

AN ORDINANCE ESTABLISHING A MUNICIPAL COURT FOR THE VILLAGE OF INNSBROOK THROUGH THE WARREN COUNTY CIRCUIT COURT FOR VIOLATIONS OF MUNICIPAL ORDINANCES.

WHEREAS, Section 479.040 of the Revised Statutes of the State of Missouri authorizes a village to elect to have violations of its municipal ordinances heard and determined by the associate circuit judge of the circuit in which the village is located.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INNSBROOK, AS FOLLOWS:

SECTION 1: The Village of Innsbrook hereby establishes a municipal court for the Village of Innsbrook with the Warren County Circuit Court as follows:

**MUNICIPAL COURT
ARTICLE I. GENERALLY**

A) VIOLATIONS HEARD BY ASSOCIATE CIRCUIT JUDGE

The Village of Innsbrook, State of Missouri, does hereby elect to have the violations of its municipal ordinances to be heard and determined by the Associate Circuit Judge of the County of Warren, State of Missouri.

B) COURT COSTS

In addition to any fine that may be imposed by the Municipal Judge, there shall be assessed as costs in all cases the following:

- 1) Fees of court in the amount of fifteen dollars (\$15.00) for municipal ordinance violations or, after adjustment by the Supreme Court, the amount set by the Supreme Court for municipal ordinance violations.
- 2) In all cases, except those for non-moving traffic violations, costs for the training of Police Officers in the amount of three dollars (\$3.00). Two dollars (\$2.00) of such fees collected shall be transmitted monthly to the Treasurer of the Village to be used to pay for Peace Officers' training. The Village shall not retain more than one thousand five hundred dollars (\$1,500.00) of such funds for each certified Law Enforcement Officer or candidate for certification employed by the Village. Any excess funds shall be transmitted quarterly to the Village's general fund. One dollar (\$1.00) of such fees collected shall be transmitted monthly to the Treasurer, State of Missouri and deposited into the Peace Officer Standards and Training Commission Fund to be used statewide for training of Law Enforcement Officers.
- 3) Other costs, such as for the issuance of a warrant, a commitment or a summons, as provided before the Associate Circuit Judge in criminal prosecutions.

- 4) Actual costs assessed against the Village by the County Sheriff for apprehension or confinement in the County Jail.
- 5) Mileage, in the same amount as provided to the Sheriff in criminal violations, for each mile and fraction thereof the officer must travel (both directions) in order to serve any warrant or commitment or order of this Court.
- 6) A surcharge relating to the Crime Victims' Compensation Fund in the amount of seven dollars fifty cents (\$7.50) in all cases, except in any proceeding in the Court when the proceeding or defendant has been dismissed by the Court or when costs are to be paid by the Village.

C) WHEN COSTS TO BE ASSESSED AGAINST PROSECUTING WITNESS

The costs of any action may be assessed against the prosecuting witness and judgment rendered against him/her to pay the same and he/she shall stand committed until such costs are paid in any case where it appears to the satisfaction of the Judge that the prosecution was commenced without probable cause and from malicious motives.

D) INSTALLMENT PAYMENT OF FINE

When a fine is assessed for violating this Code, it shall be within the discretion of the Judge assessing the fine to provide for the payment of a fine on an installment basis under such terms and conditions as he/she may deem appropriate.

E) REIMBURSEMENT OF COSTS OF ARREST -- WHEN -- LIMITATIONS

- 1) Upon a plea of guilty or a finding of guilty for an offense the Court may, in addition to imposition of any penalties provided by law, order the person to reimburse the local law enforcement agency which made the arrest for the costs associated with such arrest.
- 2) Such costs shall include the reasonable costs of making the arrest, including the cost of any chemical test made under any ordinance of the Village to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody.
- 3) The Court may establish a schedule of such costs; however, the Court may order the costs reduced if it determines that the costs are excessive given the circumstances of the case or for good cause shown.
- 4) These fees shall be calculated as additional costs by the Court and shall be collected by the Court in the manner as provided by State law.

F) FAILURE TO APPEAR BEFORE THE COURT

It shall be unlawful for any person to fail to appear at the proper time and plea or answer a charge against him/her in the Court upon being first duly summoned.

ARTICLE II. VIOLATIONS BUREAU

A) WHEN PERSON CHARGED MAY ELECT TO APPEAR AT BUREAU

- 1) The Judge may establish with the Clerk of the Court that any person charged with an offense for which payment of a fine may be made to the Violations Bureau shall have the option of paying such fine within the time specified at the Violations Bureau upon entering a plea of guilty and upon waiving appearance in court or may have the option of depositing required lawful bail and, upon a plea of not guilty, shall be entitled to a trial as authorized by law.
- 2) The payment of a fine to the Bureau shall be deemed an acknowledgement of conviction of the alleged offense, and the Bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof.

B) DUTIES OF VIOLATIONS BUREAU

The following duties are hereby imposed upon the Violations Bureau in reference to traffic offenses:

- 1) It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desire to plead guilty, waive court appearance and give power of attorney;
- 2) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the arresting officer and witnesses, if any, to be present.

C) VIOLATIONS BUREAU TO KEEP RECORDS

The Violations Bureau shall keep records and submit to the judges hearing violations of Village ordinances summarized monthly reports of all notices issued and arrests made for violations of the traffic laws and ordinances in the Village and of all the fines collected by the Violations Bureau or the court and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Said records shall be public records.

D) ADDITIONAL DUTIES OF VIOLATIONS BUREAU

The Violations Bureau shall follow such procedure as may be prescribed by the traffic ordinances of the Village or as may be required by any laws of this State.

ARTICLE III. ADMINISTRATIVE SEARCH WARRANTS

A) ADMINISTRATIVE SEARCH WARRANTS

1) *Search Warrant Defined--Who May Issue, Execute.*

- a) An administrative search warrant is a written order of the Judge permitting the entry of Village Officials on or into private property, structure or improvement to enforce the Village's housing, zoning, health and safety regulations when government entry on or into such property is otherwise authorized by Missouri law. A warrant may issue only in conformance with this Section and only for the enforcement of the Village's housing, zoning, health and safety regulations, specifically:
 - i) To inspect private property to determine or prove the existence of physical conditions in violation of a specified regulation,
 - ii) To seize property or photograph, copy or record evidence of property or physical conditions found thereon or therein, and
 - iii) To abate such physical conditions.
- b) The Judge having original and exclusive jurisdiction to determine violations against the ordinances of the Village and may issue an administrative warrant when:
 - i) The property to be entered is located within the Village, and
 - ii) The owner or occupant of the property or place to be entered:
 - 1) Has refused to allow same after official request by the Village, or
 - 2) Is not available, after reasonable investigation and effort, to consent to such search or inspection.
- c) Any such warrant shall be directed to the Chief of Police or any other Police Officer of the Village and shall be executed by the Chief of Police or said Police Officer in conjunction with the Code Enforcement Officer or other appropriate Village Official.

2) *Who May Apply For Warrant--Contents Of Application.*

- a) Any Code Enforcement Officer, Police Officer or attorney of the Village may make application to the Judge for the issuance of an administrative warrant.
- b) The application shall:

- i) Be in writing;
 - ii) State the time and date of the making of the application;
 - iii) Identify the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - iv) State that the owner or occupant of the property or places to be entered, searched, inspected or seized:
 - 1) Has been requested by the Village to allow such action and has refused to allow such action, or
 - 2) Is not available, after reasonable investigation and effort, to consent to such search or inspection;
 - v) State facts sufficient to show probable cause for the issuance of a search warrant as provided in Subsection (C) of this Section to:
 - 1) Search or inspect for violations of an ordinance or Code Section specified in the application; or
 - 2) Show that entry or seizure is authorized and necessary to enforce an ordinance or Code Section specified in the application and/or abate an ordinance violation and that due process has been afforded prior to the entry or seizure;
 - vi) Be verified by the oath or affirmation of the applicant; and
 - vii) Be signed by the applicant and filed in the Municipal Court.
- c) The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the property or place to be searched or inspected. Oral testimony shall not be considered.
- d) The application may be submitted by hand delivery, mail or facsimile or other electronic means.
- 3) *Determination Of Probable Cause--Issuance--Contents Of Warrant--Execution And Return.*
- a) *Determination of probable cause/issuance.*

- i) The Judge shall determine whether probable cause exists to inspect or search for the purposes noted herein.
 - ii) In doing so the Judge shall determine whether the action to be taken by the Village is reasonable in light of the facts stated. The Judge shall consider the goals of the ordinance or Code Section sought to be enforced and such other factors as may be appropriate including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant Village ordinance or Code Section, the passage of time since the property's last inspection and the authority authorizing government entry onto private property. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a Village ordinance or Code Section.
 - iii) If it appears from the application and any supporting affidavit that there is probable cause to inspect or search the private property for the enforcement of the Village's housing, zoning, health and safety regulations, a search warrant shall immediately be issued.
 - iv) The warrant shall issue in the form of an original and two (2) copies and the application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the Court.
 - v) A search warrant shall expire if it is not executed within ten (10) days after the date of the making of the application.
- b) *Contents of search warrant.* The search warrant shall:
- i) Be in writing and in the name of the Village;
 - ii) Be directed to any Police Officer in the Village;
 - iii) State the time and date the warrant was issued;
 - iv) Identify the property or places to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - v) Identify the regulation sought to be enforced;
 - vi) Command that the described property or places be entered upon for one (1) or more specified enforcement purposes as provided herein, including inspection or abatement;
 - vii) Direct that any evidence of any suspected ordinance violations be seized, recorded or photographed and a description of such property be returned within


ten (10) days after issuance of the warrant to the Clerk of the Municipal Court to be dealt with according to law;

- viii) Be signed by the Judge with his/her title of office indicated.
- c) *Execution.* A search warrant issued under this Section shall be executed only by a Village Police Officer, provided however, that one (1) or more designated Village Officials may accompany the officer and the warrant shall be executed in the following manner:
- i) Copies of the warrant shall be given to the officer executing the warrant. Copies may be transmitted by hand delivery, mail or by facsimile or other electronic means.
 - ii) The warrant shall be executed by conducting the search, inspection, entry, abatement or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner but in no less than ten (10) days after issuance of the warrant.
 - iii) The officer may summon as many persons as he/she deems necessary to assist him/her in executing the warrant and such persons shall not be held liable as a result of any illegality of the search and seizure.
 - iv) The officer shall give the owner or occupant of the property searched, inspected or entered upon a copy of the warrant or shall leave a copy of the warrant at the property if the owner or occupant is not available.
 - v) In the event that a warrant authorizes abatement of a nuisance or other conditions, the Police Officer is not required to stay on the property during the entire length of time that it takes for the abatement to be completed.
- d) *Itemized receipt/disposition of seized property.*
- i) If any property is seized incident to the search or abatement, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search or abatement in a conspicuous place.
 - ii) A copy of the itemized receipt of any property taken shall be delivered to an attorney for the Village within two (2) working days of the search.
 - iii) The disposition of property seized pursuant to a warrant under this Section shall be in accordance with an applicable Village ordinance or Code Section, but in the absence of same, then with Section 542.301, RSMo.
- e) *Return required after execution of search warrant.*

- i) After execution of the search warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Court.
 - ii) The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property or places searched or seized.
 - iii) The return shall be accompanied by any photographs, copies or recordings made and by any property seized, along with a copy of the itemized receipt of such property required by this Section; provided however, that seized property may be disposed of as provided herein and, in such a case, a description of the property seized shall accompany the return.
 - iv) The Court Clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property searched or seized.
- 4) *Warrant Invalid, When.*
- a) A search warrant shall be deemed invalid:
 - i) If it was not issued by the Judge;
 - ii) If it was issued without a written application having been filed and verified;
 - iii) If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided in Subsection (C) hereof;
 - iv) If it was not issued with respect to property or places in the Village;
 - v) If it does not describe the property or places to be searched, inspected, entered upon or seized with sufficient certainty;
 - vi) If it is not signed by the Judge who issued it; or
 - vii) If it was not executed within ten (10) days after the date of the issuance of the warrant.
 - b) An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he/she would be justified in using if the warrant were valid.

SECTION 2: This Ordinance shall be in full force and effect from and after its passage and approval by the Chairman.

This Bill was passed and approved this 1st day of November, 2010, by the Board of Trustees of the Village of Innsbrook after having been read by title or in full two times prior to passage.



Les Buechele, Chairman
Village of Innsbrook Trustees

ATTEST:



Chris McCormick, Administrator/Clerk

