

**AN ORDINANCE AMENDING TITLE 4
OF THE DELAWARE COUNTY CODE REGARDING ABATEMENT OF
VACANT AND ABANDONED STRUCTURES**

WHEREAS, the Delaware County Commissioners, on the 19th day of October, 2009, did adopt State Law IC 36-7-36 Abatement of Vacant Structures and Abandon Structures and incorporated it into the Unsafe Building Ordinance, Section 4-4 of the Code of Delaware County through adoption of Ordinance 2009-035; and

WHEREAS, State Law provides a clear separation between the regulations governing unsafe buildings and the abatement of vacant and abandoned structures; and

WHEREAS, it is the desire of the Delaware County Commissioners to adopt State Law IC 36-7-36 as a separate chapter in Title 4 of the Code of Delaware County.

NOW, THEREFORE BE IT ORDAINED, by the Delaware County Commissioners, as follows:

Section 1. That Ordinance 2009-035 is hereby repealed.

Section 2. That Section 4-4 of the Delaware County Code remains in effect as the Unsafe Building Ordinance for unincorporated Delaware County, Indiana, which incorporates State Law IC 36-7-9, et.seq.

Section 3. That Indiana Code Sections 36-7-36-1 through 36-7-36-10 are hereby adopted by reference and incorporated as a new chapter 7 of Title 4 of the Code of Delaware County as follows:

CHAPTER 7

ABATEMENT OF VACANT & ABANDON STRUCTURES

4-7-1. Purpose.

The purpose of this ordinance is to provide for the inspection, repair or removal of vacant and abandon structures within the unincorporated areas of Delaware County.

4-7-2. Authorization.

A. Under the provisions of Indiana Code 36-7-36-1 et seq., there is hereby established the Delaware County Unincorporated Abatement of Vacant & Abandon Structures Law.

- B. Indiana Code 36-7-36-1 et seq. is hereby adopted by reference as the Delaware County Unincorporated Area Abatement of Vacant & Abandon Structures Law. All proceedings within the unincorporated areas of the county for the inspection, repair and removal of vacant and abandon structures shall be governed by said law and the provisions of this ordinance. In the event the provisions of this ordinance conflict with the provisions of the Indiana State Code 36-7-36-1 through 36-7-36-10 as amended, then the provisions of the state statute shall control.

4-7-3. Definitions.

The definition of abandon structure as used in this chapter means any of the following:

- A. Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes, and:
1. that the owner of the property or structure has declared in writing to be abandon; or
 2. for which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish, and the owner:
 - a. has not applied for a permit to rehabilitate or demolish the property or structure; or
 - b. applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.
- B. Real property that has not been used for a legal purpose for six (6) consecutive months and:
1. in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;
 2. on which at least one (1) installment of property taxes is delinquent; or
 3. that has been declared a public nuisance by a hearing authority.
- C. Real property that has been declared in writing to be abandon by the owner, including an estate or a trust that possesses the property.
- D. Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.

E. Real estate that a court has determined to be abandoned under IC 32-30-10.6.

4-7-4. Administration.

- A. The county commissioners shall be authorized to administer and to proceed under the provisions of said law in ordering the repair and removal of any buildings found to be abandoned as specified therein or as specified hereafter.
- B. The board of county commissioners is hereby designated the hearing authority in accordance with the provisions of IC 36-7-9-7.

4-7-5. Enforcement.

- A. The Delaware County Building Commissioner is the enforcement authority in accordance with the provisions of IC 36-7-36-8.
- B. Whenever the Building Commissioner determines that a vacant structure or an abandon structure exists, an abatement notice and order may be sent to the owner that directs the owner to:
 - 1. abate the vacant structure or abandoned structure by cleaning and securing or boarding up the vacant structure or abandon structure and the premises upon which it is located: and
 - 2. erect fences, barriers, berms, or other suitable means to discourage: and
 - a. access to the vacant structure or abandon structure; and
 - b. illegal dumping or littering on the premises upon which the vacant structure or abandon structure exists.
 - 3. rehabilitate or demolish the structure.

4-7-6. Penalties.

- A. An owner of a property that remains a vacant structure or an abandon structure for at least ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of five hundred dollars (\$500) per vacant structure or abandon structure not to exceed five thousand dollars (\$5,000) per structure per year, unless:
 - 1. documentation has been filed and approved by the enforcement authority that indicates the owner's intent to eliminate the vacant structure or abandoned structure status of the property;
 - 2. the owner is current on all property taxes and special assessments; and

3. and at least one of the following applies:

- a. The structure is the subject of a valid building permit for repair of rehabilitation and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation of the structure as defined in the enforcement order.
- b. The structure is maintained in compliance with this chapter and actively being offered for sale, lease, or rent.
- c. The owner can demonstrate that the owner made a diligent and good faith effort to implement actions approved by the enforcement authority.

B. If the structure continues to remain a vacant structure beyond the initial ninety (90) days described in subsection (A) and the owner does not meet any of the exceptions set forth in this section, the enforcement authority may continue to assess penalties each year on each structure in the following amounts:

1. One thousand dollars (\$1,000) for the second ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.
2. One thousand five hundred dollars (\$1,500) for the third ninety (90) calendar day period each structure remains a vacant structure or an abandon structure.
3. Two thousand dollars (\$2,000) for the fourth and each subsequent ninety (90) calendar day period thereafter each structure remains a vacant structure or an abandon structure:

4-7-7. Penalty Receipts.

Penalty receipts shall be deposited in the unsafe building fund in accordance with the provisions of IC 36-7-9-14.

4-7-8. Repealer.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

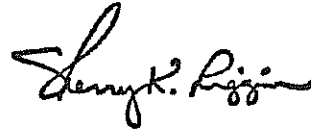
4-7-9. Severability Clause.

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in effect from and after its adoption and such publication as required by law.

Adopted this 4 day of May, 2015.

**BOARD OF COMMISSIONERS
DELAWARE COUNTY, INDIANA
BY:**



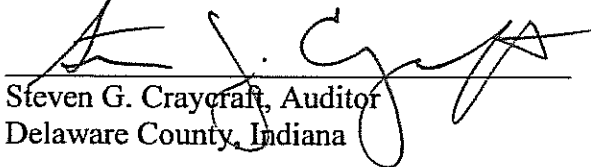
Sherry Riggin, President

James King, Commissioner



Shannon Henry, Commissioner

ATTEST:



Steven G. Craycraft, Auditor
Delaware County, Indiana