

ORDINANCE NO. 2012-6

ORDINANCE ADOPTING STATUTORY REGULATIONS  
REGARDING UNSAFE BUILDINGS

WHEREAS, the City of Rising Sun, Indiana, has a number of unsafe buildings;

WHEREAS, the City of Rising Sun, Indiana, is in need of establishing statutory regulations to insure the safety of the citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA, states that the following language shall be inserted as Chapter 96 in the Code of Ordinances:

**CHAPTER 96: UNSAFE BUILDINGS**

**§ 96.01 ADOPTION OF STATUTORY REGULATIONS.**

(A) Pursuant to the provisions of I.C. 36-7-9, there is hereby established the Rising Sun Unsafe Building Law.

(B) The provisions of I.C. 36-7-9-1 through 36-7-9-28 are hereby incorporated by reference in the Rising Sun Unsafe Building Law. All proceedings within the city for the inspection, repair and removal of unsafe buildings shall be governed by said law and the provisions of this section. In the event the provisions of this section conflict with the provisions of I.C. 36-7-9-2 through 36-7-9-28, then the provisions of the state statute shall control.

(C) All buildings or portions thereof within the city which are determined after inspection by the Building Inspector to be unsafe as defined in this section are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

(D) The Rising Sun Building Inspector shall be authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any building found to be unsafe as specified therein or as specified hereafter.

(E) Wherever in the building regulations of the city or the Rising Sun Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Inspector, or any other officer of the city, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what such regulations or standard shall be, power to require conditions not described by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

(F) The description of an unsafe building contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the city by adding the following definitions:

(1) **UNSAFE BUILDING** means any building or structure which has any or all of the conditions or defects hereinafter described, 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 a 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 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 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 of similar structure, purpose or location without exceeding the working stresses permitted for such buildings.

(g) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquake than is required in the case of similar new construction.

(h) Whenever the building or structure, or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or 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 lift, 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 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting 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 an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts.

(m) 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 this city, or of any law or ordinance of this state or city 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 or ordinances, has any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength, fire resisting qualities or characteristics, or 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.

(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 arrangement, inadequate light, air or sanitation facilities, or otherwise as determined by the Ohio County Board of Health 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 exits or lack of sufficient fire-resistive construction as determined by the Fire Chief of the Rising Sun Volunteer Fire Department is determined to be a fire hazard.

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

(2) **UNSAFE BUILDING** also means, for the purposes of the Unsafe Building Law, a tract of real property that does not contain a building or structure, not including land used for production agriculture, is an unsafe premises if the tract is a fire hazard, a hazard to public health, a public nuisance, or dangerous to a person or property.

(G) A 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.

(H) All work for the reconstruction, 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. 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 (675 IAC), including 675 IAC 12-4-9 and 675 IAC 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by this section or orders issued pursuant to this section by the Building Inspector of the city.

(I) (1) An Unsafe Building Fund is hereby established in the operating budget of the city and in accordance with the provisions of I.C. 36-7-9-14. Any balance remaining in the Fund at the end of a fiscal year shall be carried over in the Fund for the following year and shall not revert to the General Fund. Money for the Unsafe Building Fund may be received from any sources including appropriations by local, state or federal governments, and donations. The following monies shall be deposited in the Unsafe Building Fund:

(a) Monies received as payment for or settlement of obligations or judgments established under I.C. 36-7-9-9 through 36-7-9-13 and I.C. 36-7-9-17 through 36-7-9-22.

(b) Monies received from bonds posted under I.C. 36-7-9-7.

(c) Money received in satisfaction of receiver's notes or certificates that were issued under I.C. 36-7-9-20 and were purchased with money from the Unsafe Building Fund.

(d) Money received for payment or settlement of civil penalties imposed under I.C. 36-7-9-7.

~~(e) Fees collected by the Building Inspector for issuance of building permits.~~

(2) Money in the Unsafe Building Fund may be used for the expenses incurred in carrying out the purposes of this section, including:

(a) The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

(b) The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

(c) The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(d) The cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by I.C. 36-7-9-25;

(e) The bid price of work by a contractor under I.C. 36-7-9-10 or pursuant to I.C. 36-7-9-17 through 36-7-9-22;

(f) The cost of emergency action under I.C. 36-7-9-9; and

(g) The cost of notes or receivers' certificates issued under I.C. 36-7-9-20.

(3) All payments of monies from the Unsafe Building Fund must be made in accordance with applicable law.

(J) No person, firm or corporation, whether an 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 section or any order issued by the Building Inspector. Any person violating the provisions of this section or I.C. 36-7-9-2 shall commit a Class C infraction for each day such violation continues.

#### **§ 96.02 RESPONSIBILITY FOR ADMINISTRATION.**

The Building Inspector shall be responsible for the administration of this chapter in the city.

#### **§ 96.03 HEARING OFFICER.**

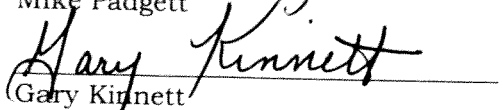
The designated Hearing Officer for violations issued under this section shall be a person appointed by the Mayor. Any decision made by the Hearing Officer is subject to appeal to the Common Council of the city upon written request by either party to the action, made within ten days of the Hearing Officers decision. Appeals of the decisions of the Common Council are made to the Ohio Circuit Court, made within ten days of the Common Councils decision.

**Effective Date.** This ordinance shall be in full force and effect immediately after its passage and approval by the Mayor of the City of Rising Sun, Indiana, and after proper publication and posting as required by law.

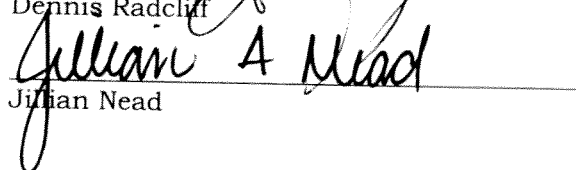
PASSED AND APPROVED by the Common Council of the City of Rising Sun, Indiana this 6<sup>th</sup> day of Sept, 2012.

  
Steve Slack

  
Mike Padgett

  
Gary Kirnnett

  
Dennis Radcliff

  
Jillian Nead

Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this 6 day of Sept, 2012.

Rae Baker Gipson  
Rae Baker Gipson, Clerk-Treasurer

This Ordinance duly approved and signed by me on this 6 day of Sept, 2012.

Branden Roeder  
Branden Roeder, Mayor

ATTEST:

Rae Baker Gipson  
Rae Baker Gipson, Clerk-Treasurer