

TOWN OF GREENVILLE
ORDINANCE NO. 2010-T-027

**ORDINANCE CONCERNING THE REGULATING OF MOBILE RETAIL
FOOD ESTABLISHMENTS 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 an Ordinance which regulates Mobile Retail Food Establishments 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:

1. Definition of Mobile Retail Food Establishment; A store that sells food, beverages, supplies and has wheels that allows it to be moved from place to place.
2. Rules and Regulations;
 - Permitted only to operate as a business establishment within areas listed as Industrial, Light Industrial, Commercial and Mixed Use on the Comprehensive Land Use Map adopted by Resolution 2009-R-037
 - Shall not be allowed to operate within areas listed as Residential on the Comprehensive Land Use Map adopted by Resolution 2009-R-037.
 - Mobile Retail Food Establishments shall be a stand alone business and not attached to any new or existing residential or commercial structure.
 - Mobile Retail Food Establishments shall have a current retail merchant certificate on file with the Town of Greenville Clerk and posted for public viewing on their Mobile Retail Food Establishment.
 - Mobile Retail Food Establishments shall have a current permit from the Floyd County Health Department on file with the Town of Greenville Clerk and posted for public viewing on their Mobile Retail Food Establishment.

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- Mobile Retail Food Establishments shall post a schedule of days they shall be operating at a location for public viewing on their unit. They shall not operate for more than one {1} day without relocating to Commissary or Service Area in accordance with Indiana Administrative Code 410-IAC-7-24-113. After relocating to Commissary or Service Area for cleaning and inspection they may return to their previous location

- 410 IAC 7-24-113 Mobile Retail Food Establishment

Sec. 113. (a) A mobile retail food establishment must be physically transported to a commissary or servicing area, or both, at least once daily for all:

- (1)supplies;
- (2)cleaning; and
- (3)servicing operations.

(b)A mobile retail food establishment shall comply with this rule except as otherwise provided in this section.

(c)A mobile retail food establishment serving only food prepared, packaged in individual servings, transported, and stored under conditions meeting the requirements of this rule, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with this rule pertaining to the following:

- (1)The necessity of water and sewage systems.
- (2)The cleaning and sanitizing of equipment and utensils if the required equipment for cleaning and sanitizing exists at the commissary; however, frankfurters may be prepared and served from these units without the required cleaning and sanitizing equipment only.

(d)A mobile retail food establishment shall provide only single-service articles for use by the consumer.

(e)A mobile retail food establishment requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand washing, in accordance with this rule.

(f)If liquid waste results from the operation of a mobile retail food establishment, the waste shall be stored in a permanently installed retention tank that is of at least fifteen percent (15%) larger capacity than the water supply tank as specified in section 372 of this rule. Liquid waste shall not be discharged from the retention tank when the mobile retail food establishment is being moved.

(g)For purposes of this section, a violation of subsection (a), (c), (e), or (f) is a critical item,

(h) For purposes of this section, a violation of subsection (b) or (d) is a non-critical item.

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.

1. Fines and Penalties;

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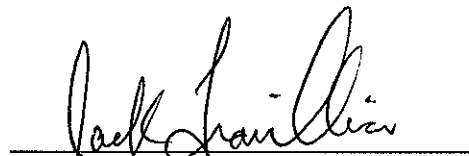
- Any violations of above Rules and Regulations shall require the Mobile Retail Food Establishment to be closed down by the Greenville Marshal's Department until violations{s} are corrected. If Mobile Retail Food Establishment does not comply, the owner or operator of the Mobile Retail Establishment shall be subject to a Fifty US Dollar {\$50.00} fine per day until violations are corrected, plus Attorney Fees and Court Cost.
- 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.
- To operate a Mobile Retail Food Establishment is a privilege within the Corporate Limits of the Town of Greenville. If the owner or operator of a Mobile Retail Food Establishment repeatedly violates the Rules and Regulations of this Ordinance they may be banned from operating a Mobile Retail Food Establishment within the Corporate Limits of the Town of Greenville by a Town of Greenville Resolution voted on and passed by a majority of the Town of Greenville Council Members
- The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage
- 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.
- Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.

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ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE
16th 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

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.

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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. 88-2

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TOWN OF GREENVILLE

ORDINANCE NO. 2010-T-027 ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE 16th 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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