

**AN ORDINANCE TO AMEND CHAPTER 43, SECTION 43-8,  
OF THE MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES,  
DELAWARE, RELATING TO BUILDING CONSTRUCTION  
VIOLATIONS AND PENALTIES.**

**WHEREAS**, the Mayor and Town Commissioners of the Town of Henlopen Acres deem it appropriate to declare certain violations of Chapter 43 of the Municipal Code to be civil offenses; and

**WHEREAS**, the Town of Henlopen Acres has adopted, with certain amendments and limitations, the 2003 versions of the International Building Code and the 2003 version of the International Residential Code, and those additions promulgated subsequent to the 2003 additions; and

**WHEREAS**, through this Ordinance, the Mayor and Town Commissioners desire to harmonize the International Codes' "Violations" provisions with Chapter 55 of the Municipal Code, establishing civil offenses; and

**WHEREAS**, the proposed amendments relating to building construction violations and penalties, illustrated with strike-through and underlines in exhibit A attached hereto, will promote the health, safety, and general welfare of the Henlopen Acres community.

**BE IT ORDAINED** by the Mayor and Town Commissioners, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

**Section 1.** Chapter 43, Building Construction, Section 43-8, Violations and penalties; voluntary assessment, of the Municipal Code of the Town of Henlopen Acres, as amended, be and the same is hereby further amended by striking Section 43-8 in its entirety and inserting lieu thereof new Section 43-8 as follows:

**§43-8 Violations and penalties; voluntary assessment.**

- A. For any violation of the provisions of the adopted International Building Codes or Article I of this Chapter, the owner, general agent or contractor of a building or premises where such violations have been committed or shall exist and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist and the owner general agent, contractor, lessee or tenant of any part of a building or premises in which such violation has been committed or shall exist and the general agent, architect, builder contractor or any other person who commits, takes part or assists in any such violation or maintains any building or premises in which such violation shall exist, upon conviction thereof, shall be guilty of a violation of the Building Code and shall be punished by a fine of not less than \$50 nor more than \$500 and shall pay the costs of prosecution, including the Town's reasonable attorney's fees and Victims' Compensation Fund assessment. Each day any violation of any

provision of the Building Code occurs or continues to exist shall constitute a separate violation and shall be subject to a separate fine and the costs of prosecution and assessments as above provided, such cost of prosecution to include the Town's reasonable attorney's fees.

- B. With the consent in writing of the person charged with a violation under the adopted International Building Codes or Article I of this Chapter, the Town Manager or an authorized representative is authorized to accept and receive, without hearing, \$50 if such notice of violation is paid within 48 hours from the date and time of the violation or \$100 as a penalty for such violation if such violation is paid within 72 hours following the violation.
- C. Violation of this chapter shall be deemed a nuisance and may be abated in the same manner provided by the Town for the abatement of any other nuisance in addition to the provisions of this chapter. In addition, any other remedy provided by law, an appropriate actual proceeding, whether by legal process or otherwise, may be instituted or taken to prevent action, construction, repair, or use, or to restrain, or correct, abate such violation to prevent any illegal act, conduct, or use contrary to the terms of this chapter.
- D. Any violation of any provision of this Chapter, other than violations of the adopted International Building Codes and Article I of this Chapter, is declared to be a civil offense and is subject to the voluntary assessment and other procedures described in Chapter 55 of this Code. Any person violating any provision of this Chapter, other than violations of the adopted International Building Codes and Article I of this Chapter, shall pay a civil assessment of \$75 and shall also pay the Town's court costs and expenses, including its attorneys' fees.

**Section 2.** This Ordinance shall take effect immediately upon its adoption by the Mayor and Town Commissioners of the Town of Henlopen Acres.

Adopted by the Commissioners  
of the Town of Henlopen Acres

*April 11*, 2014

*Beatrice D. Richards*  
Secretary of the Commissioners of  
the Town of Henlopen Acres

**SYNOPSIS:** This Ordinance provides certain violations of Chapter 43 are declared civil offenses subject to the procedures for civil offenses set out in Chapter 55 of the Municipal Code.

EXHIBIT A

**§43-8 Violations and penalties; voluntary assessment.**

- A. For any violation of the provisions of the ~~Building Code or this chapter~~ adopted International Building Codes or Article I of this Chapter, the owner, general agent or contractor of a building or premises where such violations have been committed or shall exist and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist and the owner general agent, contractor, lessee or tenant of any part of a building or premises in which such violation has been committed or shall exist and the general agent, architect, builder contractor or any other person who commits, takes part or assists in any such violation or maintains any building or premises in which such violation shall exist, upon conviction thereof, shall be guilty of a violation of the Building Code and shall be punished by a fine of not less than \$50 nor more than \$500 and shall pay the costs of prosecution, including the Town's reasonable attorney's fees and Victims' Compensation Fund assessment. Each day any violation of any provision of the Building Code occurs or continues to exist shall constitute a separate violation and shall be subject to a separate fine and the costs of prosecution and assessments as above provided, such cost of prosecution to include the Town's reasonable attorney's fees.
- B. With the consent in writing of the person charged with a violation under ~~this chapter~~ the adopted International Building Codes or Article I of this Chapter, a ~~member of the Town of Henlopen Acres security,~~ the Town Manager or an authorized representative is authorized to accept and receive, without hearing, \$50 if such notice of violation is paid within 48 hours from the date and time of the violation or \$100 as a penalty for such violation if such violation is paid ~~after the expiration of~~ within 7248 hours following the violation. [PREVIOUSLY SUBSECTION C]
- C. Violation of this chapter shall be deemed a nuisance and may be abated in the same manner provided by the Town for the abatement of any other nuisance in addition to the provisions of this chapter. In addition, any other remedy provided by law, an appropriate actual proceeding, whether by legal process or otherwise, may be instituted or taken to prevent action, construction, repair, or use, or to restrain, or correct, abate such violation to prevent any illegal act, conduct, or use contrary to the terms of this chapter. [PREVIOUSLY SUBSECTION B]
- D. Any violation of any provision of this Chapter, other than violations of the adopted International Building Codes and Article I of this Chapter, is declared to be a civil offense and is subject to the voluntary assessment and other procedures described in Chapter 55 of this Code. Any person violating any provision of this Chapter, other than violations of the adopted International Building Codes and Article I of this Chapter, shall pay a civil assessment of \$75 and shall also pay the Town's court costs and expenses, including its attorneys' fees.