

**TOWN OF SOUTH WHITLEY
AN ORDINANCE FOR THE INSPECTION, REPAIR OR
REMOVAL OF UNSAFE BUILDINGS
ORDINANCE # 05-11-02**

BE IT ORDAINED by the Town Council of South Whitley, Indiana that:

SECTION 1: Pursuant to I.C. 36-7-9-1, there is hereby established, the South Whitley Unsafe Building Law.

SECTION 2: Indiana Code 36-7-9-1 through I.C. 36-7-9-28 is hereby incorporated by reference in the Town of South Whitley Unsafe Building Law and all proceedings within the Town for the inspection, repair, and removal of unsafe buildings shall be governed by said law and the provisions of this Ordinance.

SECTION: 3: In the event the provisions of this Ordinance conflict with the provisions of I.C. 36-7-9-1 et. seq., then the provisions of the state statute shall control.

SECTION 4: The Building Commissioner is hereby authorized to administer and proceed under the provisions of the South Whitley Unsafe Building Law in ordering the repair or removal of any building found to be unsafe as specified therein or as specified hereafter. The Building Commissioner shall be the “enforcement authority” as that term is defined and used in I.C. 36-7-9-1 et. seq. and herein.

SECTION 5: All buildings, or portions thereof, within South Whitley which are determined, after inspection by the Building Commissioner 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 6: The description of an unsafe building contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in South Whitley by adding the following definition:

UNSAFE BUILDING 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 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, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (c). Whenever the stress of any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings or 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 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 of 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 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 of that specified for new buildings or similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.
- (g) Whenever any portion thereof has cracked, 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 building; (4) the deterioration, decay, or inadequacy of its foundation; 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 of the base.
- (k) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage of deterioration of its supporting member or members, or fifty percent damage or deterioration of its non-supporting members, enclosing our outside walls or coverings.
- (l) 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 (1) an attractive nuisance to children, or (2) freely accessible to persons for the purpose of committing unlawful acts.
- (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 this town, or of any law or ordinance this state of this town 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, or in any supporting part member, or portion less than sixty-six percent 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 or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Whitley County Health Department 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 is determined by the Office of the State Fire Marshall or the Office of the State Building Commissioner of the Indiana Fire and Building Services Department, or their designee or agent, to be a fire hazard.
- (q) Whenever any portion of a building or structure remains on a site after the demolition destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

SECTION 7: The definition of “substantial property interest” set forth in I.C. 36-7-9-2, as may be amended from time to time, is hereby incorporated by reference as if fully set forth herein.

SECTION 8: All work for the reconstruction, repair or demolition of buildings and other structures shall be performed in a good and workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined by I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission of Indiana, shall be considered standard and acceptable practice for all matters covered by this Ordinance or orders issued pursuant to this Ordinance by the Department.

SECTION 9: Pursuant to the provisions of I.C. 36-7-9-14, there is hereby established in the operating budget for the Town of South Whitley an Unsafe Building Fund, which Fund shall receive deposits and make disbursements in accordance with I.C. 36-7-9-14. Pursuant to I.C. 36-1-7-4, the Clerk- Treasurer of South Whitley is hereby designated the duty to receive, disburse and account for all monies of the Unsafe Building Fund, The initial appropriation to the Unsafe Building Fund shall be in the sum of One Thousand Dollars (\$1,000.00). The Clerk-Treasurer is authorized to expend from the Fund expenditures for any one unsafe building in an amount not to exceed Five Hundred Dollars (\$500.00) for said building. In the event expenditures for any one unsafe building will exceed One Thousand Dollars (\$1,000.00), the Town Council shall appropriate said sum from the general fund

for unsafe building purposes. Such appropriation shall be in an amount estimated by the Building Commissioner to be required to take investigative, procedural, and remedial actions set forth and authorized by I.C. 36-7-9-14 (c). Other than expenditures from the Unsafe Building Fund, the budgetary and appropriations process of the Building Commissioner shall be approved by the Town Council.

SECTION 10: No person, firm or corporation, whether as owner, lessee, sub-lessee or occupant, shall 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. Any person violating the provision of this Ordinance or I.C. 36-7-9-28, shall commit a Class C infraction for each day such violation continues.

SECTION 11: The "Hearing Authority" as that term is defined and used in I.C. 36-7-9-1 et. seq., shall be the South Whitley Town Council.

SECTION 12: Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

SECTION 13: This Ordinance will be in full force and effect following its adoption by the South Whitley Town Council, and any publication that may be required by law, and any approvals from state agencies or offices that may be required by law.

PASSED AND ADOPTED by the South Whitley Town Council, South Whitley, Indiana, this 22nd day of November, 2005.

Tonya Porter

John Dunn

William Grube

ATTEST:

Mitchel J. Winger, Clerk-Treasurer