

ORDINANCE NO. 2009-02

**AN ORDINANCE
ESTABLISHING UNSAFE BUILDINGS RULES AND REGULATIONS**

ARTICLE I. TITLE.

Under the provisions of Indiana Code 36-7-9, there is hereby established the Town of Wolcott Unsafe Building Law.

ARTICLE II. PURPOSE

2.0 Indiana Code 36-7-9 through 36-7-9-28 is hereby adopted by reference as the Town of Wolcott Unsafe Building Law.

2.1 All proceedings within the Town of Wolcott for the inspection, repair, and removal of unsafe buildings shall be governed by said law and the provisions of this ordinance.

2.2 In the event the provisions of this ordinance conflict with the provisions of Indiana Code 36-7-9-1 through 36-7-9-29, then the provisions of the State statute shall control.

ARTICLE III. SCOPE

3.0 All buildings or portions thereof within the Town of Wolcott which are determined after inspection by the Town Council, or its designated representative, to be unsafe as defined in this ordinance and/or the referenced state statute, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

ARTICLE IV. AUTHORITY

4.0 The Town Council of the Town of Wolcott, or its designated representative who shall be hereinafter referred to as the Inspector, is authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified thereafter.

4.1 (A) Wherever in the building regulations of the Town of Wolcott Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Inspector, or any other officer of the Town.

(B) This shall be construed to give such officer only the discretion to determine whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or

standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

ARTICLE V. DEFINITIONS

5.0 (A) The description of an unsafe building contained in Indiana Code 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the Town of Wolcott, Indiana by adding the following definition.

5.0 (B) For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

SUBSTANTIAL PROPERTY INTEREST. The definition of ***SUBSTANTIAL PROPERTY INTEREST*** set forth in I.C. 36-7-9-2, is hereby incorporated by reference herein as if copied in full.

UNSAFE BUILDING. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, 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 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 (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 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 or 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 damage property;

(f) Whenever any portion of a building, or any member, appurtenance, ornamentation or 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 wreaked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquake 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;
 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 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;

(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:

1. An attractive nuisance to children; or
2. Freely accessible to persons for the purpose of committing unlawful acts.

(l) 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 the White County, or of any law or ordinance of this State or Town of Wolcott relating to the condition, location or structure of buildings;

(m) 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:

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 locations.

(n) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the

White County Health Department to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease;

(o) 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; and

(p) 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 of excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

ARTICLE VI. STANDARDS AND PRACTICES.

6.0 All work for the reconstruction, alteration, 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.

6.1 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 Inspector.

ARTICLE VII. BUILDING FUND.

7.0 An Unsafe Building Fund is hereby designated and established in the operating budget of the Town of Wolcott, in accordance with the provisions of I.C. 36-7-914.

ARTICLE VIII. EFFECTIVE DATE

8.0 This chapter shall be in full force and effect from and after its passage and adoption by the Town Council and publication as required by state law.

ARTICLE IX. PENALTY.

9.0 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 state statute or any order issued by the Inspector.

9.1 Any persons violating the provisions of this chapter or I.C. 36-7-9-28 shall commit a Class C infraction for each day the violation continues.

