

An Ordinance to repeal, amend and re-ordain Section 34-38 of the Code of the Town of Altavista, 1968, relating to civil penalties.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-38 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-38. ~~Penalties for violation of article~~ Civil penalties

~~Any person violating the provisions of this article shall be guilty of a Class 3 misdemeanor.~~

A. Each business day a public nuisance continues after the date set by the town council for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, responsible party or parties who fail to comply with a notice issued pursuant to this section requiring them to abate a nuisance shall be subject to civil penalties as follows:

- (1) \$50 for the first violation or violations arising from the same set of operative facts; or
- (2) \$200 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation.

In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.

B. In the event of such violation the following procedure shall be followed:

1. A summons shall be issued to the person committing such violation. Such summons shall contain the following information:

- a. The name and address of the person charged.
- b. The nature of the infraction and the ordinance provision(s) being violated.
- c. The location, date and time that the infraction occurred or was observed.
- d. The amount of the civil penalty assessed for the infraction.
- e. The manner, location and time in which the civil penalty shall be paid to the Town.
- f. A statement that failure to timely pay the penalty will result in a charge of a Class 4 misdemeanor to be tried in the Campbell County General District Court.

2. The summons shall provide that not later than 7 days after the date the summons is served the person summoned shall pay the civil penalty by making an appearance in person to the Clerk's Office at the Altavista Town Hall, enter an admission

of liability and pay the civil penalty established for the offense charged. Timely payment of the penalty and admission of liability shall preclude the prosecution of a violation as a criminal misdemeanor. Payment of the penalty and admission of liability shall not be considered a criminal conviction for any purpose.

3. If a person summoned for a violation does not admit liability and timely pay the penalty the violation such person shall be charged with a Class 4 misdemeanor and such person shall be tried in the Campbell County General District Court in the same manner and with the same right of appeal as provided by law.

4. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

C. Except as provided in this subsection, the imposition of civil penalties pursuant to subsection A. shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. In the event that three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.