

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-048

**ORDINANCE CONCERNING THE REGISTRATION OF RETAIL
MERCHANT CERTIFICATES WITHIN THE TOWN OF GREENVILLE,
INDIANA**

WHEREAS, the town council for the Town of Greenville, Indiana, in the interest of the Public and Retail Merchant relationship within the Corporate limits of the Town of Greenville;

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

Whereas, given that US 150 Corridor permits areas only listed as Industrial, Light Industrial, Commercial and Mixed Use on the Comprehensive Land Use Map adopted by Resolution 2009-R-037

Whereas, The Greenville Town Council receives complaints concerning these retail businesses. The Greenville Town Council deems it appropriate to require the following from the Town of Greenville Retail Merchants.

1. For the purpose of this ordinance a Retail Merchant shall be a merchant as described in I.C. 6-2.5-3-1 {C}.
2. That the Retail Merchant complies with I.C. 6-2.5-8-1 Sec.1 {A}, {F}, {H} as a Registered Retail Merchant certified by a State of Indiana Registered Retail Merchant's Certificate.
3. The Retail Merchant shall keep a valid copy of their Registered Retail Merchant's Certificate on file at the Greenville Town Hall, and posted as stated on the Registered Retail Merchant Certificate.
4. The Greenville Town Council Clerk shall compile a list of these Merchants with valid dates of their Registered Retail Merchant's Certificate and its expiration date.
5. The Greenville Town Council requests that these retail Merchants be considerate of any resident whose property adjoins their business. The Merchant should realize that the resident who adjoins their business is their home and they have the right not to be forced to view a Merchants property that is unsightly.

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6. If complaints continue against a Retail Merchant the Greenville Town Council shall require that the Retail Merchant receiving the complaints erect a privacy fence as a buffer zone between them and the complaining resident as long as it does not impair the view of the travelling public.

7. If a Retail Merchant has not filed a copy of their Registered Retail Merchant Certificate with the Greenville Town Council Clerk, and a complaint has been received by the Greenville Town Council, the Merchant shall not be considered a Retail Merchant and all Town of Greenville Ordinances and Resolutions will apply.

ENFORCEMENT:

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

Fines and Penalties:

1. Any violations of above item 6 above shall be subject to a Fifty US Dollar {\$50.00} fine per day until privacy fence as a buffer zone is erected, plus Attorney Fees and Court Cost.

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.

3. 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.

4. No penalty shall be levied for violation of this Ordinance, nor shall any action be taken by the Town to bring the real property into compliance with this Ordinance, unless all persons holding a substantial interest in the property are given a reasonable opportunity to bring the property into compliance.

5. Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.

6. This Ordinance replaces Ordinance 2007-T-027 dated March 12th, 2007. Ordinance 2007-T-027 shall be moved to the voided Ordinance file after passage of this Ordinance.

7. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.

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8. 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.

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
16th DAY OF AUGUST, 2010.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA


TALBOTTE RICHARDSON,


JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY:
TALBOTTE RICHARDSON

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IC 6-2.5-8

Chapter 8. Registration

IC 6-2.5-8-1

Registered retail merchant's certificate

Sec. 1. (a) A retail merchant may not make a retail transaction in Indiana, unless the retail merchant has applied for a registered retail merchant's certificate.

(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars (\$25) for each place of

business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where the retail merchant makes retail transactions. However, if the retail merchant

does not have a fixed place of business, the retail merchant shall list the retail merchant's residence as the retail merchant's place of business. In addition, a public utility may list only its principal

Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions

other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for

each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued. If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, the retail merchant must file a supplemental application and pay the fee for that place of business.

(e) A registered retail merchant's certificate is valid for two (2) years after the date the registered retail merchant's certificate is originally issued or renewed. If the retail merchant has filed all

returns and remitted all taxes the retail merchant is currently obligated to file or remit, the department shall renew the registered retail merchant's certificate within thirty (30) days after the

expiration date, at no cost to the retail merchant. The department may not renew a registered retail merchant certificate of a retail merchant who is delinquent in remitting sales or use tax. The department, at least sixty (60) days before the date on which a retail merchant's registered retail merchant's certificate

expires, shall notify a retail merchant who is delinquent in remitting sales or use tax that the department will not renew the retail merchant's registered retail merchant's certificate.

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(h) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

- (1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;
- (2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and
- (3) any other information that the department requests.

(i) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, the out-of-state retail merchant must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that the out-of-state retail merchant knows is intended for use in Indiana.

(j) Except as provided in subsection (k), the department shall submit to the township assessor, or the county assessor if there is no township assessor for the township, before July 15 of each year:

- (1) the name of each retail merchant that has newly obtained a registered retail merchant's certificate between March 2 of the preceding year and March 1 of the current year for a place of business located in the township or county; and
- (2) the address of each place of business of the taxpayer in the township or county.

(k) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, the department shall submit the information listed in subsection (j) to the county assessor.

As added by Acts 1980, P.L.52, SEC.1. Amended by Acts 1982, P.L.50, SEC.1; P.L.42-1984, SEC.4; P.L.57-1985, SEC.2; P.L.2-1997, SEC.23; P.L.11-2006, SEC.1; P.L.219-2007, SEC.91; P.L.146-2008, SEC.316

**Information Maintained by the Office of Code Revision Indiana Legislative Services
Agency IC 6-2.5-3**

Chapter 3. Use Tax

Sec. 1. For purposes of this chapter:

- (a) "Use" means the exercise of any right or power of ownership over tangible personal property.
- (b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.

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(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property or services for use, storage, or consumption in Indiana and who:

(1) maintains an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by the retail merchant or through a representative, agent, or subsidiary;

(2) maintains a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary of the retail merchant, sells, delivers, installs, repairs, assembles, sets up, accepts returns of, bills, invoices, or takes orders for sales of tangible personal property or services to be used, stored, or consumed in Indiana;

(3) is otherwise required to register as a retail merchant under IC 6-2.5-8-1; or

(4) may be required by the state to collect tax under this article to the extent allowed under the Constitution of the United States and federal law.

(d) Notwithstanding any other provision of this section, tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a commercial printer for printing; and

(2) located at the premises of the commercial printer;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any way by the person. A commercial printer with which a person has contracted for printing shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

As added by Acts 1980, P.L.52, SEC.1. Amended by P.L. 70-1993, SEC.2; P.L.81-2004, SEC.3.

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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
Hen 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.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.

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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 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.