

**MANCELONA TOWNSHIP
COUNTY OF ANTRIM, STATE OF MICHIGAN**

**AMENDMENT TO THE MANCELONA TOWNSHIP MUNICIPAL CIVIL INFRACTIONS
ORDINANCE**

IT IS HEREBY ORDAINED, by the Township Board for the Township of Mancelona, Antrim County, Michigan, that section 15 of Mancelona Township Ordinance 21, dealing with the effective date of the above-named ordinance, shall be, and the same is hereby, deleted, in its entirety, and the following is substituted therefor:

SECTION 15. EFFECTIVE DATE This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.

The foregoing Amendment shall, promptly after its adoption, be published in a newspaper of general circulation within the boundaries of Mancelona Township and qualified under state law to publish legal notices. The foregoing Amendment, further, shall become effective thirty (30) days after the date of publication.

MANCELONA TOWNSHIP – AMENDMENT OF ORDINANCE CERTIFICATION

At a special meeting of the Mancelona Township Board, Antrim County, Michigan, held at the Mancelona Township Hall located at 9601, South M-88 Hwy., Mancelona, Antrim County, Michigan on April 23, 2021, at 10:00am:

PRESENT: Michael Biehl, Jessie Ayoub, Donna Gundle-Krieg, Rod Vesey

ABSENT: Chuck Johnson

An amendment to Ordinance No. 21, the Mancelona Township Municipal Civil Infractions Ordinance, was considered by the Board and upon motion made and seconded, the Township Board duly adopted said amendment to the Ordinance upon the following vote:

YEAS: Michael Biehl, Jessie Ayoub, Donna Gundle-Krieg, Rod Vesey

NAYS: none

I, MICHAEL BIEHL, Clerk of the Township of Mancelona, hereby certify that said Amendment to Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a synopsis of said Amendment to Ordinance was published in the Antrim County Review on April 29, 2021 and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.


MICHAEL BIEHL, TOWNSHIP CLERK

MANCELONA TOWNSHIP
COUNTY OF ANTRIM, STATE OF MICHIGAN

MANCELONA TOWNSHIP ORDINANCE NO. 21

ADOPTED DATE: March 15, 2021

EFFECTIVE DATE: April 24, 2021

MUNICIPAL CIVIL INFRACTIONS; MUNICIPAL ORDINANCE VIOLATIONS BUREAU

An Ordinance that creates a Municipal Ordinance Violations Bureau and establishes procedures for citing civil infractions. This Ordinance provides authorized township officials with the authority to determine violations, issue notices and citations, and establishes penalties in order to maintain the public health, safety and welfare of the residents and visitors to Mancelona Township; an Ordinance to amend certain ordinances of Mancelona Township to decriminalize violations thereof by making such violation civil infractions rather than Criminal Misdemeanors; and to repeal all ordinances in conflict therewith

The Township of Mancelona, Antrim County, Michigan ordains:

SECTION 1. Short Title This Ordinance shall be known as and may be cited as the “Municipal Civil Infraction Ordinance.”

SECTION 2. Definitions As used in this Ordinance:

- A. **“Act”** means Act 236 of Public Acts of 1961, as amended
- B. **“Authorized Township Official”** means personnel of the Township authorized by this ordinance or any ordinance to issue municipal civil infractions citations or municipal ordinance violation notices.
- C. **“Bureau”** means the Mancelona Township Municipal Ordinance Violations Bureau, as established by this chapter.
- D. **“Municipal civil infraction action”** means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- E. **“Municipal civil infraction citation”** or **“citation”** means a written complaint or notice prepared by an authorized Mancelona Township 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 violation notice”** or **“violation notice”** means a written notice, other than a citation, prepared by an authorized Mancelona Township official, directing a person to appear at the Mancelona Township Municipal 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 city/village, as authorized under Section 8396 and 8707(6) of the Act.

SECTION 3. Designation of Authorized Township Officials. The following Mancelona Township personnel or personnel contracted by Mancelona Township have the authority to issue municipal civil infraction violation citations and municipal civil infraction violation notices pursuant to this chapter:

- A. Township Supervisor
- B. Township Constable
- C. Any Law Enforcement officer that contracts or may contract with Mancelona Township to provide law enforcement services.

SECTION 4. Commencement of Municipal Civil Infraction Actions. A municipal civil infraction action may be commenced upon the issuance by an authorized Mancelona Township official of:

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

SECTION 5. Issuance and Service of Municipal Civil Infraction Citations. Municipal civil infraction citations shall be issued and served by Mancelona Township 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 Antrim County 86th 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 Mancelona Township and issued to the alleged violator.
- D. A citation for a municipal civil infraction, signed by an authorized Mancelona Township official shall be treated as if it were 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."
- E. An authorized Mancelona 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.
- F. An authorized Mancelona Township official may issue a citation to a person if:
 - 1. Based upon the investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction;
 - 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 such an infraction and if the prosecuting attorney or Mancelona Township attorney approved in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized Mancelona Township official as follows:
 - 1. Except as provided by Section 5(G)(2) hereof, an authorized Mancelona Township 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.

SECTION 6. Contents of Municipal Civil Infraction Citations.

- A. A municipal civil infraction 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:
 - a) 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 Mancelona Township.
 - b) 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 Mancelona Township.
 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.
- D. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- E. 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 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 7. Municipal Ordinance Violations Bureau.

- A. **Establishment.** Mancelona Township establishes a Municipal Ordinance Violations Bureau, as authorized under Section 8396 of the Act, to accept admissions of responsibility for municipal civil infractions in response to municipal ordinance violation notices issued and served by authorized Mancelona Township officials, and to collect and retain civil fines and costs as prescribed by these codified ordinances or any ordinance.

- B. **Location; supervision, rules and regulations; employees.** The Bureau shall be located at Mancelona Township hall and shall be under the supervision and control of the Treasurer. The Treasurer, subject to the approval of the Township Board, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified employees to administer the Bureau.
- 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 ordinance violation notice 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 section shall prevent or restrict Mancelona Township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau, and may have the violation processed before a court of appropriate 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 person's rights, privileges and protection accorded by law.
- D. **Scope of authority.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil 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.

SECTION 8. Issuance and Service of Municipal Ordinance Violation Notices.

- A. **Contents.** Municipal ordinance violation notices shall be issued and served by authorized city/village officials under the same circumstances and upon the same persons as are provided for municipal civil infraction citations in Section 5(G) hereof. In addition to any other information required by these codified ordinances or any other ordinance, the violation notice shall indicate:
 - 1. The time by which the alleged violator must appear at the Bureau,
 - 2. The methods by which an appearance may be made,
 - 3. The address and telephone number of the Bureau,
 - 4. The hours during which the Bureau is open,
 - 5. The amount of the fine scheduled for the alleged violation, and
 - 6. The consequences for failure to appear and pay the required fine within the required time.
- B. **Appearance; payment of fines and costs.** An alleged violator receiving a municipal ordinance 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 ordinance violation notice. An appearance may be made by mail, in person or by representation.
- C. **Procedure where admission of responsibility is not made or fine is not paid.** If an authorized Mancelona Township official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and cost, 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 the district court and 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 filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 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.

SECTION 9. Civil Penalties

- A. The penalty for violations of civil infractions shall be the amount as provided by this ordinance or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Act, and any other applicable laws.
- B. Unless otherwise specifically in this ordinance or any ordinance, the fine for a municipal civil infraction shall be as follows:

<u>VIOLATION / OFFENSE</u>	<u>FINE</u>
• First violation of any provision of an ordinance	Not less than \$125.00 plus costs
• Second repeat offense	Not less than \$250.00 plus costs
• Third or subsequent repeat offense	Not less than \$500.00 plus costs

- C. Unless a violation of this chapter or any ordinance of Mancelona Township is specifically designated as a misdemeanor, the violation shall be deemed to be a civil infraction.
- D. A violation includes any act that is prohibited or made or declared to be unlawful or an offense by this chapter or any ordinance or chapter; and any omission or failure to act where the act is required by this chapter or any ordinance.
- E. Each day on which any violation of this chapter or any ordinance or chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- F. If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the judge or district court magistrate, in addition to any fine costs, and assessment imposed under Section 8727 of the Act, as amended, may assess additional costs incurred in compelling the appearance of the defendant, which costs shall be returned to the general fund of Mancelona Township.
- G. All costs ordered by the court shall be in addition to the fines ordered under Subsection B of this section and may include all expenses, direct and indirect, to which Mancelona Township has been put in connection with the municipal civil infraction in accordance with Section 8727 of the Act, provided that costs of no more than \$500 shall be ordered.
- H. In addition to any remedies available at law, Mancelona Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this chapter or any Township ordinance or chapter.

SECTION 10. Failure to appear penalty. A person served with a municipal civil infraction citation as provided herein who fails to appear within the time specified in the citation or at the time scheduled for hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than \$500. Failure to appear will also result in the entry of a default judgment on the municipal civil infraction.

SECTION 11. Amendment provision. The following penalty provisions of the following Ordinances of the Mancelona Township, Antrim County, Michigan:

- Dismantled or Inoperable Motor Vehicle Ordinance, Section V
- Junk Yard Ordinance, Section XV
- Nuisance Ordinance, Section V
- Land Division Ordinance, Section X, Paragraph 2
- Water Systems Ordinance, Section VII
- Lot Division Ordinance, Section V, Paragraph 1
- Cemetery Ordinance, Section IX
- Public Entertainment Ordinance, Section IV and Section V
- Parking Ordinance, Section IV

Are amended by deleting said provisions and replacing them in their entirety with provisions which shall read in their entirety as follows:

“SANCTIONS FOR VIOLATIONS

- A. **Civil Fines.** Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal civil infraction. Any person or other entity who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to payment of a civil fine of not less than Twenty-Five (\$25.00) Dollars or more than Five Hundred (\$500.00) Dollars for each infraction. Repeat offenses or infractions shall be subject to an increased civil fine as established by the Mancelona Township Municipal Civil Infraction Ordinance, being Ordinance No. 21.
- B. **Costs.** In addition to the foregoing civil fine, the violator shall pay costs, which include all direct or indirect expenses to which Mancelona Township has been put in connection with the violation. In no case, however, shall cost of less than \$9.00 or more than \$500.00 be ordered.
- C. **Violators Included.** The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation shall be considered to be a violator and such person may each be charged and found responsible for a separate civil infraction and suffer the sanctions herein provided.
- D. **Separate Violations.** Each day a violation of this Ordinance continues to exist constitutes a separate violation.
- E. **Additional Remedies.** Nothing herein contained shall prevent Mancelona Township from taking such other lawful action as is necessary to prevent or remedy any violation of this Ordinance.”

SECTION 12. Repeal Section. Those provisions of Mancelona Township’s ordinances described in Section 10 hereof which are in conflict with the amendments made in said section are, to the extent of such conflict, hereby repealed, modified or amended, subject to the qualifications stated in the “Savings Provision” of Section 13 hereof, as of the date this Ordinance becomes effective. All other provisions of said Ordinance, which are not repealed, modified, or amended by this Ordinance, shall remain as is and be in full force and effect.

SECTION 13. Savings Provision. This Ordinance shall in manner affect pending litigation, either civil or criminal, founded upon or growing of any ordinance, resolution, order, or parts thereof, hereby repealed; and this Ordinance shall in no manner affect any right, claims, privileges, immunities, or causes of action of Mancelona Township, County, or any other person, either criminal or civil, that may have

already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed.

SECTION 14. Severability. If any provision, section, paragraph, sentence, clause or phrase of this Ordinance is for any reason found to be invalid or inoperative by a court of competent jurisdiction, it is hereby provided that such adjudication shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION 15. Effective date. This ordinance shall take effect on the date of its publication. All ordinances, parts of ordinances, or resolutions in conflict herewith are hereby repealed.

MANCELONA TOWNSHIP – ORDINANCE CERTIFICATION

At a regular meeting of the Mancelona Township Board, Antrim County, Michigan, held at the Mancelona Township Hall located at 9601, South M-88 Hwy., Mancelona, Antrim County, Michigan on March 15, 2021, at 6:00p.m.:

PRESENT: Michael Biehl, Jessie Ayoub, Chuck Johnson, Donna Gundle-Krieg, Rod Vesey

ABSENT: none.

Ordinance No. 21, the MUNICIPAL CIVIL INFRACTIONS; MUNICIPAL ORDINANCE VIOLATIONS BUREAU ORDINANCE was considered by the Board and upon motion made and seconded, the Township Board duly adopted said Ordinance upon the following vote:

YEAS: Jessie Ayoub, Chuck Johnson, Donna Gundle-Krieg, Michael Biehl, Rod Vesey

NAYS: none.

I, MICHAEL BEIHL, Clerk of the Township of Mancelona, hereby certify that said Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a synopsis of said Ordinance was published in the Antrim County Review on March 25, 2021 and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.

MICHAEL BEIHL, TOWNSHIP CLERK