

**TOWN OF GREENVILLE
ORDINANCE NO. 2016-TO-026**

ORDINANCE REGULATING NUISANCES CREATED BY NOISE

WHEREAS, the creation of excessive noise and sound within the Town of Greenville (“Town” or “Greenville”) is a detriment to the public health, safety, welfare, and the quality of life within the community; and

WHEREAS, the Greenville Town Council finds that it is in the public interest of Greenville and its citizens to provide for the regulation and control of certain noises within the Town; and

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, loud music, noise emitted from vehicles and homes, and construction sites 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:

1. No person or property owner shall vocalize, play, use, or operate any machine, device, or thing that produces or reproduces sound, including, but not limited to, constant loud or screaming vocalization, loudspeakers, radios, music players, television sets, musical instruments, equipment, or fireworks, nor operate any motor vehicle that contains a modified or defective exhaust system, if such machine, tool, vehicle, or thing is located in or on any of the following:
 - a. Any public property, including any public right-of-way, building, sidewalk, public space, park, or thoroughfare and the sound generated therefrom is (a) audible 50 feet or more from its source, or (b) is at a level of 80 decibels or more when measured on a dB(A) scale from a distance of not less than 15 feet from its source; or
 - b. Any private property and the sound generated therefrom is (a) audible 50 feet or more outside of said property line, or (b) is at a level of 80 decibels or more when measured on a dB(A) scale from a distance of not less than 15 feet from said private property line.
2. It shall be unlawful for a person to produce or initiate, or to be the cause of production of noise in one unit of a multi-unit structure which is audible in another unit of that same multi-unit structure between 10:00 p.m. and 7:00 a.m., except for unintentional noises that cannot be reasonably controlled.
3. No person shall use, operate, or rev up, any automobile, motorcycle, or vehicle in such a manner as to create loud and unnecessary grating, grinding, rattling, or any other noise that is audible above background sounds at a distance of 75 feet or more from the noise source, and which disturbs the peace and quiet of others, between the hours 10:00 p.m. and 7:00 a.m.

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4. It shall be unlawful for any person within a residential zone or within a radius of 500 feet therefrom to carry out or conduct the following activities if such activities create a noise that generates any complaint:
 - a. Between 10:00 p.m. and 7:00 a.m.: the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, trashcans, dumpsters, or similar objects.
 - b. Between 10:00 p.m. and 7:00 a.m. (Monday through Friday), 10:00 p.m. and 8:00 a.m. (Saturday, Sunday and National Holidays):
 - i. The operation or use of heavy construction vehicles and equipment involved in construction, demolition, property maintenance or similar activity, including, but not limited to, bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front end loaders and log skidders;
 - ii. The operation or use of tools, power tools, or construction equipment to include, but not limited to: cement mixers, hammers, staple or nail guns, power tools (i.e. saws, drills, grinders, sanders, chain saws, lawnmowers, electric hedge trimmers, lawn edgers, leaf blowers, and jack hammers), whether involved in construction, demolition, repair, maintenance, or similar activity; and
5. 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.
6. 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 50 feet or more from its source when the animal is on public property or 15 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.

EXEMPTIONS:

The following are exempted from the provision of this section.

1. Sounds emitted from authorized emergency vehicles or sirens.
2. Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts and power tools, when properly muffled between the hours of 7:00 am and 10:00 pm (Monday through Friday), 8:00 am and 10:00 pm (Saturday, Sunday and National Holidays).
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.
4. Town authorized parades, festivals, carnivals, fairs, celebrations, concert performances, scholastic band performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Town Council.
5. Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.

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6. The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, snow removal, leaf collection, repair, or any other work performed or approved by the Town.
7. Sounds emitted by emergency generators in the event of power failure or periodic testing and maintenance.
8. Sounds associated with the use of legal consumer fireworks in accordance with Town of Greenville Ordinance No 2010-T-057.
9. Garbage and refuse equipment not connected to construction activities between the hours of 7:00 am and 10:00 pm.
10. Subject to the other provisions of this section, and any other applicable law, rule or regulation, sounds associated with motor vehicles lawfully operating on Town, County, State, and Federal streets and highways.
11. Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap.
12. Babies, infants, or children crying.
13. Noise associated with common agricultural practices (e.g., grain bin dryers, equipment and activities associated with planting or harvesting).
14. Train horns required by law.

Special Permits:

Applications for a permit for relief from the regulations contained in this ordinance may be made in writing to the Town Council prior to a violation. Any permit granted by the Town Council must be in writing and shall contain all conditions upon which said permit shall be effective. In granting any such permit, may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Enforcement:

1. 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.
2. The Greenville Marshals Department shall enforce this Ordinance.

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, 2016-TO-027, shall incur a written warning for the first violation, fine in the amount of \$100.00 for a second violation, \$200.00 for a third violation and a penalty of \$500.00 for a fourth and each subsequent offence plus attorney fees and court cost.
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

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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.

Severability

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

Superseding Clause

All ordinances or parts of ordinances inconsistent or in conflict with the terms of this Ordinance, including but not limited to previous Greenville Town Ordinance No. 2010-T-065 are repealed.

Effective Date


This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to the laws of the State of Indiana.

1. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.
2. 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.

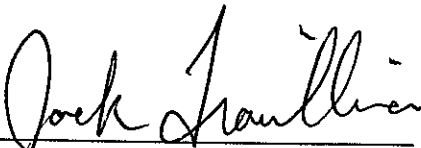
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ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
12th DAY OF SEPTEMBER, 2016.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA



DAVID MOORE,



JACK TRAVILLIAN,
CLERK/TREASURER

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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.

(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

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(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.

(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.

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(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.

motorcycles, loud music, noise emitted from vehicles and homes, and construction sites 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:

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 - a. Any public property, including any public right-of-way, building, sidewalk, public space, park, or thoroughfare and the sound generated therefrom is (a) audible 50 feet or more from its source, or (b) is at a level of 80 decibels or more when measured on a dB(A) scale from a distance of not less than 15 feet from its source; or
 - b. Any private property and the sound generated therefrom is (a) audible 50 feet or more outside of said property line, or (b) is at a level of 80 decibels or more when measured on a dB(A) scale from a distance of not less than 15 feet from said private property line.
2. It shall be unlawful for a person to produce or initiate, or to be the cause of production of noise in one unit of a multi-unit structure which is audible in another unit of that same multi-unit structure between 10:00 p.m. and 7:00 a.m., except for unintentional noises that cannot be reasonably controlled.
3. No person shall use, operate, or rev up, any automobile, motorcycle, or vehicle in such a manner as to create loud and unnecessary grating, grinding, rattling, or any other noise that is audible above background sounds at a distance of 75 feet or more from the noise source, and which disturbs the peace and quiet of others, between the hours 10:00 p.m. and 7:00 a.m.
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 - a. Between 10:00 p.m. and 7:00 a.m.: the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, trashcans, dumpsters, or similar objects.
 - b. Between 10:00 p.m. and 7:00 a.m. (Monday through Friday), 10:00 p.m. and 8:00 a.m. (Saturday, Sunday and National Holidays):
 - i. The operation or use of heavy construction vehicles and equipment involved in construction, demolition, property maintenance or similar activity, including, but not limited to, bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front end loaders and log skidders;
 - ii. The operation or use of tools, power tools, or construction equipment to include, but not limited to: cement mixers, hammers, staple or nail guns, power tools (i.e. saws, drills, grinders, sanders, chain saws, lawnmowers, electric hedge trimmers, lawn edgers, leaf blowers, and jack hammers), whether involved in construction, demolition, repair, maintenance, or similar activity; and
5. 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.
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EXEMPTIONS:

The following are exempted from the provision of this section.

1. Sounds emitted from authorized emergency vehicles or sirens.
2. Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts and power tools, when properly muffled between the hours of 7:00 am and 10:00 pm (Monday through Friday), 8:00 am and 10:00 pm (Saturday, Sunday and National Holidays).
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.
4. Town authorized parades, festivals, carnivals, fairs, celebrations, concert performances, scholastic band performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Town Council.
5. Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto.
6. The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, snow removal, leaf collection, repair, or any other work performed or approved by the Town.
7. Sounds emitted by emergency generators in the event of power failure or periodic testing and maintenance.
8. Sounds associated with the use of legal consumer fireworks in accordance with Town of Greenville Ordinance No 2010-T-057.
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Special Permits:

Applications for a permit for relief from the regulations contained in this ordinance may be made in writing to the Town Council prior to a violation. Any permit granted by the Town Council must be in writing and shall contain all conditions upon which said permit shall be effective. In granting any such permit, may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Enforcement:

1. 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.
2. The Greenville Marshals Department shall enforce this Ordinance.

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, 2016-TO-027, shall incur a written warning for the first violation, fine in the amount of \$100.00 for a second violation, \$200.00 for a third violation and a penalty of \$500.00 for a fourth and each subsequent offence plus attorney fees and court cost.
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