

Ordinance # 2020-G-13
An Ordinance Amending Ordinance 2010-G-03
Chapter 150 of the
Clarksville Codified Ordinance
Regulating the Maintenance of Vacant and Foreclosing
Residential Structures and Properties

WHEREAS, Recent events in the economy and the housing market have led to a significant rise in the number of vacant and foreclosed dwelling units. In many cases, the dwelling units are being left vacant as families are forced to move out. These dwelling units are frequently retaken by banks, financial institutions among others that have known or substantial property interest, as defined in IC 36-7-9; and,

WHEREAS, The foreclosure process may take twelve months or more, and the homes are frequently vacated prior to the conclusion of the foreclosure process. In many cases these dwelling units and premises create an attractive public nuisance with weeds, grass, and rank vegetation. Many times; trash, debris, rubbish accumulates on the properties, in violation of Clarksville Codified Ordinances; and,

WHEREAS, These structures and premises often become in violation of Town ordinances with over run weeds and rank vegetation, and become a nuisance due to trash, debris, and rubbish.

WHEREAS, These structures and premises often become unsafe, and unhealthy

WHEREAS, Structures and premises become unsafe and dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures:

1. Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.
2. Un-kept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.
3. Many vacant structures are situated on narrow town lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.
4. Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.
5. Structures that remain boarded up for an extended period of time, also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.
6. Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.
7. The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of the town.

8. The Town Council finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.

WHEREAS, in recognition of the problems created in a community by vacant structures, the Indiana General Assembly has found that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local governmental bodies to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.

Now therefore be it ordained by the Town Council of Clarksville, Indiana that this ordinance be adopted:

Regulating the Maintenance of Vacant and Foreclosing Residential Properties.

It is the intent of this section to protect and preserve public health, safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by (i) requiring all residential property owners, including lenders, trustees, and service companies, to properly maintain vacant and/or foreclosing properties (ii) regulating the maintenance of vacant and/or foreclosing, residential properties to prevent blighted and unsecure residences

The Building Commission Office has enforcement authority and duty to enforce, the State Building Code, and the Zoning Ordinance of the Town of Clarksville

Definitions

When used in this ordinance, the following terms shall have the following meanings:

1. Town means Town of Clarksville
2. Commissioner means the Clarksville Building Commissioner
3. Days means consecutive calendar days
4. Foreclosing means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt, if the borrower defaults
5. "Initiation of the foreclosure process" means taking any of the following actions: (i) taking possession of a residential property pursuant, (ii) delivering the Mortgagee's notice of intention to foreclose to the borrower or (iii) commencing a foreclosure action on a property in any Court.
6. Mortgagee means the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.
7. Owner means every person, entity, service company, property manager or real estate broker, who alone or severally with others:
8. 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
9. 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, administratrix, trustee or guardian of the estate of the holder of legal title; or
10. Is a mortgagee in possession of any such property; or

11. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
12. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, this ordinance shall not apply to a condominium association created pursuant to IC 32-25-4 to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association owner, also means every person who operates a rooming house; or is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.
13. Property means any real, residential property, or portion thereof; located in the Town of Clarksville, including building or structures situated on the property.
14. Residential property means any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

REGISTRATION OF VACANT AND/OR FORECLOSING RESIDENTIAL PROPERTIES

Duty to Provide Annual Written Notice of Vacant, Residential Property and/or Mortgage Foreclosure

All owners must register vacant and/or foreclosing residential properties with the Building Commission within 15 days of becoming vacant on forms provided by the Building Commission. All registrations must state:

1. The individual owner's or agent's phone number, email and mailing address.
2. The mailing address may not be a P O Box. The registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing.
3. If the property is vacant, the owner and/or registrant shall:
 - a. designate and retain a local individual or local property management company responsible for the security and maintenance of the property
 - b. This designation must state the individual or company's name, phone number, email and local mailing address as well as a 24 hour emergency contact number. The mailing address may not be a P.O. Box
4. If the property is in the process of foreclosure,
 - a. The registration must be received within seven days of the initiation of the foreclosure process as defined above
 - b. If the Commissioner determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen days of the Commissioner's first citation for improper maintenance

Each property registration is valid for six (6) months. A registration fee of two-hundred and fifty dollars and no cents (\$250.00) for each dwelling unit shall accompany each registration form. Subsequent registrations and fees are due within thirty (30) days of the expiration of the previous registration and must certify the occupancy or vacant status.

Once the property is no longer vacant or is sold, the owner shall provide proof of sale or written notice and proof of occupancy to the Building Commission.

Maintenance Requirements

Properties subject to this section must be maintained in accordance with the relevant Town Ordinances and Codes, Building Codes, Clark County Sanitary Code, and other local ordinances, regulations, and standards concerning external or visible maintenance. If this ordinance conflicts with another ordinance; the stricter ordinance shall govern.

The registrant shall provide to the Town of Clarksville the property management company and all required contact information as stated in this ordinance. If the property maintenance company changes, the registrant is required to notify the Building Commissioners office in writing with seven (7) days of such change. The owner, local individual or local property management company must inspect and maintain the property on a bi-monthly basis for the duration of the vacancy.

The property shall contain an all weather sign with the name and 24 hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property, so it is clearly visible from the street.

Adherence to this ordinance does not relieve the owner of any applicable obligations set forth in the Clarksville Codified Ordinance or Zoning Ordinance, deed restrictions or recorded covenant or restrictions and/or Home Owners Association bylaws, rules and regulations.

Inspections

The Building Department shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations, regardless the status of registration. The Building Department shall have access at all reasonable times to make inspections and perform the duties required by this ordinance.

Enforcement and Penalties

Failure to initially register with the Building Commission is punishable by a fine of five hundred dollars and no cents (\$500.00) per dwelling unit. Each day is a separate occurrence.

Failure to properly identify the name of the local individual or local property management company for each dwelling unit is punishable by a fine of five hundred dollars and no cents (\$500.00).

Failure to maintain the property is punishable by a fine up to two thousand five hundred dollars and no cents (\$2,500.00) for each day the property is not maintained.

Appeal

Any person aggrieved by the requirements of this section may seek an administrative appeal to the Clarksville Board of Zoning Appeals. Any person aggrieved by a final decision issued under this section may file with the Circuit or Superior Court of Clark County, Indiana in accordance with IC 36-7-1003.

Applicability

If any provision of this section imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of this section control.

Regulatory Authority

The Building Commissioner has the authority to promulgate rules and regulations necessary to implement and enforce this section.

Severability

If any provision of this section is held to be invalid by a Court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Order, contents, notice, expiration

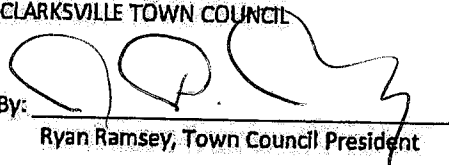
The Building Commissioner may issue an order requiring action relative to any violation of this ordinance, including:

1. Vacating the building or premises
2. Sealing the building against intrusion by unauthorized persons
3. Extermination of insects and vermin in and about the unsafe building and premises
4. Removal of trash, debris, fire hazardous material, and any material creating a public Health hazard in and about the building and premises
5. Repair the building to bring it into compliance with standards for building maintenance and condition of property
6. Declare the structure or premise unsafe

SO ORDAINED by majority vote of the entire membership of the Clarksville Town Council at a duly noticed and convened public meeting held on the 17th day of November, 2020.

CLARKSVILLE TOWN COUNCIL

By:



Ryan Ramsey, Town Council President

Attested by:



Robert P. Leuthart, Clerk-Treasurer