

1 **COMMON COUNCIL OF THE CITY OF HOBART, INDIANA**
2 **Ordinance No. 2020- 36**

3
4 **An Ordinance Amending the Municipal Code of the City of Hobart Concerning**
5 **Civil Penalties**

6
7 WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”) has been informed that there are multiple provisions addressing civil penalty fines for ordinance violations in the current Municipal Code of the City; and

8
9
10
11 WHEREAS, the City code enforcement staff have requested a clarification of ordinance violation penalties in those instances where more than one fine can be construed as applicable to the violation; and

12
13
14
15 WHEREAS, the Council, through this Ordinance, desires to clarify the identified civil penalty sections for ordinance violations by reference to a general penalty provision in the Code;

16
17
18 THEREFORE, BE IT ORDAINED by the Common Council of the City of Hobart as follows:

19
20
21 *SECTION ONE:* The Municipal Code of the City of Hobart, Indiana (“Code”) is hereby amended by inserting the following new language in §10.99 entitled “PENALTIES”:

22
23
24 § 10.99 GENERAL PENALTY.

25
26
27 (A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall be subject to the following:

28 (1) A fine not exceeding \$2,500 for the first violation; and

29 (2) A fine not exceeding \$7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

30
31
32 (B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues. **The fines provided for in this section shall be the maximum fine which shall be imposed in those cases where other provisions of the code provide for a minimum fine, but do not provide for a maximum fine.**

33
34
35 *SECTION TWO:* The Municipal Code of the City of Hobart, Indiana (“Code”) is hereby amended by Repealing the following sections of the Code in their entirety:

36
37
38 § 50.99 PENALTIES.
39 § 70.43 ENFORCEMENT.
40 § 70.99 PENALTY.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

47 § 90.99 PENALTY.
 48 § 93.999 PENALTY.
 49 § 97.99 PENALTY
 50 § 114.99 PENALTY
 51 § 150.011 DUTY TO MAINTAIN PROPERTY
 52

53 *SECTION THREE:* The Municipal Code of the City of Hobart,
 54 Indiana (“Code) is hereby amended by striking out portions of subsection
 55 (B)(1) of §96.99 and inserting the following new language in lieu thereof:
 56

57 § 96.99 PENALTY.
 58

59 **Any person, firm or corporation who violates any provision of this sub-chapter**
 60 **shall be subject to the penalties prescribed in the General Penalty Provision §10.99.**
 61 **In addition to the penalties prescribed in the General Penalty Provision §10.99, the**
 62 **defendant may be ordered to reimburse the City for costs incurred in abating an**
 63 **unlawful condition. The City shall provide notice and an opportunity to correct the**
 64 **condition before the imposition of this requirement.**

65 ~~Any person who causes, permits, maintains or allows the creation or maintenance of a~~
 66 ~~nuisance shall be punished by a fine not to exceed \$2,500. Every day any violation of this~~
 67 ~~chapter or that a nuisance exists or continues shall constitute a separate offense. The fine~~
 68 ~~provided for in this section shall be the maximum fine which shall be imposed in those~~
 69 ~~cases where other provisions provide for a minimum fine, but does not provide for a~~
 70 ~~maximum fine.—(Ord. 95-36, § 3)~~
 71

72 *SECTION FOUR:* The Municipal Code of the City of Hobart,
 73 Indiana (“Code”) is hereby amended by striking out the following language
 74 contained in §110.02 entitled “SOLICITING BY NOISE PROHIBITED”:
 75

76 § 110.02 SOLICITING BY NOISE PROHIBITED.
 77

78 (A)—It is unlawful for any driver, operator or person in charge of any
 79 vehicle regulated by this chapter to make a loud noise, by voice or otherwise, for
 80 the purpose of soliciting and obtaining passengers for the vehicle.
 81

82 (B)—~~He or she shall obey and abide by all the laws of the state, the~~
 83 ~~provisions of this code and the ordinances of the city on the streets, alleys and other~~
 84 ~~public places of the city.~~

85 (Prior Code, § 20-2) (Ord. 323, § 6) Penalty, see § 10.99
 86

87 *SECTION FIVE:* The Municipal Code of the City of Hobart,
 88 Indiana (“Code) is hereby amended by striking out portions of subsection
 89 (B)(A) of §150.999 and inserting the following new language in lieu
 90 thereof:
 91
 92
 93

§ 150.999 PENALTY.

~~(A)~~ Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

~~(B)~~ **(A)** If any person, firm or corporation shall violate any of the provisions of §§ 150.055 et seq. and shall do any act prohibited herein or shall fail to perform any duty lawfully enjoined within the time prescribed by the Building Commissioner or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code, for each violation, failure or refusal, the person, firm or corporation shall be fined in any sum not less than \$100, nor more than \$300. Each day of the unlawful activity, as is prohibited by this section, shall constitute a separate offense **subject to the provisions of § 10.99.**

(Prior Code, § 4-17.19) (Ord. 89-13, § 20)

~~(C)~~ **(B)** Any person who violates a provision of §§ 150.110 et seq., as set forth in I.C. 36-7-9-28, commits a Class C infraction. Each day that the violation continues constitutes a separate offense.

(Prior Code, § 4-29) (Ord. 1747, (part))

~~(D)~~ **(C)** (1) It shall be unlawful for any person, firm or corporation which shall to violate any provision of §§ 150.125 et seq. shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$25 per day for each violation.

(2) — Each day a violation continues shall be deemed a separate and distinct violation of the provisions thereof and shall be subject to a \$25 fine each and every day the violation shall continue to exist.

(Prior Code, § 4-35) (Ord. 2010, § 6)

~~(E)~~ **(D)** Each person found to have violated any provision of §§ 150.145 et seq. and each person for whom such person acted as employee, agent, contractor or subcontractor, and the owner of the real property upon which such violation occurred, shall be fined in an amount not less than \$10 and not more than \$500; and each day a violation continues shall constitute a separate offense. **subject to the provisions of § 10.99.**

(Prior Code, § 14-21) (Ord. 1180, § 1)

SECTION SIX: The Municipal Code of the City of Hobart, Indiana (“Code”) is hereby amended by striking out portions of subsection (B)(1) and (C)(2)(e) of §154.999 and inserting the following new language in lieu thereof:

§ 154.999 PENALTY.

(B)(1) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter within 3 days after notification of the violation shall, upon conviction, be fined ~~not less than \$250 and not more than \$1,000 for each offense~~ **subject to the provisions of §10.99**. ~~Each day that a violation is permitted to exist shall constitute a separate offense.~~

(2) The fees and penalty shall be codified in the schedule of fees set out in the Hobart Municipal Code. Each period of placement shall require a separate permit application fee and inspection fee. (Prior Code, § 24-175) (Ord. 94-61)

(C)(1) The purpose of this section is to address the manner in which the enforcement, violation and penalties of this chapter are administered. (Prior Code, § 24-242)

(2) The enforcement of the provisions of this chapter, investigation into possible violations of this chapter and the penalties prescribed for violations of this chapter are as follows:

(a) It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the City's Attorney who may file a complaint against the person and prosecute the alleged violation.

(b) Any person may, by suit in the Circuit or Superior Court of the county, enjoin the violation of this chapter.

(c) The (Advisory) Board of Zoning Appeals by mandatory injunction in the Circuit Court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this chapter, or the removal of any use or condition permitted in violation of this chapter.

(d) A use that violates this chapter shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land or premises upon which the use is maintained shall be liable for the nuisance.

(e) Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this chapter, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted, upon which an approval or grant is given under this chapter, shall, under complaint filed in any court of the county and, upon judgement finding the violation, **shall be subject to the penalty provisions of § 10.99**. ~~fined in a sum not to exceed \$2,500, and~~

186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231

~~each day that such a violation or noncompliance shall be permitted to exist shall constitute a separate violation.~~
(Ord. 2001-04)

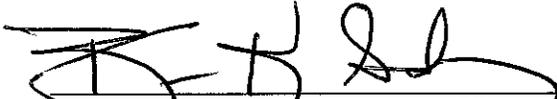
(f) No improvement location permit or building permit required under the Uniform Building Code or this chapter shall be issued on any property subject to this chapter in violation of the provisions of this chapter.

(g) Notwithstanding anything contained in this chapter to the contrary or appearing to the contrary, and in addition and supplementary to other provisions of this chapter, if the Board of Zoning Appeals of the City is required to utilize the City's Attorney or any other attorney in investigating a possible violation of this chapter or enforcing the provisions of this chapter pursuant to divisions (C)(2)(c), (d) or (e) or any other section, before any board or court (including appeals), and the investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or City is successful in its enforcement of the chapter by way of suit, appeal or other appropriate proceedings, the respondent, defendant or party investigated for a violation shall pay the City's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this chapter, unless the attorney fees or costs are specifically waived by the ~~Common Council City Attorney of Hobart.~~
(Prior Code, § 24-243) (Ord. 97-15; Ord. 2001-41)

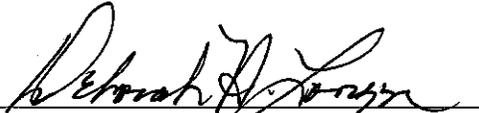
SECTION SEVEN: These changes to the ordinances shall become effective upon adoption in the manner required by law, and upon publication thereof pursuant to I.C. §36- 3-4-6-14(b) in two newspapers of general circulation published within the City pursuant to I.C. §5-3-1-4 (a).

SECTION EIGHT: All ordinances or portions thereof in effect prior to the effective date and in conflict with the provisions of these ordinances are hereby repealed.

ALL OF WHICH is PASSED and ADOPTED by the Common Council of the City of Hobart, Indiana on this 16th day of December, 2020.



Brian K. Snedecor, Presiding Officer

ATTEST: 

Deborah A. Longer, Clerk-Treasurer

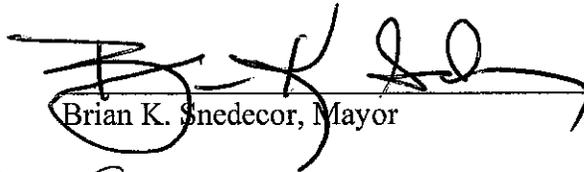
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250

PRESENTED by me to the Mayor of the City of Hobart on the 16th day of
December, 2020 at the hour of 7:30 pm



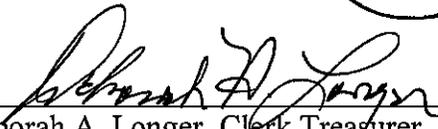
Deborah A. Longer, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City
of Hobart on this 16th day of December, 2020.



Brian K. Snedecor, Mayor

ATTEST:



Deborah A. Longer, Clerk Treasurer