

## **IC 36-7-36**

### **Chapter 36. Abatement of Vacant Structures and Abandoned Structures**

#### **IC 36-7-36-1**

##### **"Abandoned structure"**

Sec. 1. As used in this chapter, "abandoned structure" means any of the following:

(1) Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes, and:

(A) that the owner of the property or structure has declared in writing to be abandoned; or

(B) 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:

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) 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.

(2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:

(A) 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;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.

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

*As added by P.L.88-2009, SEC.15. Amended by P.L.102-2012, SEC.5.*

#### **IC 36-7-36-2**

##### **"Enforcement authority"**

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-3****"Hearing authority"**

Sec. 3. As used in this chapter, "hearing authority" has the meaning set forth in IC 36-7-9-2.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-4****"Owner"**

Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-5****"Vacant real property"**

Sec. 5. As used in this chapter, "vacant real property" means real property that is not being occupied by an owner, tenant, or others authorized by the owner.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-6****"Vacant structure"**

Sec. 6. As used in this chapter, "vacant structure" means a structure or building that is not being occupied by an owner, tenant, or others authorized by the owner.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-7****Adoption of this chapter; rules and procedures**

Sec. 7. The legislative body of a municipality or county:

- (1) may adopt this chapter by ordinance; and
- (2) if the legislative body adopts this chapter by ordinance, shall adopt rules and procedures for its enforcement.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-8****Administration and enforcement of this chapter by enforcement authority; court costs and attorney's fees**

Sec. 8. (a) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, or IC 36-7-9.

(b) Under all enforcement and civil actions designated under subsection (a), the enforcement authority is entitled to recover court costs and attorney's fees.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-9****Notice and order by enforcement authority to owner of vacant or**

**abandoned structure; ordered action**

Sec. 9. If an enforcement authority determines that a vacant structure or an abandoned 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 abandoned structure and the premises upon which it is located; and
- (2) erect fences, barriers, berms, or other suitable means to discourage:
  - (A) access to the vacant structure or abandoned structure; and
  - (B) illegal dumping or littering on the premises upon which the vacant structure or abandoned structure exists.

*As added by P.L.88-2009, SEC.15.*

**IC 36-7-36-10**

**Civil penalties on owners of structures left vacant or abandoned for specified periods; exceptions; limit on penalty amount**

Sec. 10. (a) An owner of a property that remains a vacant structure or an abandoned 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 abandoned 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) at least one (1) of the following applies:
  - (A) The structure is the subject of a valid building permit for repair or 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:
    - (i) maintained in compliance with this chapter; and
    - (ii) 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 abandoned 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 abandoned structure.

A civil penalty under this subsection may not exceed five thousand dollars (\$5,000) per structure per year.

*As added by P.L.88-2009, SEC.15.*