

ORDINANCE #705
AN ORDINANCE TO AMEND MARQUETTE CITY CODE
CHAPTER 26 – FIRE PREVENTION AND PROTECTION, IN
ORDER TO ESTABLISH A COMMERCIAL FIRE INSPECTION
APPEALS PROCESS

INTENT

The purpose of this ordinance is to establish a local appeals process for commercial fire inspections in the City of Marquette.

The City of Marquette Ordains:

SECTION 1. Adoption.

New Chapter 26 – Fire Prevention and Protection, Article V. – Commercial Fire Safety Code is hereby adopted as follows:

Sec. 26-113. – Purpose.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe commercial structures. Such standards are an important factor supportive of the general health, safety, and welfare of all its citizens and visitors. This article is designed to promote the continuing maintenance of quality and safe commercial properties, and to enhance and maintain property values.

Sec. 26-114. - Scope

This article shall apply to any premises, structure or part thereof, or equipment being used for commercial purposes.

Sec. 26-115. - Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adopted Code means any of the codes adopted under Marquette City Code Secs. 10-40 and 26-19.

Board of Appeals means the city board of zoning appeals, with the addition of the Fire Chief as an ex officio member, acting as the city fire prevention codes appeals board.

Fire inspector means the fire department personnel appointed by the fire chief, who are charged with the administration and enforcement of this article, authorized by the fire chief under section 26-82.

Tenant means a person who occupies the premises, but is not the legal owner of record thereof.

Sec. 26-116. – Penalty

- (a) Any premises, structure or part thereof, or equipment not in compliance with this article is deemed a nuisance per se.
- (b) An owner or tenant may be charged with more than one violation of the provisions of this article in a single complaint or municipal civil infraction provided each violation so charged, relates to the same property.
- (c) A violation of any provision of this article shall be a municipal civil infraction, assessed against the owner or tenant of the premises, structure or part thereof, or equipment. Each day that a violation exists shall be considered a separate punishable offense. Repeat violations, failure to repair or eliminate imminently dangerous or life-threatening situations may be cited as misdemeanors.

Sec. 26-117. – Appeals

- (a) Procedure. Any person with standing shall be permitted to appeal a notice of violation from the City of Marquette Fire Department to the Board of Appeals, when it is claimed that any one or more of the following conditions exist:
 - (1) The true intent of the Adopted Code has been incorrectly interpreted.
 - (2) The provisions of the Adopted Code do not fully apply.
 - (3) A decision is unreasonable or arbitrary as it applies to new alternatives or materials.
- (b) An appeal shall be submitted to the City of Marquette Fire Department in writing within 21 calendar days of the day the notice of violation is served. Failure to file the written notice of appeal within the 21-day period shall be deemed a waiver of the person's right to a hearing or to otherwise contest the notice of violation. An application for appeal shall be accompanied by a fee as set forth in the city fee schedule to cover the city's cost of handling said appeal. The appeal shall outline all of the following:
 - (1) The name, address, and phone number of the appellant.
 - (2) The Adopted Code provision (s) from which relief is sought.
 - (3) A statement indicating which conditions of Sec. 26-117(a) apply.
 - (4) A requested remedy.
 - (5) Justification for the requested remedy stating specifically how the Adopted Code is complied with, public safety is secured, and fire fighter safety is secured.
- (c) Upon timely receipt of an appeal, the City of Marquette Fire Department shall set a time for a hearing before the Board of Appeals and shall give the appellant written notice of the date, time, and location for the hearing. Documentation supporting an appeal shall be submitted to the City of Marquette Fire Department and the Board of Appeals at least 7 calendar days before the appeals board meeting. No additional information shall be submitted to review by the Board of Appeals without the information being submitted to the City of Marquette Fire Department for their review prior to the hearing date.
- (d) Hearings. Hearings shall be commenced within a reasonable time after an appeal has been filed. At such hearings, the appellant shall be given an opportunity to be heard and to show cause why the notice of violation should be modified or withdrawn. A fire inspector shall be given opportunity to provide information relative to and supportive of charging the violation.

- (e) Decisions and powers.
 - (1) The Board of Appeals shall provide for the reasonable interpretation of the provision of the Adopted Code and issue rulings on appeals of the decisions of the City of Marquette Fire Department.
 - (2) The ruling of the Board of Appeals shall be consistent with the letter of the Adopted Code or when involving issues of clarity, ensuring that the intent of the Adopted Code is met with due consideration for public safety and fire fighter safety.
 - (3) The Board of Appeals shall have the authority to grant alternatives of modifications through procedures outlined in the NFPA-1 Fire Code.
 - (4) The Board of Appeals shall not have the authority to waive the requirements of the Adopted Code, except as specified by the Stille-Derossett-Hale Single State Construction Code Act 230 of 1972.
 - (5) The Board of Appeals decisions shall not be precedent setting.
 - (6) Any Board of Appeal decision will be for this article and shall not and cannot waive the requirements and provisions of any other ordinance, code, or law.
 - (7) A decision of the Board of Appeals to modify an order of the City of Marquette Fire Department shall be in writing and shall specify the manner in which such modification is made, the conditions upon which it is made, the reasons therefore, and justification linked to specific code sections.
 - (8) A copy of the decision will be sent by mail or delivered in person to the appellant and a copy shall be publicly posted in the office of the City of Marquette Fire Department for 2 weeks after filing.
 - (9) If a decision of the Board of Appeals reverses or modifies a refusal, order, or disallowance of the City of Marquette Fire Department, or varies the application of any provision of the Adopted Code, the City of Marquette Fire Department shall take action immediately in accordance with such decision.
 - (10) The failure of the appellant or his representative to appear and state his case at the hearing shall have the same effect as if no appeal was filed and the board shall proceed to deny the appeal and affirm the notice of violation.
- (f) Meetings. The Board of Appeals shall meet in a fixed place and all meetings shall be open to the public. The board shall keep a record of its proceedings, showing the actions of the board and the vote of each member upon each question considered. These records shall be considered public records.
- (g) Appeal of board decision. The decision of the Board of Appeals shall be final. However, a party aggrieved by the order or decision may appeal the decision to a court of competent jurisdiction as provided by state statutes and court rule.

Secs. 26-118—26-141. - Reserved.

SECTION 3. Effective Date.

This ordinance shall take effect ten days after adoption but not before publication.

Jennifer A. Smith, Mayor

Kyle Whitney, City Clerk

Date Adopted: _____

Date Published: _____