

Ordinance Number #003-0510-2017

ERWIN TOWNSHIP
MUNICIPAL CIVIL INFRACTION ORDINANCE

THE TOWNSHIP OF ERWIN HEREBY ORDAINS:

An Ordinance to provide for commencement of municipal civil infraction actions and provide for issuance, service and contents of citations for municipal civil infractions by authorized township official.

Section 101: Short Title

This Ordinance shall be known and may be cited as the Municipal Civil Infraction Ordinance of the Township of Erwin, County of Gogebic, Michigan.

Section 102: Definitions

The following words and phrases shall have the following meanings:

- A. Act: Act Number 236 of the Public Acts of 1961, as amended.
- B. Authorized township official: A code enforcement official, zoning administrator or other personnel of the township authorized by this Ordinance to issue municipal civil infraction citations.
- C. Municipal civil infraction action: A civil action in which the defendant is alleged to be responsible for a municipal civil infraction
- D. Municipal civil infraction: An action or omission that is prohibited by any ordinance of the township, which is not a crime under this ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act Number 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of any township ordinance this ordinance that is a criminal offense.
- E. Municipal civil infraction citation: A written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- F. Township: Erwin Township, Gogebic County, Michigan.

Section 103: Commencement of a Municipal Civil Infraction Action

A municipal civil infraction action shall be commenced upon the issuance by an authorized township official of a municipal civil infraction citation directing the alleged violator to appear in court. Authorized township officials shall include the zoning administrator, code enforcement official, and township supervisor.

Section 104: Issuance and Service of Municipal Civil Infraction Citations

Municipal civil infraction citations shall be issued and served by authorized township 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 of Gogebic County.
- 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 township 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 township 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 township 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 township 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 township attorney approves in writing the issuance of the citation.
- G. Municipal civil infraction citations shall be served by an authorized township official as follows:
 - 1. Except as provided in Section 104 7(b) of this Ordinance, an authorized township 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 105: Contents of Municipal Civil Infraction Citations

- 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 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 township.
 - 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 that:
 1. 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. 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 appearance for a hearing, unless a hearing date is specified on the citation.
 3. A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 4. 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. 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 boldface 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 106: Penalties

- A. Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule and on the basis of the date of the violation(s):

	Minimum Fine	Maximum Fine
1. 1 st Offense	\$125.00	\$500.00
2. 2 nd Offense*	\$275.00	\$500.00
3. 3 rd Offense*	\$350.00	\$500.00
4. 4 th or more Offenses	\$500.00	\$500.00

*within 3-year period determined on the basis of the date of commission of the offense(s)

- B. In addition to the above prescribed civil fines, costs in the amount of \$10 shall be assessed if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20 shall be assessed.

- C. A “violation” includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.
- D. Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- E. In addition to any remedies available at law, the township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any township ordinance.

Section 107: Severability

This Ordinance and the various parts, sections, subsections, and clauses, thereof, are declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is provided that the remainder of the Ordinance shall not be affected.

Section 105: Effective Date

This Ordinance shall become effective upon publication of the notice of adoption in a newspaper of general circulation in the Township.

ERWIN TOWNSHIP

Vicky Flinco, Clerk

P. O. Box 117

N8908 VanBuskirk Rd

Ironwood, MI 49398

RESOLUTION ADOPTING A MUNICIPAL CIVIL INFRACTION ORDINANCE

Therefore, be it ordained that the Township Board of Erwin Township adopts a Municipal Civil Infraction Ordinance for Erwin Township, Gogebic County, Michigan at a meeting thereof, duly called and held on the **10th day of May, 2017.**

Approved by the Township Board of Erwin Township, Michigan, on the _____ day of **May, 2017.**

Roll Call Vote:

Aye

Nay

Absent

_____, Clerk _____ Date

Erwin Township, Gogebic County

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