

**CASS COUNTY ORDINANCE 2013- 11**  
**PLANNING DEPARTMENT CITATION ORDINANCE**  
**(AMENDING ORDINANCE 2012-03)**

**I. Creation of an Ordinance Violation Bureau**

There is hereby established an Ordinance Violations Bureau, and the Clerk of Cass County, by virtue of the office is hereby appointed as the Violations Clerk to be the administrator of the Bureau. The Violations Clerk shall serve without any additional salary.

**II. Payment of fines and penalties**

The Office of the Clerk of Cass County, the Violation Clerk, is hereby authorized to accept the payment of a fine or penalty prescribed by this Ordinance or fines prescribed by other ordinances unless an action has been filed in a court of law for enforcement. If an action to enforce an ordinance has been adjudicated in court, the County Clerk's Office may accept the payment of any judgment and costs ordered by the Court having jurisdiction of the action.

**III. Compromise of claims for fines and penalties**

The County Attorney, after consultation with the officer issuing the citation, may compromise and settle any citation for violation of a county or fringe ordinance if the amount of the fine or penalty is not specified by ordinance. If a fine or penalty is specified by ordinance, then the amount specified in the ordinance shall be followed.

**IV. County attorney's authority to enforce ordinance violations**

The County Attorney, or his designee, shall have the authority to bring an action in the name of the county to enforce any ordinances in the Code of Ordinances. The County Attorney shall have the authority and discretion not to bring an action to enforce an ordinance violation, if in his or her professional opinion, there is not sufficient evidence or legal basis to prevail in court. An ordinance citation issued by an enforcement officer may be voided by the County Attorney if the County Attorney has reason to believe that there is not sufficient evidence or legal basis to enforce the citation.

**V. Enforcement of county or fringe ordinances**

A. The following persons are authorized to issue citations enforcing county or fringe ordinances pursuant to this Citation Ordinance:

1. Law enforcement officers of the Cass County Sheriff's Office;
2. Any member of the Board of County Commissioners;
3. Any person designated by the Executive Director of Plan Commission to enforce ordinances under the zoning or planning law;
4. The Building Commissioner, or his designee, to enforce building codes or other ordinances; or
5. Any person designated by the Board of County Commissioners.
6. Any officer or other county official or employee authorized by an ordinance of the county or state law to issue complaints for violations of ordinances may issue complaints for the violation of Bureau ordinances.

B. It shall not be necessary for a citation to be issued before the county brings an action to enforce an ordinance.

C. In bringing an action to enforce an ordinance, the county may utilize any remedy or remedies allowed by the laws of the State of Indiana.

D. The Planning Department is designated and hereby authorized to have citation books printed for use by the persons authorized to issue citations. Citations shall be serially numbered in order to insure that no citation issued by one person shall bear the same number as a citation issued by another person. Each citation book shall consist of fifty (50) citations with each citation being in duplicate. The first copy of each citation shall be forwarded to the Office of the Cass County Clerk, as the Violation Clerk, the second copy of each citation shall be given to the person being cited.

#### **VI. Violations — Penalty**

Any person who violates a provision of Indiana State Statute, Administrative Code or Regulation and/or County or Fringe Ordinance shall be subject to penalties (or fines) as established by the violated code, statute, or ordinance. A court of law may assess additional civil penalties for non-compliance. The civil penalties shall be paid to the County Clerk, as the Violation Clerk, within 30 days of the date the citation is issued and corrective action(s) shall be taken as soon as possible to immediately bring the property into compliance with this title as required by ordinance. Violations of a continuing nature shall each be considered a separate offense for each day the property is not in compliance with any provision in this title. Failure to pay the penalty and take the necessary corrective action in a timely manner could result in the County filing suit in Cass Circuit or Superior Courts for payment of the civil penalty and all related court costs, and to bring about compliance of such property.

#### **VII. Appearance: Denial of Admission**

Any person upon whom a citation is issued pursuant to this chapter may appear at the Planning Department office to deny the violation within thirty (30) days of the issuance of the citation or shall have delivered his or her written denial to the office within thirty (30) days of the issuance of the citation. A denial submitted within thirty (30) days will result in an appeal hearing before the next scheduled meeting of the applicable Planning Commission.

#### **VIII. Late Charge**

If a citation for a violation of an ordinance brought pursuant to this chapter does not bring an admission of violation and payment of the civil penalty or present him or herself at the Planning Department Office for denial of the Citation or is not properly responded to in writing within thirty (30) days of the issuance of the citation, the Bureau shall add a late charge of \$25.00 per violation to the amount otherwise payable. After 30 days of the issuance of the citation, the Bureau shall not accept admission of a violation or payment of the civil penalty without the consent of the County Attorney who may withhold that consent if the violation has been referred to the County Attorney for legal proceedings.

#### **IX. Other Legal Action; Authority**

The identification of an ordinance or code provision as a Bureau ordinance does not precluded the county from taking other legal action to enforce the ordinance or code provision, in

lieu of issuing a complaint under the authority of this chapter seeking the civil penalty, if the ordinance or code provision provides for other enforcement options, including, but not limited to injunctive relief and recovery of abatement costs or of damages.

**X. Civil Penalties**

The county or fringe ordinances and code provisions, identified above as Bureau Ordinances, are hereby amended to provide and declare the civil penalty scheduled with the ordinance or code provision to be the specific monetary penalty for the violation of that ordinance.

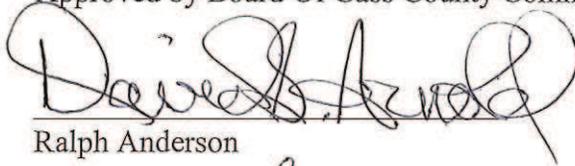
**XI. Right To Trial**

Nothing in this section shall be construed to limit the rights of trial to a person charged with an ordinance violation. If a person charged with an ordinance violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Violations Clerk.

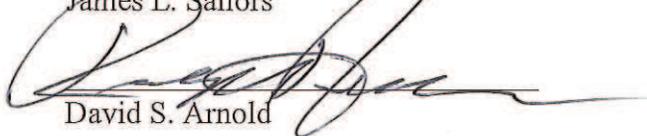
**XII. Fines Collected**

All sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the County Clerk for deposit in the Planning Departments Non-Reverting Fund 2520-10000-000-4910.

Approved by Board Of Cass County Commissioners:

  
Ralph Anderson

  
James L. Sailors

  
David S. Arnold

Date: 9-3-2012