

## INTRODUCTION

State law changes in Indiana impact many provisions in the ordinance codes of Indiana municipalities. This pamphlet is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Indiana municipalities.

This pamphlet is current through the 2017 First Regular Session of the 120th General Assembly.

Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist municipal attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Indiana must be consulted as to the applicability of a given statute or case to a particular situation.

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## GENERAL PROVISIONS

1. *Preemption.* A municipality may not regulate conduct that is regulated by a state agency, except as expressly granted by statute or prescribe a penalty for conduct constituting a crime or infraction under statute. See IC 36-1-3-8(a)(7), (a)(8).
2. *Penalty for ordinance violations.*
  - a. A municipality may not prescribe a penalty of imprisonment for an ordinance violation. See IC 36-1-3-8(a)(9).
  - b. Subject to certain exceptions, a municipality may not prescribe a fine for a violation of an ordinance of more than \$2,500.00 for a first violation of the ordinance or more than \$7,500.00 for a second or subsequent violation of the

ordinance. See IC 36-1-3-8(a)(10), (c).

### **BUILDINGS AND BUILDING REGULATIONS**

1. *State standards control.* The state fire safety and building code constitutes minimum statewide standards. Local ordinances are permitted only if they are more stringent or detailed and do not conflict with state code; such ordinances are subject to state approval. See IC 22-13-2-3, 22-12-2-5.
2. *Rent control.* Local rent control ordinances are prohibited. See IC 32-31-1-20.

### **BUSINESSES**

1. *Massage.* Subject to certain exceptions, a municipality may not adopt an ordinance relating to the licensure, certification, or registration of massage therapists. See IC 25-21.8-8-1 et seq.

### **ENVIRONMENT**

1. *Notice of environmental restrictive ordinances.* The state must be given notice prior to the adoption, amendment or repeal of an environmental restrictive ordinance and the statutory notice requirements must be stated in the ordinance. IC 36-1-2-4.7, 36-1-6-11.

### **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *Fireworks.* Local regulation of fireworks is restricted. See IC 22-11-14-10.5.
2. *Juvenile curfew.* Ordinances altering the state juvenile curfew are restricted. See IC 31-37-3-1 et seq.
3. *Firearms.* Local regulation of firearms is restricted. See IC 10-14-3-33.5.

### **PLANNING AND ZONING**

1. *Manufactured homes.* Comprehensive plans and land use ordinances regulating manufactured homes are restricted. See IC 36-7-4-1106.
2. *Group homes for children and child care homes.* Zoning ordinances regulating group homes for children and child care homes are restricted. See IC 36-7-4-1107, 36-7-4-1108.
3. *Applicability of standards adopted after permit application filed.* The applicability of ordinances, development standards, regulations and approvals adopted, granted or promulgated after a request for approval of a development permit is restricted. See IC 36-7-4-1109.

### **SIGNS**

1. *Signs during election season.* Sign ordinances have limited applicability in the election season. See IC 36-1-3-11.
2. *Substitution of noncommercial copy.* The owner of any sign that is otherwise allowed by ordinance may substitute noncommercial copy in place of any other commercial or noncommercial copy. See IC 36-7-4-1109(h).

## **TAXATION**

1. *Wheel tax.* Municipal wheel taxes on motor vehicles are restricted. See IC 6-3.5-11.

## **TRAFFIC AND VEHICLES**

1. *Commercial vehicles.* Except as authorized by law, a municipality may not adopt or enforce an ordinance that requires an operator of a commercial motor vehicle to obtain a permit from the municipality to operate the commercial motor vehicle within the municipality. See IC 9-20-6-14.