

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 2016 Second Regular Session of the 119th 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.

Copyright

This state law pamphlet is copyrighted by Municipal Code Corporation. Copyright is not claimed as to any part of the original work prepared by a state government officer or employee as part of that person's official duties. No part of this state law pamphlet may be copied, downloaded, stored in a retrieval system, further transmitted, or otherwise reproduced, stored, disseminated, transferred, or used, in any form for commercial purposes, without the express written consent of Municipal Code Corporation.

Prepared by
Roger D. Merriam, Senior Code Attorney

;Copyrighted material
Municipal Code Corporation. 2016.

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 is 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.

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 31-37-3-4, 31-37-3-5.
3. *Firearms.* Local regulation of firearms is restricted. See IC 37-47-11.1, 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 36-7-3-1107, 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.

TAXATION

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