

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 5 -2015

AN ORDINANCE REPLACING THE PREVIOUSLY PASSED UNSAFE BUILDING ORDINANCE 28-2014, AND REGULATING THE EXTERIOR MAINTENANCE OF EXISTING STRUCTURES AND PREMISES

WHEREAS, this Board of Commissioners of Clark County, Indiana (this "Board"), is the executive body of Clark County government pursuant to the provisions of Ind. Code § 36-2-2-2; and,

WHEREAS, this Board is also the legislative body of Clark County government pursuant to the provisions of Ind. Code 36-1-2-9; and

WHEREAS, This Board desires to replace Ordinance 28-2014 with the passing of this Ordinance; and

WHEREAS, the unincorporated areas of Clark County, under the jurisdiction of Clark County municipal government, consist of these residential and non-residential structures and properties which lack maintenance and are in a state of purposeful neglect and disrepair, and Clark County deems it necessary for their removal, repair, or renovation for the purpose of maintaining property values, public safety, and the discouragement of illegal occupation; and

WHEREAS, pursuant to Indiana Code 36-7-9-5, the Indiana General Assembly has set forth legislative findings as to the effect of vacant and dilapidated structures, including but not limited to blighting influences on property values; public health, safety, and welfare; cause to attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to become damaged by vandals or set ablaze by arsonists; and

WHEREAS, Indiana Code Section 36-7-9-4.5(k) encourages local governmental bodies to adopt maintenance and repair standards and to take vigorous and disciplined action to ensure proper maintenance and repair of vacant structures; and

WHEREAS, Clark County establishes its expressed intent to exercise its full powers and authority to protect the public health, safety, and welfare, to prevent the blighting influence and to make responsible the owners, operators, and occupants of these properties for maintaining, repairing, and renovating, and possible elimination.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CLARK COUNTY COMMISSIONERS, AS FOLLOWS:

1. Administration

The Clark County Building Commissioner and Code Enforcement Officer, or any of its duly authorized representatives, shall be charged with the administration and enforcement of this ordinance, and shall henceforth be known as the Enforcement Authority.

Owners, operators, and occupants of properties deemed to be in violation of this Ordinance are responsible, wholly or as individuals, for the maintenance of the exterior of said structure and property in compliance with these requirements.

Severability and Conflicts: If a section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, found to be in conflict with the provisions of Indiana law or held to be unconstitutional by any State or Federal court of competent jurisdiction, then such provisions would be deemed stricken and unenforceable from this ordinance; however the validity of the remaining portions of this Ordinance shall remain in full force and effect.

2. Definitions

Approved – Approved by the Building Commissioner or Executive Director

Basement – That portion of a structure which is partly or completely below grade.

Bathroom – A room containing plumbing fixtures, including a bathtub or shower.

Bedroom – Any room or space used or intended to be used for sleeping purposes in either a dwelling unit or sleeping unit and meets the definition per the International Residential Code, as adopted by the State of Indiana.

Building Commissioner – The official charged with the administration and enforcement of this code, or any duly authorized representative.

Condemn – To adjudge unfit for occupancy.

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.

Easement – That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Exterior Property – The open space on the premises and on the adjoining under the control of owners or operators of such premises.

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; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

Garbage or Refuse – The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Guard – A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Habitable Space – Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

Imminent Danger – A condition which could cause serious or life-threatening injury or death at any time.

Infestation – The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

Inoperable Motor Vehicle – A vehicle which cannot be driven upon the public streets for reasons including, but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Labeled – Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests compliance with applicable nationally recognized standards.

Let For Occupancy or Let – To permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise, or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of the land.

Occupancy – The purpose for which a structure or a portion thereof is utilized or occupied.

Occupant – Any individual living or sleeping in a structure, or having possession of a space within a structure.

Openable Area – That part of a window, skylight, or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator – Any person who has charge, care, or control of a structure or premise which is let or offered for occupancy.

Owner – Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of such person if ordered to take possession of real property by a court. Owner also means every person, entity, service company, property manager, or real estate broker, who alone or severally with others:

1. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
2. Has care, charge, or control of any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, trustee, or guardian of the estate of the holder of legal title; or
3. Is a mortgagee in possession of any such property; or
4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property.

Person – An individual, corporation, partnership, or any other group acting as a unit.

Premises – A lot, plot or parcel of land, easement or public way, including any structures thereon.

Public Way – Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

Rooming House – A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Rooming Unit – Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Rubbish – Combustible or non-combustible waste materials, except, garbage; the term shall include 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 and dust, and other similar materials.

Sleeping Unit – A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also a part of a dwelling unit are not sleeping units.

Structure – That which is built or constructed or a portion thereof.

Tenant – A person, corporation, partnership, or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Toilet Room – A room containing a water closet or urinal, but not a bathtub or shower.

Ventilation – The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Workmanlike – Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard – An open space on the same lot with a structure.

3. Maintenance Regulations

Vacant properties and structures shall meet the standards of this Ordinance and shall be maintained in such a way so as not to contribute to blight or adversely affect the public health, safety, or welfare of Clark County.

Responsibility: The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. A person shall not occupy as owner-occupant or permit any other person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Section. Occupants of a dwelling unit or rooming unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit or rooming unit or premises which they occupy and control.

Due to the blighting conditions of abandoned, vacant, and foreclosed properties in the unincorporated areas of Clark County, the Commissioners establish the following program for continuous identification and registration of buildings which have been vacant for a certain length of time:

1. The owner of a building that is vacant or abandoned shall register with the Office of Planning and Zoning, whether upon receipt of an order for registration from the Building Commissioner or upon the building being vacant for a period of six (6) months or more. A Registration form shall be available in the Office of Planning and Zoning.
2. A fee of \$100 shall be paid at the time of registration and then, annually for every year the building remains vacant. The annual fee shall be paid by January 15, of the year the renewal registration is required. This fee is required for administrative work, inspections, and record-keeping of the property in a register, which can be found in the Office of Planning and Zoning.
3. Along with the completed Registration form, the applicant is required to submit a Maintenance Plan, which designates dates, times, and the manner of maintenance that

will be performed on the property. The Maintenance Plan shall indicate a repetitive cycle of maintenance; e.g., bi-weekly, weekly, etc.

4. The owner is responsible for providing any updated information regarding the registered property to the Office of Planning and Zoning within seven (7) days of change of ownership or any information provided by the registration. A failure to do so will result in a violation of this Ordinance.

The following are the Standards for Maintenance regulations:

Exterior Property Areas (Premises)

1. **Sanitation:** All exterior property and premises shall be maintained in a clean, sanitary, and safe condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
2. **Sidewalks and Driveways:** All sidewalks, driveways, walkways, stairs, parking spaces, and similar spaces shall be kept in a state of repair and maintained free from hazardous conditions.
3. **Rodent Harborage:** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
4. **Exhaust Vents:** Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steams, vapors, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
5. **Accessory Structures:** All accessory structure, including detached garages, barns, sheds, fences, and walls shall be maintained structurally sound and in good repair.
6. **Premises Identification:** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with the background and shall be Arabic or alphabet letters and shall be a minimum of four (4) inches high with a minimum stroke width of 0.5 inch. These are standard sizes as required by the International Residential Code and are found at most common hardware or one-stop-shop stores.
7. **Gates:** All gates allowing access to the property, whether structurally part of fencing or not, shall be maintained such that it contains a lock, preventing any access to the premise.
8. **Swimming Pools:** Swimming pools shall be maintained in a clean and sanitary manner, be in good repair, and meet all applicable National, State, and Local codes and ordinances.
9. **Accumulation of Rubbish:** All exterior property and premises shall be free from any accumulation of trash, debris, rubbish, and garbage.

Exterior Structure

1. **Exterior Walls and Surfaces:** All exterior walls and surfaces including but not limited to doors, door and window frames, cornices, porches, overhangs, trim,

balconies, decks, and fences shall be maintained in good condition. All exterior walls and surfaces shall be weatherproofed and protected from the elements and decay by a proper protective surface covering or treatment to prevent deterioration. All exterior walls and surfaces shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproofed and all structural members shall be maintained free from deterioration, and shall be capable of supported the imposed dead and live loads. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition, so as to prevent the entry of humans, rodents, and any other pests.

2. **Roofs and Drainage:** The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance or disposed of in the wastewater system.
3. **Defacement of Property:** No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.
4. **Chimneys:** All chimneys and appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
5. **Stairways, Decks, Porches, and Balconies:** Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting imposed loads.
6. **Handrails and Guards:** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
7. **Window, Skylight, and Door Frame:** Every window, skylight, and door frame shall be kept sound condition, good repair, and weather tight.
8. **Glazing:** All glazing materials shall be maintained free from cracks and holes.
9. **Openable Windows:** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
10. **Doors:** All exterior doors, door assemblies, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units shall tightly secure the door from entry.
11. **Basement Hatchways:** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.
12. **Guards for Basement Hatchways:** Every basement that is openable shall be supplied with rodent shields, storm windows, or other approved protection against entry of rodents.

- 13. Building Security:** All vacant structures shall be provided with devices meant to provide security and prevent entry to the building.
- 14. Accumulation of Rubbish:** The interior of every structure shall be free from any accumulation of trash, debris, rubbish, and garbage.
- 15. Disposal of Rubbish:** Every occupant and/or owner shall dispose of rubbish in a clean and sanitary manner by placing such rubbish in approved containers. The owner is responsible for the removal and disposal of any rubbish remaining after tenants have vacated the premise or which is generally accumulated on the property.

Extermination

- 1. Infestation:** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- 2. Owner:** The owner of any structure shall be responsible for extermination. Each structure shall be exterminated prior to sale, rent, or leasing.

4. Inspections and Enforcement

The Building Commissioner, and any other duly authorized representative, shall have the authority and the duty to inspect for compliance and issue violations of this Ordinance. The Building Commissioner shall have access at all reasonable times to make inspections and perform duties required by this Ordinance.

In the event the Building Commissioner or any duly authorized representative is refused entry to the property and/or structure, he or she is authorized to pursue recourse as provided by law.

Failure to maintain the exterior of any vacant structure or premise is punishable by a fine up to \$2,500.00 for each day the property is in violation.

5. Effective date

The Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this _____ Day of _February_____, 2015.

Members voting "NO":

Jack Coffman, Commissioner

Rick Stephenson, Commissioner

Bryan Glover, Commissioner

Members voting "YES":



Jack Coffman, Commissioner

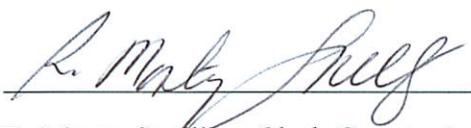


Rick Stephenson, Commissioner



Bryan Glover, Commissioner

Attested by:



R. Monty Snelling, Clark County Auditor