

AN ORDINANCE TO ESTABLISH AN UNSAFE BUILDING
LAW IN FLOYD COUNTY, INDIANA, IN ACCORDANCE
WITH THE PROVISIONS OF INDIANA CODE 36-7-9-1.

ORDINANCE NO. FCO-2012-XIV

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLOYD COUNTY, INDIANA;

SECTION 1. TITLE AND SCOPE

This ordinance shall be known as the Unsafe Building Law of Floyd County, Indiana, and the requirements herein apply throughout the unincorporated territory of Floyd County.

SECTION 2. ADOPTION BY REFERENCE.

Indiana Code 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference as the Unsafe Building Law of Floyd, County, Indiana.

All proceedings within Floyd County, for the inspection, repair and removal of unsafe buildings shall be governed by the Indiana Code and the provisions of this Ordinance. In the event the provisions of this Ordinance conflict with the Indiana Code, then the provisions of the Indiana 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 the terms of this Ordinance.

SECTION 3. ADMINISTRATION

The Executive Director of the Floyd County Plan Commission is hereby authorized to administer the Floyd County Unsafe Building Law and to order the repair or removal of unsafe buildings and structures in accordance with the procedures set forth herein.

SECTION 4. PUBLIC NUISANCE

All building, 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.

SECTION 5. DEFINITIONS

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

DEPARTMENT means the Floyd County Planning Commission

ENFORCEMENT AUTHORITY means the Executive Director of the Floyd County Plan Commission, or the designee of the Executive Director.

HEARING AUTHORITY means the Board of Commissioners of Floyd County, Indiana, acting as the primary hearing board for disputes that arise under this ordinance.

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.

SUBSTANTIAL PROPERTY INTEREST means any right in real property that may be affected in a substantial way by actions authorized by this ordinance, including a fee interest, a life estate interest, a future interest, a present possessory interest or an equitable interest of a contract purchaser.

UNSAFE BUILDING OR STRUCTURE means any building or structure that has any 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:

(a) 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;

(b) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, or loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(c) Whenever the stress in any materials, members or portion thereof, due to all dead and live loads, is more than one and one-half (1 ½) times the working stress or stresses allowed for new buildings of similar structure, purposes or location.

(d) 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;

(e) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or property damage;

(f) 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;

(g) 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;

(h) Whenever the building or structure, or any portion thereof, because of:

(1) Dilapidation, deterioration or decay;

(2) Faulty construction;

(3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such a building;

(4) The deterioration, decay or inadequacy of its foundations; or

(5) Any other cause, is likely to partially or completely collapse;

(i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(j) 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;

(k) 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 member, enclosing or outside walls or coverage;

(l) Whenever the building or structure has been damaged by fire, wind, earthquake or flood or has become so dilapidated so as to become:

- (1) An attractive nuisance to children; or
- (2) Freely accessible to people for the purpose of committing unlawful acts or maintaining a common nuisance;

(m) 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 Floyd County, or of any law or ordinance of the State or Floyd County relating to the condition, location or structure of buildings;

(n) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting portion less than fifty percent (50%), or in any supporting part, member, or portion less than sixty-six percent (66%) of the:

- (1) Strength;
- (2) Fire-resisting qualities or characteristics; or
- (3) 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;

(o) Whenever a building structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, sanitation facilities or otherwise, is determined by the Floyd County Health Department to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the fire department to be a fire hazard;

(q) Whenever any portion of a building or structure remains on the 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) month so as to constitute such building or portion thereof as 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 Indiana Code 36-7-9-4, and to provide minimum standards for building and structure condition and maintenance.)

UNSAFE PREMISES means an unsafe building or structure and the tract of real property on which the unsafe building or structure is located.

SECTION 6: ORDER AND NOTICE

(A) The enforcement authority is authorized to issue an order requiring any remedies described in Indiana Code 36-7-9-5 and containing the information and time limit required by Indiana Code 36-7-9-5.

(B) An order that requires sealing a building under Indiana Code 36-7-9-5(a) requires notification to each person holding any fee interest or life estate. For other orders issued under Indiana Code 36-7-8-5, 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 Indiana Code 36-7-9-25.

SECTION 7. HEARING AND REVIEW

Hearing and review are provided as set forth in Indiana Code 36-7-9-3 and Indiana Code 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 Indiana Code 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.

SECTION 8. 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 Indiana Code 36-7-9-9. The action is limited to the abatement of immediate danger.

The County may recover the costs of the action by filing a suit in the Floyd Circuit or Superior Court against person then holding the fee interest or a life estate in the unsafe premises.

Alternatively, the enforcement authority may bring a civil action under Indiana Code 36-7-9-17 and Indiana Code 36-7-9-22, alleging the existence of unsafe premises that 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.

SECTION 9. MANNER OF PERFORMANCE

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

SECTION 10. COSTS

The cost of the work performed under this Ordinance 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 Indiana Code 36-7-9-12.

Objections and requests for a hearing on bills submitted to responsible parties may be filed in a state court of general jurisdiction in Floyd County. Unpaid costs are subject to the procedure in Indiana Code 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.

SECTION 11. UNSAFE BUILDING FUND

An unsafe building fund is hereby established in the operating budget of Floyd County in accordance with the provisions of Indiana Code 36-7-9-14.

SECTION 12. 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 Indiana Code 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission (675 IAC), including 675 Indiana Administrative Building Code 12-4-9 and 675 Indiana Administrative Building Code 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by this Ordinance by the Executive Director of the Floyd County Area Plan Commission.

SECTION 13. 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 Indiana Code 36-7-9-16.

SECTION 14. ENFORCEMENT

The enforcement authority may request the County Attorney to bring a civil action in a court of general jurisdiction in Floyd County seeking remedies

authorized in Indiana 36-7-9-19 and Indiana Code 36-7-9-22, including a request to the Court for forfeiture up to one-thousand dollars (\$1,000.00)

SECTION 15. VIOLATIONS

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

- (a) Remain in, use or enter a building in violation of this Ordinance;
- (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 Ordinance;
- (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 Enforcement Authority;
- (e) Fail to comply with Indiana Code 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.

SECTION 16. SEPARABILITY

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid, for any reason, the remainder of the Ordinance shall be not affected thereby.

SECTION 17. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its approval according to law.

To the extent that this Ordinance serves the purpose of fire safety and building standards, it will become effective if and when it is approved by the Fire Prevention and Building Safety Commission of Indiana pursuant to Ind. Code 22-13-2-5.

SO ORDAINED by the Board of County Commissioners of Floyd County, Indiana, on this _____ day of _____, 20_____.

BOARD OF COUNTY COMMISSIONERS
FLOYD COUNTY, INDIANA

Steve A. Bond

Charles A. Kueberger

Paul M. ...

Attest:

[Signature]

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