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ORDINANCE NO. 05-03-08

ORDINANCE REGULATING UNSAFE BUILDINGS

1. TITLE AND SCOPE

In accordance with Indiana Code §36-7-9-1, *et seq.*, this ordinance is established and shall be known as the Unsafe Building Ordinance of Borden, Indiana. The regulations of this Ordinance apply through the municipal boundaries of the Town of Borden (Borden).

2. ADOPTION BY REFERENCE

Indiana Code 36-7-9-1 through 36-7-9-28 (collectively "State Code") is hereby incorporated by reference as the Unsafe Building Ordinance of Borden, Indiana. All proceedings within Borden, for the inspection, repair and removal of unsafe buildings shall be governed by the State Code and by the provisions of this ordinance. 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 matter considered under this chapter.

3. ADMINISTRATION

The Borden Town Council, acting as a governing body, is authorized to administer the Unsafe Building Ordinance and to order the repair or removal of unsafe buildings and structures in accordance with the procedures set forth or incorporated in this chapter.

4. PUBLIC NUISANCE

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

5. DEFINITIONS

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

"Council" means the Borden Town Council.

"Enforcement Authority" means the Borden Town Council or the Town Manager, or designee of the Town Council.

"Hearing Authority" means the Borden Town Council, acting as the primary hearing board for disputes that may 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 for 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 chapter, 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 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.

- (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 or 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, 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, member, 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, purpose or location;
- (D) whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause to such 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 thereof portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;
- (F) whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior 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 stressed permitted for such buildings;

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.

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 any immediate danger. The Town may recover the costs of the action by filing suit in the Clark County 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 Indiana Code §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 of the complaint.

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.

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 request for a hearing on bills submitted to responsible parties may be filed in the Clark County Court. 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.

11. UNSAFE BUILDING FUND

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

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 s 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 ordinance.

- (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
- 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.
- (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 plumbing 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 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 person for the purpose of committing unlawful acts.
- (L) 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.
- (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 any building regulations of Clark County, Indiana, the Town of Borden, or the State of Indiana 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 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;

- (O) 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 Clark County Health Department or the Town Manager, after consultation with the Health Department of Clark County, to be unsanitary, unfit for human habitation or in such 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 in determined by the fire department to be a fire hazard;
- (Q) Whenever any portion of the 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.
- (R) Any and all definitions of unsafe buildings or structures as set out in Indiana Code 36-7-9-4 are fully incorporated herein and supplemented by this definition.

"Unsafe Premises" means an unsafe building or structure and the tract of real property on which the unsafe building or structure is located.

6. ORDER AND NOTICE

- (A) The enforcement authority is authorized to issue and 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 §36-7-9-5, each person having a substantial property interest in the unsafe premises must be notified.
- (C) Notification under the section must be made in accordance with Indiana Code 36-7-9-25.

7. HEARING AND REVIEW

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

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.

14. ENFORCEMENT

The enforcing authority may bring a civil action in the Clark County Court seeking remedies authorized in Indiana Code §36-7-8-19 and Indiana Code §36-7-9-22, including a request to the Court for forfeiture up to Ten Thousand Dollars (\$10,000.00).

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 chapter;
- (B) knowingly interfere with or delay the carrying out of an order made under this ordinance;
- (C) Knowingly obstruct, damage or interfere with person engaged or property used in performing work or duty under this ordinance.
- (D) Erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain a 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 Town Council; or
- (E) Fail to comply with Indiana Code §36-7-9-27 regarding information on transfers of property interest.

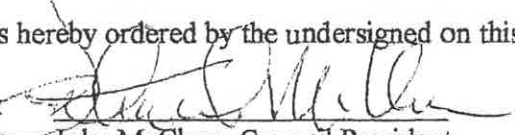
Violators shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. Each day the violation continues shall constitute a separate offense.

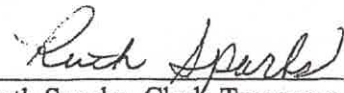
16. SEPARABILITY

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

It is hereby ordered by the undersigned on this 5th day of April, 2005

By:


John McClure, Council President


Ruth Sparks, Clerk-Treasurer