

**GREENWOOD COMMON COUNCIL**

**ORDINANCE NO. 16-18**

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 7 OF THE GREENWOOD MUNICIPAL CODE (1993), AS AMENDED, TO CLARIFY CERTAIN PROVISIONS OF THE PROPERTY MAINTENANCE CODE**

WHEREAS, Ind. Code § 36-8-2-4 provides the City with the power to regulate conduct endangering the public health, safety, and welfare;

WHEREAS, certain provisions currently contained in Chapter 6, Article 10 of the Greenwood Municipal Code are more appropriately located in Chapter 6, Article 7, Property Maintenance Code;

WHEREAS, certain provisions of the City's laws relating to Property Maintenance require clarification or amendment; and

WHEREAS, it is in the best interests of the citizens of the City of Greenwood to regulate the placement and emptying of dumpsters on properties in residential areas;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GREENWOOD, INDIANA, THAT:

**Section 1.** The formatting of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, shall be amended such that any time a defined term appearing in Section 6-286 appears it shall be capitalized.

**Section 2.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(c)(2) is hereby amended by deleting the language reading "unless that person is the owner of the building" at its conclusion and replacing it with language to read: "except to the extent that said connection results from the official's or employee's Ownership of or tenancy in said Building or Improvement."

**Section 3.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(f)(2) is hereby amended by deleting his current text in its entirety and replacing it with language to read as follows:

(2) *Notice of Violation.* Whenever the Code Enforcement Official determines that a violation of this Property Maintenance Code exists, a Notice of Violation and request for abatement shall be served upon the Owner and/or Responsible Party, including, but not limited to, any Tenant, in accordance with subsections (g)(3) and (g)(4) below.

**Section 4.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(f)(3) is hereby amended by adding language to its conclusion to read as follows: "The City will take enforcement action only with Persons who are Owners and/or Responsible Parties at the time the violation is identified."

**Section 5.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 6, Section 6-285(f)(4) is hereby amended by adding language to its conclusion to read as follows: "Daily fines shall continue to accumulate until the total of said fines reaches the small claims jurisdictional limit of the Johnson Circuit and Superior Courts, Magistrate Division, and/or compliance with this Property Maintenance Code is achieved."

**Section 6.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(f)(5) is hereby amended by adding a second sentence with language to read as follows: "Daily fines shall continue to accumulate until the total of said fines reaches the small claims jurisdictional limit of the Johnson Circuit and Superior Courts, Magistrate Division, and/or compliance with this Property Maintenance Code is achieved."

**Section 7.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(g) is hereby amended by deleting subsection (4) and adding subsections (4), (5), and (6) to read:

(4) *Emergency or Safety Concerns.* When a Code Enforcement Official finds that a condition existing on a property qualifies as an Imminent Danger and/or an Emergency or Safety Concern as defined in Section 6-286(d) below, the Code Enforcement shall include on the Notice of Correction Order a statement indicating such a finding and allowing a period of time of not less than twenty-four (24) hours to abate the Nuisance.

(5) *Method of service.* Notice shall be deemed to be properly served if a copy is sent by certain return receipt mail, hand delivered by an employee of the City, or leaving a copy of the Notice at the location of the property in a conspicuous location and mailing a copy of the Notice by first class mail to the last known address of the Person to whom Notice must be given.

(6) *Duplicate Notice to Property Maintenance Company.* When a Code Enforcement Official has reason to believe that there is a property maintenance or servicing company monitoring a given property on behalf of the Owner, a bank holding mortgage rights to the property, or a corporate Operator, the Code Enforcement Official may provide duplicate Notice to said property maintenance or servicing company. Provision of additional Notice under this subsection shall not eliminate any Notice requirement for the Owner or Responsible Party of the property and shall not render the property maintenance or servicing company liable for failure to abate unless otherwise provided in this Code.

**Section 8.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(h)(2) is hereby amended by deleting its current language in its entirety and replacing it with language to read as follows:

(2) *Procedure and hearing.* A request for rescission, modification, variance, or extension of time shall be made in writing, within ten days of the appellant's receipt of a copy of the Notice or order, to the Clerk of the Board of Public Works and Safety, to be placed on the Board of Public Works and Safety agenda. The Board of Public Works and Safety shall schedule a hearing within 30 days of receipt of the request.

**Section 9.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285(h)(4)(a) is hereby amended by replacing "subsections (g)(3) and (4)" with "subsection (g) above."

**Section 10.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-285 is hereby amended by deleting subsection (k) in its entirety and renumbering subsection (l) accordingly.

**Section 11.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-286(d) is hereby amended by deleting its current language in its entirety and replacing it with language to read as follows:

(d) **General Definitions.** For purposes of this Property Maintenance Code, the following definitions shall apply:

(1) **ACCESSORY STRUCTURE.** A Building, Structure, or part of a Building which is secondary or subordinate in capacity or use from the main or principal Building or Structure on the same Premises.

(2) **APPROVED.** Approved by the Code Enforcement Official.

(3) **BASEMENT.** That portion of a Building which is partly or completely below grade.

(4) **BUILDING.** A Structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of Persons, animals, chattels, or property. When separated by firewalls, each portion of such a Building shall be considered a separate Structure.

(5) **CODE ENFORCEMENT OFFICIAL.** Any official who is charged with the administration and enforcement of this Code, or any of his or her duly authorized representatives, including, but not limited to, the Greenwood City Code Enforcement Officers or their designees, and authorized members of the Greenwood Police, Fire, Community Development Services, or Stormwater Departments.

(6) **DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more Persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(7) **EMERGENCY OR SAFETY CONCERN.** The presence of a condition, regardless of cause, which poses an immediate risk of injury or death if not promptly abated or remedied. This includes, but is not limited to, the presence of obstructions in rights-of-way, sidewalks, or streets; unsecured attractive Nuisances such as Abandoned Vehicles or appliances; and other extremely Hazardous Conditions.

(8) **EXTERIOR PROPERTY.** The open space on the Premises and on adjoining property under the control of Owners or Operators of such Premises.

(9) **EXTERMINATION.** The control and elimination of insects, rats, or other Pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; or by poison spraying, fumigating, trapping or by any other Approved Pest elimination methods.

(10) **GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

(11) **HAZARDOUS CONDITION.** Any condition likely to cause injury to any Person. It shall not mean a temporary condition caused by weather such as rain, snow, or ice.

(12) **HOTEL.** Any Building containing six or more guestrooms, intended or designed to be occupied, or which are rented or hired, for sleeping purposes by guests.

(13) **IMMINENT DANGER.** A condition which poses an immediate risk of serious or life threatening injury or death if not promptly abated or remedied.

(14) **IMPROVEMENT.** Existing or proposed surface or subsurface Improvements including, but not limited to: public drainage systems, private drainage systems, permanent or temporary Buildings/Structures, drives, walks, patios, irrigation systems, fences, landscaping, vegetation, decorative items, playgrounds, air conditioning units, gutters, decks, parts of permanent or temporary Structures, roof overhangs, pools, permanent or temporary erosion control measures, permanent or temporary sediment control measures, permanent or temporary storm water quality measures or best management practices, or other items determined by the City to be an Improvement.

(15) **INFESTATION.** The presence of insects, rats, vermin, or other Pests within or contiguous to a Structure or Premises.

(16) **OCCUPANCY.** The purpose for which a Building or portion thereof is utilized or occupied.

(17) **OCCUPANT.** Any individual living or sleeping in a Building, or having possession of a space within a Building.

(18) **OPERATOR.** Any Person who has charge, care, or control of a Structure or Premises which is let or offered for Occupancy.

(19) **OWNER.** Any Person, agent, Operator, firm or corporation having a legal or equitable interest in the property; or recorded in the office of the Johnson County Recorder holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such Person, and the executor or administrator of the estate of such Person if ordered to take possession of real property by a court.

(20) **PERSON.** An individual, corporation, partnership, or any other group acting as a unit.

(21) **PEST.** An injurious or destructive insect, animal, rodent, reptile, or invasive species of plant which poses a substantial risk to human, domestic animal, or native plant species health and welfare.

(22) **PLUMBING.** Shall mean and include all the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, Garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.

(23) **PREMISES.** A lot, plot, or parcel of land, or groups of lots, plots, or parcels of land, whether residential, commercial, or industrial, including any Structures thereon or for which Improvements are to be installed and/or benefit from the existence of these Improvements.

(24) **REFUSE.** All solid waste products which are composed wholly or partly of such materials as Garbage, sweepings, cleanings, trash, Rubbish, litter, industrial solid wastes or domestic solid wastes including organic wastes or residues of animals, meat, fruit, vegetables, grains or fish; animal excreta or carcasses of animals; Rubbish including wood, leaves, vegetation, tree trimmings, dead trees and shrubs, branches, sawdust, shavings, grass, paper products, straw, rags, clothing and all other combustibles; waste matter composed of soil, clay, sand, earth, gravel, fill, stones, bricks, plaster, glass, glassware, crockery, ashes, cinders, shells, metal and other non-combustibles; waste debris resulting from the construction, demolition, repair, or alteration of Structures or Buildings; accumulated waste materials composed of cans, containers, tires, Junk, vehicle parts or other substances which may become a Nuisance.

(25) **RESPONSIBLE PARTY.** Person, agent, Operator, firm, corporation, or federal, state, or local governmental agency having responsibility for maintenance of Improvements located on the Premises, rights-of-way, or easements. Said party shall be the Owner unless responsibility for such maintenance is provided in other Codes, restrictive covenants, or is legally established to be the responsibility of another Person, agent, Operator, firm, corporation, or federal, state, or local governmental agency. In some cases, more than one Person, agent, Operator, firm, corporation, or federal, state, or local governmental agency may be concurrently classified as a Responsible Party. For violations existing on property for which more than one Responsible Party exists, any liability imposed shall be joint and several between all Responsible Parties.

(26) **RODENT.** Any of various mammals, as a mouse, rat, or squirrel, having teeth adapted for gnawing.

(27) **RUBBISH.** Trash, combustible and noncombustible waste materials, including, but not limited to, the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, discarded furniture, mattresses, appliance and other household materials, and dust and other similar materials.

(28) **STORAGE UNIT.** Temporary (or portable) Storage Units (also known as PODS, portable on-demand storage Structures) shall mean any container, shipping container, Storage Unit, shed-like container or other Structure, or assembly of materials without a permanent foundation which is so designed, constructed or reconstructed to make it portable and capable of storage of personal property of any kind, building materials (before they are utilized for building purposes), household goods, personal items and other materials; and not designed, constructed, or reconstructed for Occupancy by Persons.

(29) **STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

(30) **STRUCTURE.** Anything constructed or installed, the use of which requires a location on a parcel of land. It includes a moveable Structure, which is located on land, which can be used for housing, commercial, business, and agricultural or office purposes, either temporarily or permanently. The term also includes recreational vehicles to be installed on a site for more than 180 days.

(31) **TENANT.** A Person, corporation, partnership, or group, whether or not the legal Owner of record, occupying a Building or portion thereof as a unit.

(32) **TRASH.** Discarded matter or refuse.

(33) **UNSAFE STRUCTURE.** A Structure that is found in whole or in part to be occupied by more Persons than permitted under this Code, or was erected, altered or occupied contrary to law.

(34) **VACANT STRUCTURE.** A Structure, which is not occupied and devoid of any indicia of Occupancy.

(35) **WORKMANLIKE.** Executed in a skilled manner and in accordance with accepted practice; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

(36) **DUMPSTER.** A large metal bin for Trash, Refuse, and/or Rubbish designed to be hoisted onto a specially equipped truck for emptying or hauling away. This term shall not include standard size trash cans designed for use on residential properties.

**Section 12.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-287(d) is hereby amended by deleting the current language in its entirety and replacing it with language to read as follows:

(d) Vacant Structures and land. All Vacant Structures and Premises thereof or vacant land shall be maintained in a clean, safe, secure, healthful, and sanitary condition as provided herein so as not to cause a blighting problem, negatively impact neighboring properties' value and/or marketability, or adversely affect the public health and safety or violate the provisions of this Code.

**Section 13.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-288(j) is hereby amended by deleting the current language in its entirety and replacing it with language to read as follows:

(j) Hazardous Trees. Greenwood City Code [Chapter 10](#), Article 18, Table 18-05 & 06 shall regulate trees or parts of trees located within the public right-of-way. The following regulations shall apply to all properties within the corporate limits of the City of Greenwood.

(1) Dead, dying, damaged, or diseased trees shall be prohibited to exist or be maintained on any Premises, which are hazardous to Persons on adjacent property or to adjacent property.

(2) Tree stumps greater than 12 inches in height above ground level shall not be permitted or maintained on any Premises for more than 30 days after the tree has been cut.

(3) Fallen trees, removed tree limbs, or other portions of any tree shall not be permitted or maintained on the ground on any Premises for more than 30 days.

(4) The regulations set forth in subsections (1), (2), and (3) shall not apply to property covered by a valid Improvement location permit or properties one acre or greater in size.

**Section 14.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-288(k) is hereby amended by adding "shall be exempt from this subsection" to the end of the last sentence.

**Section 15.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-288 is hereby amended by deleting the current subsection (l) and adding subsections (l), (m), and (n) with language to read as follows:

(l) Any violations of the following sections of the Greenwood Zoning Code, found at Greenwood Municipal Code (1993) Chapter 10, Article 6 may be cited as a violation of the Property Maintenance Code:

- (1) Section 10-89, 6.05.03 *Swimming Pool Fences*
- (2) Section 10-103, 6.20.06 *Paved Surface Requirements*
- (3) Section 10-103, 6.20.11(E) *Off-Street Parking Lots In or Abutting Residential Districts or Uses*
- (4) Section 10-103, 6.20.13 *Visibility at Street Intersections*
- (5) Section 10-116, 6.33.01 *Storage of travel trailer or RV*
- (6) Section 10-116, 6.33.05 *Storage of equipment or materials*

(m) Restrictions on Yard and Garage Sales. All yard sales, patio sales, and garage sales of more than three (3) days within any calendar month are prohibited. The Owner or Occupant of any real property shall not allow any yard sale, patio sale or garage sale to be held on his property in violation of this subsection. No Person shall conduct such a sale so as to violate this subsection.

(n) Any violation of [Chapter 6](#), Article 6 of the Greenwood Municipal Code relating to Nuisances may also be cited as a violation of the Property Maintenance Code.

**Section 16.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-289(f) is hereby amended by adding the words “in accordance with Greenwood Municipal Code Section 9-159” following the words “legal discharge” in the fourth sentence of said subsection.

**Section 17.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-289(p) is hereby amended by adding language as the last sentence of said subsection to read as follows: “Swimming pool fences shall also comply with the applicable requirements found in Section 10-89, 6.05.03 *Swimming Pool Fences*.”

**Section 18.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-291(f)(2) is hereby amended by replacing “or alley” with “alley, sidewalk, or drainage easement.”

**Section 19.** The text of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7, Section 6-291 is hereby amended by adding subsection (g) with language to read:

(g) Dumpster Placement and Use

(1) Every dumpster shall be kept in sound condition, weather tight, and in good repair, and shall not be in such a condition as to constitute a Nuisance under Chapter 6, Article 6.

(2) All dumpsters located on residential properties, properties having a classification as a residential use under the Greenwood Zoning Code, or on commercial properties adjacent to residential properties shall meet the following requirements:

- a. All dumpsters shall be placed in a dedicated location behind the front building line unless being emptied or actively used in conjunction with a construction or other Improvement project on the subject property. When the property at issue is a corner property, dumpsters shall not be located in front of the building line on any side of the property facing a public street.

- b. All dumpsters shall be placed on a hard surface of a uniform nature that encompasses the entire length and width of the dumpster and shall not be parked on grass or surface composed of other plant material.
- c. A fence or other acceptable screen or barrier shall be erected around the entirety of the dumpster such that the dumpster is not visible from the street, and said fence or screen shall remain closed except as necessary for emptying of the dumpster.

(3) Dumpsters located on residential properties, properties having a classification as a residential use under the Greenwood Zoning Code, or on commercial properties adjacent to residential properties shall only be emptied between the hours of 7:00 a.m. and 9:00 p.m.

(4) Property Owners or Responsible Parties engaging or hiring commercial trash collection services other than those contracted by the City pursuant to Greenwood Municipal Code Section 6-305 shall ensure that the commercial trash service is properly licensed under Greenwood Municipal Code Section 4-112 and shall further ensure that the commercial trash collection service abides by regulations regarding dates and times for trash pickup as set forth in Chapter 4, Article 2, Division IX of the Greenwood Municipal Code and this subsection.

**Section 20.** Greenwood Municipal Code (1993), as amended, Chapter 6, Article 7 is hereby amended to add Section 6-292 to read as follows:

**Sec. 6-292 Maintenance of Commercial and Agricultural Properties.**

(a) Maintenance of Commercial Properties.

(1) All commercial or non-residential properties shall comply with the provisions of this Article in the same manner as residential properties unless an individual provision specifically states otherwise.

(2) For commercial, industrial, or other non-residential property uses adjacent to residential properties, or a property owned or occupied by a school, daycare, governmental body, or house of worship, appropriate fencing, screens, or barriers shall be erected and maintained to ensure that the use does not present a safety hazard to surrounding properties.

(3) For commercial or non-residential properties, “Responsible Party” as defined in this Article shall include any Person operating on the Premises, regardless as to whether said Person is the recorded Owner of the Premises.

(b) Maintenance of Agricultural Properties.

(1) *Definition of Agricultural Property.* For purposes of this Article, “Agricultural Properties” shall be defined as any portion of a parcel or lot on which agricultural activities are conducted, including but not limited to the production of crops, livestock, poultry, or horticultural products. Portions of parcels or lots used for residential purposes shall not be considered Agricultural Properties, even if a portion of a larger parcel or lot that would be properly classified as an Agricultural Property.

(2) *Application of Limitations on Weeds and Rank Vegetation.*

- a. Crops grown on Agricultural Property, including hay and pasture, shall be exempt from Section 6-288(c) of this Article and shall not be considered Weeds and Rank Vegetation.
- b. A Code Enforcement Official may not require that exempt crops be reduced in height or location except as necessary to maintain safe lines of sight for the use of public streets and rights-of-way. A Code Enforcement Official must provide the Owner or Responsible Party of Agricultural Property a warning before issuing a Notice of Correction Order based upon the height and/or location of crops.

(3) Any portion of a parcel or lot that is used for residential purposes, even if located on a property zoned Agricultural under the Greenwood Zoning Code found in Chapter 10, Article 5 of the Greenwood Municipal Code, shall be required to comply with all relevant provisions of this Property Maintenance Code in the same manner as exclusively residential properties.

**Section 21.** The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any section, paragraph, sentence, clause, phrase or word shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences or words of this Ordinance.

**Section 22.** This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.


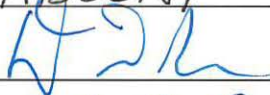


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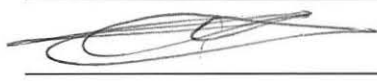
PASSED AND ADOPTED by the Common Council of the City of Greenwood, Indiana,  
this 4<sup>th</sup> day of April, 2016.

  
Michael Campbell, President  
Greenwood Common Council


FOR:

Linda S. Gibson  
  
Ronald Bates  
ABSENT  
  
  


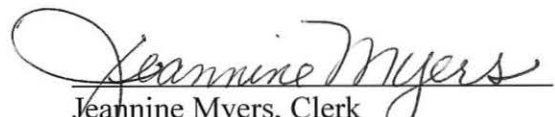
AGAINST:

Linda S. Gibson  
Ezra J. Hill  
Bruce Armstrong  
Ronald Bates  
J. David Hopper  
David Lekse  
Michael Campbell  
Brent Corey  
Charles Landon 


ATTEST:

  
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 4<sup>th</sup> day of April, 2016, is presented by me this 8<sup>th</sup> day of April, 2016, at 11:00 O'Clock A.M., to the Mayor of the City of Greenwood, Indiana.

  
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 4<sup>th</sup> day of April, 2016, is signed and approved by me this 8<sup>th</sup> day of April, 2016, at 11:15 O'Clock A.M.

  
MARK W. MYERS, Mayor of  
the City of Greenwood, Indiana