

CHAPTER 99: UNSAFE BUILDINGS

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§ 99.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENFORCEMENT AUTHORITY. The City Building Commissioner or authorized designee.

HEARING AUTHORITY. The Board of Zoning Appeals as the official hearing board for disputes from the rules and regulations set forth in this chapter.

SUBSTANTIAL PROPERTY INTEREST. 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. Any building or structure or part of a building or structure that is:

- (1) In an impaired structural condition that makes it unsafe to person or property;
- (2) A fire hazard;
- (3) A hazard to public health;
- (4) A public nuisance;
- (5) Dangerous to person or property because of a violation of a statute or ordinance concerning building condition or maintenance;
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of a statute or an ordinance; or
- (7) In any of the conditions or possesses any of the defects described below, 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, stairway 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 in 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 in the Building Code 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 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 of the Building Code for new buildings of similar structure, purpose or location;
 - (e) Whenever any portion or member or appurtenance thereof is likely to fail, or 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 in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings;

(g) Whenever any portion thereof has wracked, 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 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or 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 as to become:

1. An attractive nuisance to children, or
2. A harbor for trespassers;

(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 city, as specified in the Building Code, the Uniform Building Code, One and Two Family Building Code or any law or ordinance of this state or city 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 50%, or in any supporting part, member or portion less than 66% of the strength, fire resisting qualities or characteristics or 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 City Building Commissioner 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, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Chief of the Fire Department or the City Building Commissioner to be a fire hazard;

X (q) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

(r) 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 months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

UNSAFE PREMISES. Both an unsafe building and tract of real property on which the building is located.
(Ord. 14-2001, passed 9-25-01)

§ 99.02 TITLE.

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the "Unsafe Building Ordinance of the City of Rochester, Indiana," may be cited as such, and will be referred to herein as this chapter.
(Ord. 14-2001, passed 9-25-01)

§ 99.03 PUBLIC NUISANCE.

All buildings or portions thereof within the city which are determined after inspection by the City Building Commissioner to be unsafe as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition and removal.

(Ord. 14-2001, passed 9-25-01)

§ 99.04 ADOPTION OF STATE LAW BY REFERENCE.

I.C. 36-7-9-1 through 36-7-9-28, now existing or as hereafter amended, is adopted by reference as a part of this chapter.

(Ord. 14-2001, passed 9-25-01)

§ 99.05 AUTHORITY.

The City Building Commissioner shall be authorized to administer and to proceed under the provisions of this chapter in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(Ord. 14-2001, passed 9-25-01)

§ 99.06 ORDER AND NOTICE.

(A) The City Building Commissioner is authorized to issue an order relative to any unsafe premises, including:

- (1) Vacating of an unsafe building;
- (2) Sealing an unsafe building;
- (3) Extermination of vermin in and about the unsafe premises;
- (4) Removal of trash, debris, or fire hazardous material in and about the unsafe premises;
- (5) Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under I.C. 4-22-2, or an ordinance;

- (6) Removal of part of an unsafe building;
- (7) Removal of an unsafe building, commonly known as demolition; and
- (8) Requiring, for an unsafe building that will be sealed for a period of more than 90 days:

- (a) Sealing against intrusion by unauthorized persons and the effects of weather;

- (b) Exterior improvements to make the building compatible in appearance with other buildings in the area; and

- (c) Continuing maintenance and upkeep of the building and premises in accordance with standards established by ordinance.

(B) The order shall contain information required by I.C. 36-7-9-5.

(C) An order requiring sealing a building under I.C. 36-7-9-5(a) requires notification to each person holding any fee interest or life estate; for other orders under I.C. 36-7-9-5 each person having a substantial property interest in the unsafe premises must be notified. Notification procedure shall be as stated in I.C. 36-7-9-25.

(Ord. 14-2001, passed 9-25-01)

§ 99.07 HEARING AND REVIEW.

If required, a hearing and review shall be provided as set forth in I.C. 36-7-9-7 and I.C. 36-7-9-8.
(Ord. 14-2001, passed 9-25-01)

§ 99.08 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 I.C. 36-7-9-9. The action is limited to removal of any immediate danger. The city may recover costs of the action by filing suit in circuit or superior court against persons holding fee interest or life estate in the premises at the time. As an alternative, the city may bring a civil action under I.C. 36-7-9-17 and I.C. 36-7-9-22, alleging the existence of unsafe premises presenting an immediate danger to the community sufficient to warrant emergency action.

(Ord. 14-2001, passed 9-25-01)

§ 99.09 MANNERS OF PERFORMANCE.

Manners of performance of work including bids and notification are to be in accordance with I.C. 36-7-9-12. All work for the reconstruction, repair, or demolition of buildings and other structures 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 I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission shall be considered standard and acceptable practice for all matters covered by this chapter or orders issued pursuant to this chapter by the City Building Commissioner.

(Ord. 14-2001, passed 9-25-01)

§ 99.10 COSTS.

Costs for work performed under this chapter are the responsibility of the fee interest or life estate holders in the unsafe premises. Costs shall be determined on the basis of the factors listed in I.C. 36-7-9-12. Unpaid costs are subject to the procedures in I.C. 36-79-13 and I.C. 36-7-9-13.5, and may result in a judgment, special tax assessment, and/or lien on real or personal property or persons responsible for said costs.

(Ord. 14-2001, passed 9-25-01)

§ 99.11 NO WORK WITHOUT PERMISSION.

No person, firm, or corporation, whether as owner, lessee, sublessee 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 chapter or any order issued by the City Building Commissioner.

(Ord. 14-2001, passed 9-25-01)

§ 99.12 INSPECTION WARRANTS.

The City Building Commissioner may obtain an inspection warrant from the court in cases when the owner or possessors refuse the City Building Commissioner permission to inspect as provided in I.C. 36-7-9-16.

(Ord. 14-2001, passed 9-25-01)

§ 99.13 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; or
- (D) Fail to comply with I.C. 36-7-9-27 regarding information on transfers of property interest.
(Ord. 14-2001, passed 9-25-01)

§ 99.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty is otherwise specifically provided shall be fined not more than \$1,000. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. 14-2001, passed 9-25-01)