

ORDINANCE 5171

Amending Ordinance Violations Bureau

WHEREAS, Indiana Code § 33-36-2-1 allows a municipal corporation to establish an ordinance violations bureau;

WHEREAS, Indiana Code § 36-1-6-3 allows municipal corporations to enforce ordinances through admission of violation before an ordinance violations bureau and allows that bureau to turn over to the municipal corporation all sums collected as civil penalties for ordinance violations; and

WHEREAS, the Common Council of the City of Goshen, Indiana established an ordinance violations bureau which is codified in the Goshen City Code at §1.2.1.1;

WHEREAS, the Common Council of the City of Goshen, Indiana has revised the ordinance violations bureau from time to time, most recently in Ordinance 5159, on or about May 15, 2023, and

WHEREAS, the Common Council of the City of Goshen, Indiana wishes to further revise the provisions of the ordinance violations bureau by adding Goshen City Code violations that are subject to admission before the violations clerk, and define appropriate levels and amounts of civil penalties to be imposed for such violations.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, that:

Section 1. Creation.

An Ordinance Violations Bureau ("Bureau") was created and shall continue to operate under the authority of I.C. § 33-36-2-1, as amended, and under the terms of this Ordinance.

Section 2. Violations Clerk; Duties.

- 2.1. The Clerk of the City Court shall serve as the Violations Clerk, who shall administer the Bureau.
- 2.2. The Violations Clerk shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties as set forth in Section 3 of this Ordinance, but not more than Two Hundred Fifty Dollars (\$250).
- 2.3. The Violations Clerk shall account for all payments received and deliver such penalty payments to the City of Goshen Clerk-Treasurer for all violations of the Goshen City Code, at such intervals as the City of Goshen Clerk-Treasurer determines, to be deposited in the general fund of the City of Goshen.
- 2.4. The Violations Clerk shall account for all payments received on behalf of every municipal corporation for whom the Violations Clerk has accepted payment of civil

penalties pursuant to an interlocal agreement described in I.C. 33-36-2-4, deliver such penalty payments to the appropriate municipal corporation as provided in the interlocal agreement, and deliver records related to such payments to the Clerk-Treasurer's office for civil penalties attributable to the City of Goshen.

Section 3. Schedule of Civil Penalties.

3.1. Pursuant to I.C. § 33-36-3-1, provisions of the Goshen City Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each City of Goshen Bureau Ordinance.

**City of Goshen
Bureau Ordinances Schedule**

Goshen Code Section	Type of Violation	Penalty Tier
Animal Control		
3.1.1.1	Animals running at large	3
3.1.1.3	Keeping livestock, fowl or wild animals	3
3.1.1.4	Harboring vicious animal	2
3.1.1.5	Animals disturbing the peace	3
3.1.4.2	Keeping chickens	3
Fire Prevention and Protection		
Ord. 5170	Open burning	3
Noise Control		
3.3.1.1	Excessive noise and sound	2
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	2
Firearms Within City Limits		
3.5.1.1	Discharge of Firearms and Detonation of Explosives Prohibited	1
Fireworks		

3.6.1.1	Use, Discharge, or Ignition of Consumer Fireworks	2
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	4
4.4.1.1	General parking violations- parking in handicapped space	3
4.4.2.1a	Parking in prohibited parking areas (in yards)	4
4.4.2.1b	Parking in prohibited parking areas (over sidewalks or curbs)	3
Abandoned Vehicles		
4.6.1.1	Removal and disposal of Abandoned Vehicles	2
Public Works and Utilities		
5.1.2.1	Constructing sidewalks and driveways without permit	2
5.2.1.6	Connecting to the city water system without approval	2
Buildings and Building Regulations		
6.1.1.7	Building permit required	1
6.1.1.15	Stop work order	1
6.1.1.16	Certificate of occupancy	2
6.1.1.12	Inspection required	3
6.2.1.1	Mechanical and electrical licensing required	1
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.2	Minimum standards for basic equipment and facilities, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.3	Minimum standards for light, ventilation, egress and heating, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.4	Safe and sanitary maintenance, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.5	Minimum space, use and location requirements, except as the ordinance applies to buildings deemed unsafe	1
6.3.1.6	Responsibility of owners and occupants, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.7	Hotels and rooming houses, except as the ordinance applies to buildings deemed unsafe	3
6.3.1.8	Smoke detectors, except as the ordinance applies to unsafe buildings	2
6.3.1.9	Minimum standards for commercial and industrial properties, except as the ordinance applies to buildings deemed unsafe	1
6.3.1.10	Application for registration receipt, except as the ordinance applies to buildings deemed unsafe	2

6.3.1.11	Inspection, except as the ordinance applies to buildings deemed unsafe	2
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	1
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	1
6.6.1.2	Discharge of yard waste (e.g., grass clippings, leaves, etc.) to a stormwater drainage system or any water course	3
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	1
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	1
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	2
6.6.2.4	Concrete/mortar washout	2
6.6.2.4	Perimeter protection	2
6.6.2.4	Construction entrance/exit	2
6.6.2.4	Site stabilization	2
6.6.2.4	Inlet protection	2
6.6.2.4	Dewatering	2
6.6.2.4	Runoff control	2
6.6.2.4	Trash/litter	2
6.6.2.4	Spill control/containment issues	2
6.6.2.4	Direct discharge of pollutants to surface water	1
Uniform Requirements for Post Construction Stormwater Management		
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	1
6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures requirements.	2
6.6.3.3	Failure to maintain natural and constructed drainage systems.	2
Rank Vegetation and Noxious Weeds		
6.9.1.1	Rank Vegetation and Noxious Weeds	3

Accumulation of Materials		
Ord. 5156	Solid waste violations at public recycling drop-off site designated and operated by the City	1
Ord. 5156	Other solid waste violations without opportunity to correct violations	3
Ord. 5156	Solid waste violations requiring prior notice of violation	3
Graffiti		
6.11.1.2	Failure to remove graffiti	3
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	2
Parks		
7.1.1.2	Park Hours - Curfew	4
7.1.1.10	Possession, Consumption, and Sale of Alcoholic Beverages	2
Brush		
Ord. 5054	Improper Placement of Brush	3
Ord. 5054	Improper Placement of Leaves	3
Ord. 5054	Large Quantities of Brush, Commercial Services, or Non-Residential	1
Cemeteries		
Ord. 5114 §2	Cemetery Hours - Curfew	4
Ord. 5114 §3	Possession or Consumption of Alcoholic Beverages	2
Camping		
Ord. 5157	Camping and Storage of Camp Facilities and Camp Equipment	2
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	2
	Trailer/RV/boat in front yard	2
	Vehicles in excess of 1 ton capacity parked in residential area	2
	Parking on unimproved surface/grass	2
	Three or more inoperable vehicles, or parts thereof	2
	Auto repair/body work/paint shop in residential area	2
	RV used as residence	2

	Structure/fence/sign/driveway expansion without permit	2
	Development in regulatory floodplain without permit	2
	Temporary/mobile signs without permits	2
	Operating without a Conditional Use Permit	2
	Storage of salvage materials on residential property	2

3.2. Pursuant to I.C. § 33-36-3-1, provisions of the Elkhart County Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each Elkhart County Bureau Ordinance.

**Elkhart County
Bureau Ordinances Schedule**

Elkhart County Code	Type of Violation	Penalty Tier
Zoning		
Chapter 158, Title XV	Land Usage	1
Nuisance		
Chapter 92, Title IX	General Regulations	1

3.3. An admission of violation to a Bureau Ordinance shall cause to be imposed a civil penalty in the amount designated in the Civil Penalty Tiers schedule below that corresponds to the Tier level assigned to each Bureau Ordinance by the Bureau Ordinance Schedule. Second and subsequent admissions of violation of Bureau Ordinances occurring within a Twelve (12) month period will be subject to a greater civil penalty, as designated in the Civil Penalty Tiers schedule found in this Code Section.

Civil Penalty Tiers

	First Offence	Second Offence	Third Offence
Tier 4	\$25	\$50	\$75
Tier 3	\$50	\$75	\$100
Tier 2	\$75	\$125	\$200

Tier 1	\$175	\$225	\$250
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Section 4. Issuance of Citations.

4.1. Any City of Goshen official, employee, or agent authorized by the Goshen City Code or state law to enforce the provisions of the Goshen City Code may issue citations for the violation of Bureau Ordinances. More specifically, the following table identifies who may issue citations for violations of Bureau Ordinances:

Goshen Code Section	Type of Violation	Enforcement Authority
Animal Control		
3.1.1.1	Animals running at large	Ordinance Compliance Officers, Police Officers
3.1.1.3	Keeping livestock, fowl or wild animals	
3.1.1.4	Harboring vicious animal	
3.1.1.5	Animals disturbing the peace	
3.1.4.2	Keeping chickens	
Fire Prevention and Protection		
Ord. 5170	Open burning	Ordinance Compliance Officers, Police Officers, and Members of the Fire Department
Noise Control		
3.3.1.1	Excessive noise and sound	Ordinance Compliance Officers, Police Officers
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	
Firearms Within City Limits		
3.5.1.1	Discharge of Firearms and Detonation of Explosives Prohibited	Ordinance Compliance Officers, Police Officers
Fireworks		
3.6.1.1	Use, Discharge, or Ignition of Consumer Fireworks	Ordinance Compliance Officers, Police Officers
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	Ordinance Compliance Officers, Police Officers
4.4.1.1	General parking violations- parking in handicapped space	
4.4.2.1	Parking in prohibited parking areas	
Abandoned Vehicles		

4.6.1.1	Removal; and disposal of Abandoned Vehicles	Ordinance Compliance Officers, Police Officers
Public Works and Utilities		
5.1.2.1	Constructing sidewalks and driveways without permit	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
5.2.1.6	Connecting to the city water system without approval	
Buildings and Building Regulations		
6.1.1.7	Building permit required	The Building Commissioner
6.1.1.15	Stop work order	
6.1.1.16	Certificate of occupancy	
6.1.1.12	Inspection required	
6.2.1.1	Mechanical and electrical licensing required	
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures, except as the ordinance applies to buildings deemed unsafe	The Building Commissioner
6.3.1.2	Minimum standards for basic equipment and facilities, except as the ordinance applies to buildings deemed unsafe	
6.3.1.3	Minimum standards for light, ventilation, egress and heating, except as the ordinance applies to buildings deemed unsafe	
6.3.1.4	Safe and sanitary maintenance, except as the ordinance applies to buildings deemed unsafe	
6.3.1.5	Minimum space, use and location requirements, except as the ordinance applies to buildings deemed unsafe	
6.3.1.6	Responsibility of owners and occupants, except as the ordinance applies to buildings deemed unsafe	
6.3.1.7	Hotels and rooming houses, except as the ordinance applies to buildings deemed unsafe	
6.3.1.8	Smoke detectors, except as the ordinance applies to buildings deemed unsafe	
6.3.1.9	Minimum standards for commercial and industrial properties, except as the ordinance applies to buildings deemed unsafe	

6.3.1.10	Application for registration receipt, except as the ordinance applies to buildings deemed unsafe	
6.3.1.11	Inspection, except as the ordinance applies to buildings deemed unsafe	
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	Superintendent of the Department of Stormwater Management
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	
6.6.1.2	Repeat violations of the discharge of yard waste (e.g., grass clippings, leaves, etc.) to a stormwater drainage system or any water course	
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	Superintendent of the Department of Stormwater Management
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	
6.6.2.4	Concrete/mortar washout	
6.6.2.4	Perimeter protection	
6.6.2.4	Construction entrance/exit	
6.6.2.4	Site stabilization	
6.6.2.4	Inlet protection	
6.6.2.4	Dewatering	
6.6.2.4	Runoff control	
6.6.2.4	Trash/litter	
6.6.2.4	Spill control/containment issues	
6.6.2.4	Direct discharge of pollutants to surface water	
Uniform Requirements for Post Construction Stormwater Management		

6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	Superintendent of the Department of Stormwater Management
6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures requirements.	
6.6.3.3	Failure to maintain natural and constructed drainage systems.	
Rank vegetation and Noxious Weeds		
6.9.1.1	Rank Vegetation and Noxious Weeds	Ordinance compliance officer, police officer, or member of Legal Department.
Accumulation of Materials		
Ord. 5156	Solid waste violations at public recycling drop-off site designated and operated by the City	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
Ord. 5156	Other Solid waste violations without opportunity to correct violations	
Ord. 5156	Solid waste violations requiring prior notice of violation	
Graffiti		
6.11.1.2	Failure to remove graffiti	Ordinance Compliance Officers, Police Officers
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	Ordinance compliance officer, police officer, or member of Legal Department.
Parks		
7.1.1.2	Park Hours - Curfew	Ordinance Compliance Officers, Police Officers
7.1.1.10	Possession, Consumption, and Sale of Alcoholic Beverages	
Brush		
Ord. 5054	Improper Placement of Brush	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
Ord. 5054	Improper Placement of Leaves	
Ord. 5054	Large Quantities of Brush, Commercial Services, or Non-Residential	
Cemeteries		

Ord. 5114 §2	Cemetery Hours – Curfew	Ordinance Compliance Officers, Police Officers
Ord. 5114 §3	Possession or Consumption of Alcoholic Beverages	
Camping		
Ord. 5157	Camping and Storage of Camp Facilities and Camp Equipment	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	Planning and Zoning Administrator, Assistant Planning and Zoning Administrator, Building Commissioner, Ordinance compliance officer, Police department
	Trailer/RV/boat in front yard	
	Vehicles in excess of 1 ton capacity parked in residential area	
	Parking on unimproved surface/grass	
	Three or more inoperable vehicles, or parts thereof	
	Auto repair/body work/paint shop in residential area	
	RV used as residence	
	Structure/fence/sign/driveway expansion without permit	
	Development in regulatory floodplain without permit	
	Temporary/mobile signs without permits	
	Operating without a Conditional Use permit	
	Storage of salvage materials on residential property	

- 4.2. Any official, employee, or agent from Elkhart County government authorized by Elkhart County ordinances or by state law to enforce Elkhart County's code may issue citations for the violation of Elkhart County Bureau Ordinances.
- 4.3. Citations issued under this ordinance shall include the following information:
- (a) The name of the responsible person;
 - (b) A description of the alleged violation, including the date thereof, and the code section;
 - (c) The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;

- (d) The amount of the schedule civil penalty for the violation;
 - (e) The methods by which the alleged violation may be admitted or denied;
 - (f) The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
 - (g) The address of the Violations Clerk; and
 - (h) The days and hours that the Ordinance Violations Bureau is open.
- 4.4. A copy of the citation shall be served by personally delivering the citation to the person alleged to have violated Bureau Ordinances, unless the alleged violation relates to the use or occupancy of land, a building, or other structure, in which case the citation may be posted on the property and a copy mailed by first class mail to the owner of such land, building, or other structure at the last known address of the alleged violator.

Section 5. Duty to Appear.

Any person upon whom a citation is issued pursuant to this Ordinance shall, within ten (10) days of the issuance of the citation, appear at the Violations Clerk's office to either admit or deny the violation, enter a written denial, or deliver an admission with the corresponding penalty payment.

Section 6. Payment.

Upon admission of a Bureau Ordinance before the Violations Clerk, the Violations Clerk shall assess civil penalties and accept payment from the violator in the amounts designated in the Bureau Ordinances Schedule and Civil Penalties Tiers.

Section 7. Right to Trial; Denial of Violation, Failure to Satisfy Civil Penalty Assessed.

- 7.1. Nothing in this Ordinance shall be construed to limit a person charged with an ordinance violation to that person's right to a trial on the allegations found in a citation, nor shall it be construed to limit any right the person might have to appeal, whether such appeal would be to the Goshen Board of Public Works and Safety or other authority. 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.
- 7.2. If a person denies the allegations found in a citation, fails to satisfy a civil penalty assessed after having entered an admission of violation, or fails to deny or admit the violation, the Violations Clerk shall report this fact to the City of Goshen Legal Department or to legal counsel of a unit utilizing the Bureau under an interlocal agreement, who may then initiate proceedings in court against the person for the alleged ordinance violation.

Section 8. Other Legal Action.

- 8.1. Nothing in this ordinance shall be deemed to require initiation of ordinance enforcement activity by issuing an ordinance violation citation subject to admission of violation in the Ordinance Violations Bureau. The procedure made available by I.C § 36-1-6-3 and this Ordinance may be bypassed, and enforcement may be initiated by filing a Complaint in an appropriate court to enforce Bureau Ordinances or seek enforcement through the Board of Works.
- 8.2. The filing of citations in the Ordinance Violations Bureau shall not preclude the filing of a Complaint in an appropriate court to enforce Bureau Ordinances if a person served with a citation denies the violation alleged in the citation, requests a trial on the allegations contained in the citation, or fails to respond to the citation filed in the Ordinance Violations Bureau.

Section 9. Other Ordinances.

All Ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All Ordinances, or parts thereof, not inconsistent with this Ordinance shall remain in full force and effect.

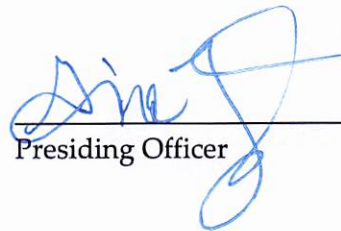
Section 10. Severability.

The provisions of this ordinance are severable, and the invalidly of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 11. Effective Date.

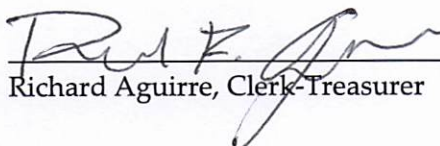
This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

PASSED by the City of Goshen Common Council on 13th day of November, 2023.



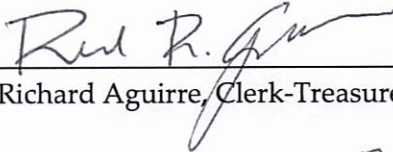
Presiding Officer

ATTEST

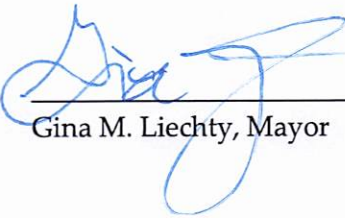


Richard Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on the ___ day of November, 2023, at
_____ a.m./p.m.


Richard Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on the 13 day of November, 2023, at 7 pm
a.m./p.m.


Gina M. Liechty, Mayor