

**Ordinance No. 221**  
**MUNICIPAL INFRACTION ORDINANCE**

AN ORDINANCE PROVIDING FOR MUNICIPAL CIVIL INFRACTIONS OF CERTAIN CITY OF WAKEFIELD ORDINANCES AND PENALTIES PURSUANT THERETO; ESTABLISHING PROCEDURES RELATING THERETO; AUTHORIZATION OF WHICH CITY OF WAKEFIELD OFFICIALS CAN ISSUE CIVIL INFRACTION TICKETS AND APPEARANCE TICKETS; PENALTIES; PROCEDURES RELATING TO SUCH MATTERS; AND IDENTIFICATION OF ORDINANCES TO BE ENFORCED

The City of Wakefield ordains:

**1) Title.**

This Ordinance shall be known as the City of Wakefield Civil Infraction Ordinance.

**2) Definitions.**

As used in this Chapter:

1.1 "Act" means Act No. 236 of the Public Acts of 1961, as amended, and Public Acts 1226 of 1994, as amended.

1.2 "Authorized city official" means a City of Wakefield official, police officer or other personnel or agent of the city authorized by this Ordinance or any ordinance to issue municipal civil infraction citations.

1.3 "Municipal civil infraction action" means an act or omission that is prohibited by any ordinance of the City of Wakefield, but which is not a crime under the ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of any City of Wakefield ordinance that is a criminal offense.

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

1.5 "City" means the City of Wakefield.

**3) Municipal Civil Infraction Action; Commencement**

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

**4) Municipal Civil Infraction Citations; Issuance and Service**

Municipal civil infraction citations shall be issued and served by authorized City of Wakefield officials as follows:

4.1 The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

4.2 The place for appearance specified in a citation shall be the District Court that has jurisdiction over City of Wakefield.

4.3 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 of Wakefield and issued to the alleged violator as provided by Section 8705 of the Act.

4.4 A citation for a municipal civil infraction signed by an authorized City of Wakefield 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 to the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

4.5 An authorized City of Wakefield 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.

4.6 An authorized City of Wakefield official may issue a citation to a person if:

A. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

B. 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 City of Wakefield attorney approves in writing the issuance of the citation.

4.7 Municipal civil infraction citations shall be served by an authorized City of Wakefield official as follows:

C. Except as otherwise provided below, an authorized City of Wakefield official shall personally serve a copy of the citation upon the alleged violator.

D. 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 a 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.

## **5) Municipal Civil Infraction Citations; Contents**

5.1 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.

5.2 Further, the citation shall inform the alleged violator that he or she may do one of the following:

- A. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- B. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
- C. Deny responsibility for the municipal civil infraction by doing either of the following:
  - i. 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 of Wakefield.
  - ii. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

5.3 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.

**6) Schedule of Civil Fines/Costs**

6.1 Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the City of Wakefield 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):

A.	First violation .....	\$100
B.	Second violation within a 3-year period .....	\$200*
C.	Third violation within a 3-year period .....	\$400*
D.	Fourth or subsequent violation within a 3-year period .....	\$500*

\*Determined on the basis of the date of commission of the offense(s).

6.2 In addition to the above prescribed civil fines, costs in the amount of \$10 shall be assessed by the City 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 by the City.

6.3 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.

6.4 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.

6.5 In addition to any remedies available at law, the City of Wakefield may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any City of Wakefield ordinance.

## 7) Authorized Persons-Civil Infractions Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular City of Wakefield ordinance to the contrary, the following officials are hereby designated as the authorized City officials to issue and serve municipal civil infraction citations for violations of City of Wakefield ordinances which provide for a municipal civil infraction for a violation thereof:

- The City of Wakefield building, mechanical and electrical inspectors;
- The Gogebic County Sheriff and all other deputy county sheriffs of said county;
- The City of Wakefield City Manager;
- The City of Wakefield ordinance enforcement officer;
- The City of Wakefield zoning administrator;
- Any certified officers of a private company or companies contracted with the City of Wakefield for enforcement purposes.

## 8) Applicability of the Act

If this Ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

## 9) Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

## 10) Identification of Ordinances to be Enforced

A municipal civil infraction shall apply to and include the following offenses set forth in the Wakefield City Ordinances:

- A. Violations of Chapter 90, Abandon and Junked Vehicles, of this Code.
- B. Violations of Chapter 95, Fire Prevention, of this Code;
- C. Violations of Chapter 96, Nuisances, of this Code;
- D. Violations of Chapter 203, Blight, of this Code.

## 11) Repeal

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

## 12) Effective Date

This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within the City of Wakefield.

Adopted: \_\_\_\_\_, 2017.

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Jennifer L. Jacobson  
Wakefield City Clerk