

MUNICIPAL CIVIL INFRACTION
ORDINANCE

#2007-2

Effective: May 17, 2007

**ORDINANCE #2007-02
MUNICIPAL CIVIL INFRACTION ORDINANCE
COUNTY OF PRESQUE ISLE
STATE OF MICHIGAN**

THE COUNTY OF PRESQUE ISLE ORDAINS:

SECTION 1 – SHORT TITLE.

This Ordinance shall be known and may be cited as the “Municipal Civil Infraction Ordinance”.

SECTION 2 – DEFINITIONS.

For the purpose of the provision of this Ordinance, the following words and phrases shall have the following meaning, unless it is apparent from the context that a different meaning is intended.

- A. “Act” means Act No. 236 of the Public Acts of 1961, as amended.
- B. “Authorized County official” means a law enforcement officer or other personnel of Presque Isle County authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.
- C. “Municipal Civil Infraction Action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- D. “Municipal Civil Infraction Citation” means a written complaint or notice prepared by an authorized County official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

SECTION 3 – DESIGNATION OF AUTHORIZED COUNTY OFFICIALS.

The following personnel of Presque Isle County have the authority to issue municipal civil infraction citations pursuant to this Ordinance:

- A. Law Enforcement Officers
- B. Zoning Administrators
- C. Building Inspectors
- D. Electrical Inspectors

SECTION 4 – COMMENCEMENT OF ACTION.

A municipal civil infraction action may be commenced upon the issuance by an authorized County official of a municipal civil infraction citation directing the alleged violator to appear in court.

SECTION 5 – ISSUANCE AND SERVICE OF CITATIONS.

Municipal civil infraction citations shall be issued and served by authorized County officials as follows:

- A. The time of appearance specified in the citation shall be within a reasonable time after the citation is issued.
- B. The place for appearance specified in the 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 retained by the County 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 County 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 above statements are true to the best of my information, knowledge, and belief."
- E. An authorized County official who witnesses a person committing 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 County official may issue a citation to a person if:
 1. Based upon investigation, the County 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 County official has reasonable cause to believe that the person is responsible for an infraction and if the County Attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized County official as follows:
 1. Except as provided in Section 5(g)(2) below, an authorized County 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 the 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 6 – CONTENTS OF CITATIONS.

- A. A municipal civil infraction citation shall contain the name of the County, 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 County.
 - 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 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 County.
 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 the time scheduled for a hearing will result in entry of a default judgment against the alleged violator of the municipal civil infraction.

SECTION 7 – FAILURE TO APPEAR, DEFAULT JUDGMENT.

If the defendant fails to appear as directed by the citation or other notice, the court shall enter a default judgment against the defendant.

SECTION 8 – MUNICIPAL CIVIL INFRACTION PENALTY.

A person violating an ordinance which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and is subject to a civil fine of not more than five-hundred dollars (\$500.00) plus costs.

SECTION 9 – SEVERABILITY.

If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10 – SAVINGS.

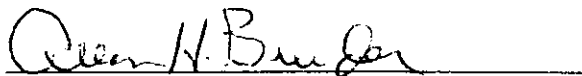
All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 11 – REPEALER.

All ordinances or parts of ordinances in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 12 – EFFECTIVE DATE.

This Ordinance shall become effective upon publication of Notice of Adoption in a newspaper of general circulation within the county. Notice of Adoption published May 17, 2007, Presque Isle County Advance and The Onaway Outlook.



Allan H. Bruder, Chairman
Presque Isle County Board of Commissioners