

AN ORDINANCE adopting the Unsafe Building Law hereinafter referred to as the Unsafe Building Law of the Town of Perrysville, Indiana.

Sec. 1. Adoption of the Unsafe Building Law

The Town of Perrysville hereby adopts Indiana Code Chapter 36-7-9-1 through 36-7-8-28 (collectively "State Code"), which establishes the Indiana Unsafe Building Law and explicitly incorporates by reference the definition of "substantial property interest" found in Indiana Code Section 36-7-9-2. All proceedings within the municipality, for the inspection, repair and removal of unsafe buildings shall be governed by the State Code and by the provisions of this chapter. In the event the provisions of this chapter conflict with the State Code, then the provisions of the State Code shall control. The building standards and rules of the Indiana Fire Prevention and Building Safety Commission, as set forth in the Indiana Code and in the Indiana Administrative Code, are adopted as the building standards and rules for matters considered under this chapter.

Sec. 2. Appointment of Department to Administer Ordinance

The Town Council of the Town of Perrysville shall be the executive department authorized to administer the Unsafe Building Law of the Town of Perrysville, Indiana and to order the repair or removal of unsafe buildings and structures in accordance with the procedures set forth or incorporated in this ordinance.

Sec. 3. Public Nuisance

All buildings, structures or portions thereof which are determined after inspection by the enforcement authority to be unsafe, as defined in this ordinance, are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

Sec. 4. Definitions

As used in this chapter, the following terms shall have the following meanings unless clearly contrary to the context:

- A. "Department" means the Town Council of the Town of Perrysville, Indiana.
- B. "Enforcement Authority" means the Building Commissioner of the Town of Perrysville, Indiana, or designee of the Building Commissioner of the Town of Perrysville, Indiana.
- C. "Hearing Authority" means the Town Council of the Town of Perrysville, Indiana, or whomever they may designate under the authority of I.C. 36-7-9-2. The hearing authority shall perform those functions specified by State Statute.

- D. "Sealing a Building or Structure" means padlocking the entries to the building or structure and posting the building or structure with a notice that forbids entry to the building or structure and securing all other entry points to the building or structure from entry as prescribed by the enforcement authority.
- E. "Substantial Property Interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest or an equitable interest of a contract purchaser.
- F. "Unsafe Premises" means an unsafe building or structure and the tract of real property on which the unsafe building or structure is located.
- G. "Unsafe Building or Structure" means any building or structure which has any or all of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that life, health, property or safety of the public or its occupants are endangered:
- (1) whenever any door, aisle, passageway or any other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;
 - (2) whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;
 - (3) whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 1/2) times the working stress or stresses allowed for new buildings of similar structure, purpose or location;
 - (4) whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose or location;
 - (5) whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;
 - (6) whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified

- for new buildings of similar structure, purpose or location without exceeding the working stresses permitted for such buildings;
- (7) whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
 - (8) whenever the building or structure, or any portion thereof, because of:
 - a) dilapidation, deterioration or decay;
 - b) faulty construction;
 - c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such a building;
 - d) the deterioration, decay or inadequacy of its foundation; or
 - e) any other cause,is likely to partially or completely collapse;
 - (9) whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;
 - (10) whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third (1/3) of the base;
 - (11) whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;
 - (12) whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become:
 - a) an attractive nuisance to children; or
 - b) freely accessible to persons for the purpose of committing unlawful acts;
 - (13) whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the Building Regulations of Vermillion County, or of any law or ordinance of the state or Vermillion County relating to the condition, location or structure of buildings;

- (14) whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member or portion less than fifty percent (50%), or in any supporting part, member, or portion less than sixty-six percent (66%) of the:
- a) strength;
 - b) fire-resisting qualities or characteristics; or
 - c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location;
- (15) whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, sanitation facilities or otherwise, is determined by the Vermillion County Health Department to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;
- (16) whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fireresistive construction in determined by the fire department to be a fire hazard;
- (17) whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(NOTE: The foregoing definition of an unsafe building or structure is intended to supplement the definition of that term contained in IC 36-7-9-4 and to provide minimum standards for building and structure condition and maintenance.)

Sec. 5. Order and Notice

- A. The enforcement authority is authorized to issue an order requiring any remedies described in IC 36-7-9-5 and containing the information and time limit required by IC 36-7-9-5.
- B. An order that requires sealing a building under IC 36-7-9-5(a) requires notification to each person holding any fee interest or life estate. For other orders issued under IC 36-7-9-5, each person having a substantial property interest in the unsafe premises must be notified.
- C. Notification under this section must be made in accordance with IC 36-7-9-25.

Sec. 6. Hearing and Review

Hearing and review are provided as set forth in IC 36-7-9-7 and IC 36-7-9-8. A hearing is not required to carry out an order to seal a building. However, a previously issued order to seal may be modified or rescinded only if the persons previously notified have been notified of the change or rescission by means of a written statement in the manner prescribed by IC 36-7-9-6. The order to seal does not become final until ten (10) days from issuance within which time a fee interest or life estate holder may, in writing, request a hearing.

Sec. 7. Emergency Orders

Emergency action in order to protect life, safety or property may be taken without issuing an order or giving notice, but shall be taken in accordance with IC 36-7-9-9. The action is limited to the abatement of any immediate danger. The Town of Perrysville may recover the costs of the action by filing suit in the Vermillion Circuit Court against persons then holding the fee interest or a life estate in the unsafe premises. Alternatively, the enforcement authority may bring a civil action under IC 36-7-9-17 and IC 36-7-9-22, alleging the existence of unsafe premises which present an immediate danger to the community sufficient to warrant emergency action. In such case there shall be a hearing within ten (10) days on the complaint.

Sec. 8. Manner of Performance

The manner of performance of work, including bids and notifications, must be in accordance with IC 36-7-9-11.

Sec. 9. Costs

The cost of the work performed under this chapter shall be the responsibility of the persons that hold fee interests or life estates in the unsafe premises. Costs shall be determined on the basis of the factors listed in IC 36-7-9-12. Objections and requests for a hearing on bills submitted to responsible parties may be filed in the Vermillion Circuit Court. Unpaid costs are subject to the procedure in IC 36-7-9-13, and may result in a judgment against the real or personal property of the persons who are responsible for the costs.

Sec. 10. Unsafe Building Fund

An unsafe building fund is hereby established in accordance with the provisions of IC 36-7-9-14.

Sec. 11. Standard of Work

All work for reconstruction, alteration, repair or demolition shall be performed in a good, workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in IC 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission (675 IAC), including 675 Indiana Administrative Code '12-4-9 and 675 Indiana Administrative Code '12-4-11(a), shall be considered standard and

acceptable practice for all matters covered by this chapter or orders issued pursuant to this chapter by the Building Commissioner of the Town of Perrysville, Indiana.

Sec. 12. Inspection Warrants

The enforcement authority may obtain an inspection warrant from the Court in cases when the owner or possessors refuse the authority permission to inspect as provided in IC 36-7-9-16.

Sec. 13. Enforcement

The enforcing authority may request the Town Attorney to bring a civil action in the Vermillion Circuit Court seeking remedies authorized in IC 36-7-9-19 and IC 36-7-9-22, including a request to the Court for forfeiture up to One Thousand Dollars (\$1,000.00).

Sec. 14. Violations

It shall be a violation of this chapter for a person to:

- A. remain in, use or enter a building in violation of this chapter;
- B. knowingly interfere with or delay the carrying out of an order made under this section;
- C. knowingly obstruct, damage or interfere with persons engaged or property used in performing any work or duty under this chapter;
- D. erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance or any order issued by the Building Commissioner; or
- E. fail to comply with IC 36-7-9-27 regarding information on transfers of property interest.

Violators shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. Each day the violation continues shall constitute a separate offense.

Sec. 15. Severability

Should any section, paragraph, sentence, clause, or any other portion of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if, such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the council in adopting this ordinance. To this end the provisions of this ordinance are severable.

Sec. 16. Effective Date

This ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Section 36-5-2-10.

The foregoing was passed by the Town Council of the Town of Perrysville, Indiana on the 2nd day of ~~September~~ October 2017.

Mike Brunan

K. B. Wolfe

Maury Humphreys

ATTEST:

Frank Gil