

ORDINANCE 2010 - 11

An ordinance to amend Chapters 115, 265, 360, 380, 472 and 475 of the Monroe County Code concerning Code and Ordinance Violations and Penalties

WHEREAS, the Monroe County Commissioners desire to increase the civil penalties applicable to all repeat violations of the County Code, to designate the Monroe County Treasurer as the Violations Clerk of the Monroe County Ordinance Violations Bureau ("OVB"), to add to the schedule of code provision violations that are subject to the OVB and to make certain changes in the procedures for code provision enforcement in OVB cases, and

WHEREAS, the Monroe County Commissioners find that the proposed amendment would promote the health, safety, comfort and general welfare of the citizens of Monroe County.

NOW, THEREFORE, be it ordained by the Board of Commissioners of Monroe County, Indiana that Chapters 115, 265, 360, 380, 472 and 475 are amended to read as follows (Deleted language is indicated by strikeout and added language is indicated by underline):

Section 1. Monroe County Code Chapter 115 is amended to read as follows:

115-1. Definitions of Violations, Fixing of Penalties

Ordinance violations shall be defined by this Code and the other ordinances of Monroe County, and the penalties, judgments and other liabilities for ordinance violations shall be fixed by this Code and the other ordinances of Monroe County, ~~statutes of the state law~~ or both.

115-2. Violations Not Specifically Defined as an Ordinance Violation

If a person violates a provision of this Code or other ordinance of Monroe County and the violation is not specifically defined or classified as an ordinance violation, the person commits a Class E Ordinance Violation.

115-3. Penalties for Violations

(A) For a violation of a provision of this Code or any other ordinance of Monroe County, a judgment of not more than:

- (1) Two Thousand Five Hundred Dollars (\$2,500.00) may be entered for a the person's first violation constituting a Class A Ordinance Violation and Seven Thousand Five Hundred Dollars (\$7,500.00) for a second or subsequent violation of the same provision of this Code or ordinance;
- (2) One Thousand Dollars (\$1,000.00) may be entered for a the person's first violation constituting a Class B Ordinance Violation and Three Thousand Dollars (\$3,000.00 for a second or subsequent violation of the same provision of this Code or ordinance);
- (3) Five Hundred Dollars (\$500.00) may be entered for a the person's first violation constituting a Class C Ordinance Violation and One Thousand Five Hundred Dollars (\$1,500.00 for a second or subsequent violation of the same provision of this Code or ordinance);
- (4) One Hundred Dollars (\$100.00) may be entered for a the person's first violation constituting a Class D Ordinance

Violation and Three Hundred Dollars (\$300.00 for a second or subsequent violation of the same provision of this Code or ordinance); and

(5) Twenty-Five Dollars (\$25.00) may be entered for a the person's first violation constituting a Class E Ordinance Violation and Seventy-Five Dollars (\$75.00 for a second or subsequent violation of the same provision of this Code or ordinance).

(B) For a violation of this Code or any other ordinance of Monroe County:

(1) the judgment authorized in subsection (A);

(2) all other penalties, judgments and liabilities authorized by this Code, an ordinance of Monroe County and a statute of this state; or

(3) both;

may be entered or applied.

115-4. Enforcement

This Code and any other ordinances of Monroe County shall be enforced in accordance with the authority and procedures established by state statute, including, but not limited to, IC 36-1-6, and by this Code and relevant County ordinances, resolutions, orders or rules. In the event litigation is instituted by the County to enforce any provision of this Code or other ordinance, the County's cost of litigation, including reasonable attorneys fees, may be sought in a judgment against the person cited for the violation, when permitted by law. Each day during which a violation occurs shall be a separate violation of that code provision or ordinance subject to an additional civil penalty for each day.

The County Attorney may compromise the amount of the civil penalty charged in any notice of violation ("notice"), citation or complaint issued for any violation of this Code or any other ordinances of Monroe County.

115-5. Monroe County Ordinance Violations Bureau

(A) The Monroe County Ordinance Violations Bureau ("OVB") is hereby established subject to the provision of IC 33-36-1-1, et seq.

(B) ~~The Clerk of the Monroe Circuit Court~~ Monroe County Treasurer is hereby designated as the Violations Clerk of the OVB. The Violations Clerk may accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties of not more than ~~one~~ two hundred fifty dollars (~~\$100.00~~-\$250.00) in for Monroe County Code and ordinance violation cases notices or citations issued pursuant to this Section, subject to the schedule set forth below in subsection (C).

(C) For a violation of the ~~Monroe County Zoning Ordinance or for a violation of Monroe County Code Chapters 360, 475 or 265 code provisions and ordinances identified by Monroe County Code section numbers and descriptions in the schedule below~~, the Violations Clerk, ~~or agents designated in Subsection (K)~~, may accept payment of a civil penalty in the amounts ~~of one hundred (\$100.00)~~, unless expressly set forth otherwise designated on the code or ordinance

violation notice or citation issued by an enforcement officer of the designated department or office in accordance with the schedule. If no dollar amount is indicated as a penalty for a code provision violation listed on the schedule, the enforcement officer may determine the amount of the penalty to charge within the range \$25 to \$250 based on his/her determination of the severity of the violation, subject to any applicable statute or regulation.

Code	Description of Violation	1 st Penalty/2 nd	Dept.
261-1	Skates & skateboards on Co. property	\$25 to \$100	C,Sh
263-1	Firearms in Co. buildings	\$25/\$100	C,Sh
265-1	Smoking on Co. property	\$25/\$100	C,Sh
305	Board of Health regulations		He
340	Food market regulations		He
341	Food service establishment regulations		He
342	Vending machine regulations		He
350	Travel trailer park & camp regulations		He
355	Pool facility regulations		He
360	Solid waste disposal regulations		Sw,He
362	Vector control regulations		He
363-2	Abandoned cistern & tank regulations		He
364	Hazardous waste facility permits	\$100	He
365	Private sewage disposal system regulations		He
370-2	Smoking in public places	\$25 to \$100	He,Sh
370-4	No Smoking signage requirements	\$25 to \$100	He,Sh
370-5	Smoking in vehicles with children	\$25 to \$100	He,Sh
380-2	Noise regulations		Sh
430	Building Code regulations	\$50 to \$250	B
432-15	Unsafe Buildings regulations	\$100 to \$250	B
440-5	Unconfined dog in heat	\$100	A,Sh
440-6	Vicious dog	\$100/\$250	A,Sh
440-7	Public nuisance animal	\$100	A,Sh
440-8	At Large animal impoundments	\$25	A,Sh
440-9	Animal bite impoundments	\$100	A,Sh
440-10	Failure to immunize against rabies	\$25	A,Sh
440-11	Wild or exotic animal requirements	\$100 to \$250	A,Sh
440-12	At large dog	\$25 to \$100	A,Sh
440-13	At large cat	\$25 to \$100	A,Sh
440-14	At large livestock	\$100	A,Sh
440-15	At large wild or exotic animal	\$250	A,Sh
440-16	Domestic pets – care requirements	\$25/\$100	A,Sh
440-17	Domestic livestock– care requirements	\$25/\$100	A,Sh
440-18	Abuse of an animal	\$250	A,Sh
440-21	Animals as prizes	\$100	A,Sh
441-2	Commercial animal estab. licenses	\$100	A,Sh
441-7	Sale & transfer of animal regulations	\$100	A,Sh
442-2	Pets prohibited in certain co. bldgs.	\$25/\$100	A,Sh
442-3	Control of dog activity on Co. property	\$25/\$100	A,Sh
451-3	Excessive false alarms	\$25 to \$50	Sh
452-4	Prohibited automatic dialing devices	\$100	Sh
451-5	Intentional false alarms		Sh
472-2	Electronic messaging while driving	\$25	Sh
475-1	Prohibited parking in Co. lot	\$25	Sh
480	Excessive vehicle weigh		Sh
495-1	Facilitating an abandoned vehicle	\$100	Sh,PI
510	Weights and measures requirements		W&M
605	Park Operation regulations		Sh,Pa
702-2	Prohibited aircraft parking	\$100/\$250	Ap,Sh
755-1	Unpermitted road cuts or alterations	\$250	Hw
761	Storm water facilities for new const.		Hw
817-1	Actions prohibited by zoning ordinance	\$250	PI

850-13	Action prohibited by subdivision ord.	\$250	PI
890	Airport zoning requirements		PI
891-1	Tampering with survey monuments	\$250	Su

Persons cited for a violation may be charged the 2nd penalty amounts indicated in the above schedule (i.e. the amount after /) for any additional violations they have that occur after another violation of the same code provision or ordinance. For penalty amounts indicated in the above schedule as a range (i.e. \$ to \$) the enforcement officer may determine the amount of the penalty to charge within that range based on his/her determination of the severity of the violation.

Designated enforcement departments or offices: Sh = Sheriff, He = Health, Sw = Solid Waste Mgmt., B = Building, C = Courthouse Maintenance, A = Animal Control, PI = Planning, W&M = Weights and Measures, Pa = Parks, Hw = Highway, Su = Surveyor, Ap = Airport.

For purposes of this Section, an enforcement officer is any county employee authorized by state law or the Monroe County Code to issue a notice, citation or complaint for the violation of an ordinance, including but not limited to: all law enforcement officers, animal control officers, the Building Commissioner and building inspectors, the Zoning Administrator and zoning inspectors, the Health Officer and Health Department inspectors, sanitarians and educators, Highway Department engineers, the Park Superintendent and the Karst Park Caretaker, Courthouse maintenance/security staff, the Weights and Measures Inspector, the Monroe County Surveyor, the Airport Director and compliance officers of the Monroe County Solid Waste Management District.

(D) ~~A person charged with an ordinance or code~~ cited for a violation ~~that is expressly of a code provision or ordinance~~ subject to this Section is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk. Upon such an admission the Violations Clerk shall assess and receive from the violator the amount ~~prescribed above in~~ imposed as a civil penalty for the violation in accordance with Subsection (C). If a person charged with a violation ~~that is expressly~~ subject to this Section wants to exercise the right to a trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Violations Clerk. Waivers, admissions and denials must be filed with the Violations Clerk within ten (10) days of the date of the issuance of the code or ordinance violation notice or citation. The County Attorney shall prepare or approve the forms enforcement officers use for violation notices and citations and all forms deemed necessary, by the Violations Clerk, to process and a code or ordinance violation through the procedures set forth in this Section.

(E) If a person:

- (1) denies a code or ordinance violation before the Violations Clerk or enters a written denial with the Violations Clerk;
- (2) fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation; or
- (3) fails to deny or admit the violation before the time that a late payment fee becomes applicable under the procedures of this Section Subsection (H);

the Violations Clerk shall report this fact to the Monroe County Attorneys' Office and the department or office issuing the notice or citation.

- (F) All sums collected by the Violations Clerk as civil penalties for ordinance or code violations shall be accounted for and paid into the Monroe County General Fund as provided by law.
- (G) An ordinance or code violation admitted under this section does not constitute a judgment for the purposes of IC 33-37. and if a person admits the violation with the Violations Clerk and pays the civil penalty assessed by the Violations Clerk or denies the violation before the Violations Clerk or enters a written denial with the Violations Clerk and a court enters judgment for that person on the violation, an ordinance or code violation costs fee may not be collected from the defendant person under IC 33-37-4. In addition, an ordinance or code violation processed under this chapter may not be considered for the purposes of IC 33-37-7 when determining the percentage of ordinance violations prosecuted in certain courts.
- (H) If a person fails to admit the violation with the Violations Clerk and pay or enter into an agreement to pay the civil penalty assessed by the Violations Clerk, or does not deny the code or ordinance violation before the Violations Clerk, or does not enter a written denial with the Violations Clerk within ten (10) days of the date of the issuance of the code or ordinance violation notice or citation, a twenty dollar (\$20) late payment fee shall be added to the penalty payable upon a voluntary admission and the Treasurer shall arrange for a judgment to be sought to collect penalties for the violation. If this Code provides for an administrative appeal of a violation notice or citation and if an appeal of a notice or citation is timely and properly filed, the late payment fee shall not be added to the penalty to be paid until ten (10) days following the date of the resolution of this administrative appeal process. The County Attorney shall notify the Violations Clerk when an administrative appeal is timely and properly filed and when there has been a resolution of that administrative appeal process. Also, the County Attorney may authorize an extension of the time when the late payment fee is applied, when it is determined that circumstances do not provide sufficient time for a person to adequately respond to a notice or citation within ten (10) days.
- (I) The Violations Clerk and the department or office issuing the notice or citation shall be notified when the County Attorney files a complaint in court on an ordinance violation that has been the subject of an OVB notice or citation. After thirty (30) days of the issuance of the notice or citation for the violation and of the resolution of any timely and properly filed administrative appeal of the notice or citation, or upon receiving notification from the County attorney of a complaint being filed in court, the Violations Clerk shall not accept an admission of a violation or voluntary payment of a civil penalty for that violation without the consent of the County Attorney.
- (J) The County Attorney may amend or dismiss and replace any notice, citation or complaint issued pursuant to this Section with a complaint brought under authority of other sections of this Chapter and Code, in order to seek a different civil penalty or remedy in court than that provided by this Section.
- (K) All employees of the Treasurer's Office shall serve as agents for purposes of exercising the authority of the Violations Clerk under this Section subject to the direction of the Treasurer.

Section 2. Monroe County Code Section 265-2 is amended to read as follows:

265-2. Enforcement

- (A) The Monroe County Sheriff's Department or Courthouse Maintenance/Security Department may enforce the provisions of this chapter by issuance of written citation to those persons charged with its violation. Any person issued a written notice of violation of this chapter shall who, within ten (10) days after issuance of the notice, admits the violation and pays the designated penalty described below to the Monroe County Ordinance Violations Bureau in the Monroe County Circuit Court Clerk's Office Clerk, ~~authorized by Monroe County Code Chapter 115 shall not be prosecuted for the violation.~~
- (B) In the event that the penalty is not paid within the prescribed period, the matter shall be referred to the County Attorney for prosecution.
- (C) In lieu of issuing a citation, the enforcement officer may, in his or her discretion, issue a warning to persons advising them of their violation of this Chapter, and such warning shall not require payment of the penalty ~~unless there is a subsequent violation of this chapter within a one (1) year period.~~

Section 3. Monroe County Code Sections 360-6, 360-7 and 360-8 are amended to read as follows:

360-6. Enforcement

The enforcement of this chapter shall be by the Monroe County Health Department and/or the Monroe County Solid Waste District ~~in conjunction with the Monroe County Attorney responsible for initiating any legal proceedings.~~ Refusing to allow or interfering with an enforcement officer's entry onto a transfer site, transfer station or disposal facility or reasonable access to inspect a vehicle used for the transportation of solid waste, during the owner's or operator's normal business hours, shall constitute a violation of this Section.

360-7. Notice of Violation

- (A) Any person ~~found to be violating~~ issued a written notice of violation of any of the provisions of this chapter ~~may shall be served by the Health Department and/or the Monroe County Attorney with a written order stating the notice of violation and providing a reasonable time limit for satisfactory correction thereof.~~ assessed a civil penalty described below that orders the satisfactory correction of the violation and allows a reasonable time for doing so and/or ordered to satisfactorily correct the violation within a reasonable amount of time. Those conditions that are not corrected in accordance with a written order to the satisfaction of the Health Department ~~enforcement officer~~ shall be referred to the Monroe County Attorney for appropriate legal action.
- (B) In cases where ~~issuing an enforcement officer determines that a~~ written notice is of violation imposing civil penalties or allowing reasonable time for correction would not provide a practical or applicable method for enforcement, the ~~Health Department enforcement officer~~ shall immediately report any violation(s) of the chapter to the Monroe County Attorney for appropriate legal action.

360-8. Violations and Penalties

- (A) A person who violates any of the provisions of this chapter commits an ordinance violation, which:
 - (1) for the first violation is a Class C Ordinance Violation;
 - (2) for the second violation is a Class B Ordinance Violation; and
 - (3) for the third and any subsequent violation is a Class A Ordinance Violation.
- (B) Each day after the expiration of the time limit for correcting or abating violations of this chapter or completing improvements to the abate health hazards or conditions, as ordered by ~~the Health Department~~ an enforcement officer, shall constitute a distinct and separate violation.
- (C) ~~Health Department and/or Solid Waste inspectors~~ Authorized enforcement officers, as identified in Monroe County Code Section 115-5, may issue ~~ordinance violation~~ notices for violations of this chapter. ~~The ordinance violation notices~~ which may be processed through the Monroe County Ordinance Violations Bureau ~~procedures specified in Monroe County Code~~ pursuant to Section 115-5. If the person to whom the notice is issued does not file an admission with the Ordinance Violations Bureau Clerk and pay the designated penalty in a timely manner, the Administrator may address the violation by employing any other enforcement remedies authorized by law and may seek civil penalties in the full amount authorized by the Section and by and Monroe County Code Section 115-3.
- (C) The remedies provided for in this Section shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by law.

Section 4. Monroe County Code Section 380-4 is amended to read as follows:

380-4. Enforcement

- (A) The Monroe County Sheriff's Department may enforce the provisions of this Chapter by issuance of written citation to those persons charged with its violation. Any person issued a written notice of violation of this chapter ~~shall~~ who admits the violation and pays the designated penalty described below to the Monroe County Clerk through its Ordinance Violations Bureau Clerk within ten (10) days after issuance of the notice, and such fines shall be deposited in the Monroe County General Fund shall not be prosecuted for the violation.
- (B) In the event that the penalty is not paid within the prescribed period, the matter shall be referred to the County Attorney ~~for prosecution.~~
- (C) In lieu of issuing a citation, the enforcement officer may, in his or her discretion, issue ~~an official~~ a warning to persons advising them of their violation of this Chapter, and ~~which does~~ such warning shall not require payment of a penalty.

Section 5. Monroe County Code Section 472-4 is amended to read as follows:

472-4. Enforcement

- (A) The Monroe County Sheriff's Department may enforce the provisions of this Chapter by issuance of written citation to those persons charged with its violation ~~and ordering the removal of the unauthorized vehicle.~~
- (B) Any person issued a written notice of violation of this chapter ~~shall~~ who admits the violation and pays the designated civil penalty ~~described below~~ to the Monroe County Clerk ~~through its Ordinance Violations Bureau Clerk~~ within ten (10) days after issuance of the notice shall not be prosecuted for the violation.
- (D) In the event that the civil penalty is not paid within the prescribed period, the matter shall be referred to the County Attorney.

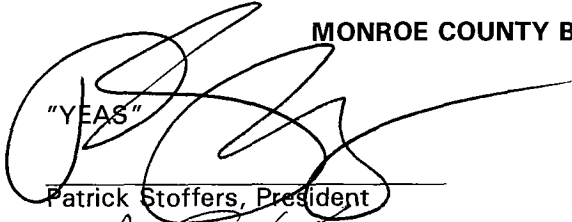
Section 6. Monroe County Code Section 475-3 is amended to read as follows:

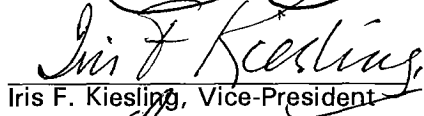
475-3. Enforcement

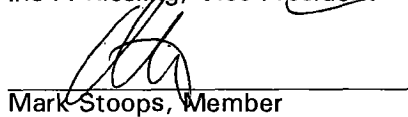
- (A) The Monroe County Sheriff's Department may enforce the provisions of this Chapter by issuance of written citation to those persons charged with its violation and ordering the removal of the unauthorized vehicle.
- (B) Any person issued a written notice of violation of this chapter shall who admits the violation and pays the designated civil penalty ~~described below~~ to the Monroe County Clerk ~~through its Ordinance Violations Bureau Clerk~~ within ten (10) days after issuance of the notice shall not be prosecuted for the violation.
- (C) In the event that the civil penalty is not paid within the prescribed period, the matter shall be referred to the County Attorney.

Adopted this 9th day of April, 2010.

MONROE COUNTY BOARD OF COMMISSIONERS

"YEAS"

 Patrick Stoffers, President


 Iris F. Kiesling, Vice-President


 Mark Stoops, Member

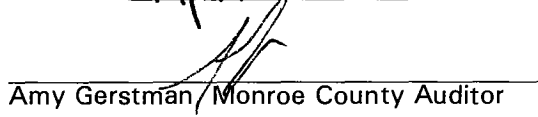
"NAYS"

 Patrick Stoffers, President

 Iris F. Kiesling, Vice-President

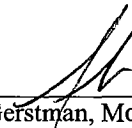
 Mark Stoops, Member

ATTEST: April 9, 2010


 Amy Gerstman, Monroe County Auditor

CERTIFICATION OF PUBLICATION AND EFFECTIVE DATE

I certify that the publication requirements of IC 36-2-4-8(b) have been fulfilled by the publication of this ordinance, after adoption by the Board of County Commissioners, in the Herald Times (Bloomington) on 4/19/10 and 4/21/10, and in the Journal (Ellettsville) on 4/14/10 and 4/21/10. Thus, the effective date of the ordinance is 4/21/10.



Amy Gerstman, Monroe County Auditor