

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-065

ORDINANCE REGULATING NUISANCES CREATED BY NOISE

WHEREAS, the Greenville Town residents have expressed their concerns with noise issues in Greenville and;

WHEREAS, Greenville residents stated that their concerns relate to fast motorcycles and loud music and noise emitted from vehicles and homes and;

WHEREAS, the Greenville Town Marshall has no reasonable means to enforce noise issues in the Town;

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

(A) No person shall play, use or operate any machine or device for the producing or reproducing of sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs and cassette players, nor any other machine or tool that produces sound, if such machine, tool or vehicle is located in or on any of the following:

{1} Any public property, including any public right-of-way, highway, building, sidewalk, public space, park or thoroughfare and the sound generated there from is audible 30 feet or more from its source; or

{2} Any private property and the sound generated there from is audible 30 feet or more outside of said property line.

(B) The following are exempted from the provisions of this ordinance:

(1) Sounds emitted from authorized emergency vehicles;

{2} Lawn mowers, weed blowers, garden tractor, construction and repair equipment, go-carts, power tools, when properly muffled, between the hours of 9:00 A.M. and 10:00 P.M. only;

{3} Burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time. Alarms attached to motor vehicles are not included in this exemption.

{4} Events authorized by the Greenville Town Council;

{5} Noise associated with athletic events;

{6} Sounds emitted for emergency purposes;

{7} Sounds associated with legal fireworks;

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{8} Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when such sounds are customary, incidental and within the normal range appropriate for such use;

{9} Garbage collection between the hours of 6 a.m. and 9 p.m.

{10} Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap;

{11} Sounds associated with the operation of aircraft or snow removal equipment;

{C} It shall be unlawful for any person to operate a motor vehicle with a gross vehicular weight less than 8000 lbs which causes excessive noise as a result of a defective or modified exhaust system or as a result of an unnecessary rapid acceleration, de-acceleration, engine revving or tire squealing.

{D} No person shall keep any animal, other than a service animal lawfully used by a handicapped person to accommodate his handicap, which, by causing frequent or long-continuing noise that is audible 30 feet or more from its source when the animal is on public property or 30 or more feet or more outside of a private property line when the animal is on private property, does disturb the comfort or repose of any other person.

ENFORCEMENT:

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 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 with attorney fees and court cost 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. Any prohibited act under the Greenville Noise Ordinance, 2010-T-065, shall incur a fine in the amount of \$100.00 for a first violation, \$200.00 for a second violation and a penalty of \$500.00 for a third and each subsequent offence plus attorney fees and court cost.

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4. In addition to the fine prescribed above, in case the source of the noise violating the ordinance continues for a period of more than three (3) days, or is caused by repeated or habitual activity, the source of such noise may be considered a public nuisance. The Town may, after notice, bring an action to compel compliance with the Ordinance pursuant to IC 36-1 -6-2.

5. The Town may also seek injunctive relief against the operator of any such nuisance pursuant to IC 36-1 -6-4.

6. The Town may seek removal costs and associated expenses and fees, including reasonable attorney fees, against the owner of any real property upon which a noise nuisance is located pursuant to IC 36-1-6-2. If those costs are not paid the town may seek to impose a lien upon the real estate upon which such a nuisance is located.

7. 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.

8. 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 pay imposed fines. 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.

9. Furthermore, if the imposed fines have not been paid 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 with attorney fees and court cost in accordance with IC 36-1-6-2 or successor statute, if said statute is repealed.

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

11. This Ordinance replaces Ordinance 2006-T-58 dated October 9th, 2006 and Ordinance 2006-T-58A dated January 8th, 2007. Ordinance 2006-T-58 and 2006-T-58A shall be moved to the voided Ordinance file after passage of this Ordinance.

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13. 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.

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

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
25th DAY OF OCTOBER, 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

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.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.