

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-063

**ORDINANCE CONCERNING THE REGULATING OF NEW
CONSTRUCTION TO INCLUDE CONCRETE CURBS, CONCRETE
SIDEWALKS, GRASSY AREA AND GUARD RAILS 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 a Resolution which requires the installation of Concrete Curbs, Concrete Sidewalks, Grassy Areas and Guard Rails 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:

Definition: New construction means: A structure{s} erected on a vacant lot, or a lot where existing structure{s} has been raised to allow for new construction. It does not mean a lot where structure{s} addition is being preformed, additional structure{s} being added to a lot that has an existing structure{s}, or dwelling, occupied for the purpose of a residence or commercial use.

1. This Resolution applies to all new construction projects, residential or commercial, unless noted otherwise.
2. All Town streets and roadways that continuously border property where new construction is being preformed shall have the following {state properties are exempted};
 - Shall have continuous 5 ½" high 3500 psi concrete curd installed at edge of all streets, alleyways and roadways. Construction must meet or exceed State of Indiana, Floyd County, Indiana and Local Codes. Exception is where entrance and exit areas are located.
 - Shall have continuous 18" wide grassy area adjoining concrete curd of all streets, alleyways and roadways. Exception is where entrance and exit areas are located.
 - Shall have continuous five foot {5 ft.} wide 3500 psi reinforced 3½" thick concrete walkway over gravel fill adjoining grassy area of all streets and roadways. Construction must meet or exceed State of Indiana, Floyd County, Indiana and Local Codes. Exception is where entrance and exit areas are located.
 - Commercial structures only shall install a continuous guard rail system at the inside of the continuous concrete sidewalk areas and along grassy areas of alleyways up to the approved entrance and exit areas to prevent entry and exit over curbs, grassy area and walkways.

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ENFORCEMENT:

Enforcement of this Ordinance shall be pursuant to I.C. 36-1-6-2, 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. A violation of any of the above requirements shall cause the construction to be stopped until violations are corrected. If violations are not corrected the Town of Greenville may have the structure removed at the owners expense, including any court cost or attorney fees required in accordance with I.C. 36-1-6-2 and I.C. 34-28-6-1 after 10 day notice, see item 5 below.
2. If costs of removing structure including any court cost or attorney fees 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 plus attorney fees and court cost, 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. The Town shall give all persons holding a substantial interest in any Real property, which is not in compliance with this Ordinance ten {10} days written notice to correct the condition and bring the property into compliance. Such notice may be in person by any member of the Greenville Marshal Department, or by mailing it by registered or certified mail with return receipt requested.
6. That for each day any person or entity shall be in violation of this Ordinance after the ten {10} day period set forth in item {5} above, said person shall be fined an amount equal to the removal cost plus Attorney fees and Court Cost.
7. Furthermore, if the condition of said real estate has not been corrected within thirty {30} days after the aforesaid ten {10} day notice period, 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 in accordance with IC 36-1-6-2 plus attorney fees and court cost, or successor statute, if said statute is repealed.
8. Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.

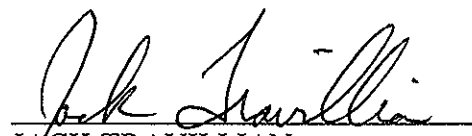
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9. This Ordinance replaces Ordinance 2009-T-039 dated July 13th, 2009. Ordinance 2009-T-039 shall be moved to the voided Ordinance file after passage of this Ordinance.
10. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.
11. 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.
12. Any unlawful provision found in this ordinance shall not effect the remaining provision.

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
31st DAY OF AUGUST, 2010.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA


TALBOTTE RICHARDSON,


JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY:
RANDAL JOHNES

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IC 36-1-6-1 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.

(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:

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- (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 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.

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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.1*