



**Resolution #040901
TOWNSHIP OF TYRONE
CIVIL INFRACTION ORDINANCE 39B AMENDMENT**

At a regular meeting of the Board of Trustees of the Township of Tyrone, Livingston County, Michigan, (the "Township") held in the Township Offices, Livingston County, Michigan on September 7, 2004 at 7:00 P.M., there were

PRESENT: Supervisor Schumacher, Clerk Kuzner, Treasurer Kurnik, Trustees Steve Nagy, Colin Van Leuven, Craig Hering and Randy Laue

ABSENT: _____

The following preamble and resolution was offered by Treasurer Kurnik and supported by: Trustee Hering:

RESOLUTION TO REPEAL PROVISIONS OF SECTION 9 OF ORDINANCE NO. 39A AND TO ADOPT SECTION 9 OF ORDINANCE NO. 39B.

WHEREAS, the Township has heretofore enacted Ordinance No. 39, commonly referred to as Civil Infraction Ordinance pursuant to PA 246 of 1945 as amended, and

WHEREAS, the Township Board has determined that it would be in the best interest of the citizens of the Township to amend Section 9 of Ordinance No. 39A.

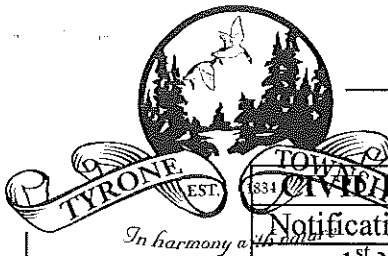
NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP BOARD AS FOLLOWS:

1. That Section 9.0 of Ordinance Number 39A is hereby repealed and declared to be of no further force and effect, provided, however the repeal of the language does not affect any act done, offense committed or liability, penalty or punishment incurred prior to the time of the repeal.

3135 That in its place and stead the following language is hereby adopted and shall be referred to as Tyrone Township Ordinance No. 39B:

**SECTION 9
FINES AND SANCTIONS FOR VIOLATIONS AND INFRACTIONS**

Any person or other entity who violated any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule unless a fine is otherwise established in a specific ordinance; provided, however, that the fine schedules may be amended from time to time by a Township Board resolution:



CIVIL INFRACTION NOTICE*		CIVIL INFRACTION CITATION**	
Notification Number	Fine	Notification Number	Fine
1 st Notice	None	1 st Notice	\$100.00
2 nd Notice	\$50.00	2 nd Notice	\$200.00
3 rd Notice	\$100.00	3 rd Notice	\$350.00
4 th Notice	\$200.00	4 th and thereafter	\$500.00
5 th Notice	\$350.00		
6 th and thereafter	\$500.00		

*determined on the basis of the date of the 1st Notice within a 3 year period

**determined on the basis of the date of the 1st Citation within a 3 year period

In addition to the above-prescribed civil fines, a civil infraction violator shall pay costs of the proceedings, which shall include attorney's fees and all expenses, direct and indirect, which the Township of Tyrone has incurred in connection with the municipal civil infraction. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

3. This Ordinance shall become effective eight (8) days after the first publication in a newspaper as required by law following adoption by the Township Board.

A vote on the foregoing resolution was taken and was as follows

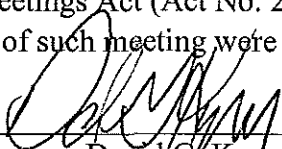
YES: Van Leuven, yes; Nagy, yes; Kurnik, yes; Hering, yes; Laue, yes; Kuzner, yes; Schumacher, yes.

NO: _____

ABSTAIN: _____

CLERK'S CERTIFICATE

I, the undersigned, being the duly qualified and acting Clerk of the Township of Tyrone, Livingston County, Michigan, hereby certified that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Board of Trustees of the Township at a regular meeting held on September 7, 2004, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records in my office; (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan" 1976, as amended) and (4) minutes of such meeting were kept and will be or have been made available as required thereby.


 David G. Kuzner,
 Tyrone Township Clerk

**TYRONE TOWNSHIP
CIVIL INFRACTION ORDINANCE #39A
MUNICIPAL ORDINANCE VIOLATIONS BUREAU.**

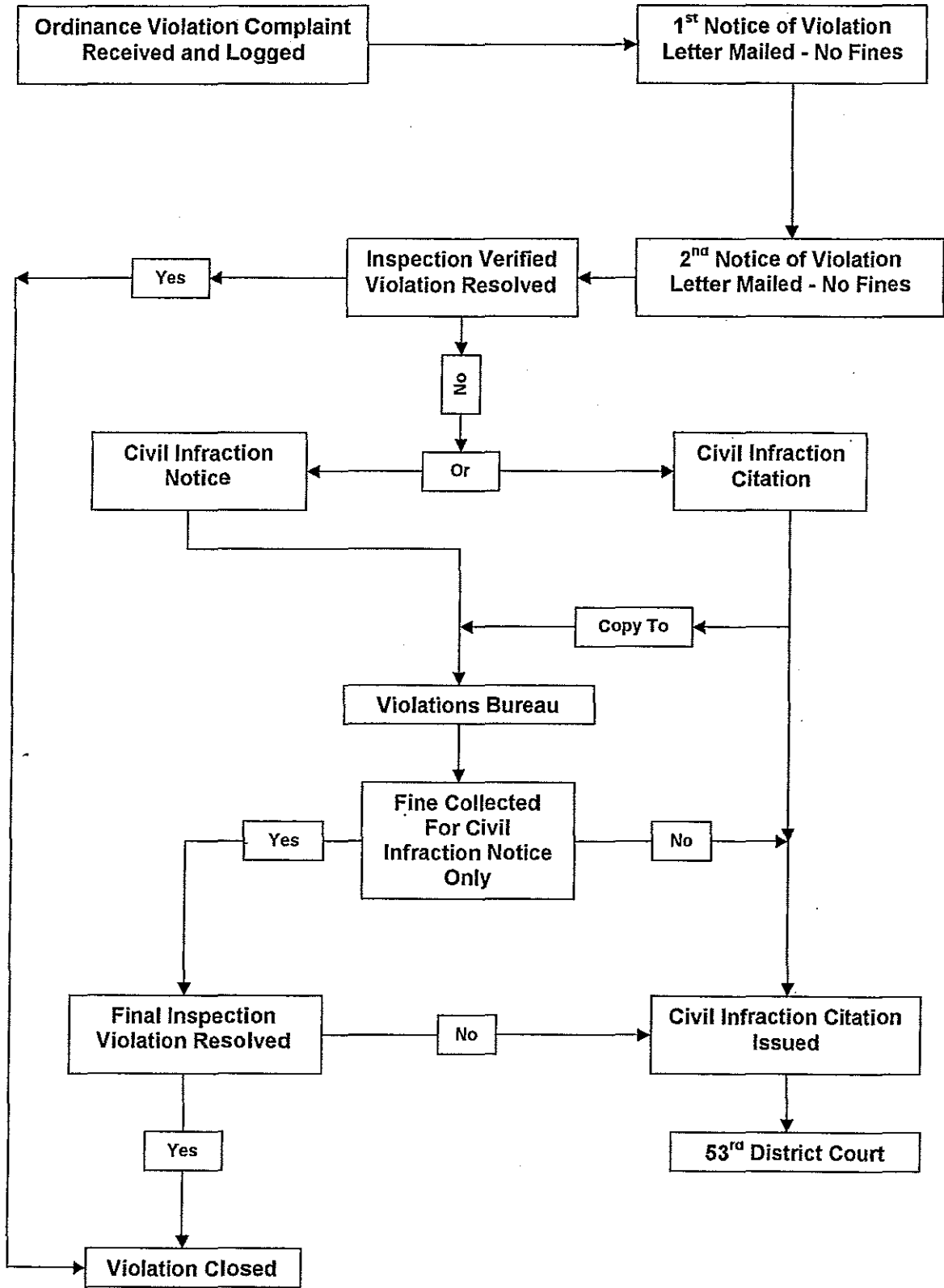
The Tyrone Township Municipal Ordinance Violations Bureau, the Bureau, is established according to the provisions of Tyrone Township Civil Infractions Ordinance Number 39A as amended pursuant to 1994 Public Act No.12. The purpose of this Bureau is to collect the funds from persons given a Civil Infraction Violation for non-compliance with a Tyrone Township Ordinance enacted by the Township to regulate activities within the Township.

The Bureau is limited to collecting the money and cannot act in any way to reduce or waive any portion of the fine. In addition to the fine the Bureau is required to include an administrative fee of \$ _____ to cover the cost of the accounting required to maintain a record of money received by the Township.

The individual cited and paying the fine admits responsibility for the citation and acknowledges the condition causing the non-compliance has been corrected. It is further acknowledged that the Township's Ordinance Enforcement Officer (OEO) will re-inspect the property to verify the non-compliant issue has been corrected. If, in the opinion of the OEO, the infraction has not been corrected the responsible party may be subject to additional violation and or citation tickets as prescribed in Ordinance 39A.

The ordinance enforcement process is briefly outlined in the flow chart on the reverse side. It is not intended to be an exact copy of the articles of the ordinance but provides a general flow of the ordinance. A copy of the complete Ordinance 39A or any portion is available. A fee, commensurate with other copying cost, will be charged.

**TYRONE TOWNSHIP
CIVIL INFRACTION ORDINANCE #39A
ENFORCEMENT FLOWCHART**



Revision: 0
Date: February 3, 2004

**TYRONE TOWNSHIP
LIVINGSTON COUNTY, STATE OF MICHIGAN**

**ORDINANCE NO. 39A
CIVIL INFRACTION ORDINANCE**

(Adopted February 17, 2004)

An Ordinance adopted pursuant to Public Act 12 of 1994 and Public Act 246 of 1946 as amended to establish a Municipal Ordinance Violations Bureau, to establish the office of Ordinance Enforcement Officer and to repeal or amend all ordinances or parts of ordinances of the Township which conflict with the provisions hereof.

SECTION 1
TITLE

This ordinance shall be known and cited as the Tyrone Township Civil Infractions Ordinance.

SECTION 2
ORDINANCE REPEAL

Tyrone Township Ordinance No. 39 is hereby repealed in its entirety and declared to be of no further force and effect: provided, however, the repeal does not affect or negate any act done, offense committed or liability, penalty or fine incurred prior to the time of the repeal.

SECTION 3
DEFINITIONS

Act: Means Act 1994 Public Act 12 (MCL 600.8396), as amended.

Bureau: The Township of Tyrone Municipal Ordinance Violations Bureau as established by this ordinance.

Civil infraction: An act or omission that is prohibited by a law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance, and for which civil sanctions may be ordered.

Civil infraction action: A civil action in which the defendant is alleged to be responsible for a civil infraction.

Municipal civil infraction: A civil infraction involving a violation of an ordinance.

Municipal civil infraction action: A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation: A written complaint or notice prepared by an Ordinance Enforcement Officer, 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 determination: One of the following:

- a) an admission of responsibility by the defendant;
- b) an admission of responsibility with explanation;
- c) a determination of responsibility based upon a preponderance of the evidence at an informal or formal hearing; or
- d) a default judgment entered against the defendant for failure to appear.

Municipal civil infraction violation notice: A written notice prepared by an Ordinance Enforcement Officer, directing a person to appear at the Township of Tyrone office, 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 Township, as authorized under the terms of the Act.

Ordinance Enforcement Officer: A person or persons appointed by the Township Board resolution for such term or terms as may be designated in said resolution to enforce all ordinances of the Township, whether heretofore or hereafter enacted including, but not limited to, the issuance of citations and notices pursuant to this ordinance.

Trailway municipal civil infraction: A municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time, in a place or in a manner prohibited by ordinance.

Trailway municipal civil infraction action: A civil action in which the defendant is alleged to be responsible for a trailway municipal civil infraction.

Violations Bureau: The Township of Tyrone Municipal Ordinance Violations Bureau as established by this ordinance.

Violations Bureau Clerk: The designated Bureau Clerk is the Tyrone Township Treasurer.

SECTION 4

MUNICIPAL CIVIL INFRACTION ACTION: COMMENCEMENT

A municipal civil infraction action may be commenced upon the issuance by the Enforcement Officer(s) of (1) a municipal civil infraction violation notice directing the alleged violator to appear at the Tyrone Township Municipal Ordinance Violations Bureau, or (2) a municipal civil infraction citation directing the alleged violator to appear in Court

SECTION 5

ORDINANCE VIOLATION NOTICE REQUIREMENTS

ADMISSION/DENIAL OF RESPONSIBILITY

- A. **Ordinance Violation Notice Requirements.** Municipal civil infraction violation notices shall be issued and served by authorized Township officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:
1. the violation;
 2. the time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;
 3. the amount of the scheduled fines/costs for the violation;
 4. the methods by which the violation may be admitted or denied;
 5. the consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
 6. the address and telephone number of the Bureau;
 7. 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 Township employee(s) shall advise the Ordinance Enforcement Officer 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 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 the 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 and this Ordinance, see Section 6.

SECTION 6
MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- A. **Establishment.** The Tyrone Township Municipal 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/costs for such violations as prescribed herein.
- B. **Location.** The Bureau shall be located at the Township Hall/office or such other location in the Township as may be designated by the Township Board.
- C. **Personnel.** All personnel of the Bureau shall be Township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Township Board.
- D. **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 (not a Civil Infraction Citation) has been issued.
- E. **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 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.
- 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 Township official issues and serve 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 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 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.
- H. No person shall be required to dispose of a Municipal Civil Infraction Notice of 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.

SECTION 7
MUNICIPAL CIVIL INFRACTION CITATIONS: ISSUANCE AND SERVICE

Municipal civil infraction citations shall be issued and served by authorized 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 53rd District Court, Judicial Center, 204 S. Highlander Way, Howell, MI 48843.
- 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 Township and issued to the alleged violator as provided by the Act.

- D. 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."
- E. 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.
- F. An authorized Township 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; or
 - 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 Township attorney approves in writing the issuance of a citation.
- G. Municipal civil infraction citations shall be served by an authorized Township official as follows:
 - 1. Except as provided herein, an authorized 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 8
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 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 the 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 schedule 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 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.
 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 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 9
FINES AND SANCTIONS FOR VIOLATIONS AND INFRACTIONS
 (Amended 9/7/04 as 39B)

Any person or other entity who violated any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule unless a fine is otherwise established in a specific ordinance; provided, however, that the fine schedules may be amended from time to time by a Township Board resolution:

CIVIL INFRACTION NOTICE*		CIVIL INFRACTION CITATION**	
Notification Number	Fine	Notification Number	Fine
1 st Notice	None	1 st Notice	\$100.00
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4 th Notice	\$200.00	4 th and thereafter	\$500.00
5 th Notice	\$350.00		
6 th and thereafter	\$500.00		

*determined on the basis of the date of the 1st Notice within a 3 year period

**determined on the basis of the date of the 1st Citation within a 3 year period

In addition to the above-prescribed civil fines, a civil infraction violator shall pay costs of the proceedings, which shall include attorney's fees and all expenses, direct and indirect, which the Township of Tyrone has incurred in connection with the municipal civil infraction. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

SECTION 10
ORDINANCE ENFORCEMENT OFFICER

- A. **Appointment.** The Township Board is hereby authorized to appoint by motion/resolution any person or persons to the office of Ordinance Enforcement Officer for such terms as may be designated in said motion/resolution and for such compensation as the Board may determine. The Board may further, by motion/resolution, remove any person from said office, in the discretion of the Board.
- B. **Authority.** The Ordinance Enforcement Officer(s) is/are hereby authorized to enforce all ordinances of the Township, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different enforcing official or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance, that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this Ordinance, and the authority of the Ordinance Enforcement Officer shall be in addition and supplementary to the authority granted to such other specific officer. An Ordinance Enforcement Officer shall in the performance of the officer's duties be subordinate and responsible to the Supervisor or such other Township Board members as the Township Board may from time to time designate.
- C. **Duties.** The Ordinance Enforcement Officer's duties shall include the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance

tickets as authorized under 1968 Public Act 147, as amended (MCL 764.9c); issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized under 1994 Public Act 12, as it may from time to time be amended (MCL 600.8701 et seq); appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators; and such other ordinance enforcing duties as may be delegated by the Township Board, Township Supervisor, or assigned by the Township Attorney.

SECTION 11
AVAILABILITY OF OTHER ENFORCEMENT OPTIONS

Nothing in this Ordinance shall be deemed to require the Township 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 Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

SECTION 12
RECORDS AND ACCOUNTING

The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the Township Board once a month or at such other intervals as the Township Board may require concerning the number of admissions and denials of responsibility for the ordinance violations within the jurisdiction of the Bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the Township Treasurer at such intervals as the Treasurer shall require, and shall be deposited in the general fund of the Township.

SECTION 13
SEVERABILITY

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

SECTION 14
EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication after adoption in accordance with state statutes. All provisions of ordinances in conflict herewith are hereby repealed.

* * * * *

Resolved by:	Treasurer Kurnik
Supported by:	Trustee Laue
Yes:	Kurnik, Hering, Laue, Kuzner, Van Leuven, Schumacher
No:	None.

Adoption Date:	February 17, 2004
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CERTIFICATION OF THE CLERK

I, David G. Kuzner, do hereby swear this to be a true copy of the Civil Infraction Ordinance amendment as adopted by the Tyrone Township Board at a regular meeting held February 17, 2004, to which I add my sign and seal this 18th Day of February, Two Thousand Four.

s/a David G. Kuzner
David G. Kuzner, CMC
Tyrone Township Clerk