

Statutory Framework

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1994 PA 12	Amended the Revised Judicature Act to implement municipal civil infractions within the District Court system.
1994 PA 13	Amended the Charter Township Act to authorize MCI's.
1994 PA 14	Amended the General Township Ordinance Act to authorize MCI's.
1994 PA 22	Amended the Construction Code to provide that violations may be designated as MCI's (Now in the Stille-DeRossett-Hale Single State Construction Code Act at MCL 125. 1523(3)).
1994 PA 24	Amended the Township Rural Zoning Act to allow violations of Township Zoning Ordinances to be designated as MCI's. (Similar provision incorporated into the Zoning Enabling Act and codified at MCL 125.3407)
1994 PA 26	Amended the noxious weed ordinance authorization (for qualified Townships with populations of more than 5,000) to permit municipalities to provide within the Ordinance that failure to destroy noxious weeds constitutes an MCI.

Definition

MCL 600.113(1)(c) "Municipal civil infraction" means a civil infraction involving a violation of an ordinance. Municipal civil infraction includes, but is not limited to, a railway municipal civil infraction.

"Chapter 87" = MCI provisions in Revised Judicative Act MCL 600.8701-600.8735.

Ordinances Ineligible for MCI Designation

MCL 600.113 "Municipal civil infraction does not include (list).

1. Any ordinance violation that is designated as a "civil infraction";
2. A violation of the Michigan Vehicle Code at MCL 257.1 – 257.93;
3. A violation of County Board of Commissioners Regulations adopted pursuant to MCL 46.201;

4. A violation of the Pupil Safety Transportation Act at MCL 257.1801 – 257.1877;
5. Any act or omission that constitutes a “crime” (ie misdemeanor) under:
 - The Public Health Code provisions concerning controlled substances and anabolic steroids at MCL 333.7101 – 333.7545 and 333.1776a;
 - The Michigan Penal Code at MCL 750.1 – 750.568;
 - The Liquor Control Act at MCL 436.1 - 436.58;
 - The Marine Safety Act at MCL 281.1001- 281.1199;
 - The Aeronautics Code, MCL 259.1 – 259.208;
 - MCL 324.82101 – 324.82159 regarding snowmobiles;
 - MCL 324.81101– 324.81150 regarding off road vehicles;
 - The Michigan Railroad Code at MCL 462.101 – 462.451;
 - Any state law where the act or omission is punishable by imprisonment for more than 90 days.

Ordinances Eligible for MCI Designation

Municipal Ordinances that are not in the categories addressed above including;

- Blight, police power ordinances; and
- Township Zoning Ordinances (MCL 125.3407(b)).

Time Advantages of MCI Designation

1. District Court
 - Cases are generally scheduled and heard within 40 days and are subject to MCR 2.502, the 91-day lack of progress dismissal;
 - No “discovery”;
 - Ability to call the Defendant as a witness at a formal hearing.
2. Easier Ways to Prevail
 - Standard of Proof = Preponderance of the Evidence

MCL 600.113 (3) “A determination that a defendant is responsible for a civil infraction and thus subject to civil sanctions shall be by a preponderance of the evidence”.

3. More ways to prevail

- Default
 - MCL 600.8723 “ If the defendant fails to appear as directed by the citation or other notice at a scheduled appearance under section 8715(3)(b) or (4), at a scheduled informal hearing, or at a scheduled formal hearing, the court shall enter a default judgment against the defendant.”
- Admission of Responsibility
 - Prevail when the Defendant “admits” and pays the fine.
- Admission of Responsibility “with explanation”
 - Prevail when the Defendant “admits with explanation”, regardless of whether the fine is reduced by the judge or magistrate.
- Informal Hearing
 - No attorneys;
 - Prevail by establishing violations with photographic evidence;
 - Ensure that ZA/OEO checks property on the way to court and photographs current condition, if possible.
- Formal Hearing
 - Less time consuming than a circuit court trial;
 - Lasts usually less than one hour
 - Zoning cases are longer

4. Time advantages gained by delineation of the trier of fact

- NO JURIES
 - NO need to explain zoning to laypeople!
- Magistrate for informal hearings if so designated by the chief judge
 - Time advantages can be gained by selecting a couple of days a month for appearance before the magistrate
 - Orders prepared in advance if Magistrate authorized to sign same by Chief Judge of the District
 - Magistrate can accept plea or go straight to an informal hearing

Financial Advantages of the MCI Designation

1. MCI Bureau—Township keeps the money

MCL 600.8396 permits but does not require the Township to establish a Municipal Ordinance Violations Bureau by ordinance.

“A county, city, village, or township may by ordinance establish a municipal ordinance violations bureau to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs pursuant to a schedule as prescribed by ordinance. The expense of operating a municipal ordinance violations bureau shall be borne by the county, city, village, or township, and the personnel of the bureau shall be county, city, village, or township employees.”

- Fine, Township generally gets 1/3 of any fine levied pursuant to MCL 600.8379.
- Township officials should do a cost/benefit analysis in making determination as to whether to establish an MCI bureau.

2. Lower Attorney’s bill?

- No attorney’s fees bill for “discovery”
- No court appearance for informal hearing
- No court appearance for default
- Reduced Court time for formal hearings

3. Recovery of costs of prosecution?

- MCL 600.8375 permits the district court to assess costs of prosecution against the Defendant.

“The district court may assess the same costs as are permitted in the circuit court. In civil infraction actions, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, section 8727, or section 8827, as applicable. A district court magistrate may assess costs in an amount fixed by rule of the district court.”

- MCL 600.8727(3) permits the court to assess both fines and costs in an MCI action.

“(3) If a defendant is ordered to pay a civil fine under subsection (2), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct

and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not more than \$500.00 shall be ordered. Until September 30, 2003, the amount of costs ordered shall be not less than \$9.00. Except as otherwise provided by law, costs shall be payable to the general fund of the plaintiff.”

- Prepare form indicating OEO/ZA time, prosecution time, service costs, court costs and expenses, submit to magistrate or judge after finding of responsibility, default or plea.

4. Lien for Failure to Pay Civil Fine or Costs

- MCL 600.8731(1) permits the Township to obtain a lien against the land, building or structure for the recovery of costs of prosecution ordered by the court.

“(1) If a defendant does not pay a civil fine, costs, or assessment or an installment ordered under section 8727 within 30 days after the date on which payment is due under section 8727 in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the plaintiff may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, and assessment with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds.”

(2) The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the plaintiff by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

(3) The lien may be enforced and discharged by a county, city, village, or township in the manner prescribed by its charter, by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or by an ordinance duly passed by the governing body of the county, city, village, or township. However, property is not subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for nonpayment of a civil fine, costs, or assessment or an installment ordered under section 8727 unless the property is also subject to sale under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for delinquent property taxes.

(4) A lien created under this section has priority over any other lien unless 1 or more of the following apply:

- (a) The other lien is a lien for taxes or special assessments.
- (b) The other lien is created before May 1, 1994.
- (c) Federal law provides that the other lien has priority.
- (d) The other lien is recorded before the lien under this section is recorded.

(5) A political subdivision may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by a county, city, village, or township to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.

(6) A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine, costs, or assessment is recorded, unless within that time an action to enforce the lien is commenced."

Practical Advantages of the MCI Designation

1. Relative Ease and Efficiency of Obtaining Orders Requiring Defendants to Place Their Properties Into Compliance With Township Ordinances.

- With respect to MCI ordinance violations, the district court has authority concurrent with that of the circuit court to issue and enforce any writ or order that will achieve compliance with the ordinance.

MCL 600.8302 "(1) ... (T)he district court has equitable jurisdiction and authority concurrent with that of the circuit court in the matters and to the extent provided by this section.

(4) In an action under chapter 87, the district court may issue and enforce any judgment, writ, or order necessary to enforce the ordinance. The grant of equitable jurisdiction and authority to the district court under this subsection does not affect the jurisdiction of the circuit court to do either of the following:

- (a) Hear and decide claims based on nuisance or abate nuisances under section 2940.

(b) Hear and decide actions challenging the validity or applicability of an ordinance and, in those actions, enjoin a defendant from enforcing the ordinance in the district court or in a municipal court pending the outcome of the action in circuit court.”

- Court’s view of its own authority pursuant to this provision varies widely
 - Open Dialogue with Court Staff, Magistrate(s), Judges
 - Provide Samples
 - Work together to determine procedure and to develop/choose format for orders
- See Sample Orders for 5 Counties.
- Injunctions? Place and maintain in compliance?

2. Relative Ease of Service of the Citation

- MCL 600.8707 provides “(3) Except as otherwise provided under subsection (4), the authorized local official shall personally serve the third copy of the citation upon the alleged violator.

(4) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the 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 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.”

Note—There is no certified mail service required.

- If the Defendant has moved and failed to provide a forwarding address, service can be accomplished by posting and mailing via regular mail to the Defendant’s last known address.

3. Form-driven procedure possible

- UC-01B Uniform Law Citation (or in the alternative UC-01a) (for use when there is no MCI bureau)
- UC-02—Municipal Civil Infraction Notice of Violation (for use with MCI bureaus)
- UC-03—Uniform Municipal Civil Infraction Citation (for use with MCI bureaus)
- DC 223—Plea by Mail

- CIA 01—Notice to appear, Civil Infraction
- CIA 02—Judgment, Civil Infraction
- CIA 03—14-day notice (to pay) civil infraction
- CIA 04—Motion to Set Aside Default Judgment, Civil Infraction
- CIA 05--Claim of Appeal of Right/Request to Withdraw Admission
- CIA 06—Order to Show Cause, Civil Infraction
- CIA 07—JIS—Default Judgment, Civil Infraction (post card version generated by court system).
- Forms for Orders requiring Compliance
 - Driven by County Court preferences and established procedures.
- Magistrate can enter Orders if so designated by the Judge. MCL 600.8512 (1) and (3) provides:

“ (1) A district court magistrate may hear and preside over civil infraction admissions and admissions with explanation and conduct informal hearings in civil infraction actions pursuant to section 746 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.746 of the Michigan Compiled Laws, section 8719, or section 8819, as applicable. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized by section 907 of Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, section 8727, or section 8827, as applicable.

“ (3) A district court magistrate may exercise the authority conferred by this section only to the extent expressly authorized by the chief judge, presiding judge, or only judge of the district court district.”

4. Development of a Relationship with District Court

- Staff
 - Direct dial
 - Email
 - Forms
 - Court Interface/Computer Access

- Magistrate(s)
 - Orders prepared for entry
 - Date for hearing MCI cases
 - Forms
 - Judges
 - Orders prepared for entry
 - Forms
 - Show Cause Authority
5. Contempt of Court
- For failure to abide by order of the District Court (Judge or Magistrate) MCL 600.1701(g)
 - Prepare and submit motion/order to show cause
 - Can be signed by Magistrate
 - Judge presides over contempt hearing
 - Can be the first appearance before a judge for the entire case
 - Contempt Sanctions
 - \$250.00 MCL 600.1715(1)
 - jail? MCL 600.1715(2)
 - Reimbursement of costs and attorney's fees MCL 600.1721
6. Conviction is not abstracted (MCL 257.908 abstracts for traffic offenses only)
- Does not go into LEIN system (does not appear on criminal record)
 - Does not go onto Defendant's driving record
 - Defendant may be more inclined to enter a plea in light of above