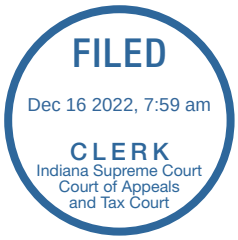
MEMORANDUM DECISION



ATTORNEYS FOR APPELLANT

Michael L. Carmin
Daniel M. Cyr
CarminParker, PC
Bloomington, Indiana

ATTORNEY FOR APPELLEES

Darla S. Brown
Sturgeon & Brown, PC
Bloomington, Indiana

IN THE COURT OF APPEALS OF INDIANA

Robert Lowers,

Appellant-Defendant,

v.

Town of Ellettsville, and Town of Ellettsville, Indiana Plan Commission,

Appellees-Plaintiffs.

December 16, 2022

Court of Appeals Case No. 22A-PL-1416

Appeal from the Monroe Circuit Court

The Honorable Geoffrey J. Bradley, Judge

Trial Court Cause No. 53C01-1901-PL-244

Brown, Judge.

[1] Robert Lowers appeals the trial court's order requiring him to clean up his property and pay certain fines. We affirm.

Facts and Procedural History

[2] In 2008, Lowers acquired a property, zoned as single-family residential, in Ellettsville, Indiana. On September 8, 2017, the Department of Planning ("Department") of the Town of Ellettsville ("Town") sent Lowers a Request for Compliance, noting violations of the Town's zoning code ("Code") including building an addition without obtaining a building permit, "[b]uilding an addition within a setback and/or fence that is too tall," and stating the property would be re-inspected in October. Appellee's Appendix Volume II at 4. In the letter, the Department included photos and identified a "glass structure located on the second or main level of the east side of the residence," ("Structure One") and a separate addition or fence ("Structure Two"), the purpose of which the Department could not determine because it lacked a roof and other distinguishing features. *Id.* at 3.

[3] On November 14, 2017, the Department sent Lowers a Notice of Violation alleging violations of the Code, including "[n]ot obtaining the proper Site improvement Permit," "[p]arking a truck on the rear lawn which can cause soil rutting and erosion," reiterating the violations stated in the September Request for Compliance, and stating the property would be reinspected in November. *Id.* at 6. The notice further stated the penalties under violations one and two, for not obtaining a building permit, would be "three times the applicable permit

fee, not to exceed $300, for each offense," and two through four were violations of Class E ordinances and would be "subject to a fine of $25 for each offense," and "[s]eparate offenses shall be deemed committed on each day during or on which a violation occurs or continues . . . ." *Id.* at 7. On February 16, 2018, the Town sent another letter stating that, after a February inspection, there was a potential violation for trash and debris, and it reiterated the violations contained in the September and November letters.

[4] On January 31, 2019, the Town filed a complaint against Lowers alleging violations of the Code, including: Count I, failure to obtain an improvement location permit; Count II, building an addition within a setback and a failure to obtain an improvement location permit; Count III, constructing a fence that exceeds the maximum height requirements; Count IV, improper outdoor storage of discarded, broken or disabled items; Count V, failure to obtain a proper site improvement permit; and Count VI, parking vehicles in such a way as to cause soil rutting and erosion. The Town also requested a permanent injunction under Count VII, a continuous enforcement order under Count VIII, and attorney fees under Count IX.

[5] On December 17, 2020, the Town sent another Notice of Violation alleging that Lowers had failed to rectify the violations identified in the previous letters and noting previously unidentified, prohibited fencing exceeding four feet in height in the front yard of the house.

[6] In June 2021, the court held a bench trial at which the Town's Director of Planning, Kevin Tolloty, testified regarding the violations associated with Lowers's property including the lack of a building permit, Structure Two violating the ten-foot setback, and debris on the property, which included: "trash bags," "various storage containers," "an old hot tub," "discarded building materials," propane tanks, a suspended boat, unused chicken wire or fencing, "a trailer full of trash," a "wall plank," an unused satellite dish, screens, a camper used to store items, bicycles, "disabled" propane tanks, and a toilet. Transcript Volume II at 52-53, 63, 223, 228. The court admitted aerial photographs depicting the property over several years and many photographs demonstrating its condition. A neighbor, James Parrott, testified that the debris on Lowers's property continued to "grow and grow and grow" over time. *Id.* at 135. He indicated the "clutter" was "an absolute tinder box," and Lowers's attempt "to turn trailers into mobile cabins . . . [was] just more stuff to start a fire, [and] hoard junk." *Id.* at 134. Lowers testified some items were displays that had been on the property more than seventy-two hours, and he had a "great wall of fame, shame and claim" that included "a bat and stuff like that," and a welding helmet and a paintball face mask. *Id.* at 194-195.

[7] On November 22, 2021, the court entered an order enjoining Lowers from further violating the Code, ordering him to clean up his property, obtain a building permit, and remove Structure Two, implementing a continuous

enforcement order authorizing the Town to abate any forthcoming violations, and ordering him to pay attorney fees and $140,800 in fines.

Discussion

[8] Lowers argues the trial court failed to make special findings of fact and that the findings are largely a mere recital of the allegations in the complaint. Without citation to the record, he argues there was no breach of the Code related to the ten-foot side yard setback, construction of fences, storing of trash, the payment of a zoning compliance fee, or parking of a vehicle on a rear lawn. He also challenges the court's imposition of fines.

[9] The grant or denial of an injunction is discretionary, and we will not reverse unless the trial court's action was arbitrary or constituted a clear abuse of discretion. *Dierckman v. Area Planning Comm'n of Franklin Cnty., Ind.*, 752 N.E.2d 99, 104 (Ind. Ct. App. 2001), *trans. denied*. An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances or if the trial court misinterprets the law. *Id.* A party seeking an injunction for a zoning violation must prove: (1) the existence of a valid ordinance and (2) a violation of that ordinance. *Id.*

[10] When a court has made special findings of fact, as the trial court did here, we review sufficiency of the evidence using a two-step process. *Yanoff v. Muncy*, 688 N.E.2d 1259, 1262 (Ind. 1997). First, we must determine whether the evidence supports the trial court's findings of fact. *Id.* Second, we must determine whether those findings of fact support the trial court's conclusions of

law. *Id.* We do not reweigh the evidence but consider only the evidence favorable to the trial court's judgment. *Freese v. Burns*, 771 N.E.2d 697, 700-701 (Ind. Ct. App. 2002), *reh'g denied*, *trans. denied*. Findings will be set aside only if they are clearly erroneous. *Yanoff*, 688 N.E.2d at 1262. "Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference." *Id.* A judgment is clearly erroneous if it applies the wrong legal standard to properly found facts. *Id.* In order to determine that a finding or conclusion is clearly erroneous, an appellate court's review of the evidence must leave it with the firm conviction that a mistake has been made. *Id.*

[11] With respect to Lowers's argument that "[t]he trial court's order is nearly devoid of any findings of fact" or constitutes a "mere recital of the allegations of Plaintiff's Complaint," Appellant's Brief at 13, we note the trial court entered a twelve-page order. In its findings, the court found "Lowers obtained no permit" for the glass addition to the second story of his house and "fail[ed] to remedy the Town Code violations," and the court ultimately found the following:

> The evidence is undisputed that Lowers declined to take any abatement measures and declined to clarify the purposes of the structures located on the east side of his property for the Planning Department. The evidence is also undisputed that Lowers did not obtain the required permits after receiving several letters from the Planning Department, and did not move a substantial amount of property from [his] property.

Appellant's Appendix Volume II at 14, 16. We cannot say the trial court's order lacked findings or constituted a mere recital of the Town's complaint.

[12] To the extent Lowers asserts there was no breach of the Code related to the setback, fences, trash, compliance fee, or parking, we observe that, while he cites to the record in his statement of facts, Ind. Appellate Rule 46(A)(8)(a) requires citation to the record in the argument section. *See* Ind. Appellate Rule 46(A)(8)(a) ("Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22."). His failure to provide supporting citations compelled this Court to locate the same material in his statement of facts in his thirty-page brief and then review the citations in his statement of facts.[1] This burdensome process has impeded our review. It is not the duty of this Court to search these materials to find support for his arguments. To the extent his arguments are based on portions of his statement of facts that do not contain citations to the record, when the facts upon which he is relying are unclear, or where he does not develop a cogent argument, we find that his arguments are waived. *See Legacy Healthcare, Inc. v. Barnes & Thornburg*, 837 N.E.2d 619, 639 n.29 (Ind. Ct. App. 2005) (noting that the court on appeal will not "scour the record in search of evidence in support [of an appellant's] claims"), *reh'g denied*, *trans. denied*. To the extent that Lowers's statement of facts or argument cites

[1] In his reply brief, Lowers does not cite to the record and includes only citations to his initial brief and the Town's brief.

relevant portions of the record, we will attempt to address the merit of his arguments.

[13] Lowers alleges the evidence is insufficient on Counts I, II, and V which alleged that he failed to acquire a building permit for structures on the east side of his house and did not pay a zoning compliance review fee. Lowers does not claim he ever acquired a permit or paid the associated fees but instead asserts "[t]here was no finding or interpretation of the code that the plastic covering constituted a roof and, therefore, that the glass structure constituted a regulated structure that required a building permit," and he argues the evidence was unclear about "what compliance review fee or zoning review fee was required." Appellant's Brief at 21, 23. We note the Code requires a building permit:

> to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building structure or make any installation, alteration, repair, or replacement, or remodel any building service equipment regulated by this chapter without first obtaining a separate, appropriate permit for each building, structure, or building service equipment from the Building Official.

Appellant's Appendix Volume II at 47. Code § 150.27(d) further requires "[t]here shall be a town zoning and compliance review fee of $25 per application and a charge of $.05 per square foot for residential, commercial and industrial buildings." Appellee's Appendix Volume II at 62. During his testimony, Director Tolloty read into the record, without objection, the definition of "structure" according to the Code, which "is anything constructed,

installed or erected which requires location on the grounds or attachment on something having location on the ground including but not limited to buildings, walls, fences and signs." Transcript Volume II at 20.[2] Director Tolloty testified and referred to an aerial photo, stating with respect to Lowers's residence that "[e]verything outside of that with the red hash through those are the portions or the additions onto the house that a building permit was never applied for or site improvement permit was never applied for and we would like to see removed." *Id.* at 73. He stated that Lowers had not applied for any permits. Lowers testified Structure One was "a greenhouse," described his construction technique as assembling, erecting, or "post construction," and defined the post-construction technique as "[y]ou stand [a] post up and then you put your purlins and then you go ahead and put your sheeting on it and that's a structure. . . . [E]verything in here is post-construction." *Id.* at 148, 150. He later stated the structures were a solarium, gym, and wall. When asked on cross-examination why he never sought a permit, Lowers testified: "I took something apart and put it back up," and "I didn't build anything." *Id.* at 213.

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[2] To the extent Lowers claims that Code § 150.07 generally exempted him from acquiring a permit, we note the section was repealed May 11, 2020, but at the relevant time provided the following:

> no section or provision in this subchapter is to be interpreted as prohibiting a property owner from doing work on a residence which he or she owns and which he or she lives or plans to live. Property for resale is not included in this exemption. Permits are required when work or construction equals or exceeds the scope set forth in this subchapter.

Appellant's Appendix Volume II at 138. This provision can coexist with other provisions of the Code by authorizing property owners to work on their home in circumstances limited to those not requiring a permit. It does not justify the lack of a building permit nor does it release Lowers from adhering to all other applicable Code provisions.

The trial court held that the Town's "Exhibit 8 shows a glass structure of some type being added on to Lowers's house, which appears to have a roof, and which is attached to the main structure," "[t]his type of construction requires a building permit," and "[t]he evidence is also undisputed that Lowers did not obtain the required permits . . . ." Appellant's Appendix Volume II at 16, 19. We cannot say that the evidence is unclear or insufficient to support the conclusion that Lowers was required to obtain a building permit or that he did not pay the fees associated with acquiring a permit or that the trial court did not make required findings.

[14] With respect to Lowers's assertion that the evidence was insufficient to support the allegation in Count II that he breached Code § 150.190(B)(1) by violating the ten-foot side yard setback, we note that it appears Lowers was fined only under Count II for the failure to acquire a building permit. Regardless, Code § 150.190(B)(1) provides that a side yard will have a setback of ten feet. Director Tolloty testified Lowers's property had a ten-foot setback requirement for a side yard, and he believed Structure Two was "within ten feet of the property line and . . . [was the] property owner's responsibility during the building permit process, which obviously was skipped in this case, to show where that property line is so that the building inspector can make an accurate measurement . . . ." Transcript Volume II at 34. He indicated that Structure Two violated the ten-foot setback based on his viewing of the property and the county's geographic information system. The court admitted photographs of Structure Two and

aerial photographs denoting the property line. The evidence is sufficient to support Count II.

[15] To the extent Lowers alleges no evidence satisfied Count III or demonstrated that he breached Code § 152.054(B) by constructing a fence or wall more than six feet in height in the ten-foot side yard setback area, Code § 152.054(B) states, "[a] fence, hedge, or wall located on a side or rear yard area shall have a maximum height of six feet within the side and rear yard setback . . . ." Appellee's Appendix Volume II at 58. Director Tolloty testified that he believed Structure Two and a newer fence "constructed along the eastbound lanes of I-4, State Road 46," exceeded six feet in height. Transcript Volume II at 59. The court admitted a request for compliance sent to Lowers on September 8, 2017, which included a photo of Structure Two, aerial photos of the property over multiple years, and pictures of the wall and fence. In response to Lowers's testimony that the wall no longer existed, Director Tolloty testified that was not his understanding and that "[i]t may have been dressed up but it's still there." Appellee's Appendix Volume II at 241. We cannot say the evidence is insufficient to support Count III.

[16] To the extent Lowers alleges the evidence does not support Count IV, improper outdoor storage of discarded, broken, or disabled items, we note that Lowers agrees "[t]he objects complained of by Ellettsville were admittedly located exterior to [his] residential structure," but he claims "each item had a purpose," and he further alleges the Town did not establish a seventy-two-hour period during which trash was continuously on the lawn. Appellant's Brief at 22.

Code § 152.065 provides "[t]he purpose of this section is to protect the health, safety and welfare of the residents of Ellettsville and to adopt an administrative procedure for the abatement of public nuisances," and disallows "outdoor storage of discarded, broken or disabled items, including, but not limited to, household fixtures, furniture, appliances, toys, vehicle parts, building materials, tools, machinery parts or other items that are not in functioning condition; unless properly stored and secured within a storage shed or garage." Appellee's Appendix Volume II at 16. Code § 152.068(C) prohibits the storage of certain items in one's yard as blight, including:

> [a]ny household appliances or items, but not limited to, indoor furniture, construction debris in an area visible from a street or public right-of-way or in an area accessible to the public or any part of any of the listed items for 72 consecutive hours in an area visible from a street or public right-of-way or in an area accessible to the public. This section does not prohibit the storing or maintaining of: (i) furniture designed and used for outdoor activities; or (ii) any item stored or kept within an enclosed storage structure or unit in compliance with the Town of Ellettsville Municipal Code[.]

Id. at 17. The Town sent Lowers a notice of violation on February 16, 2018, stating that he had trash and debris on his property. In its December 17, 2020 notice of violation, the Town noted a "copious amount of trash/debris that ha[d] accumulated on" Lowers's property. *Id.* at 68. Lowers testified that he kept a "claim, fame and shame wall" for aesthetic purposes with which he displayed materials including a bat, welding helmet, and paintball face mask. Transcript Volume II at 194-195. On cross-examination, he indicated the

presence of wall planks, an unused satellite dish, unattached screens, and a camper shell in which he stores items, and when asked if the items had been on his property for more than seventy-two hours, he stated "[t]hey're displays, of course." *Id.* at 227. He further stated that the bicycles on his property were "art," and the propane tanks were "disabled." *Id.* at 228. Director Tolloty testified that, "[a]t various times, we've seen trash bags on the property, we've seen various storage containers, in addition I believe it's an old hot tub . . . [and] discarded building materials," propane tanks, a suspended boat, unused wire fencing that had "been there for several months," "a trailer full of trash," a toilet, "scattered building materials," and he discussed the accompanying photographs. *Id.* at 52-53, 63, 240. He agreed that Lowers had "stored on his property household appliances or items, included but limited [sic] to indoor furniture, construction debris in an area visible from the street or the public right away [sic] or in an area accessible to the public for 72 hours." *Id.* at 237. He further stated the property's condition has not improved since the 2017 notice or the initiation of the suit in 2019 despite "a few mild attempts but [the property] quickly went back to the previous condition." *Id.* at 54. A neighbor, Parrott, testified about Lowers's "accumulation of stuff," stating "[i]t just continues to grow and grow and grow." *Id.* at 135. There is sufficient evidence supporting Count IV.

[17] With respect to Lowers's allegation that the evidence is insufficient to support Count VI, related to the parking of vehicles in violation of Code §§ 152.062 and 152.224, he contends there was "no evidence that the occasion of a truck

parking on the lawn . . . was done in such a manner as to cause rutting or soil erosion," and "[t]here was refuted evidence from [him] that his temporary parking of the truck on the lawn for unloading did not cause rutting and did not expose soils to erosion." Appellant's Brief at 23. Code § 152.062 provides that "[n]o vehicle shall cause visible rutting on lawns in the moving to and from or in a manner as to create soil erosion, a fire or safety hazard." Appellee's Appendix Volume II at 65. Code § 152.224 provides that "[p]arking for single-family residential uses shall be prohibited within the setback between the street and the building except on a single driveway," and "[p]arking on any other portion of the setback between the street and the building or on a lawn shall be prohibited unless on an improved surface." *Id.* at 64. A photograph taken by the Department on October 27, 2017, showed a vehicle parked on the south lawn of Lowers's property. In its November 14, 2017 notice of violation, the Town informed Lowers of a Code violation for parking a truck on the rear lawn. In its December 17, 2020 letter, the Town again made Lowers aware of this violation, noting that "a vehicle has been periodically observed parking on the lawn of the State Road 46 side of your property," and that "[p]arking a vehicle on the lawn can cause soil rutting and erosion." *Id.* at 68-69. Parrott testified that Lowers's truck "could be in the back, it could be in the front," and it might "sit still for days at a time" on the property. Transcript Volume II at 134. The evidence is sufficient on Count VI.

[18] To the extent Lowers argues that the fines levied were excessive, he claims that "Ind. Code § 36-1-3-8 provides that a government unit does not have the power

to fine more than $7,500 for a second or subsequent violation of the ordinance," the fine is unreasonable and "unsupported by the findings of fact and conclusions of law," the court "did not determine a time period" or a "flat fine or fee" for the violations, and the court increased the severity of the offense. Appellant's Brief at 26, 28. He further argues the penalty for Count V, the failure to pay a zoning compliance review fee of twenty-five dollars, should have been limited to $300.

[19] Ind. Code § 36-1-3-8 provides, in part:

> (a) Subject to subsection (b), a unit does not have the following:
>
> * * * * *
>
> (10) The power to prescribe a penalty of a fine as follows:
>
> * * * * *
>
> (B) For a violation of any other ordinance:
>
> (i) more than two thousand five hundred dollars ($2,500) for a first violation of the ordinance; and
>
> (ii) except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance.
>
> * * * * *
>
> (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

[20] In *Siwinski v. Town of Ogden Dunes*, the Indiana Supreme Court stated:

Indiana Code section 36-1-3-8 was amended in 2005 and added subsection (ii), "except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance." P.L. 200-2005, Sec. 4. This issue requires statutory interpretation. The first step of statutory interpretation is determining if the legislature has spoken clearly and unambiguously on the point in question. *St. Vincent Hosp. and Health Care Ctr., Inc. v. Steele*, 766 N.E.2d 699, 703-704 (Ind. 2002). A statute is unambiguous if there is no more than one interpretation. *Elmer Buchta Trucking, Inc. v. Stanley*, 744 N.E.2d 939, 942 (Ind. 2001). We presume the legislature intended its logical application of the language used, so as to avoid an unjust result. *Bolin v. Wingert*, 764 N.E.2d 201, 204 (Ind. 2002). This Court will not construe an ordinance "so as to defeat its purposes 'if it is sufficiently definite to be understood with reasonable certainty.'" *Fulton Cnty. Advisory Plan Comm'n v. Groninger*, 810 N.E.2d 704, 708-709 (Ind. 2004) (quoting *Burrell v. Lake Cnty. Plan Comm'n*, 624 N.E.2d 526, 529 (Ind. Ct. App. 1993), *trans. denied*).

While *Dierckman v. Area Planning Comm'n of Franklin Cnty., Ind.*, 752 N.E.2d 99 (Ind. Ct. App. 2001), *trans. denied*, was decided prior to the 2005 amendment, we still find its holding constructive in our statutory interpretation. In *Dierckman*, the statute in effect at that time provided a municipality did not have the power to prescribe a penalty of more than Two Thousand Five Hundred Dollars ($2,500.00) for an ordinance violation. *Id.* at 106. *Dierckman* held the code section "prohibits [a municipality] from charging more than $2,500 for an ordinance violation. The provision does not make $2,500 the maximum aggregate penalty or otherwise limit a county's power to fine an offender for each of multiple offenses." *Id.* at 106.

The Siwinskis argue that the 2005 amendment was in response to the *Dierckman* decision. However, the 2005 amendment did not limit, nor did it address aggregate liability. If that were the case, the statute would be written "second *and any* subsequent *violations*

> of the ordinance."[3] As written, the statute is not ambiguous. The statute does not address aggregate liability. The first offense of an ordinance violation is a fine of not more than $2,500. The second offense of an ordinance violation is a fine of not more than $7,500. A subsequent offense of an ordinance violation is a fine or not more than $7,500, and so forth. Since the Siwinskis rented out their home on five occasions, their fine could add up as follows: (1) $2,500, (2) $7,500, (3) $7,500, (4) $7,500, and (5) $7,500 for a total of $32,500.

949 N.E.2d 825, 831-832 (Ind. 2011).

[21] To the extent Lowers asks us to reconsider *Siwinski*, we note that we are bound by the decisions of the Indiana Supreme Court. *Dragon v. State*, 774 N.E.2d 103, 107 (Ind. Ct. App. 2002) (citing *In re Petition to Transfer Appeals*, 202 Ind. 365, 376, 174 N.E. 812, 817 (1931)), *trans. denied*. The precedent it establishes is binding upon us until it is changed either by that Court or by legislative enactment. *Id.* While Ind. Appellate Rule 65(A) authorizes this Court to criticize existing law, it is not this Court's role to "reconsider" Indiana Supreme Court decisions. *Id.*

[22] Code § 152.36 provides:

> Any person, firm, or corporation violating any of the provisions of this chapter shall be fined $25 for each offense. Separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any person(s), company,

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[3] We note that, despite subsequent amendments, the statute continues to read that a unit does not have the power to prescribe a penalty "except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance." Ind. Code § 36-1-3-8(a)(10)(B)(ii).

> business or non-profit organization that violates any of the provisions of this section commits a Class E ordinance violation.

Appellee's Appendix Volume II at 14. Code § 10.99 provides:

> (A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
>
> (B) If a person violates a provision of this code and the violation is not specifically designated, defined, or classified as an ordinance violation, the person commits a class E ordinance violation.
>
> * * * * *
>
> (D) (1) For a violation of this code or any ordinance of the Town of Ellettsville, a judgment or fine of not more than:
>
> > (e) $25 may be entered for a violation constituting a class E ordinance violation.

Appellant's Appendix Volume II at 56.

[23] The trial court entered judgment in favor of the Town "for the total sum of one Hundred Forty Thousand Eight Hundred Dollars ($140,800.00) in fines." *Id.* at 134. The Code states that each day a violation occurs or continues shall constitute a separate ordinance violation, and the Town may fine twenty-five dollars a day for class E violations. Here, the Town's calculation of fines for Counts III, IV, and V determined the violations under those counts were class E

violations and occurred over a total of 1,364 days. We cannot say the severity of the violations was increased, that the court improperly fined Lowers for subsequent ordinance violations, or that Count V should have been limited to $300, and we cannot say the imposed fines violated the statutory limits.

[24] As for Lowers's claim the fines are unreasonable and unsupported by the findings, we note "[r]easonable penalties may be imposed by ordinances and statutes when authorized in order to induce compliance with their terms." *Whitewater Valley Canoe Rental, Inc. v. Bd. of Franklin Cnty. Comm'rs*, 507 N.E.2d 1001, 1009 (Ind. Ct. App. 1987), *reh'g denied, trans. denied*. Lowers received the first letter notifying him of the violations of the Code on September 8, 2017. He received three subsequent letters on November 14, 2017, February 16, 2018, and December 17, 2020, detailing further violations and reminding him of his previously identified violations. Director Tolloty testified the letters were sent in 2017, the conditions resulting in the violations worsened, the conditions have not improved since the initiation of the lawsuit in 2019, and he referenced the admitted aerial photos demonstrating the progression of the property's condition. According to the Town's calculation of fines adopted by the trial court, due to the continuing nature of his violations, Lowers violated the Town's ordinances approximately 5,626 times over multiple years. As previously discussed, the counts were supported by the evidence, and the court found the following:

> The evidence is undisputed that Lowers declined to take any abatement measures and declined to clarify the purposes of the

> structures located on the east side of his property for the Planning Department. The evidence is also undisputed that Lowers did not obtain the required permits after receiving several letters from the Planning Department, and did not move a substantial amount of property from the 1119 W. Main Street property.

Appellant's Appendix Volume II at 127. The court adopted the Town's calculation of fines and entered judgment in the total amount sought by the Town of $140,800. We cannot conclude the fines were unreasonable or unsupported by the court's findings. *See Dierckman*, 752 N.E.2d at 102 (finding the operation of a junkyard and allowing "smoke, debris, and fumes to penetrate nearby residential areas in violation of the Zoning Code" supported a fine of $150,000).

[25] For the foregoing reasons, we affirm the trial court's order.

[26] Affirmed.

Altice, J., and Tavitas, J., concur.