/OR CRIMINAL PROSECUTION WHEN ENFORCING LAWS AND/OR ORDINANCES OF THE TOWNSHIP OF WILBER.**

**THE TOWNSHIP OF WILBER DOES HEREBY ORDAIN:**

**SECTION 1. VIOLATIONS:** A violation of any WILBER TOWNSHIP Ordinance, whether zoning, or general in nature, regardless of the Ordinance's cited penalty, may be cited as a civil infraction, when allowed by law. When a violation of a WILBER TOWNSHIP Ordinance has been cited as a civil infraction the procedures herein shall be followed. Civil Infractions may include any act that is prohibited by way of ordinance, and/or omission and/or failure to act where action is required by any WILBER TOWNSHIP Ordinance. The remedies as set forth within this ordinance shall be followed instead of the remedies as set forth in any other section of WILBER TOWNSHIP'S Ordinances, or other laws, whether they be local, state, or federal when a violation of a WILBER TOWNSHIP Ordinance is cited as a Civil Infraction. WILBER TOWNSHIP is not required to cite a violation herein, as a civil infraction, and may instead cite the same as a misdemeanor, as allowed, or pursue any other remedy provided by any WILBER TOWNSHIP Ordinance, or by any other law.

**SECTION II. SANCTIONS:** The Sanction for any Civil Infraction shall be a civil fine that does not exceed \$500.00. The progression of penalties to be followed for repeated violations are provided in Section III of this ordinance. In addition to ordering the Defendant, determined to be responsible for a municipal civil infraction, to pay a civil fine, plus additional costs incurred, whether administrative, legal, or otherwise incurred in the

enforcement of this ordinance and for any damages, the judge or magistrate shall be authorized to enforce, or enjoin violation of, ordinances as allowed by law, plus any other relief to this court. Nothing herein shall restrict the ability of WILBER TOWNSHIP to enforce its general ordinances by way of seeking criminal penalty as provided therein, or any other available lawful remedy. The remedies provided for herein shall be cumulative, and by choosing one remedy, the township is not thereafter prohibited from seeking additional remedies either as provided for herein, or as provided for in the ordinance sought to be enforced.

**SECTION III. PROGRESSION OF PENALTIES:**

1. A person, corporation or firm, who as a result of violating a provision of a WILBER TOWNSHIP ordinance, may be issued with a “Civil Infraction Notice of Violation” which directs the person alleged to be responsible to appear at the 81<sup>st</sup> District Court, County of Iosco, State of Michigan. The following civil fines shall apply in the event of a determination of responsibility for a municipal Civil Infraction Notice of Violation:

A. First Offense. A civil fine for a first offense violation shall be in the amount of \$50.00 for each day the violation continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

B. Second occurrence of the same violation during one year (within 365 days from the first occurrence) shall be fined \$250.00 for each day the violation continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

C. Third occurrence of the same violation during one year (within 365 days of the first occurrence) shall be fined \$500.00 for each day the violation continues, plus costs, including legal fees and administrative costs, and other sanctions as allowed by law.

2. A person, corporation or firm who fails to comply with a “Civil Infraction Notice of Violation”, or, at the discretion of a Civil Infraction Officer, may be cited with a “Civil Infraction Citation” that directs the person alleged to be responsible to appear in court and he/she shall then be subject to the findings of a Judge or magistrate in a court of competent jurisdiction plus any other remedies allowed by law.

3. Further, WILBER TOWNSHIP shall have the ability, as an alternative to proceeding by way of enforcing this Civil Infractions Ordinance, to proceed with any other remedy it may have at law, including, but not limited to, seeking Circuit Court enforcement of either any rights preserved to WILBER TOWNSHIP, pursuant to Michigan Public Act 288 of 1967, as amended, being the Land Division Act of 1997, MCLA 560.101, et seq., or seeking other equitable relief available at law to WILBER TOWNSHIP in Circuit Court.

**SECTION IV. COMMENCEMENT OF CIVIL INFRACTION ACTION:**

1. A municipal civil infraction may be commenced upon the issuance by an authorized official of either of the following:

A. Issuing a municipal Civil Infraction Notice of Violation

B. Issuance of a municipal Civil Infraction Citation, directing the person alleged to be responsible, to appear in court.

2. The form of citations used to charge municipal civil infraction violations shall be in accordance with state law.

3. The basis for issuance of a municipal Civil Infraction Citation shall be as set forth below:

A. An authorized official who witnesses a person violating an ordinance, the violation of which may be cited as a municipal civil infraction, shall prepare and subscribe, as soon as possible, and as completely as possible, an original and three copies of a Notice of Violation or a Civil Infraction Citation.

B. An authorized official may issue a Notice of Violation or a Civil Infraction Citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for an ordinance violation.

C. An authorized official may issue a Notice of Violation or a Civil Infraction 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.

4. Municipal civil infraction Notice of Violation or Civil Infraction Citation shall be served in the following manner:

A. Except as otherwise provided below, the authorized official shall serve a copy of the citation upon the alleged violator as allowed by law.

B. In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the Notice of Violation and Civil Infraction 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 a copy on the land or attaching a copy to the building or structure. In addition, a copy of the Notice of Violation or Civil Infraction Citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address as shown on the most recent taxroll for WILBER TOWNSHIP.

C. A Notice of Violation or Civil Infraction Citation served as provided in paragraph B, above, for a violation involving the use or occupancy of land where a building or other structure, shall be processed in the same manner as when served personally upon a Defendant.

D. Service may also be effected by any utilization of any other procedure as allowed by law.

**SECTION V. CIVIL INFRACTION ENFORCEMENT OFFICER:**

1. The WILBER TOWNSHIP Board is hereby authorized to appoint by way of resolution, a person or persons as Civil Infraction Enforcement Officer(s) for such term or terms as may be designated in said resolution for the purpose of carrying out the duties and responsibilities specified by this ordinance as an "authorized official" that is charged with

enforcement of WILBER TOWNSHIP ordinances. The WILBER TOWNSHIP Board may further, by motion or resolution, remove any person from such office, at the discretion of the Board.

2. An appointed Civil Infraction Enforcement Officer is authorized to enforce all provisions of this ordinance, whether or not any particular provision of a WILBER TOWNSHIP ordinance specifies or designates a different enforcing official. Where a particular officer is designated in any ordinance provision, that officer's authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this section, and authority of the Civil Infraction Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer.

3. The Civil Infraction Enforcement Officer's duties shall include the following: Investigation of ordinance violations; issuance and service of municipal ordinance violation warning notices; issuance and service of fineable municipal ordinance Notice of Violation and municipal Civil Infraction Citations; appearance in court or other judicial or quasi-judicial proceedings in the administration of WILBER TOWNSHIP'S ordinances.

**SECTION VI. ELECTION OF PERSON CHARGED WITH VIOLATION:** Any person receiving a municipal civil infraction Notice of Violation and/or a Citation, shall be permitted to dispose of the charge alleged in the Notice and/or Citation, by making a payment of the fine and/or cost as directed by the Notice and/or Citation, or as otherwise mandated by law.

**SECTION VII. EFFECT:** The provisions of this Ordinance are hereby ordered to take effect immediately upon publication in the manner prescribed by law.

**SECTION VIII. SEVERABILITY:** The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

**SECTION IX. REPEALER:** This ordinance shall repeal any and all previous Civil Infractions Ordinances enacted by the TOWNSHIP OF WILBER.

At a regular meeting of the TOWNSHIP OF WILBER, held on the 5th day of March, 2007, adoption of the foregoing ordinance was moved by Steve Ferguson and supported by Ashley Beaver.

A roll call vote was held.	Aye	Nay
Howard Alverson	x	
Ashley Beaver	x	
Steve Ferguson	x	
Sally Krueger	x	
Robert White	x	
Absent:		

The supervisor declared that the Ordinance was

Publication Date: March 21, 2007

Dated: March 5, 2007

\_\_\_\_\_/s/\_\_\_\_\_  
Howard Alverson, Supervisor  
Township of Wilber

Dated: March 5, 2007

\_\_\_\_\_/s/\_\_\_\_\_  
Robert D. White, Clerk  
Township of Wilber

I, Robert D. White, Clerk for the TOWNSHIP OF WILBER, hereby certify that the foregoing is a true copy of Ordinance No. 2007-xxx as adopted by the Board of Trustees of the TOWNSHIP OF WILBER, County of Iosco, and State of Michigan.

Dated: March 5, 2007

\_\_\_\_\_/s/\_\_\_\_\_  
Robert D. White, Clerk  
Township of Wilber