

## VILLAGE OF ALMONT

### ORDINANCE NO. 163

**An Ordinance establishing municipal civil infraction violation, enforcement procedures, and providing general penalties and sanctions for violations of code and village ordinances.**

#### **THE VILLAGE OF ALMONT ORDAINS:**

Section 1. DEFINITIONS. For the purpose of this ordinance, certain terms are herewith defined. Terms not herein defined shall have the meanings customarily assigned to them.

Act. Act. No. 236 of the Public Acts of 1961, as amended.

Authorized city official. A police officer or other personnel of the Village authorized by this Ordinance or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau. The Village of Almont Municipal Ordinance Violations Bureau as established by this Ordinance.

Municipal civil infraction. An act or omission that is prohibited by this Ordinance or any ordinance of this Village but which is not a crime under this Ordinance or other ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this Ordinance that is a criminal offense.

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 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.

Municipal civil infraction violation notice. A written notice prepared by an authorized village official, directing a person to appear at the Village of Almont 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 Village, as authorized under Sections 8396 and 8707 (6) of the Act.

Section 2. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF CODE AND CITY ORDINANCES; CONTINUING VIOLATIONS; INJUNCTIVE RELIEF.

(a) Unless a violation of this Code or other Ordinance of the Village of Almont is specifically designated in the Code or Ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.

(b) The penalty for a misdemeanor violation shall be a fine not exceeding One Hundred (\$100.00) Dollars (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code or any Ordinance.

(c) The sanction for a violation which is a Municipal Civil Infraction shall be a civil fine in the amount as provided by this Code or any Ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

(1) Unless otherwise specifically provided for a particular Municipal Civil Infraction violation by this Code or any Ordinance, the civil fine for a violation shall be not less than Seventy Five (\$75.00) Dollars, plus costs and other sanctions, for each infraction.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Section or any Ordinance. As used in this Section, "repeat offense" means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision (i) committed by a person within any six-month period, unless some other period is specifically provided by this Code or any Ordinance and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code or any Ordinance for a particular Municipal Civil Infraction violation, the increased fine for a repeat offense shall be as follows:

(A) The fine for any offense which is a first repeat offense shall be no less than One Hundred (\$100.00) Dollars, plus costs.

(B) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than One Hundred (\$100.00) Dollars, plus costs.

(d) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any Ordinance; an any omission or failure to act where the act is required by this Code or any Ordinance.

(e) Each day on which any violation of this Code or any Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies available at law, the Village may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Code or any Village Ordinance.

Section 3. ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance by an authorized village official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Village of Almont Municipal Ordinance Violations Bureau.

Section 4. CITATIONS; ISSUANCE AND SERVICE.

Municipal civil infraction citations shall be issued and served by authorized village 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 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 the Village and issued to the alleged violator as provided by Section 8705 of the Act.
- (d) A citation for a municipal civil infraction signed by an authorized village 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 village 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 village 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 village attorney approves in writing the issuance of the citation.
- (g) Municipal civil infraction citations shall be served by an authorized village official as follows:

(1) Except as provided by Section 5(g)(2), an authorized village official shall personally serve a copy of the citation upon the alleged violator.

(2) 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 an owner or occupant of the land, building, or structure by posting the copy of the citation 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 5. 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 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 the Village.

(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 the Village.

(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 judge with the opportunity of being represented by an attorney.

(d) The citation shall contain a notice in bold faced 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 6. MUNICIPAL ORDINANCE VIOLATIONS BUREAU.

(a) BUREAU ESTABLISHED. The Village hereby establishes a Municipal Ordinance Violations Bureau (hereinafter referred to a "Bureau") as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized village official, and to collect and retain civil fines and costs as prescribed by this Ordinance or any Ordinance.

(b) LOCATION; SUPERVISION; EMPLOYEES; RULES AND REGULATIONS. The Bureau shall be located at the Village of Almont Police Department, and shall be under the supervision and control of the Village of Almont Police Chief. The Chief of Police, subject to the approval of the Village Council, shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified Village 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 civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to adjudication of the violation at the Bureau. Nothing in this Chapter shall prevent or restrict the Village 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 adjudicated 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 provided by law.

(d) 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.

(e) MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES. Municipal civil infraction violation notices shall be issued and served by authorized village officials under the same circumstances and upon the same persons as provided for citations as provided in Sections 5(f) and (g) of this Chapter. In addition to any other information required by this Ordinance or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(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 village official issues and serves 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 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 7. SCHEDULE OF CIVIL FINES ESTABLISHED.

(a) A schedule of civil fines payable to the Bureau of admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows:

OFFENSE/VIOLATION

FINE

Failure to comply with any provision of Ordinance 38,  
Section 2(Driving; Parking; School Property) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 43,  
Section 2 (Solicitors & Peddlers) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 52,  
Section 17 (Nuisances) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 53,  
Section 20 (Junk Yards) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 72,  
Section 24 (Disorderly Conduct) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 75,  
Section 6 & 7 (Curfew) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 88,  
Section 2 (Weed & Grass) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 93,  
Section 3 (Loitering) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 96,  
Section 21 (Water) \$ 75.00

First repeat offense \$100.00

Second (or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 107,  
Section 8 (Dogs) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 109,  
Section 8(Water Cross Connections) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 119,  
Section 3.01(Blight) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 123,  
Section 4(Mechanical Code) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 138.3  
Section 5(Building Code) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 140,  
Section 7(Garbage Collection) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 148,  
Section 6(Burning) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 152,  
Section 4(Plumbing & Electrical Code) \$ 75.00

First repeat offense \$100.00

Second(or any subsequent) repeat offense \$100.00

Failure to comply with any provision of Ordinance 154, Section 6(Hazardous Materials)	\$ 75.00
First repeat offense	\$100.00
Second(or any subsequent) repeat offense	\$100.00
Failure to comply with any provision of Ordinance 157, Section 11 (Address Numbering)	\$ 75.00
First repeat offense	\$100.00
Second(or any subsequent) repeat offense	\$100.00
Failure to comply with any provision of Ordinance 159, Article 23(Zoning)	\$ 75.00
First repeat offense	\$100.00
Second(or any subsequent) repeat offense	\$100.00

(b) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

Section 9. 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 judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 10. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon publication in a newspaper in general circulation within the Village of Almont.

The undersigned President and Clerk of the Village of Almont hereby certify that this Ordinance was adopted by the Almont Village Council on the 9th day of January, 1996 and was published in the Tri-City Times on the 17th day of January, 1996.

  
Sally McCrea, Clerk

  
Jeann Bartlett-Loftis, President