

# RECORD OF ORDINANCES

Ordinance No. 2017-10

November 13, 2017

## City of Bellbrook

### Ordinance No. 2017-10

#### **An Ordinance Amending Article 19 “Enforcement and Penalties” of the Bellbrook Zoning Code.**

WHEREAS, the City of Bellbrook has enacted the Bellbrook Zoning Code; and

WHEREAS, the purpose of the Zoning Code is to protect the peace, health, safety and welfare of the citizens of Bellbrook; and

WHEREAS, the City desires to amend Article 19 “Enforcement and Penalties” of the Bellbrook Zoning Code to allow for the assessment of civil penalties for violations of the Zoning Code; and

WHEREAS, the Bellbrook Planning Board conducted a public hearing on the amendment to the Zoning Code on October 17, 2017; and

WHEREAS, the Bellbrook Planning Board unanimously approved the amendment and recommended adoption by City Council; and

WHEREAS, all amendments to the Zoning Code must be approved by ordinance

#### **Now, Therefore, The City of Bellbrook Hereby Ordains:**

Section 1. That the following amendment to Article 19 “Enforcement and Penalties” of the Bellbrook Zoning Code be approved with additions shown by italics and underlined and deletions shown by strikethrough and brackets:

#### **ARTICLE 19 ENFORCEMENT AND PENALTIES**

##### **19.12 PENALTIES:**

(1) Violation of any provision of this ordinance or any amendment or supplement thereto, or failure to comply with any of the requirements of this [~~ordinance~~] Code may be enforced either through [=] the filing of a misdemeanor complaint or assessment of a civil penalty, or both.

(a) Minor misdemeanor. Except as otherwise provided herein, any person, firm, or corporation violating any of the provisions of this Code, or any amendment or supplement thereto, shall upon conviction of a minor misdemeanor, be fined not more than one hundred dollars (\$100).

(b) Civil penalties. A person who violates any provision set forth in a provision of the Zoning Code has committed a civil offense and is subject to civil penalties. Prior to assessment of a civil penalty, the Zoning Inspector shall issue written notice of the civil violation to the offending person. The notice shall include:

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~~(1) Filing of a misdemeanor complaint; or~~

~~(2) Assessment of a civil penalty; or~~

~~(3) Both.~~

~~Prior to filing a misdemeanor complaint or assessment of a civil penalty, the Zoning Inspector shall issue a written notice of the violation to the offending person. The notice shall include:]~~

(1) The street address of the property subject to the notice of violation;

(2) A description of the violation and the section(s) of the ordinance violated;

(3) Corrective action that will eliminate or correct the violations; ~~and]~~

(4) ~~[A]~~ The reasonable time frame required to correct the violation~~[-];~~

(5) Provide information to the property owner of the right to a hearing before the Board of Zoning Appeals if a request for a hearing is made within twenty (20) days of receipt of the notice;

(6) When applicable, include a statement of the right to file a lien.

(2) The written notice of the violation shall be served by one of the following methods:

(a) delivered personally;

(b) sent by certified mail to the last known address and receiving a return receipt showing delivery of the mailing; or

(c) if the notice is returned showing that the letter was "unclaimed," service by regular mail;

(d) if the notice is returned showing that the letter was not delivered for reason other than "unclaimed," a copy of the notice shall be posted in a conspicuous place in or about the structure affected by such notice.

(3) A person served with a notice of civil violation may request a hearing before the Board of Zoning Appeals to contest the commission of a violation, to offer an explanation of the circumstances, or to offer proof of correction. The request shall be made in writing and received by the city within 20 days of the person's receipt of the notice of violation. The hearing shall be conducted in accordance with the provisions of Article 20 of the Zoning Code. If the person desires the presence, at the hearing, of the Zoning Inspector, the person must request the same in their written response to the notice of civil violation.

If the person served fails to remedy the zoning violation within a reasonable time, if the person admits the offense by written response, or if the person fails to attend a requested hearing, the Zoning Inspector may pursue enforcement as set forth in this section. If the person denies the offense by written response, the person must also request a hearing before the Board of Zoning Appeals.

In accordance with Section 19.15 of the Zoning Code, when a notice of civil violation has been issued pursuant to this section, the following amounts are hereby assessed upon the violator:

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(a) Any violation of the Zoning Code that is a first offense shall be twenty-five dollars (\$25) per day, per offense, or two hundred fifty dollars (\$250) per offense total.

(b) Any violation of the Zoning Code that is a second offense shall be fifty dollars (\$50) per day, per offense, or five hundred dollars (\$500) per offense total.

(c) Any violation of the Zoning Code that is a third offense shall be seventy-five dollars (\$75) per day, per offense, or seven hundred fifty dollars (\$750) per offense total.

~~[If the offending party fails to remedy the zoning violation within a reasonable time, the Zoning Inspector may pursue enforcement as set forth in this section.~~

~~Except as otherwise provided herein, any person, firm or corporation violating any of the provisions of this ordinance, or any amendment or supplement thereto, shall upon conviction of a minor misdemeanor, be fined not more than one hundred dollars (\$100). Except as otherwise provided herein, any person, firm or corporation violating any of the provisions of this ordinance, or any amendment or supplement thereto, may be assessed a civil penalty. The City Council shall establish a schedule of assessed penalties based upon the severity of the violation. The maximum civil penalty shall not exceed fifty dollars (\$50) per day, per offense, or five hundred dollars (\$500) per offense total.]~~

(4) Those who erect signs contrary to the provision of this [ordinance] Code shall be fined upon conviction or assessed by civil penalty not more than ten dollars (\$10) per offense, up to a maximum of four (4) offenses in any twelve (12) month period. Illegal signs are subject to confiscation by the City and will not be returned to the owners until all penalties are satisfied; unclaimed signs shall be held for thirty (30) days and then disposed of as surplus property. Convictions or civil penalties for sign violations in excess of four (4) offenses in a twelve month period shall be fined, upon conviction, or assessed a civil penalty an amount not to exceed twenty-five dollars (\$25) per offense.

Section 2. This ordinance shall take effect and be in force from and after the earliest period provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Robert L. Baird, Mayor

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Jami L. Kinion, Clerk of Council

APPROVED AS TO FORM:

Patricia N. Campbell, Municipal Attorney