

ORDINANCE 1842

AN ORDINANCE AMENDING CHAPTER 1, GENERAL PROVISIONS, OF THE MUNSTER CODE OF ORDINANCES PERTAINING TO GENERAL PENALTIES, CONTINUING VIOLATIONS, AND THE TOWN'S ORDINANCE VIOLATIONS BUREAU

WHEREAS, the Town Council of the Town of Munster is the municipal legislative body of the unit; and

WHEREAS, The Town of Munster, its Staff, and consultants have reviewed and recommended various changes to the Munster, Indiana Code regarding Chapter 1, General Provisions, of the Munster Code of Ordinances; and

WHEREAS, based on those recommendations, the Munster Town Council has conducted a public hearing after due notice as required by law on the proposed amendments; and

WHEREAS, The Town of Munster, after said public hearing and after due deliberation, has concluded that an amendment to Chapter 1 – General Provisions, §§ 1-7 and 1-8, are appropriate; and

WHEREAS, The Munster Town Council deems it to be in the best interest of the general health, safety, and welfare of the citizens of the Town of Munster to amend Chapter 1 – General Provisions, §§ 1-7 and 1-8, of the Munster Code of Ordinances;

Now, therefore, be it **ORDAINED** by the Town Council of the Town of Munster, Lake County, Indiana as follows:

1. § 1-7 of Chapter 1 – General Provisions, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 1-7. – General Penalty; continuing violations.

(a) In this section, the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a Town officer or Town employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

- (c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine of not more than \$2,500.00. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
- (d) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

1. § 1-8 of Chapter 1 – General Provisions, of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

Sec. 1-8. - Ordinance Violations Bureau; payment of civil penalties.

- a) The Office of the Clerk-Treasurer of the Town shall constitute an Ordinance Violations Bureau (OVB) for the acceptance of written appearances, waivers of trial, admissions of violations, and payment of civil penalties of not more than \$250.00, as permitted by I.C 33-36-3-2.
- b) The Clerk-Treasurer of the Town shall be the administrator of the Ordinance Violations Bureau and shall be known as the Violations Clerk.
- c) All ordinances and Code provisions, as hereinafter may be designated by proper schedule and identified throughout this Code, are now determined to be payable offenses, subject to admission before the Violations Clerk, and each violator may elect to pay the fine directly to the Office of the Clerk-Treasurer, Ordinance Violations Bureau, without the necessity of appearing in court.
- d) If a person cited for a violation of an ordinance or Code provision, as hereinafter may be designated, wants to exercise the right to trial, then that person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Clerk.
- e) A person charged with a violation of an ordinance or Code provision is entitled to a trial before a court as provided by law unless the person waives the right to a trial and enters an admission of the violation with the Violations Clerk. Upon an admission, the Clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established in this chapter.
- f) Any person cited for a violation of an ordinance or Code provision shall be entitled to pay the fine at the Violations Bureau within 30 days of issuance of the citation.
- g) Any person paying a fine at the Ordinance Violations Bureau shall execute a waiver of the right to trial and an admission of the violation.

- h) The Violations Clerk shall report to the person having the responsibility to prosecute ordinance violations for the Town of Munster, if a person:
- (1) Denies an ordinance or Code violation subject to the provisions of I.C. 33-36;
 - (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 subject to the provisions of I.C. 33-36, then who shall initiate proceedings against the person in a court having jurisdiction over the alleged ordinance violation.

Proceedings in court shall then be initiated against the person for the alleged ordinance violation.

- (i) If the citation has not been paid at the Violations Bureau within 30 days of the date of issuance, the violation shall be filed with the Clerk of the Superior Court and the matter will be set for initial appearance.
- (j) Except as otherwise provided, an ordinance violation admitted under this chapter does not constitute a judgment for purposes of I.C. 33-37 and ordinance violation cost fees may not be collected from the defendant under I.C. 33-37-4. In addition, an ordinance violation processed by the Violations Bureau may not be considered for the purposes of I.C. 33-37-7-5 or 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.
- (k) The following is a schedule of Town ordinances and provisions of this Code which shall be subject to admission of violation before the Violations Clerk in the Ordinance Violations Bureau in the Office of the Clerk-Treasurer:

Ordinance or Code Provision	Subject	Civil Penalty
Ch. 6 (§§ 6-1 thru 6-10)	All violations of the Animal Code - within a calendar year (<i>fine per Schedule A</i>) 1 st & 2 nd offense: Additional offenses:	\$100.00 \$200.00
§ 10-1	Business operating without having registered with the Town (<i>fine per Schedule A</i>)	\$250.00
§ 10-146	Unlicensed contractor or subcontractor (<i>fine per Schedule A</i>)	\$250.00
§ 10-221	Transient merchant without license (<i>fine per Schedule A</i>)	\$100.00
§ 10-228	Transient merchant without license in possession (<i>fine per Schedule A</i>)	\$100.00
§ 10-623	Failure to comply with Rental Dwelling Unit regulations - Single family rental (<i>fine set by ordinance</i>)	\$250.00

§ 14-65	False Alarms within a calendar year (<i>fine per Schedule A</i>) 1 st & 2 nd day with occurrence of false alarms: \$ none 3 rd incident of false alarm: \$75.00 4 th + incident of false alarm: \$100.00	
§ 18-31 (1), (2), or (5)	Public Nuisance: (1) or (2) Noise violations - vehicle; (5) Maintaining abandoned/junk vehicle (<i>fine per Schedule A</i>)	\$250.00
§ 18-31 (3)	Public Nuisance: Noise violation - fixed location not a vehicle (<i>fine per Schedule A</i>) 1 st offense: Warning 2 nd offense: \$250.00	
§ 18-31 (4)	Public Nuisance: Noise violation – animal (<i>fine per Schedule A</i>) 1 st offense: Warning 2 nd offense: \$250.00 Odor violation – animal (<i>fine set by ordinance</i>) 1 st offense: Warning 2 nd offense: \$50.00	
§ 18-33	Improper lawn mowing equipment - mowing guards (<i>fine set by ordinance</i>)	\$250.00
§ 18-34	Use of residential streets for sporting and related activities (<i>fine set by ordinance</i>)	\$250.00
§ 18-35	Violation of permitted activities on private residential streets (<i>fine set by ordinance</i>)	\$250.00
§§ 18-52 thru 18-56	Smoke-free air regulations for workplaces and public place (1 st & 2 nd offenses per calendar year are within the jurisdiction of OVB, only) (<i>fine set by ordinance</i>) 1 st offense: \$100.00 2 nd offense: \$200.00	
Ch. 26, Art. II (Building Code)	All violations of the Building Code resulting in a red tag -except violations of § 26-71 (<i>fine per Schedule A</i>)	\$75.00
Ch. 26, Art. VII (§§ 1121 thru 1212)	All violations of the Property Maintenance Code (<i>fine per Schedule A; per ordinance: min. \$50.00, max \$500.00</i>)	\$250.00
§ 26-71	Construction without a permit - excluding construction of a new primary structure or addition thereto, due to fine exceeding limits of OVB (<i>fine per Schedule A</i>)	\$250.00
§ 30-1	Failure to remove Graffiti (<i>fine per Schedule A</i>)	\$100.00

§ 30-4	Improper advertising or posting of advertisements - in a calendar year (<i>fine per Schedule A</i>) 1 st violation: \$150.00 Additional violations: \$250.00	
§ 30-8	Regulation of consumer fireworks(<i>fine set by ordinance</i>)	\$100.00
§ 34-64	Failure to comply with orders of enforcement officer in a park or recreational area (<i>fine set by ordinance</i>)	\$100.00
§ 34-73	Failure to respond to warning signal of Lightning Prediction System in a park or recreational area (<i>fine set by ordinance</i>)	\$250.00
§§ 34-81 thru 34-103	Violations of the Parks and Recreation Code (<i>fine set by ordinance</i>)	\$100.00
§ 38-72	Improper storage, deposit, or accumulation of refuse (<i>fine set by ordinance</i>)	\$250.00
§ 38-75	Restriction of garbage receptacles to designated area (<i>fine set by ordinance</i>)	\$100.00
§ 38-76	Scavenger/Scrapper without a license (<i>fine set by ordinance</i>)	\$250.00
§ 38-147	Unauthorized collection of recyclable materials (<i>fine per Schedule A</i>)	\$100.00
§ 38-175	Odors from compost containers (<i>fine per Schedule A</i>)	\$100.00
§ 46-3	Snow and ice removal from sidewalks (<i>fine per Schedule A</i>)	\$200.00
Ch. 54, Art. IV	All Parking violations [except violations of §§ 54-182 and 54-216(5)] (<i>fine per Schedule A</i>)	\$50.00
§ 54-182	Obstructing street or alley or blocking driveway (<i>fine per Schedule A</i>)	\$250.00
§ 54-216 (5)	Handicapped Parking Violation (<i>fine per Schedule A</i>)	\$75.00
§ 62-113	Failure to trim weeds, rank vegetation, and grass (<i>fine per Schedule A</i>)	\$100.00

This Ordinance shall take effect upon the date of its publication which shall occur within thirty (30) days after passage.

Now, therefore, be it **ORDAINED** that the above-referenced Ordinance is hereby enacted.

ORDAINED and ADOPTED by the Town Council of the Town of Munster, Indiana, on the ____ day of September 2021, by a vote of ____ in favor and ____ opposed.

**TOWN COUNCIL OF THE TOWN OF MUNSTER,
LAKE COUNTY, INDIANA**

Dr. Andy Koultourides, President

ATTEST:

Wendy Mis, Clerk-Treasurer