

Ordinance 2021-39-A

An ordinance amending the language of the ordinance enforcement provisions of Section 4 of Monroe County Code Chapter 115 to more fully reflect intent and practice.

WHEREAS, the Indiana Code Section 36-1-4-11 authorizes the Board of Commissioners of the County of Monroe, Indiana (“Board of Commissioners”) to adopt, codify, and enforce ordinances;

WHEREAS, the Board of Commissioners has adopted ordinances and has codified certain ordinances in the Monroe County Code (“MCC”);

WHEREAS, MCC Chapter 115 includes provisions regarding ordinance and Code enforcement; and,

WHEREAS, the Board of Commissioners desires to amend the language of Section 4 of MCC 115 to more fully express the intent of that section and to recognize the County ordinance enforcement practices that have been employed over the years;

NOW, THEREFORE, BE IT ORDAINED by the Commissioners as follows:

Section 1. Monroe County Code Section 115-4 shall be, and hereby is, amended to read as follows:

**115-4. Enforcement**

- (A) 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 may be enforced by the procedures established by this Code and relevant County ordinances.
- (B) In addition to, and as an alternative or supplement to, any specific enforcement provision of this Code or of any County ordinance, the County Attorney possesses the authority to enforce this Code and any other ordinances of Monroe County, on behalf of Monroe County, based on the County Attorney’s reasonable belief that a violation of the Code or ordinance has occurred. The County Attorney may seek any remedy (e.g., injunction, civil penalty, etc.) authorized by law, by filing a civil enforcement action in accordance with the Indiana Rules of Trial Procedure. Notice of the County Attorney’s decision to file an enforcement action is satisfied by the Summons and Complaint required by the Indiana Rules of Trial Procedure.

- (C) The County Attorney, or other enforcement official identified by this Code or other Monroe County ordinance, has the discretion to:
- (1) Determine the appropriate ordinance enforcement means, methods, and procedures to be used to enforce the Code or ordinance, based on experience, available resources, effectiveness, economy, or other relevant factors. Any enforcement means, methods, or procedures (e.g., notice and opportunity to cure, stop work order, civil action, etc.) specified in this Code or in any other ordinance of Monroe County, is, and shall be interpreted as, an option that may be used by the enforcement official, rather than as a requirement or prerequisite to any other enforcement means, methods, or procedures available to the enforcement official.
  - (2) Determine the appropriate timing of Code or ordinance enforcement by reference to, among other factors affecting ordinance enforcement, demands on and limitations of the department of Monroe County government responsible for enforcing any provision of the Monroe County Code or ordinance. The timing of ordinance enforcement determined by the enforcement official shall not constitute laches, waiver, or otherwise foreclose the prosecution of the violation or any other authorized procedures, means, or methods of Code or ordinance enforcement.
  - (3) Issue ordinance violation notices for the Code or ordinance violations identified in Section 5 of this Chapter (i.e., Monroe County Code 115-5). The ordinance violations notices may be processed through the Monroe County Ordinance Violation Bureau procedures specified in Section 5 of this Chapter. If the person to whom the notice is issued does not file an admission with the Ordinance Violation Bureau in a timely manner, the enforcement official may redress the violation by employing any other authorized enforcement means, methods, or procedures and by seeking any authorized remedy, including penalties in the full amount authorized by Section 3 of this Chapter.
- (D) In the event a civil action is instituted by the County to enforce any provision of this Code or other ordinance, the County's costs and reasonable attorney fees, may be sought in a judgment against the person cited for the violation, when permitted by law.

- (E) Each day during which a specific Code or ordinance provision is violated shall be a separate violation of that Code or ordinance provision and shall be subject to additional remedies, including civil penalties, for each day of violation.

Section 2. The scope of Monroe County Code Section 115-5(C), shall be, and hereby is, amended to incorporate all violations of Monroe County Code Chapter 761 and shall read as follows:

**115-5. Monroe County Ordinance Violations Bureau**

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- (C) For a violation of the 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 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 <sup>st</sup> Penalty/2 <sup>nd</sup>	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		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 establishment licenses	\$100	A, Sh
441-7	Sale and transfer of animal regulations	\$100	A, Sh
442-2	Pets prohibited in certain county buildings	\$25/\$100	A, Sh
442-3	Control of dog activity on county 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 county lot	\$25	Sh
480	Excessive vehicle weight		Sh
495-1	Facilitating an abandoned vehicle	\$100	Sh, Pl
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	StormWater Management Ordinance		Hw
767	Illicit Discharge Prohibition		Hw
817-1	Actions prohibited by zoning ordinance	\$250	Pl
850-13	Action prohibited by subdivision ordinance	\$250	Pl
890	Airport zoning requirements		Pl
891-1	Tampering with survey monuments	\$250	Su

Persons cited for a violation may be charged the 2<sup>nd</sup> 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 Management, B = Building, C = Courthouse Maintenance, A = Animal Control, Pl = 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 and Inspectors, the Park Superintendent and the Karst Park Caretaker, Monroe County Surveyor, the Airport Director, and the Compliance Officers of the Monroe County Solid Waste District. Enforcement officers employed by the Highway and Planning Departments are authorized to issue notices and citations for violations of the Zoning Ordinance, the Storm Water Management Ordinance, and the Illicit Discharge Ordinance.

Section 3. This ordinance shall take effect upon adoption, with the exception of the penalty provisions of Section 2 which shall take effect upon advertisement in accordance with Indiana Code 36-2-4-8.

SO APPROVED AND ORDAINED by the Commissioners this 18<sup>th</sup> day of August, 2021.

AYE VOTES

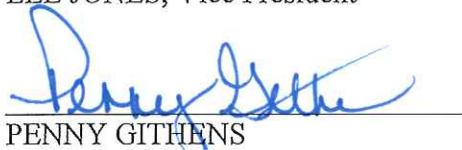
NAY VOTES

  
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JULIE THOMAS, President

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JULIE THOMAS, President

not Present  
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LEE JONES, Vice President

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LEE JONES, Vice President

  
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PENNY GITHENS

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PENNY GITHENS

ATTEST:

  
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CATHERINE SMITH, Auditor

**CERTIFICATION OF EFFECTIVE DATE  
OF THE PENALTY PROVISIONS OF MCC 115-5  
AS ADOPTED BY ORDINANCE 2021- 39-A**

I, Catherine Smith, as Auditor of Monroe County, Indiana, and as Secretary of the Board of Commissioners of the County of Monroe, Indiana, hereby certify that the penalty provisions of the foregoing ordinance were published in the following newspaper of general circulation within Monroe County, Indiana, on the following dates, and that, pursuant to Indiana Code 36-2-4-8, the penalty provisions of the foregoing ordinance were of full force and effect as of 10.27.21, 2021.

Newspaper

Dates

Herald-Times

10.21.21 and 10.27.21

*Catherine Smith*

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CATHERINE SMITH, Auditor

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