

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

**ORDINANCE CONCERNING THE REGULATING OF YARD SALES,
GARAGE SALES AND AUCTION SALES WITHIN THE CORPORATE
LIMITS OF THE TOWN OF GREENVILLE, INDIANA**

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of public safety, has deemed it necessary that the town develop an Ordinance to regulate yard sales, garage sales, moving sales and auction sales held within the Corporate Limits of the Town of Greenville.

**RULES OF COMPLIANCE FOR YARD SALES, MOVING SALES, AND
GARAGE SALES:**

Definition of a Moving Sale for the purpose of this Ordinance;

A Moving Sale shall be a sale that is required by a resident because they are relocating to a different residence within or outside of the Greenville Corporate Limits. A Moving Sale shall be a sale that the person or persons conducting such sale do not have a retail merchant certificate displayed for that business and does not collect State of Indiana Sales Taxes at the location of the sale. Person or persons who have a retail merchant certificate displayed and collect State of Indiana Sales Taxes shall not be in violation with this section of Ordinance 2010-T-055.

- A permit is not required to have a moving sale within the corporate limits of the Town of Greenville, Indiana. However contacting the Greenville Town Marshal's Department is required. Information to be provided to the Greenville Marshal's Department is as follows:
 - 1} Marshal Department to be notified a minimum of one week prior to moving sale.
 - 2} Location.
 - 3} Date of Moving sale.

- Moving Sale shall be allowed for a period of time not to exceed sixty continuous days from the start of the moving sale. Person or persons can request an extension beyond sixty days by requesting to speak before the Greenville Town Council at its monthly meeting to request such extension. Request shall be made in writing no later than one week prior to meeting by contacting the Greenville Water Clerk.

- Moving Sale hours are limited to not before 9:00 AM and no later than 6:00 PM.

- No blocking of public streets, roadways or alleyways will be permitted.

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

- Failure to contact the Greenville Marshal's Department will result in the following;
 - 1} The moving sale can be closed at the discretion of the Greenville Town Marshal or the Greenville Town Council President.
 - 2} If failure to comply with the closing of the moving sale will require Greenville Marshal's Department to obtain a court order to close the moving sale. A fine of fifty dollars per day {\$50.00} will occur for each day the moving sale remains open after Marshal issuing the citation to close while obtaining a court order to close the moving sale. If levied fines are not paid within 30 days then a lien will be sought against person's property plus attorney fees and court cost who is the operator of the moving sale in accordance with I.C. 36-1-6-1, 36-1-6-2, 36-1-6-3 and 36-1-6-4.

Definition of Yard Sales or Garage Sales for the purpose of this Ordinance;

A Yard Sale or Garage Sale shall be a sale that the person or persons conducting such sale do not have a retail merchant certificate displayed for that business and does not collect State of Indiana Sales Taxes at the location of the sale. Person or persons who have a retail merchant certificate displayed and do collect State of Indiana Sales Taxes shall not be in violation with this section of Ordinance 2010-T-055.

- A permit is not required to have yard sales or garage sale within the corporate limits of the Town of Greenville, Indiana. However contacting the Greenville Town Marshal's Department is required. Information to be provided to the Greenville Marshal's Department is as follows;
 - 1} Marshal Department to be notified a minimum of one week prior to yard sale or garage sale.
 - 2} Location.
 - 3} Date of yard sale or garage sale.
- Only one yard sale or garage sale will be allowed per month.
- Yard sales or garage sales hours are limited to not before 9:00 AM and no later than 6:00 PM.
- Yard sales or garage sales days are limited to Friday, Saturday and Sunday. Unless the day is an official recognized holiday then a yard sale and garage sale can be held on that day.
- No blocking of public streets, roadways or alleyways will be permitted.

TOWN OF GREENVILLE ORDINANCE NO. 2010-T-055

- Failure to contact the Greenville Marshal's Department will result in the following;
 - 1} First offence; a warning citation will be issued by the Greenville Marshal's Department.
 - 2} Second offence etc.; a citation for the amount of fifty dollars {\$50.00} will be issued and the yard sale or garage sale will be closed.
 - 3} If failure to comply with the closing of the yard sale or garage sale will require Greenville Marshal's Department to obtain a court order to close the yard sale or garage sale. A fine of fifty dollars {\$50.00} per day will occur for each day the yard sale or garage sale remains open after Marshal issuing the citation while obtaining a court order to close the yard sale or garage sale. If levied fines are not paid within 30 days then a lien will be sought against person's property plus attorney fees and court cost who is the operator of the yard sale or garage sale in accordance with I.C. 36-1-6-1, 36-1-6-2, 36-1-6-3 and 36-1-6-4.

RULES OF COMPLIANCE FOR AUCTION SALES:

Definition of Auction House for the purpose of this Ordinance;

Auction House shall be a facility that the person or persons conducting such auction sale have a retail merchant certificate displayed for that business and collects State of Indiana Sales Taxes at the location of the auction sale. Person or persons who have a retail merchant's certificate displayed and collect State of Indiana Sales Taxes shall be considered an Auction House Facility and not be in violation of this Ordinance 2010-T-055.

- Auction Houses that are in a permanent location with their own parking facilities within the Corporate Limits of The Town of Greenville are exempted from this ordinance
- A permit is not required to have an auction sale within the corporate limits of the Town of Greenville, Indiana. However contacting the Greenville Town Marshal's Department is required. Information to be provided to the Greenville Marshal's Department is as follows;
 - 1} Marshal Department to be notified a minimum of one week prior to sale.
 - 2} Location.
 - 3} Date of auction sale.
 - 4} Time of auction sale.
- A verbal waiver may be obtained from the Greenville Marshal's Department to allow parking to block streets, roadways and alleyways in the immediate auction area. This waiver does not apply to US150. The Auction House conducting the auction shall provide security personnel at the Auction House expense {off duty Law Enforcement Members from Floyd County but preferably from the Greenville Marshal Department} to barricade

TOWN OF GREENVILLE ORDINANCE NO. 2010-T-055

streets, roadways or alleyways and direct traffic during the auction sale if this verbal waiver has been obtained.

- Failure to contact the Greenville Marshal's Department will result in the following;
 - 1} First offence; a warning citation will be issued by the Greenville Marshal's Department.
 - 2} Second offence etc.; a citation for the amount of fifty dollars {\$50.00} will be issued and the auction sale will be closed.
 - 3} If failure to comply with the closing of the auction sale will require Greenville Marshal's Department to obtain a court order to close auction sale. A fine of fifty dollars per day will occur for each day the auction sale remains open after Marshal issuing the citation while obtaining a court order to close the auction sale. If levied fines are not paid within 30 days then a lien will be sought against person's property plus attorney fees and court cost who is the owner of the Auction House who is conducting the auction sale in accordance with I.C. 36-1-6-1, 36-1-6-2, 36-1-6-3 and 36-1-6-4.
 - 4} After passing of this Ordinance the Greenville Town Clerk shall mail a copy of the signed Ordinance 2010-T-055 to local Auction Houses.

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. 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.
2. 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.
3. 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.
4. Furthermore, if fines have not been paid within thirty {30} days after the aforesaid ten, the Town may cause to be certified to the County Auditor as a charge against the taxes due and

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

payable to the County Treasurer in the following year in accordance with IC 36-1-6-2 or successor statute, if said statute is repealed.

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

6. This Ordinance replaces Ordinance 2009-T-007 dated May 18th, 2009. Ordinance 2009-T-007 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.

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.

9. Any unlawful provision found in this ordinance shall not effect the remaining provision.

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
30th DAY OF AUGUST, 2010.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA


TALBOTTE RICHARDSON,

JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY:
RANDAL JOHNES

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

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.

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

(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.

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-055

- (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 34-28-5-1

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.L.98-2000, SEC.12; P.L.98-2004, SEC. 123; P.L. 176-2005, SEC.24; P.L.200-2005, SEC.*