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2005-000709

STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD

ORDINANCE NO. ~~04~~ <sup>05-01</sup>

PORTER COUNTY BOARD OF COMMISSIONERS

01/10/2005 11:06AM

UNSAFE BUILDING ORDINANCE

LINDA D. TRINKLER  
RECORDER

WHEREAS, the Porter County Board of Commissioners has deemed it necessary that an ordinance adopting the unsafe building law be passed in Porter County, Indiana, providing for the inspection, repair or removal of unsafe buildings or structures which may, from any cause, endanger the life, limb, health, morals, property, safety or welfare of the general public; and

WHEREAS, pursuant to IC 36-7-9, the Porter County Board of Commissioners hereby establish a Porter County Unsafe Building Law; and

WHEREAS, in order to achieve the above stated goals, the Board of Commissioners has deemed it to be in the furtherance of the health, safety and general welfare of the citizens of Porter County to adopt Ordinance No. 04-\_\_\_\_, an Ordinance Adopting the Unsafe Building Law; and

WHEREAS, the Porter County Board of Commissioners adopted the Porter County Municipal Code on Tuesday, December 2, 1997 pursuant to Ordinance No. 97-38 and hereby pass for inclusion in that Code, Chapter 8.36 entitled Unsafe Building Ordinance.

NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED THAT:

Title 8, Chapter 8.36 (Unsafe Building Law) is added to the Porter County Municipal Code to read as follows:

**A. 8.36.010 Title and Scope**

**Section 8.367.010 (Title and Scope) is added to the Porter County Municipal Code to read as follows:**

In accordance with Indiana Code (IC) 36-7-9-1, *et seq.*, this chapter is established and shall be known as the Unsafe Building Law of Porter County, Indiana. The regulations of this chapter apply throughout the unincorporated areas of Porter County, Indiana. (Porter County).

**B. 8.36.020 Adoption by Reference**

**Section 8.36.020 (Adoption by Reference) is added to the Porter County Municipal Code to read as follows:**

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

### **C. 8.36.030 Administration**

**Section 8.36.030 (Administration) is added to the Porter County Municipal Code to read as follows:**

The Porter County Building Commissioner, or his duly designated representative, such as the Code Enforcement Officer from the Plan Commission, is authorized to administer the Porter County Unsafe Building Law and to order the repair or removal of unsafe buildings and structures in accordance with the procedures set forth or incorporated in this chapter.

### **D. 8.36.040 Public Nuisance**

**Section 8.36.040 (Public Nuisance) is added to the Porter County Municipal Code to read as follows:**

All buildings, 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.

### **E. 8.36.050 Definitions**

**Section 8.36.050 (Definitions) is added to the Porter County Municipal Code to read as follows:**

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

**“Community organization”** means a citizen’s group, neighborhood association, neighborhood development corporation, or similar organization that:

- 1.) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;
- 2.) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;
- 3.) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
- 4.) has been incorporated for at least two (2) years; and
- 5.) is exempt from taxation under Section 501(c)(3) or 501(c)(4) [FN1] of the Internal Revenue Code.

**“Department”** means the Porter County Building Department.

**“Enforcement Authority”** means the Porter County Building Commissioner, Code Enforcement Officer of the Plan Commission, or other appointed designee of the Building Commissioner.

**“Hearing Authority”** refers to a person or persons designated as such by the executive of the county.

**“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 the real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease, license mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien or evidence of it is:

1. recorded in the office of the county recorder; or
2. the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.

**“Unsafe Building or Structure”** means any building or structure, or any part of a building or structure that is:

- (1) in an impaired structural condition that makes it unsafe to a person or property;
- (2) a fire hazard;
- (3) a hazard to the public health;
- (4) a public nuisance;
- (5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (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.

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

#### **F. 8.36.060 Order and Notice**

**Section 8.36.060 (Order and Notice) is added to the Porter County Municipal Code to read as follows:**

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

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

#### **G. 8.36.070 Hearing and Review**

**Section 8.36.070 (Hearing and Review) is added to the Porter County Municipal Code to read as follows:**

The Porter County Board of Commissioners shall annually designate a person or persons to serve as the Hearing Authority for the purposes of conducting hearings in accordance with IC 36-7-9-7.

The Hearing Authority shall meet once a month as required and shall be comprised of one Hearing Officer.

The Hearing Authority shall create reasonable rules of procedure for holding a hearing as required by the Unsafe Building Ordinance.

The Porter County Board of Commissioners shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to the various types of ordered action and the Hearing Authority shall use this schedule to fix the amount of the performance bond required under and pursuant to IC 36-7-9-7(e).

Hearing and review are provided as set forth in IC 36-7-9-7 and IC 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 IC 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.

An action taken under Section IC 36-7-9-7(d) is subject to review by the circuit court or superior court pursuant to IC 36-7-9-8.

#### **H. 8.36.080 Emergency Orders**

**Section 8.36.080 (Emergency Orders) is added to the Porter County Municipal Code to read as follows:**

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 IC 36-7-9-9. The action is limited to the abatement of any immediate danger. The County may recover the costs of the action by filing suit in the Porter County Circuit Court against any persons then holding the fee interest or a life estate in the unsafe premises. Alternatively, the enforcement authority may bring a civil action

under IC 36-7-9-17 and IC 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 on the complaint.

**I. 8.36.090 Manner of Performance**

**Section 8.36.090 (Manner of Performance) is added to the Porter County Municipal Code to read as follows:**

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

**J. 8.36.100 Liability for costs for performance of work required by order**

**Section 8.36.100 (Costs) is added to the Porter County Municipal Code to read as follows:**

When action required by an order is performed by the enforcement authority or by a contractor acting under Section 11 of IC 36-7-9, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the costs set forth at IC 36-7-9-12(a)(1) and (2).

Costs shall be determined on the basis of the factors listed in IC 36-7-9-12. If all or any part of the costs listed in IC 36-7-9-12 remain unpaid for any unsafe premises for the time period set forth at IC 36-7-9-13 the Enforcement Authority shall proceed pursuant to IC 36-7-9-13 and IC 36-7-9-13.5.

**K. 8.36.110 Unsafe Building Fund**

**Section 8.36.110 (Unsafe Building Fund) is added to the Porter County Municipal Code to read as follows:**

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

**L. 8.36.120 Standard of Work**

**Section 8.36.120 (Standard of Work) is added to the Porter County Municipal Code to read as follows:**

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 IC 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission (675 IAC), including 675 Indiana Administrative Code Section 12-4-9 and 675 Indiana Administrative Code Section 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by this chapter or orders issued pursuant to this chapter by the Building Commissioner of Porter County, Indiana, or his designee.

**M. 8.36.130 Inspection Warrants**

**Section 8.36.130 (Inspection Warrants) is added to the Porter County Municipal Code to read as follows:**

The enforcement authority may obtain an inspection warrant from the Court in cases when the owner or possessor refuse the authority permission to inspect as provided in IC 36-7-9-16.

**N. 8.36.140 Enforcement**

**Section 8.36.140 (Enforcement) is added to the Porter County Municipal Code to read as follows:**

The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of IC 36-7-9, *et seq.*

**O. 8.36.150 Violations**

**Section 8.36.150 (Violations) is added to the Porter County Municipal Code to read as follows:**

It shall be a violation of this chapter for a person who:

- 1.) remains in, uses or enters a building in violation of this chapter;
- 2.) knowingly interferes with or delays the carrying out of an order made under this chapter;
- 3.) knowingly obstructs, damages or interferes with persons engaged or property used in performing any work or duty under this chapter, or
- 4.) fails to comply with section 27 of IC 36-7-9 *et seq.*

commits a Class C infraction. Each day that the violation continues constitutes a separate offense.

**P. 8.36.160 Separability**

**Section 8.36.160 (Separability) is added to the Porter County Municipal Code to read as follows:**

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

**Q. 8.36.170 Effective Date**

**Section 8.36.170 (Effective Date) is added to the Porter County Municipal Code to read as follows:**

This code shall go into effect on March 15, 2005.

This ordinance is adopted this 4<sup>th</sup> day of January, 2005 and shall take effect on March 15, 2005.

BOARD OF COMMISSIONERS  
PORTER COUNTY, INDIANA

Carol Knoblock  
~~David L. Burrus~~

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John A. Evans

  
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Robert P. Harper

Attest: Sandra K Vuko  
Sandra K. Vuko, Auditor