

### **331.307 County infractions.**

1. A county infraction is a civil offense punishable by a civil penalty of not more than seven hundred fifty dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed one thousand dollars for each repeat offense.
2. A county by ordinance may provide that a violation of an ordinance is a county infraction.
3. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law or if the violation is a simple misdemeanor under chapters 687 through 747.
4. An officer authorized by a county to enforce a county code or regulation may issue a civil citation to a person who commits a county infraction. The citation may be served by personal service as provided in rule of civil procedure 1.305, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 1.310 and subject to the conditions of rule of civil procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
  - a. The name and address of the defendant.
  - b. The name or description of the infraction attested to by the officer issuing the citation.
  - c. The location and time of the infraction.
  - d. The amount of civil penalty to be assessed or the alternate relief sought, or both.
  - e. The manner, location, and time in which the penalty may be paid.
  - f. The time and place of court appearance.
  - g. The penalty for failure to appear in court.
5. In proceedings before the court for a county infraction:
  - a. The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.
  - b. The county has the burden of proof that the county infraction occurred and that the defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.
  - c. The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the county and produce evidence or witnesses on the defendant's behalf.
  - d. The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.
  - e. The defendant may answer by admitting or denying the infraction.
  - f. If a county infraction is proven, the court shall enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

6. Notwithstanding section 602.8106, subsection 3, penalties or forfeitures collected by the court for county infractions shall be remitted to the county in the same manner as fines and forfeitures are remitted to cities for criminal violations under section 602.8106. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.

7. A person against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.

8. Seeking a civil penalty as authorized in this section does not preclude a county from seeking alternative relief from the court in the same action.

9. When judgment has been entered against a defendant, the court may do any of the following:

- a. Impose a civil penalty by entry of a personal judgment against the defendant.
- b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.
- c. Grant appropriate alternative relief ordering the defendant to abate or cease the violation.
- d. Authorize the county to abate or correct the violation.
- e. Order that the county's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the county seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

10. A defendant or the county may file a motion for a new trial or may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

11. This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the defendant to exist, constitutes a separate offense.

12. The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

