

TOWN OF GREENVILLE
ORDINANCE NO. 2013-TO-061

**ORDINANCE CONCERNING THE REGULATING OF LAND
EXCAVATION WITHIN THE TOWN OF GREENVILLE, INDIANA**

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of preventing land erosion and water run off, has deemed it necessary that the Town develop an Ordinance which forbids excavation on real property within the Corporate limits of the Town of Greenville without prior Greenville Town Council approval and;

WHEREAS, State of Indiana Rule 5, 327-IAC-15-5 requires a permit be obtained for any excavating of one acre or more of land. Permit shall be obtained through The Floyd County Soil and Conservation Department 2524 Corydon Pike, Suite 103 New Albany, Indiana 47150 {Phone: 812-945-9936}.

WHEREAS, the first reading of this Ordinance was completed on 12-09-2013 and a unanimous consent was not achieved, but the vote was 3 in favor and 1 opposed this will be the second and third reading of this Ordinance.

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

Definition of Excavating for the Purpose of this Ordinance

Excavating: 1. To make a hollow by removing the inner part; make a hole or cavity in; form into a hollow, as by digging. 2. To make {a hole, tunnel, etc.} by removing material. 3. To dig or scoop out, {earth, sand, etc.}. 4. To expose or lay bare by digging; unearth, hollow out.

Requirements of Compliance with this Ordinance:

1. Persons or person wishing to excavate a property of one acre or more must contact The Floyd County Soil and Conservation Department to obtain a permit for excavation from the State of Indiana. Persons or person wishing to excavate a property one acre or more shall appear before the Greenville Town Council and present a copy of the State of Indiana Permit for the area to be excavated before excavation can begin.

2. Persons or person wishing to excavate a property for less than an acre must appear before the Greenville Town Council and present a clear and precise drawing plan for the area to be excavated before excavation can begin.

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3. Plan for less than an acre shall address such topics as earth {land} erosion and water run off.
4. Plan for less than an acre shall indicate the purpose required for the excavation.
5. If property is for new construction the person or persons shall present a copy of those plans to the Greenville Town Council along with a plot plan for the location of such structure, it's dimensional location to adjoining properties, and the proposed entry and exits from adjoining Greenville streets and alleyways.

Exempted from this Ordinance

1. Person or persons performing common yard maintenance such as planting trees, shrubs, seeding and re-seeding of grass, etc.
2. The Greenville Water Utility and streets, alleys and roadway maintenance performed by or on the behalf of the Town of Greenville.

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. If failure to comply with this Ordinance will require Greenville Marshal's Department to obtain a court order to stop excavation. A fine of five hundred dollars per day will occur for each day the excavation continues after Marshal issuing the citation while obtaining a court order to stop the excavation. If levied fines are not paid within 30 days then a lien will be sought against person's property, who is the owner of the property being excavated, in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.
2. Persons or person who is the owner or owners of such property shall be responsible for any repair construction work required. Repairs to be completed within 14 days upon notice to correct any damage to roadway {streets, alleyways}, earth {land} erosion and water run off caused by such excavation to the satisfaction of the Greenville Town Council. If the Town of Greenville Council deems it necessary to hire another party to perform such repairs, the owner or owners of such property shall be responsible for those costs. If levied costs are not paid within 30 days then a lien will be sought against person's property, who is the owner of the property being excavated in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.

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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 plus attorney fees and court costs.

4. Furthermore, if the condition has not been corrected within thirty {30} days, 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.

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

6. This Ordinance replaces Ordinance 2010-T-060 dated August 31st, 2010. Ordinance 2010-T-060 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

19th DAY OF DECEMBER, 2013.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA


TALBOTTE RICHARDSON,


JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY: RANDAL JOHNES