

**AN ORDINANCE TO AMEND CHAPTER 31 OF THE CODE OF ORDINANCES, CITY OF ESCANABA.**

THE CITY OF ESCANABA ORDAINS:

CHAPTER I

Section 1. Addition of New Chapter 31.

A new chapter, Chapter 31, is added to the Code of Ordinances, City of Escanaba, to read in its entirety as follows:

Chapter 31

**MUNICIPAL CIVIL INFRACTIONS**

**Section 31-1 Definitions.**

As used in this Chapter:

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

**"Authorized city official"** means a public safety officer, Code Official, or other personnel of the city authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notice.

**"Municipal civil infraction act"** means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

**"Municipal civil infraction citation"** means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

**Section 31-2 Municipal civil infraction action; commencement.**

Municipal civil infraction citations shall be issued and served by authorized city 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 city 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 city 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 city 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 city 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 city attorney approves in writing the issuance of the citation.
- (g) Municipal civil infraction citations shall be served by an authorized city official as follows:
- (1) Except as provided by Section 31-3(g) (2), an authorized city 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 31-4 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 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 city.
- (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 city.

- (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.

CHAPTER II

SAVINGS CLAUSE

If any section, subsection, sentence, clause, or phrase of the within Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, section, subsection, sentence, clause, phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER III

REPEALING CHAPTER

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

CHAPTER IV

EFFECTIVE DATE

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Ralph B. K. Peterson  
City Attorney

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Jeanne M. Rose  
Mayor

ATTEST:

\_\_\_\_\_  
Robert S. Richards  
City Clerk

I hereby certify that the above and foregoing Ordinance was duly passed and adopted at a meeting of the City Council held on September 19, 1996, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba, on September 25, 1996.

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Robert Richards  
City Clerk