

The Common Council of the City of Knox met in regular session Tuesday, June 23, 2020 in the Knox City Hall at 7:00 PM CST with the following members present: Dennis Estok, Mayor; Clerk-Treasurer, Cyndi Kidder; Council Members, Jeff Berg, Donald Kring, Bill Gustafson, Sherry Cowen, Ron Parker and City Attorney Autumn Ferch.

RE: AMENDMENT TO THE AGENDA

There was no amendment to the agenda.

RE: APPROVAL OF MINUTES FROM 6/9/2020

Minutes of the previous meeting were mailed to the Council Members prior to the meeting for their review. Bill Gustafson made a motion seconded by Don Kring to approve the minutes as presented. Motion passed with Five (5) ayes and No (0) nays.

RE: ORDINANCE #2020-OR9 - OUTLINING ENFORCEMENT AND PENALTIES REGARDING ZONING VIOLATIONS - SECOND AND FINAL READING

A motion was made to approve the 2nd and final reading of Ordinance #2020-OR9 by Ron Parker and seconded by Jeff Berg.

ORDINANCE NO. 2020 – OR 9

AN ORDINANCE TO OUTLINING ENFORCEMENT OF PENALTIES
REGARDING ZONING VIOLATIONS

BE IT ORDAINED by the Common Council of the City of Knox, Starke County, Indiana as follows:

Enforcement and Penalties

1) **General Provisions**

A) Authority

The Plan Commission, Board of Zoning Appeals, City Common Council, Building Commissioner, and/or Administrator (and their designees) are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4-1000 et. al. and all other applicable state laws

B) Violations

Complaints made pertaining to compliance with provisions of this Ordinance shall be investigated by the Administrator. The Administrator may include other officials, such as the Director of Public Works, City Chief of Police, or City Fire Chief in the investigation. Action may or may not be taken depending on the finding of the investigation. The degree of action will be to the discretion of the Administrator and should reflect both what is warranted by the violation as well as a consistent approach to the enforcement of this Ordinance.

C) Inspections

Investigations of property may be done by the Administrator either from a right-of-way, or adjacent property (with permission of that property owner), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection.

D) Court Ordered Entry

In the event that the Administrator is denied entry to the subject property, he/she may apply to a court of jurisdiction to invoke legal, applicable, or special remedy for the enforcement of this Ordinance or any other applicable ordinances adopted under state code.

1) Information Required

The application shall include the purpose, violation(s) suspected, property address, owner's name if available, and all relevant facts. Additional information may be necessary as requested by the court.

2) Entry Permitted

Pursuant to applicable regulations and the orders of the court of jurisdiction the owner, tenant, or occupant shall permit entry by the Administrator

E) Responsibility for Violations

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this Ordinance, may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided. The Planning Commission may seek to have any or all of the entities named herein held responsible, however, the total amount of fines collected shall not exceed the amount that could be levied against a single individual

F) Types of Violations

The following items shall be deemed civil violations, enforceable by the Administrator (penalties may be imposed based on the provisions set forth in this Article):

1) Illegal Structures

The placement, erection, and/or maintenance of a primary structure, sign, accessory structures, or any other element determined by the Administrator to not conform to the provisions or explicit intent of the Zoning Ordinance;

2) Illegal Use

Conducting a use or uses that do not comply with the provisions or explicit intent this Ordinance;

3) Failure to Obtain a Permit

Failure to obtain an Improvement Location Permit when required by this Ordinance;

4) Violation of Stop-Work-Order

Proceeding with work under a Stop-Work-Order or in violation of a Memorandum of Agreement;

5) Failure to Comply with Development Standards

Any failure to comply with the development standards and/or any regulations of the Zoning Ordinance; or

6) Failure to Comply with Commitments

Any failure to comply with commitments or conditions made in connection with a rezoning, special exception, variance, or other similar and documentable commitment

2) **Construction Process Violations**

A) Stop-Work-Orders

The Administrator may place a Stop-Work-Order on any land/property improvement process.

1) Procedure

Stop-Work-Orders shall be issued by written letter which shall state the violation and that work or other illegal activity must stop immediately until the matter is resolved. This letter shall be posted in a conspicuous place or be delivered/mailed to the owner, developer, property manager, tenant, or occupant.

2) Reasons

Reasons for a Stop-Work-Order include, but are not limited to:

(a) not complying with development standards and/or any regulations of the Zoning Ordinance;

(b) not obtaining an Improvement Location Permit prior to the start of construction of any improvement for which such a permit is required by this Ordinance;

(c) not completing structures or other improvements consistent with any approved Improvement Location Permit, variance, special exception, or other approval;

(d) not meeting the conditions or commitments of a special exception, variance, or rezoning petition;

(e) not meeting the conditions of a Site Development Plan, Planned Unit Development Plan, written commitment, or covenant which is enforceable by the Plan Commission; and

- (f) illegal use or expansion or use of structures, or structures and land in combination.

3) **Immediate Public Risk Violations**

Any violation of this Ordinance which presents an immediate risk to the health, safety, or welfare of the public or to property within the community may be corrected by the Administrator, or a person, firm, or organization selected by the Administrator, without prior notice to the property owner or other person responsible for the violation.

A) **Immediate Public Risk Violation Defined**

Immediate Public Risk violations shall include:

- 1) **Obstructions**
Signs, structures, landscaping, or other materials placed in a public right-of-way, easement, or sight visibility triangle in violation of this Ordinance;
- 2) **Distractions**
Any sign, structure, landscaping, or other material located on private property which serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; or
- 3) **Other Threats**
Any other immediate threat to public welfare as determined by the City Common Council, Plan Commission, Board of Zoning Appeals, Administrator, City Chief of Police, City Fire Chief, or other public official.

B) **Seizure of Materials**

Any sign, structure, landscaping, or other material which constitutes an immediate public risk violation may be seized by the Administrator in a manner that results in minimal damage to the material and the property upon which it is located

C) **Notice of Violation**

The Administrator shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials places within the right-of-way in violation of this Ordinance, by either placing a notice in a conspicuous place on the property or by letter.

1) **Notice Time Requirements**

The letter shall be sent to the property owner via certified mail within 24 hours of the seizure. A notice that is posted on the property shall be posted at the time the material is seized.

2) **Notice Contents**

The letter or posted notice shall include the following;

- (a) A description of the materials seized,
- (b) A citation of the sections of the Ordinance which were violated and the characteristics of the violation which posed an immediate threat to public welfare,
- (c) The address and phone number of the Administrator and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item(s); and
- (d) Instructions describing how, where, and when the seized items may be claimed

D) **Storage and Retrieval of Seized Materials**

The Administrator shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than thirty (30) days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of a fine on the List of Fines and Fees approved by the Common Council, plus reasonable storage fees and the establishment of a Memorandum of Agreement between the property owner and Administrator regarding the future use of the item in a manner consistent with this Ordinance.

E) **Liability**

Neither the Administrator, City of Knox, or any other official or entity involved in the seizure shall be liable for any damage to the seized materials or the property from which they were taken.

4) **Violation Procedure**

A) **General Procedure**

There shall be a minimum of a three-step procedure for the enforcement of violations. Intermediate steps, including additional notices of violation and extensions of time limits for compliance may be used by the Administrator at his or her discretion. However, the general procedure for all violations shall be consistent. These minimum steps are as follows

1) **Notice of Violation**

The Administrator shall issue a Notice of Violation to the person(s) who has committed, in whole or in part, a violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within thirty (30) days of the mailing or posting date of the notice.

1.5) **Memorandum of Agreement**

The Administrator may meet with the person(s) served the Notice of Violation within seven (7) days of any such meeting being requested by the person(s). A Memorandum of Agreement shall be drafted stating the conditions by which the violation may be remedied. This Memorandum of Agreement must be signed by the owner, developer, property manager, tenant, or occupant that has caused or is responsible for the violation and the Administrator. No Notice of Violation shall be issued if the person(s) served with the Notice of Violation is in compliance with the Memorandum of Agreement.

2) **Notice of Fines for Violation**

A) Notice of Fines for violation shall be served upon either of the Following dates:

- 1) thirty (30) days after notice of violation or;
- 2) upon the failure of the violator to comply with the Memorandum of Agreement referenced in 4.A.1.5

B) The Administrator shall issue a Notice of Fines for Violation to the person(s) who have committed, in whole or in part, a violation. The Notice of Fines for Violations is a citation that states the fines for the violation. The Notice of Fines for Violation shall be mailed via Certified Mail, Return Receipt Request by the Administrator. The person(s) in violation will have a minimum of thirty (30) days from the date of mailing to pay all applicable fines and must correct the violation within the time period specified by the Administrator or face additional fines.

3) **Legal Action**

If the person(s) in violation refuses to pay the fines and/or correct the violation within the time frame specified by the Notice of Fines for Violation, the Administrator may refer the violation to the Knox Planning Commission Attorney in order to pursue court action through a court of general jurisdiction. Additional fines and liens against the property may also be pursued until the matter is resolved.

B) **Monetary Fines**

Monetary Fines may be imposed at the discretion of the Administrator with the Notice of Fines for Violations.

1) **Multiple Violations**

Each violation shall constitute a separate offense.

2) **Fine Amount**

The fines shall be assessed according to attached Table 1.

- (a) In addition to any fine imposed, any person who initiates any activity which requires and Improvement Location Permit without first obtaining the permit may be required to pay three (3) times the normal amount of the permit consistent with the adopted fee schedule.
- (b) The amount of any fine not listed on Table 1 shall be determined by the Planning Commission.
- (c) The fines imposed herein shall continue to increase as specified in Table A until such time as they are paid in full EVEN IF THE VIOLATION FOR WHICH THE FINES WERE ASSESSED HAS BEEN REMEDIATED.

3) **Payment**

The payment of any violation shall be by cash or cashier's check and shall be delivered to the Zoning Administrator who shall forward the funds to the City of Knox Clerk-Treasurer for deposit in the General Fund. The Administrator shall issue a receipt to the person making the payment.

- (a) In no instance shall a fine be accepted by the Administrator for a violation or violations on a property on which other violations remain unresolved.
 - (b) The Planning Commission or BZA may, at their discretion, waive the assessed fine for the otherwise timely correction of the violation.
- C) Appeals
Any person receiving a Notice of Violation and/or Fines for Violation may appeal the violation and/or fine to the Board of Zoning Appeals. A written statement from the person in violation filing an Administrative Appeal consistent with this Ordinance shall be submitted to the Administrator via Certified Mail at least three (3) days prior to the date any fine and/or compliance is due.
- 1) Fines
Fines due will be postponed until the BZA has made a ruling as to the violation and/or fine. The person(s) in violations shall have a maximum of six (6) months to complete the hearing process with the BZA. Failure to meet this deadline will reinstate all fines due by the person(s) in violation, including those which would have accumulated during the appeal process.
 - 2) Additional Notices
No additional notices will be issued by the Administrator if the person(s) in violation has (have) submitted an appeal.
- D) Enforcement of Ordinance Requirements and Commitments
The Administrator via the Plan Commission Attorney may bring an action in the Circuit Court of Starke County to evoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under IC 36-7-4 et. seq. and its subsequent amendments.
- 1) Enforcement
This includes but is not limited to the following:
 - (a) The Zoning Ordinance and any other requirements adopted separately by the City Council or adopted by their reference in the Zoning Ordinance
 - (b) All agreements with the Plan Commission or its designees which have been recorded as covenants or written commitments in connection with a subdivision plat, a Site Development Plan, or a Planned Unit Development;
 - (c) All commitments made in accordance with IC 36-7-4 et seq; and
 - (d) All conditions imposed in accordance with IC 36-7-4 et seq.
 - 2) Restraint
The Administrator may bring action in the Circuit Court of the County to restrain a person violating IC 36-7-4 et seq. or any ordinance adopted under IC 36-7-4 et seq.
 - 3) Removal of Structures
The Administrator may also bring an action in the Circuit Court of Starke County for a mandatory injunction, directing to remove a structure erected in violation of this Ordinance or applicable state code.
 - 4) Responsibility for Costs
If the Administrator is successful in his/her action, the respondent shall bear all costs of his/her action, including the costs of any required remedy, any fines, and the costs of enforcement (including attorneys fees, hours worked, photocopying charges, mileage, and other costs incurred directly or indirectly by the City).
 - (a) Documentation
Only those costs of enforcement which are clearly documented by the Administrator, and which clearly bear relationship to the enforcement action shall be paid by the respondent.
 - (b) Determination
In all instances the dollar amount to be paid by the respondent shall be determined by the court of jurisdiction.
 - 5) Other Parties Eligible to Seek Enforcement
An action to enforce a written commitment made in accordance with IC 33-7-4 et al. may be brought in the Circuit Court of the County by:
 - (a) Rules and Procedures Provisions
Any person who is entitled to enforce a commitment made in accordance with IC 36-7-4 et al. under the Rules and Procedures of the Plan Commission or the Board of Zoning Appeals in force at the time the commitment was made; or
 - (b) Specified Parties
Any other specially affected person who was designated in the written commitment

TABLE 1

CITY OF KNOX PLANNING COMMISSION FINE SCHEDULE

The fines listed in the following table apply to RESIDENTIAL VIOLATIONS as provided for in

Ordinance No. 2020 – OR 10.

Triggering Event	Fine Amount
Issuance of Notice of Fine	\$100
Failure to Correct Violation AND pay Fines owed Within 30 days of issuance of Notice of Fine	\$300
Failure to Correct Violation AND pay Fines owed for each successive month after first month	\$500

All fines listed herein are cumulative. For example, a person who failed to both pay his fine and correct the violation for a period of 61 days would owe \$900 in fines (\$100 for Notice of Fine + \$300 after 30 days + \$500 after 60 days)

The fines listed in the following table apply to COMMERCIAL VIOLATIONS as provided for in

Ordinance No. 2020 – OR 10.

Triggering Event	Fine Amount
Issuance of Notice of Fine	\$100 per day
Failure to Correct Violation AND pay all Fines owed for more than 28 days	\$200 per day
Failure to Correct Violation AND pay all Fines owed for more than 56 days	\$300 per day

All fines listed herein are cumulative. For example, a business that failed to both pay its fines and correct the violations for a period of 30 days would owe \$3200 in fines (28 days X \$100 plus 2 days X \$200= \$3200)

ADOPTED, PASSED AND ORDAINED, BY THE COMMON COUNCIL OF THE CITY OF KNOX, INDIANA, this 23rd day of June, 2020.

COMMON COUNCIL OF THE CITY OF KNOX:

Jeff Berg, Council President

Don Kring, Councilor

Sherry Cowen, Councilor

Bill Gustafson, Councilor

Ron Parker, Councilor

Approved by the Mayor this 23rd day of June, 2020.

Dennis Estok, Mayor

Attest: _____

Cyndi Kidder, Clerk-Treasurer

Motion passed with Five (5) ayes and No (0) nays.

RE: ORDINANCE #2020-OR10 - AMENDING ARTICLE VI TO CHAPTER 4 SECTION 254 OF ORDINANCE #1141 - BUILDING DEPARTMENT FEES - SECOND AND FINAL READING

A motion was made to approve the 2nd and final reading of Ordinance #2020-OR10 by Jeff Berg and seconded by Bill Gustafson.

ORDINANCE NO. 2020 – OR 10

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF KNOX, STARKE COUNTY, INDIANA, AMENDING ARTICLE VI TO CHAPTER 4 SECTION 254 OF ORDINANCE 1141, OF THE MUNICIPAL CODE, TO REVISE AND ESTABLISH CERTAIN BULIDING DEPARTMENT FEES

WHEREAS, it is in the best interest of the City of Knox, Indiana, to collect fees for services rendered by the Building Department of the City of Knox, Indiana; and

WHEREAS, the Common Council of the City of Knox, Indiana, deems it necessary to periodically review and revise the fees charged the public by the Knox Building Department to ensure that the fees are fair, consistent, and appropriate; and

WHEREAS, the Common Council, after due review and consideration of the recommendations made by the Knox Planning Commission, finds that the current fee charged by the Knox Building Department should be revised.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KNOX, INDIANA, TO WIT:

SECTION 1. That the Code of Ordinances, City of Knox, Indiana, is hereby amended by adding line item “g” to Article VI, Chapter 4-254, titled “Fines” reading as follows:

Article VI Building Department Fees

Sec. 4-251. Fines

(g) Any violation not specifically set out in paragraphs (a) through (f) shall be assessed at specific amounts applied and set out in Ordinance No. 2020 – OR 10.

SECTION 2. Any fees or charges not listed in this Ordinance which are contained in or promulgated pursuant to any concurrent ordinance or resolution shall remain in full force and effect unless and until duly modified.

SECTION 3. All fees and charges contained in any concurrent ordinance or resolution inconsistent herewith, are hereby repealed to the extent of such inconsistency, but in all other respect such ordinances and resolutions shall remain in full force and effect.

SECTION 4. The sections and provisions of this ordinance are declared to be severable and any portion which is declared inoperative or invalid for any reason by a court of competent jurisdiction shall in no way affect the remaining section or provisions of this ordinance.

SECTION 5. This ordinance does not affect any fee established prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance, and does not affect the validity of any bond or cash deposit posted, filed, or deposited pursuant to the requirements of any ordinance.

SECTION 6. This ordinance shall become effective and be in full force and effect after its passage and approval by the Mayor.

Motion passed with Five (5) ayes and No (0) nays.

RE: MAYOR’S REPORT

- Rieth-Riley has begun paving and milling.
- Chickens in the City? An ordinance is in the books, it is very lacking. Further discussion at the next meeting.
- Superintendent George Byer retired last Wednesday June 17 after many years with the City.
- 1st movie in the Park is June 24, “Play Mobil” starts at 8:30 pm CST.
- 1st concert in the Park is July 18 at 6:00 pm. 10-56 Brewery will be there. Jerry O’Fonics.
- Fall Bash is still on for September 19, 2020 in the Park with Alumni Reunion, Chili Cook off, Corn Hole Tournament and the band “Magic Bus”.
- COVID Grant - no release of funds yet. There is an OCRA meeting tomorrow. 27 businesses to receive funding in the City.

RE: COUNCIL ITEMS

Council President Jeff Berg spoke about the Veteran's Memorial fund raiser. Memorial pavers can be purchased at \$150.00 & up. Donations are welcome.

RE: CITIZENS COMMENTS

Jacque Ryan with the Starke County Leader asked about costs for street paving. The City does not have a total cost yet. She also commented how the mural is being worked on finally.

RE: VOUCHERS AND ALLOWANCES

The following properly filed vouchers (See Voucher Docket, Voucher #29176 - #29263) were presented and approved.

There being no further business to come before the Council at this time the meeting upon motion was duly adjourned.

Dennis Estok, Mayor

Attest: _____
Cyndi Kidder, Clerk-Treasurer