



## **ORDER OF APPROVAL**

**TO:** Thorntown Town Council  
c/o John Gillan, Town Clerk  
101 W. Main Street  
Thorntown, IN 46071

Amy E. Noonning, Esq.  
Representing Attorney for the Thorntown Town Council  
Giddings Whitsitt Williams & Noonning  
121 N. Meridian Street  
P.O. Box 663  
Lebanon, IN 46052

**FROM:** Douglas J. Boyle, Director of the Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security

**DATE:** Monday, March 12, 2018

**RE:** Order Approving Ordinance No. 2018-1 (Town of Thorntown, Indiana – Unsafe Building Ordinance)

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Pursuant to Indiana Code § 22-13-2-5.5, the Fire Prevention and Building Safety Commission, at its Tuesday, March 6, 2018 meeting, **APPROVED** the above listed ordinance. Enclosed is the original copy of the ordinance, endorsed by the Chairman of the Fire Prevention and Building Safety Commission.

### **EFFECTIVE DATE**

Pursuant to Indiana Code § 4-21.5-3-5, this order is effective fifteen (15) days after it is served, unless a petition for review and a petition for stay of effectiveness of this order has been filed.

### **APPEAL RIGHTS**

This order may be appealed in accordance with Indiana Code § 4-21.5-3-7. To qualify for administrative review of this order, you must submit, by U.S. Mail or personal service, a Petition for Review in writing that complies with all of the following requirements:

1. The Petition for Review must state facts demonstrating that you are:
  - a. a person to whom the order is specifically directed;
  - b. aggrieved or adversely affected by the order; or
  - c. entitled to review under any law.
2. The Petition for Review must be filed with the chairperson or secretary of the ultimate authority for the agency issuing the order. If filed by U.S. mail, as opposed to personal service, please address the mailing as follows:

Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
c/o Secretary  
302 W. Washington Street, Rm. E-208  
Indianapolis, IN 46204

3. The Petition for Review must be filed within fifteen (15) days after you are given notice of this order. Timeliness is computed by the methods described in Indiana Code § 4-21.5-3-2. Generally, the following rules apply, but review I.C. § 4-21.5-3-2 to ensure timeliness for your specific situation.
  - a. If you are served by United States mail, you will have three (3) additional days to petition for review – extending the period to eighteen (18) days – this time period will be calculated from the date the order was deposited in the United States mail.
  - b. In calculating timeliness, the first day is **not** included, but the last day is.
  - c. If the deadline falls on a: (1) Saturday; (2) Sunday; (3) legal holiday under a state statute; or (4) other day that our office is closed, the deadline will be extended until the first day that does not fall on a: (1) Saturday; (2) Sunday; (3) legal holiday under a state statute; or (4) other day that our office is closed.
  - d. The Petition for Review is deemed filed on the date of the postmark on the envelope containing the Petition for Review or the date the Petition for Review is personally delivered to the above address, whichever occurs first.

Please be advised, if a petition for review is granted any person may obtain notices of prehearing conferences, preliminary hearings, hearings, stays, and any orders disposing of the proceedings by sending a request to receive such notices to the address listed in 2, above.

If you comply with these three requirements, your Petition for Review will be granted and will be assigned to an administrative law judge for review. If a Petition for Review is not timely filed, then this order will become final and you must comply with its requirements.

You may also request an opportunity to informally discuss this matter. However, a request to informally discuss, or actual informal discussion, does not extend the deadline for filing your Petition for Review and, consequently, any request should be made promptly, preferably by

telephone, upon receipt of the Order. If you have any questions regarding this order, please contact our Legal Department by phone at (317) 234-9515 or by email at [jguedel@dhs.in.gov](mailto:jguedel@dhs.in.gov).

DJB  
encl.  
cc: File

FEB 20 2018

LEGAL AND CODE  
SERVICES

**ORDINANCE 2018-1**

**ADOPTION OF INDIANA UNSAFE BUILDING LAW**

WHEREAS, pursuant to the authority of the Town of Thorntown, Indiana, to establish reasonable regulations for the health, safety and welfare of the citizens of the Town of Thorntown; and

WHEREAS, the Indiana General Assembly has, pursuant to Indiana Code 36-7-9 et. seq., authorized towns to adopt this chapter of the Indiana Code by municipal ordinance; and

WHEREAS, the Town Council of Thorntown (hereinafter "Town Council") desires to adopt the Indiana Unsafe Building Law found in Indiana Code 36-7-9 et. seq. which establishes reasonable regulations for the inspection, repair or removal of unsafe buildings and for the repair and maintenance of vacant structures.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Thorntown, Indiana, as follows:

1. Adoption of the Unsafe Building Law: the Town of Thorntown hereby adopts Indiana Code 36-7-9 et. seq. which establishes the Indiana Unsafe Building Law and explicitly incorporates by reference the definition of "substantial property interest" found in Indiana Code 36-7-9-2.

2. Appointment of Department to Administer Ordinance: the Town Council shall be the executive department authorized to administer this Ordinance. The "enforcement authority" as defined by Indiana Code 36-7-9-2 shall be the Town of Thorntown Building Inspector, or such organization that the Town Council may contract with to provide building inspection services for the Town. The "hearing authority" shall be the Town of Thorntown Town Council.

3. The definition of unsafe buildings and unsafe premises described in Indiana Code 36-7-9-4 and all amendments thereto is hereby supplemented to provide more specific descriptions of the conditions which render a building unsafe. When a violation is cited, the Indiana Code number shall be specified along with a more specific itemized violation(s) set out in this Ordinance. 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 condition or defects exist to the extent that life, health, property or safety to the public or its occupants are endangered. Specific descriptions are as follows:

(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 life 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 of 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, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not 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 of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.

(g) whenever any portion thereof was 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 thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting 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 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 construed, exists, or it 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 of this state 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 nonsupporting 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 or 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 arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the county health department or its designated representative 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 exists, lack or sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the fire chief of the town or his designated representative to be a fire hazard.

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

4. Public Nuisance Declared: all buildings or portions thereof within the Town which are determined after inspection by the enforcement authority to be unsafe are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal pursuant to Indiana Code 36-7-9 et. seq.

5. Construction: any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

6. Penalty for Violation: violations of this Ordinance shall be addressed as established in Indiana Code 36-7-9 et. seq. as it may be amended from time to time.

7. Severability: should any section, paragraph, sentence, clause or any other portion of this Ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if, such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this Ordinance. To this end the provisions of this Ordinance are severable.

8. Effective Date: this Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-5-2-10.

ADOPTED this 19<sup>th</sup> day of February, 2018.

THORNTOWN TOWN COUNCIL  
THORNTOWN, INDIANA

ABSENT

\_\_\_\_\_  
President

*Karen Gray*  
Member

*Mark G...*  
Member

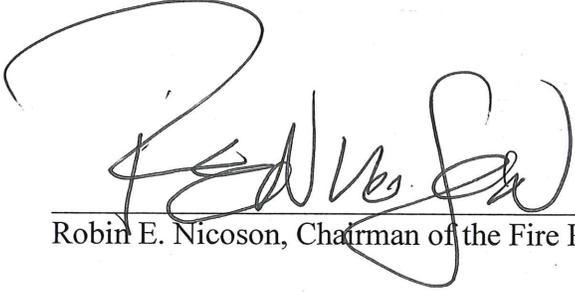
*Henry W. H...*  
Member

*John S...*  
Member

ATTEST:

  
Clerk/Treasurer

Approved this day, the 6 of March, 2018, by the Fire Prevention and Building Safety Commission of the State of Indiana.

A large, stylized handwritten signature in black ink, appearing to read 'Robin E. Nicoson', is written over a horizontal line.

Robin E. Nicoson, Chairman of the Fire Prevention and Building Safety Commission