

TOWN OF CULVER ORDINANCE NO. 2022-001
AN AMENDED UNSAFE BUILDING AND PROPERTY ORDINANCE

AN ORDINANCE providing for the inspection, repair, or removal of unsafe building and unsafe premises with the Town of Culver, State of Indiana.

WHEREAS, the Town of Culver seeks to amend and replace Ordinance 2009-02, as amended in 2015, as follows.

WHEREAS, the Town of Culver did give legal notice and conduct a public meeting for December 28, 2021 continued to January 11, 2022 in regard to said amending this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town of Culver, State of Indiana as follows:

Section 1 - Title

- A. In accordance with Ind. Code § 36-7-9, *et seq.*, this chapter is established and shall be known as the “Unsafe Building and Property Ordinance of Town of Culver, Indiana” (Ordinance).

Section 2 - Scope

- A. Adoption by reference

Ind. Code § 36-7-9, *et seq.*, is hereby adopted by reference as the Town of Culver Unsafe Building and Property Ordinance. All proceedings within the Town of Culver for the inspection, repair, and removal of unsafe buildings shall be governed by Ind. Code § 36-7-9, *et seq.* and the provisions of this Ordinance. In the event the provisions of this Ordinance conflict with state statute then the provisions of the state statute shall control.

- B. Purpose

It is the intent of the Town of Culver to pursue Ordinance compliance actively and vigorously to protect the health, safety, and environment of the public.

- C. Identify

All buildings and properties or portions thereof within the Town of Culver which are determined after inspection by the Town of Culver Building Commissioner or his duly designated representative, to be unsafe as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

1. Right of entry – The Culver Building Commissioner or his/her designated representative is authorized under this Ordinance and under Ind. Code § 36-7-2-3, as amended, to enter any subject premises, structure, or improvement at reasonable times to inspect the same. If entry is refused, the Culver Building Commissioner or his/her designated representative is authorized to pursue an inspection warrant as provided by law.

Section 3 – Administration

- A. The Town of Culver Building Commissioner shall be authorized to administer and to proceed under the provisions of this Ordinance and State Statute in ordering the repair or removal of any buildings or materials found to be unsafe as specified therein or as specified hereafter. The Town of Culver Building Commissioner is designated as the Enforcement Authority.
 1. Deputies – In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Culver Building Commissioner shall have the authority to appoint a deputy Code Officer, other related technical officer, inspectors and other employees.
 2. Liability – The Culver Building Commissioner, while engaging in lawful actions for Town of Culver, is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.
 3. Authority - The Culver Building Commissioner has the authority to act within the confines of this Ordinance and state statute. The Unsafe Building Board, also designated as the Hearing Authority, has the authority to act within the confines of this Ordinance and state statute.
 4. Identification – The Culver Building Commissioner or his/her designated representative shall carry proper identification when inspecting structures or premises in the performance of duties under this Ordinance.

Section 4 – Culver Unsafe Building Board

A. Membership

The Town of Culver Unsafe Building Board is hereby designated the Hearing Authority as outlined in Ind. Code § 36-7-9 *et seq.* The Unsafe Building Board will hear cases in accordance with Ind. Code § 36-7-9 *et seq.*

Membership of the Unsafe Building Board will consist of the member of the Town Council.

Neither the Culver Building Commissioner nor his/her staff or his/her designee may be a member of the Unsafe Building Board.

A. Organization; Quorum

A quorum consists of a majority of the entire membership of the Culver Unsafe Building Board, who are qualified to vote.

B. Organization; President and Vice-President

The President of the Culver Town Council and the Vice-President of the Culver Town Council shall automatically be designated as President and Vice-President of the Culver Unsafe Building Board.

C. Organization; Secretary

The Culver Unsafe Building Board may appoint and fix the duties of a secretary, who is not required to be a member of the board.

D. Organization; Regular Meeting and Minutes

The Culver Unsafe Building Board shall fix the time for holding regular meetings as necessary. Meetings may be held in conjunction with Town Council meetings. The Culver Unsafe Building Board shall keep minutes of its meetings. The minutes of the Culver Unsafe Building Board meetings and all records shall be filed in the office of the Culver Building Commissioner and are public records.

Section 5 – Unsafe Building and Premises Description

In addition to the description of an unsafe building and unsafe premises described in Ind. Code § 36-7-9-4, the following definition is adopted as also constituting an Unsafe Building or Unsafe Premises.

UNSAFE BUILDING: Any building or structure which has any or all of the condition or defects hereinafter described shall be deemed to be 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 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 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 for new buildings of similar structure, purpose or location.
- c. 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.
- d. Whenever any portion, member, or appurtenance thereof is likely to fall, to become detached, or dislodged, or to collapse and thereby injure persons or damage property.
- e. Whenever any portion of a building, or any member, appurtenance, ornamentation on the exterior thereof is not 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.
- f. Whenever any portion thereof has racked, 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.
- g. 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.
- h. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- i. 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.
- 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, 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 requirements or prohibition applicable to such building structure provided by the building regulations of the Town of Culver and of Marshall County, or of any law or ordinance of this State or County, 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 or ordinances has in any non-supporting parts, member , or portion less than fifty percent (50%), or is any support 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 location.
- 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 Culver Building Commissioner 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, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the Culver Building Commissioner to be a fire hazard.
- p. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building 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.

Section 6 – Substantial Property Interest

The definition of “substantial property interest” set forth in Ind. Code § 36-7-9-2 is hereby incorporated by reference herein as if copied in full.

Section 7 – Reconstruction, alterations, repair or demolition

All work for the reconstruction, alteration, repair or demolition of building 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 rules pertaining to construction, plumbing, electrical, mechanical and one- and two-family dwellings promulgated by the Fire Prevention and Building Safety Commission of Indiana shall be considered standard and acceptable practice for all matters

covered by this Ordinance or orders issued pursuant to this ordinance by the Culver Building Commissioner of Town of Culver, Indiana.

Section 8 – Funds

An Unsafe Building and Unsafe Premises Fund is hereby designated and established or has been designated and established in the operating budget of the Building Department in accordance with the provision of Ind. Code § 36-7-9-14.

Section 9 – Violation

No person, firm, entity, or corporation, whether as owner, lessee, sub lessee 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 Ordinance, Ind. Code § 36-7-9 *et seq.*, or any order issued by the Enforcement Authority or Hearing Authority.

A. Emergency Orders

Emergency action in order to protect life, safety or property may be taken by the Enforcement Authority without issuing an order or giving notice but any such action must be taken in accordance with Ind. Code § 36-7-9-9. The action is limited to the abatement or removal of any immediate danger.

B. General Procedure

Violations will be prosecuted in the manner set forth in Ind. Code § 36-7-9 *et seq.*

If the action required by an order of the Enforcement Authority or Hearing Authority is not taken in the requisite time, the Enforcement Authority or Hearing Authority may take any or all actions provided for in Ind. Code § 36-7-9 *et seq.*, common law, or other statute or ordinance to enforce the order.

Payment of civil penalty or costs – If a violation is not corrected within the time specified in the order or in the time allowed under Ind. Code § 36-7-9 *et seq.*, a civil penalty or costs may be imposed as provided under Ind. Code § 36-7-9 *et seq.* and under this Ordinance.

No provision of this Ordinance is to be construed as providing any additional due process rights beyond what the state or federal constitution or Ind. Code § 36-7-9 *et seq.* grants. No

provision of this Ordinance prohibits the Unsafe Building Board from pursuing any remedy available to it under Ind. Code § 36-7-9 *et seq.*, common law, or other statute or ordinance.

1. Civil Penalties

Violations may be punished at the rate of \$100 per day that the violation exists. However, the total civil penalty assessed may not exceed any amount provided in Ind. Code § 36-7-9 *et seq.* Notice of fines will be given according to Ind. Code § 36-7-9 *et seq.*

2. Costs

Any and all costs associated with enforcing this Ordinance may be collected as provided for in Ind. Code § 36-7-9 *et seq.*

Section 10 – Validation

A. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reasons, the remainder of said Ordinance shall not be affected thereby.

B. This Ordinance will be in full force and effect on the ____ day of _____, 2022 according to the laws of the State of Indiana. All former ordinances which conflict with this ordinance are hereby repealed.

Adopted this _____ day of _____, 2022.

TOWN OF CULVER, INDIANA

William Githens, President

Sally Ricciardi, Vice-President

William Cleavenger

ATTEST:

Rich West

Karen Heim, Clerk-Treasurer

William Hamm