

TOWN OF GREENVILLE  
ORDINANCE NO. 2012-MO-031

**ORDINANCE PROHIBITING THE SALE OF SUBSTANCES  
CONTAINING SYNTHETIC CANNABINOIDS AND THEIR USE WITHIN  
THE TOWN OF GREENVILLE, INDIANA**

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of public health, safety and welfare, has deemed it necessary that the Town develop an Ordinance which forbids the sale of substances containing synthetic cannabinoids and their use within the Corporate limits of the Town of Greenville;

WHEREAS, I.C. 36-8-2-4 authorizes "Sec. 4, A unit may regulate conduct, or use, or possession of property, that might endanger the public health, safety, or welfare"; and

WHEREAS, the Town of Greenville Council have been made aware that substances containing synthetic cannabinoids are, or have been, marketed, sold or offered for sale to the residents of Floyd County, Indiana including minors; and

WHEREAS, local law enforcement personnel have noted an increased use of synthetic cannabinoids, currently marketed and sold under the name of "K2" and "Spice", by the citizens of Floyd County, Indiana; and

WHEREAS, products containing synthetic cannabinoids have not been tested by the Food and Drug Administration (U.S. Department of Agriculture) or other governmental regulatory agency for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, medical studies and treatises note various health risks and adverse effects associated with the use of synthetic cannabinoids and products that contain them; and

WHEREAS, many states and municipalities throughout the United States have banned K2, Spice, and synthetic cannabinoids as a danger to public health and welfare; and

WHEREAS, the smoke emanating from the burning or incineration of synthetic cannabinoids, K2, and Spice may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, it has been determined that it is in the best interest of the Town of Greenville to prohibit the sale, marketing, or offering for sale of synthetic cannabinoids within the incorporated limits of the Town of Greenville, so as to protect the health, safety and welfare of the citizenry and their children,

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**DEFINITIONS:**

**1. Synthetic Cannabinoids;**

**IC 35-41-1-26.3**

"Synthetic cannabinoid"

Sec. 26.3. "Synthetic cannabinoid" means a substance containing one (1) or more of the following chemical compounds:

- (1) JWH-015 ((2-Methyl-1-propyl-1H- indol-3-yl)-1-naphthalenylmethanone).
- (2) JWH-018 (1-pentyl-3-(1-naphthoyl)indole).
- (3) JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole).
- (4) JWH-073 (naphthalen-1-yl-(1-butylylindol-3-yl)methanone).
- (5) JWH-081 (4-methoxynaphthalen- 1-yl- (1-pentylindol- 3-yl)methanone).
- (6) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- (7) JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)- naphthalen-1-ylmethanone).
- (8) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole).
- (9) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole).
- (10) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- (11) HU-210 ((6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen- 1-ol).
- (12) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)- 6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol).
- (13) HU-308 ([ (1R,2R,5R)-2-[2,6-dimethoxy-4- (2-methyloctan- 2-yl)phenyl]- 7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).
- (14) HU-331 ((3-hydroxy-2- [(1R,6R)-3-methyl-6- (1-methylethenyl)-2 -cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione).
- (15) CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]- 5- (2-methyloctan-2-yl)phenol).
- (16) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5- (2-methyloctan-2-yl)phenol) and its homologues.
- (17) WIN 55212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de)- 1,4- benzoxazin- 6-yl]-1-naphthalenylmethanone).
- (18) RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone).
- (19) RCS-8 (1-(1-(2-cyclohexylethyl)-1H- indol-3-yl)-2-(2-methoxyphenyl)ethanone).
- (20) 4-Methylmethcathinone. Other name: mephedrone.
- (21) 3,4-Methylenedioxy-methcathinone. Other name: methylone.
- (22) Fluoromethcathinone.
- (23) 4-Methoxymethcathinone. Other name: methedrone.
- (24) 4-Ethylmethcathinone (4-EMC).
- (25) Methylenedioxypropylvalerone. Other name: MDPV.

As added by P.L.138-2011, SEC.10; P.L.182-2011, SEC.10.

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**2. Possession;**

**IC 35-48-4-10**

Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Sec. 10. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Class D felony if:

- (A) the recipient or intended recipient is under eighteen (18) years of age;
- (B) the amount involved is more than thirty (30) grams but less than ten (10) pounds of marijuana or more than two (2) grams but less than three hundred (300) grams of hash oil, hashish, salvia, or a synthetic cannabinoid; or
- (C) the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid; and

(2) a Class C felony if the amount involved is ten (10) pounds or more of marijuana or three hundred (300) or more grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or the person delivered or financed the delivery of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977,

P.L.340, SEC.105; Acts 1979, P.L.303, SEC.11; Acts 1982, P.L.204, SEC.38; P.L.296-1987, SEC.11; P.L.165-1990, SEC.12; P.L.296-1995, SEC.9; P.L.65-1996, SEC.17; P.L.17-2001, SEC.26; P.L.138-2011, SEC.16; P.L.182-2011, SEC.16.

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**IC 35-48-4-11 Version a**

Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Note: This version of section amended by P.L.138-2011, SEC.17. See also following version of this section amended by P.L.182-2011, SEC.17.

Sec. 11. A person who:

(1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;

(2) knowingly or intentionally grows or cultivates marijuana; or

(3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor. However, the offense is a Class D felony (i) if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or (ii) if the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.138-2011, SEC.17.

**IC 35-48-4-11 Version b**

Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Note: This version of section amended by P.L.182-2011, SEC.17. See also preceding version of this section amended by P.L.138-2011, SEC.17.

Sec. 11. A person who:

(1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;

(2) knowingly or intentionally grows or cultivates marijuana; or

(3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or if the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.182-2011, SEC.17.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GREENVILLE, INDIANA, AS FOLLOWS:

1. "Sale of Synthetic Cannabinoids Prohibited", is hereby adopted to read as follows:

(A) Products containing synthetic cannabinoids such as K2/Spice, or similar products which contain one or more of the following chemical compounds:

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- (1) (6aR, 10aR)-9-(hydroxymehtyl)-6, 6dimethyl-3-(2methybctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-a-ol, also known as HU-210;
- (2) 1-Pentyi-3-(1-naphthoyl) indole, also known as JWH-018;
- (3) 1-utyl-3-(1-naphthoyl) indole, also known as JWH-073;
- (4) Any other equivalent compound or derivative shall not be sold, marketed, or offered for sale within the incorporated Town of Greenville, Indiana;
- (b) Products containing synthetic cannabinoids may not be burned, incinerated or ignited in any public or private place, or on any property owned, leased or controlled by the Town of Greenville, Indiana.

**ENFORCEMENT TOWN OF GREENVILLE, INDIANA:**

Enforcement of this Ordinance shall be pursuant to I.C. 36-1-6-1, I.C.36-1-6-2, I.C.36-1-6-3, I.C.36-1-6-4, I.C. 34-28-6-1 or a successor statute if said statute is repealed.

Fines and Penalties;

(1) Persons or entities violating the provisions of this Ordinance shall be guilty of an infraction and shall be punishable by:

- (a) A fine of Fifty Dollars (\$50.00) for the first violation per container per days of sales;
- (b) A fine of One Hundred Fifty Dollars (\$150) for the second violation per container per days of sales;
- (c) A fine of Three Hundred Dollars (\$300) for the third violation per container per days of sales; and
- (d) A fine of One Thousand Dollars (\$1,000) for fourth and subsequent violations per container per days of sales.
- (e) If, after multiple violations by the same person or entity, the Town of Greenville Prosecuting Attorney and the Greenville Marshal Department have reasons to believe that the imposition of fines will not be effective in enforcing this Ordinance; the Town of Greenville Prosecuting Attorney shall be empowered to seek all other remedies provided by law.

2. If levied fines are not paid within 30 days, a lien will be sought against person or person's responsible real estate in accordance with I.C. 36-1-6-2.

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4. Furthermore, if levied fines are not paid within thirty {30} days the Town may cause to be certified to the County Auditor as a charge against the taxes due and payable to the County Treasurer in the following year together with Attorney Fees and Court Cost in accordance with IC 36-1-6-2 or successor statute, if said statute is repealed.
5. The Town of Greenville may pursue any and all penalties described in I.C. 36-1-6-3 in addition to the penalties described in I.C. 36-1-6-4, or a successor statute if said statute is repealed.
6. All penalties shall be processed through the Floyd County Clerk;
7. Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.
8. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.
9. The Town of Greenville Clerk Treasurer shall attach a copy of the publication and related information to the original signed Ordinance and a PDF file shall be added to the electronic file copy of this Ordinance.
10. The sections paragraphs, sentences, clauses, phrases and words off this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**ENFORCEMENT STATE OF INDIANA:**

1. Indiana State Excise Police News Release

302 West Washington Street, Room E112 ~ Indianapolis, IN 46204  
Telephone: (317) 232-2469 ~ Fax: (317) 233-6114  
[www.in.gov/atc](http://www.in.gov/atc)

For Immediate Release

Contact Person: Officer Travis Thickstun  
tthickstun@atc.in.gov  
(317) 232-2469

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**Enforcement of K2/Spice in Tobacco Shops**

Indianapolis, Ind. – Indiana State Excise Police officers have begun enforcing a new statute that prohibits possession of, or dealing in, synthetic cannabinoids, also know as K2 or Spice.

Effective July 1, 2011, Indiana Code 35-48-4 was amended to make it unlawful for a person to possess or deal in salvia, or a synthetic cannabinoid (see attached statutes).

Businesses found in violation of I.C. 35-48-4-10 are subject to having their Tobacco Sales Certificate revoked (pursuant to I.C. 25-1-1.1-3) and criminal prosecution for dealing as a Class D Felony. It's a Class C Felony if within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center.

Please contact your local Excise Police office for additional information or to file a complaint on a business in violation of this new statute.

Indiana State Excise Police is the enforcement division of the Indiana Alcohol & Tobacco Commission. While excise officers are empowered by statute to enforce any state law, they focus primarily on alcohol, tobacco and related violations. You can now follow the Indiana State Excise Police on Twitter (@ExcisePolice) or Facebook.

IC 35-48-4-10

Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

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- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Class D felony if:

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(A) the recipient or intended recipient is under eighteen (18) years of age;

(B) the amount involved is more than thirty (30) grams but less than ten (10) pounds of marijuana or more than two (2) grams but less than three hundred (300) grams of hash oil, hashish, salvia, or a synthetic cannabinoid; or

(C) the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid; and

(2) a Class C felony if the amount involved is ten (10) pounds or more of marijuana or three hundred (300) or more grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or the person delivered or financed the delivery of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid:

(A) on a school bus; or

(B) in, on, or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.105; Acts 1979, P.L.303, SEC.11; Acts 1982, P.L.204, SEC.38; P.L.296-1987, SEC.11; P.L.165-1990, SEC.12; P.L.296-1995, SEC.9; P.L.65-1996, SEC.17; P.L.17-2001, SEC.26; P.L.138-2011, SEC.16; P.L.182-2011, SEC.16.

IC 35-48-4-11

Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Sec. 11. A person who:

(1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;

(2) knowingly or intentionally grows or cultivates marijuana; or

(3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor. However, the offense is a Class D felony (i) if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or (ii) if the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.138-2011, SEC.17.

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ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE 11th DAY  
OF JUNE, 2012.

PRESIDENT OF THE TOWN  
COUNCIL OF GREENVILLE,  
INDIANA

  
TALBOTTE RICHARDSON,

  
JACK TRAVILLIAN,  
CLERK/TREASURER

PREPARED BY: RANDAL JOHNES

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IC 36-1-6

Chapter 6. Enforcement of Ordinances

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 instalment 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.

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(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.L 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.I. Amended by Acts 1981, P.L.108, SEC.39; P.L.I77-1988, 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.

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- (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 IC36-1-3-8(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 34-28-6-1

Prosecution in name of state or municipality; rules; limitations; burden of proof; deferral programs; agreement for community restitution or service

Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and (B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection. As added by P.L 1-1998, SEC.24. Amended by P.L98-2000, SEC.12; P.L98-2004, SEC. 123; P.L 176-2005, SEC.24; P.L200-2005, SEC./