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CH15 15 .35 - Penalty

- A. Criminal penalty. Any person or persons, firm or corporation whether as principal, agent, employee or otherwise who violates any of the provisions of this chapter may be prosecuted pursuant to Indiana Code [36-7-41000](#) et seq, or as set forth in division (B) below. Violation of this chapter is a Class C infraction.
- B. Civil penalty. The town shall impose civil monetary fines or penalties for violations of this chapter which may be enforced by the designated enforcement entity in accordance with the procedures outlined in division (5) below.
1. Definitions. Terms used in this division (B) are defined as follows:
 - BOARD. Board Of Zoning Appeals.
 - CIVIL VIOLATION. The erection, alteration, enlargement, maintenance or use of any building, structure or land in violation of any provision of the zoning ordinance, the subdivision control ordinance, the sign ordinance, the weed ordinances and the building codes of the town applicable to such building, structure or land in the zone in which it is located.
 - DEPARTMENT. Department of Development.
 - DEVELOPMENT DIRECTOR. Director of the Department of Development.
 - GRACE PERIOD. Extension of time granted for correction, termination or cessation of a civil violation of this chapter.
 - NOTICE OF VIOLATION. Notice issued by the Department.
 - REPEATED CIVIL ZONING VIOLATION. A recurring violation at the same location or a similar violation at a different location by the same responsible party.
 - RESPONSIBLE PARTY. Any person firm or corporation who (which) use& property in violation of this chapter or knowingly permits another person firm or corporation to do so.
 - SIGN ORDINANCE. Sign ordinance of the Town of Lapel.
 - SUBDIVISION CONTROL ORDINANCE. An ordinance relating to subdivision control regulations of the Town of Lapel.
 - WEED ORDINANCE. An ordinance relating to the cutting of weeds and other vegetation in the Town of Lapel.
 - ZONING OFFICIAL. The Development Director or his designee.
 - ZONING ORDINANCE. Zoning ordinance of the Town of Lapel.

2. Civil violations: Any person, firm, or corporation who (which) uses property in violation of this chapter or knowingly permits another person; firm; or corporation to do so shall upon citation by the designated enforcement entity be deemed to have committed a civil violation and shall pay to the town a civil monetary fine in the amount prescribed in division (3) below.
3. Schedule of monetary fines.
 - a. The civil monetary fine for each civil violation shall be no more than \$50.00 except as provided in division (b) below.
 - b. For a repeated civil violation by the same violator the following fine shall apply:
 - Second violation \$100
 - Third violation \$180
 - Fourth violation \$200
 - Each Violation in excess of four \$500
 - c. These civil violation fines do not preclude the civil violator from responsibility of payment of costs incurred by the town if it is a necessity for the town to enter onto a property to correct, terminate, or cease a violation in accordance with procedures outlined in this chapter.
4. Citation for civil violations.
 - a. The Development Director or his duly authorized designees, upon verification of a civil violation may issue a civil citation to any responsible parties who commit a civil violation. The citation may be served by personal service or by certified mail or by placement in a conspicuous place on the property where the civil violation occurs. If personal service of a civil violation is made by a Development Director or his designees, said official will:
 1. In conspicuous manner, wear on his person identification from the Town of Lapel; and
 2. In a conspicuous manner, wear on his person identification of his employment with the Department.The citation shall serve as notice to the responsible parties that said party has committed a civil violation.
 - b. No citation shall be issued unless the violator has been issued a notice of violation with a minimum of one and a maximum of ten days before the issuance of the citation in order to allow the violator the opportunity to correct the violation and to come into compliance with the prescribed section of the pertinent ordinance.
 - c. The notice of violation shall include:
 1. The date of issuance;
 2. The name and address of the person charged;
 3. The section number of the pertinent ordinance which has been violated;
 4. The nature of the civil violation;
 5. The place and time at which the civil violation occurred.
 6. The range of fines which could be assessed upon continued noncompliance activity;
 7. The specific time allowed in which to bring the civil violation into compliance;
 8. The name, business address and telephone number of the official issuing the notice of violation; and

9. The date and time of the notice and the number of days given on the notice.
- d. The citation shall be on a form adopted by the department and shall include:
 1. The date of issuance;
 2. The name and address of the person charged;
 3. The section number of the pertinent ordinance which has been violated;
 4. The nature of the civil violation;
 5. The place and time at which the civil violation occurred;
 6. The schedule of monetary fines to be assessed;
 7. The name, business address and telephone number of the official issuing the citation, and;
 8. The date and title of notice given and the number of days given on notice.
- e. The date, time and location of the court in which the civil violation shall be adjudicated shall be determined by the court which will send notification thereof to the violator and the Development Director or his designee.

5. Trial for civil violation.

- a. Upon the issuance of a citation, the Zoning Official shall forward a copy of the citation to the designated enforcement entity and the Madison County Court, Anderson, Indiana shall schedule the case for trial.
 1. The Town Attorney, his designee or the Department is responsible for the enforcement of this chapter.
 2. All procedures will be in compliance with the Indiana Rules for Civil Procedure and will adopt court cost recovery for infractions according to the State of Indiana.
 - b. In proceedings before the court for a civil violation;
 1. By a preponderance of the evidence presented at the trial, the designated enforcement entity has the burden of proving the civil zoning violation and that the violator committed the infraction:
 2. The violator may question all witnesses who appear for the designated enforcement entity and may also produce evidence or witnesses on the violator's behalf.
 - c. A person found guilty of a civil violation is liable for the fine, court costs and fees. No costs may be assessed against the designated enforcement entity in any such action.
 - d. Seeking a civil penalty as authorized in this section does not preclude the designated enforcement entity from alternative relief from the court in the same action or from seeking injunctive relief which is available under the law of the State of Indiana or any other remedy in a separate action for the enforcement of the pertinent ordinance.
 - e. When a violator has been found Guilty of a civil violation, the court may impose additional civil penalties and grant appropriate relief to abate or halt the violation, and the court may direct that payment of the civil monetary fine or additional civil penalties be suspended or deferred under conditions established by the court. If a violator fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt; and
 - f. A change of venue from the Madison County Court shall not be granted in such a case.
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Further Information

Ord. No. 8-2005, passed 3/17/2005

Date Passed: 3/17/2005