

IC 36-1-6

Chapter 6. Enforcement of Ordinance

IC 36-1-6-1

Application of chapter

Sec. 1. This chapter applies to all municipal corporations having the power to adopt ordinances.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-6-2

Action to bring compliance with ordinance conditions; expense as lien against property; enforcement of delinquent fees and penalties

Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. Continuous enforcement orders (as defined in IC 36-7-9-2) can be enforced and liens may be assessed without the need for additional notice. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

- (1) ten thousand dollars (\$10,000) for real property that:
 - (A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or
 - (B) is unimproved; or
- (2) twenty thousand dollars (\$20,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

- (1) a list of delinquent fees and penalties that are enforceable under this section, including:
 - (A) the name or names of the owner or owners of each lot or

- parcel of real property on which fees are delinquent;
 - (B) a description of the premises, as shown on the records of the county auditor; and
 - (C) the amount of the delinquent fees and the penalty; or
- (2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.50-2002, SEC.1; P.L.144-2003, SEC.1; P.L.177-2003, SEC.2; P.L.131-2005, SEC.5; P.L.88-2006, SEC.7; P.L.194-2007, SEC.8; P.L.88-2009, SEC.5.

IC 36-1-6-3

Proceeding to enforce ordinance; law applicable

Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

- (1) an admission of violation before the violations clerk under IC 33-36; or

(2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

(c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.

As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.108, SEC.39; P.L.177-1988, SEC.8; P.L.130-1991, SEC.35; P.L.1-1998, SEC.202; P.L.98-2004, SEC.159.

IC 36-1-6-4

Civil action by municipal corporation; action by court

Sec. 4. (a) A municipal corporation may bring a civil action as provided in IC 34-28-5-1 if a person:

(1) violates an ordinance regulating or prohibiting a condition or use of property; or

(2) engages in conduct without a license or permit if an ordinance requires a license or permit to engage in the conduct.

(b) A court may take any appropriate action in a proceeding under this section, including any of the following actions:

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Issuing a continuous enforcement order (as defined in IC 36-7-9-2).

(4) Ordering the suspension or revocation of a license.

(5) Ordering an inspection.

(6) Ordering a property vacated.

(7) Ordering a structure demolished.

(8) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).

(9) Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.

(10) Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.

(11) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.194-2007, SEC.9; P.L.88-2009, SEC.6.

IC 36-1-6-5

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-6

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-7

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-8

Repealed

(Repealed by Acts 1981, P.L.108, SEC.40.)

IC 36-1-6-9

Enforcement of ordinances through administrative proceedings; appeal

Sec. 9. (a) The legislative body of a county or municipality may adopt an ordinance providing that certain other ordinances may be enforced through a proceeding before an administrative body of the county or municipality.

(b) An ordinance adopted under subsection (a) must designate the following:

- (1) The ordinances that may be enforced through an administrative proceeding.
- (2) The administrative body before which the proceeding may be brought.

(c) An ordinance may not be designated under subsection (b) for enforcement through an administrative proceeding unless the ordinance restricts or prohibits actions harmful to the land, air, or water, governs use of the public way, or governs the standing or parking of vehicles.

(d) In a proceeding to enforce an ordinance brought before an administrative body designated under subsection (b):

- (1) a violation of the ordinance must be proven by a preponderance of the evidence; and
- (2) the administrative body may not impose a penalty other than a fine in an amount within the limit set forth in IC 36-1-3-8(a)(10).

(e) A person who receives a penalty under subsection (d) may appeal the order imposing the penalty to a court of record in:

- (1) the county that brought the enforcement proceeding if the proceeding is brought by a county; or
- (2) the county in which the municipality is located if the proceeding is brought by a municipality.

(f) An appeal under subsection (e) from an order imposing a penalty must be filed not more than sixty (60) days after the day on which the order is entered.

As added by P.L.130-1991, SEC.36. Amended by P.L.64-1992, SEC.8; P.L.308-1995, SEC.1; P.L.149-2016, SEC.93.

IC 36-1-6-10

Establishing election districts; effect of order or ordinance on right of incumbent to continue to serve in office

Sec. 10. (a) This section applies to:

- (1) an ordinance adopted by a unit; or
- (2) an order adopted by a county redistricting commission under IC 36-2-2 or IC 36-2-3;

to establish executive, fiscal, or legislative body election districts within the unit.

(b) Except as otherwise provided in the ordinance or order, the ordinance or order takes effect immediately upon passage. However, a previously adopted ordinance or order establishing election districts remains in effect for the purpose of filling a vacancy in the executive, fiscal, or legislative body until the expiration of the term of that office.

(c) A reference in the ordinance or order to the boundary of a political subdivision, a precinct boundary, or an election district boundary refers to the precinct or boundary as the precinct or boundary existed on the date of adoption of the ordinance or order. A change in the boundary of a political subdivision, precinct, or election district following the date of adoption of the ordinance or order does not alter the boundaries of the election districts established by the ordinance or order.

(d) The adoption of an ordinance or order does not affect the right of an individual serving as a member of the executive, fiscal, or legislative body of the unit to continue to serve in office until the expiration of the member's current term specified under state law.

As added by P.L.3-1995, SEC.152. Amended by P.L.3-1997, SEC.449; P.L.176-1999, SEC.131; P.L.169-2015, SEC.170.

IC 36-1-6-11

Notices to department of environmental management concerning environmental restrictive ordinances; waiver of notice; ordinance must state notice requirements, but is not void for failure to state

Sec. 11. (a) Subject to subsection (e), the legislative body of a municipal corporation shall:

- (1) subject to subsection (b), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and
- (2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(b) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (a)(1).

(c) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (a).

(d) The failure of an environmental restrictive ordinance to comply with subsection (c) does not void the ordinance.

(e) The notice requirements of subsection (a) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (a) as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

As added by P.L.78-2009, SEC.22. Amended by P.L.159-2011, SEC.43.