

## **CHAPTER 115**

### **VIOLATIONS AND PENALTIES**

#### **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, 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 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 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 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 the persons 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 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**

- (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 Violations 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 Violations 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.

**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 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 two hundred fifty dollars (\$250.00) for Monroe County Code and ordinance violation notices or citations issued pursuant to this Section, subject to the schedule set forth below in subsection (C).
- (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, 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	Stormwater Management Ordinance	\$500/\$1,000	Hw
767	REPEALED - Illicit Discharge Prohibition		Hw
817-1	Actions prohibited by zoning ordinance	\$250	
	PI		
850-13	Action prohibited by subdivision ordinance	\$250	PI
890	Airport zoning requirements		PI
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, 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 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.

- (D) A person cited for a violation 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 imposed as a civil penalty for the violation in accordance with Subsection (C). If a person charged with a violation 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 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 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. 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 and a court enters judgment for that person on the violation, an ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.
- (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 Violation 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 may authorize an extension of the time when the late payment fee is applied, when its 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 of 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 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.

**[end of chapter]**