

Audixase 93-9

JAN 03 1994 18:10

RECORDER OF KOSCIUSKO COUNTY

KOSCIUSKO COUNTY ORDINANCE NUMBER 1614 *L. Anglin*

AN ORDINANCE GOVERNING RESIDENTIAL RENTAL PROPERTY

Section 1. This ordinance governing residential rental property is promulgated pursuant to the authority vested in the health officer pursuant to I.C. 16-20-1

Section 2. As used in this ordinance, "board" means the Kosciusko County Health Board and/or its duly authorized representatives.

Section 3. As used in this ordinance, "dwelling" means any part of any dwelling or its premises used as a place of residence or habitation or for sleeping by any person.

Section 4. As used in this ordinance, "health officer" means the health officer of Kosciusko County or his duly appointed representative.

Section 5. As used in this ordinance, "nuisance" means whatever may be injurious to health.

Section 6. As used in this rule, "order" means any written directive issued by the health officer in accordance with Sec. 16 of this ordinance.

Section 7. As used in this ordinance, "owner" means any one or more of the following:

- (a) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants, if any.
- (b) The record owner or owners as reflected by the County Recorder's Office.
- (c) The purchaser or purchasers or such real estate under any contract for the conditional sale thereof.
- (d) The person or persons in control of the property as executor, executrix, trustee, receiver, or guardian of the owner.

Section 8. As used in this ordinance, Kosciusko County means any and all residential rental properties located in part or in whole within the boundaries of the county, including, but not limited to any and all property situated in cities, towns, incorporated, and unincorporated areas and including any and all areas within and under the jurisdiction of the Kosciusko County Health Department.

Section 9. As used in this rule, "person" means any individual, partnership, copartnership, firm, company, corporation, association, trust, estate, or any other legal entity, its or their successors or assigns or agents of the aforesaid.

Section 10. As used in this rule, "plumbing" shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, and the installation thereof, together with all connections to water, gas or sewer lines.

Section 11. As used in this rule, "premises" shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such dwelling, accessory structure, adjoining alley, easement or drainage way.

Section 12. As used in this rule, "unfit for human habitation" means a condition of a dwelling which is dangerous or detrimental to life or health because of want of repair, defects in drainage, plumbing, lighting, ventilation, or its construction, infection with contagious disease, or the existence on the premises of an insanitary condition likely to cause sickness among occupants of the dwelling.

Section 13. The inspector of dwellings in any city or town may exercise all the powers granted him in a city or town ordinance dealing with housing and granted in this ordinance to the Kosciusko County Board of Health.

Section 14. No owner or other person shall occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, and fit for human occupancy.

Section 15. For the purpose of this ordinance, any dwelling, or its premises, which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe, dangerous dwelling, provided that such conditions or defects exist to the extent that the life, property, or safety of the public or its occupants are endangered:

A. Any door, aisle, passageway, stairway, or other means of exit which is blocked or 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. The walking surface of any aisle, passageway, stairway, or other means of exit which is so warped, worn, decayed, loose, torn, or otherwise unsafe as not to provide safe and

adequate means of exit in case of fire or panic;

C. The stress in any materials, member, or portion thereof, due to all dead and live loads, which is more than one and one half (1 1/2) times the working stress or stresses allowed in the Indiana Building Code for any new dwellings of similar structure, purpose or location;

D. 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 dwellings of similar structure, purpose or location;

E. Any portion of member or appurtenance thereof is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or damage property;

F. Any portion of a dwelling, or any member, appurtenance, or ornamentation on the exterior thereof which 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 (1/2) of that specified for new dwellings of similar structure, purpose, or location without exceeding the working stresses permitted in the Indiana Building Code for such structures;

G. Any portion thereof has 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. The dwelling or structure, or any portion thereof, is likely to partially or completely collapse because of:

1. Dilapidation, deterioration, or decay;
2. Faulty construction;
3. The removal or instability of any portion of the ground necessary for the purpose of supporting such dwelling;
4. The deterioration, decay, or inadequacy of its foundation; or
5. Any other cause.

I. The dwelling or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

- J. 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 of the middle one-third (1/3) of the base;
- K. The dwelling 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;
- L. The dwelling or structure has been so damaged by fire, wind, or earthquake or flood, or has become so dilapidated as to become;
1. An attractive nuisance to children;
 2. A harbor for vagrants, criminals, or any other illegal persons; or as to
 3. Enable persons to resort thereto for the purpose of committing unlawful, illegal, or unsafe acts;
 4. Incapable of maintaining a minimum temperature of sixty-five degrees Fahrenheit (65 F.).
- M. Any dwelling or structure which has been constructed, exists, or is maintained in violation of any specific requirements or prohibition applicable to such dwelling regulation of Kosciusko County, as specified in the Indiana Building Code, or of any law, rule, or ordinance of the State of Indiana or this country, relating to the condition, location, or structure of dwellings which violation constitutes a clear and present health risk to human inhabitants;
- N. Any dwelling or structure which, whether or not erected in accordance with 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 percent (60%) of the:
1. Strength;
 2. Fire-resisting qualities or characteristics required by law in the case of newly constructed dwellings of like area, height, and occupancy in the same location.
- O. A dwelling or structure, used or intended to be used for

dwelling purposes, which, because of inadequate maintenance, filth, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, water supply, sewage disposal, or other sanitary facilities, or otherwise, is determined by the Health Officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

- P. Any dwelling or structure, which, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electrical wiring or fixtures, gas connections, or heating apparatus, or other causes, is determined by the Fire Marshall to be a fire hazard;
- Q. Any dwelling or structure which is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;
- R. Any portion of a dwelling or structure which remains on a site after the demolition or destruction of the dwelling or structure is abandoned for a period in excess of three (3) months so as to constitute such dwellings or portion thereof as an attractive nuisance or hazard to the public;
- S. Any dwelling which is provided with a heating system that is not operable;
- T. Any dwelling which provides less than forty (40) square feet of sleeping room for each inhabitant;
- U. Any dwelling which is provided with an electrical distribution system which is not operable. A system is not operable if it presents a clear and present health risk to human occupants when operating;
- V. Any dwelling from which there is only one means of egress;
- W. Any dwelling for which there is not available safe and potable water of sufficient pressure that all outlets may operate simultaneously;
- X. Any dwelling for which there is not safe potable running hot water not less than 110 degrees fahrenheit;
- Y. Any dwelling for which a septic or sewage removal system is not operable;
- Z. Any dwelling within which a smoke detector system is not

operable. A smoke detector system is deemed operable on condition of the following:

1. At least one unit is installed;
2. At least one smoke detector unit must be on the ceiling not less than six inches (6") from any wall or on any wall located six to 12 inches (6-12") from the ceiling and within fifteen feet (15') of all rooms used for sleeping purposes;
3. If the rental unit consists of multiple levels, each unit shall have not less than one installed smoke detector on the uppermost ceiling of each level not less than six inches (6") from any wall or on a wall located from six to twelve inches (6-12') from the uppermost ceiling of all interior stairwells;
4. All approved smoke detectors required in this ordinance shall be the ionization or photoelectric type, either battery powered or one hundred ten (110) volt A.C. and shall comply with all of the requirements of the Underwriter's Laboratories, Inc. standard UL-217 (standard for safety - single and multiple station smoke detectors 1976). Smoke detectors shall bear the label of a nationally recognized standards testing laboratory that indicates that the smoke detectors have been tested and listed under the requirements of UL217 (1976).
5. These provisions shall not be required in buildings which contain an approved automatic sprinkler system throughout;
6. It shall be the responsibility, at every change of tenant in every single or multiple dwelling, for the owner, manager, or agent to test and ascertain that the approved smoke detectors are in operating condition;
7. No person shall, except in cases of fire or for the purpose of repair and maintenance, remove or tamper with fire extinguishers, fire escapes, fire hoses, nozzles, or other fire control or fire extinguishing equipment or fire reporting equipment, including smoke detectors in or about any of the building or other premises.

Section 16. The health officer may issue an order relative to any unsafe premises to require action, including but not limited to the following:

- A. Vacating of an unsafe dwelling;
- B. Sealing and/or fencing (fencing is defined as a wood or metal barrier sufficient to block human entrance) an unsafe dwelling against intrusions by unauthorized persons by boarding over each basement and ground floor level door, window, or other opening;
- C. Extermination of vermin in and about the unsafe premises;
- D. Repair of an unsafe dwelling to bring it into compliance with standards for dwelling condition or maintenance found in ordinances and rules enacted by the County of Kosciusko and the State of Indiana;
- E. Removal of a portion of an unsafe dwelling;
- F. Removal of an unsafe dwelling including unattached adjacent structures;
- G. Removal of all refuse including all garbage, trash, excreta, etc. including disinfection and purification.

The ordered action shall be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order shall take precedence over any municipally issued permit relating to dwelling or land use which is obtained, either before or after the order is issued.

The force of an order shall expire three (3) years from the day the notice of the order is given unless one (1) or more of the following events occur within such three (3) year period:

- 1. A complaint requesting judicial review is filed in accordance with Section 19 of this Ordinance;
- 2. Work is let out at public bid to a contractor to perform action required by an order in accordance with this section;
- 3. A civil action is filed in the Kosciusko County Circuit Court, or Superior Court, in accordance with Section 20 of this Ordinance;

Section 17. Any order shall contain the following information:

- 1. The name of the person to whom the order is issued;
- 2. The legal description or address or the unsafe premises that is the subject of the order;

3. As used in this ordinance, "rental property" means any dwelling or its premises, including unattached buildings, used as a place of residence or habitation to which an owner permits another individual or individuals to there reside for which the owner receives consideration.
4. A statement of the conditions which make the premises unsafe;
5. The action which the order requires to be accomplished;
6. The period of time in which the action is required to be accomplished, measured, from the time when the notice of the Order is given:
7. A statement indicating the exact time and place of the hearing regarding the order and indicating that the person to whom the Order was issued has a right to appear at the Hearing with or without legal counsel and present evidence, cross-examine opposing witnesses, and make argument;
8. A statement briefly indicating what action can be taken by the board if the order is not complied with;
9. A statement indicating the obligation of the owner to notify any subsequent interest holders of the existence of this order and to notify the board of the owner's intention to transfer the interest to a subsequent interest holder. The owner shall be required to deliver said notices, which notices shall be provided in writing by the owner, to said subsequent interest holders and the board.

The order shall allow sufficient time in which to accomplish the required action. In no case shall less than five (5) calendar days from the day when the notice of the order is given be allowed for compliance with the order. In the instance where more than sixty (60) calendar days are allowed by the order to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within a period of fifteen (15) calendar days.

Section 18. The health officer may at any time modify or rescind an order. All persons who have been issued an order shall be notified of its modification or rescission by means of a written statement which should include the following information:

1. The name of the person to whom the statement of modification or rescission of order is issued;
2. The legal description or address of the unsafe premises

that are the subject of the order being modified or rescinded;

3. The substance of the order being modified or rescinded;
4. A statement that the order is being modified or rescinded;
5. The name, address and telephone number of the board.

Section 19. (a) Any person aggrieved by any order of the health officer made under the provisions of this Ordinance, may, within ten (10) days after the making of the order, file with the board a petition praying the review of the order.

(b) Any person aggrieved by a review of the order made by the board under the provisions of this ordinance, may, within ten (10) days after the review of the order, file with the Circuit or Superior Court a petition praying the judicial review of the order.

Section 20. The person appealing to the Circuit or Superior Court shall file with the Court a bond in an amount to be fixed by the Court with sureties to be approved by the Judge and conditioned to pay all the costs on the appeal in case the person fails to sustain his appeal or in case the appeal is dismissed.

Section 21. Any person violating any provision of this Ordinance or failing to comply with any order of the board or health officer shall be liable for all costs and expenses paid or incurred by the health board officer in the execution of this order, including, but not limited to reasonable attorney fees and court costs.

Section 22. Any person shall be liable for a fine between \$10.00 and \$100.00 per day for each day a violation occurs. Each day shall be considered a separate violation. All monies obtained pursuant to this section shall be placed in the current operating budget of the Kosciusko County Health Department.

Section 23. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid, void, or unenforceable the remainder of the provisions of this ordinance shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

This Ordinance shall become effective as of the
1st day of January, 1994.

ADOPTED by the Board of Commissioners of Kosciusko
County on this 28th day of December, 1993.

BOARD OF COMMISSIONERS OF
KOSCIUSKO COUNTY

Maurice Beer
Maurice Beer
W. E. Brighton
W. E. Brighton
Charles Lynch
Charles Lynch

Attest:

Patricia A. Brown
Patricia A. Brown, Auditor