

ORDINANCE NO. 2019-2

SYNOPSIS: This Ordinance, if adopted, would amend the Town of Markle Unsafe Building Law (currently Ordinance No. 2001-4) to: (1) incorporate Indiana's Unsafe Building Law into the Town's Code of Ordinances, (2) designate the Town Council as the Hearing Authority, and (3) add clarity by specifying certain conditions which constitute an unsafe building.

**AN ORDINANCE AMENDING CHAPTER 151 OF THE CODE OF ORDINANCES
OF THE TOWN OF MARKLE, INDIANA**

The Town Council of Markle, Indiana ("Town"), in meeting duly assembled, after consideration of information deemed by it to be sufficient, hereby finds as follows.

WHEREAS, On February 21, 2001, the Town Council of Markle adopted Ordinance 2001-4 providing for the inspection, repair, or removal of unsafe buildings within the Town; however, the provisions of said Ordinance were not incorporated into the Town's Code of Ordinances.

WHEREAS, the legislative findings adopted by the General Assembly as Indiana Code §36-7-9-4.5 regarding vacant and deteriorated structures are true and accurate;

WHEREAS, it is in the best interests of the citizens of the Town for vigorous and disciplined action to be taken to ensure the proper maintenance and repair of structures deemed unsafe, whether vacant or occupied; and

WHEREAS, the health, safety, and welfare of all citizens in the Town are best served by adopting an Ordinance which provides specific definitions and enforcement procedures to address against unsafe buildings or structures within the Town.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Markle that the Town of Markle Code of Ordinances be amended by inserting the following into Chapter 151:

"§151.120 ADMINISTRATION AND ENFORCEMENT.

- A. Under the provisions of Indiana Code §36-7-9, there is hereby established the Markle Unsafe Building Law.
- B. Indiana Code §§36-7-9-1 through -29 are hereby incorporated by reference. All proceedings within the jurisdiction of the Town for the inspection, repair, demolition, and removal of unsafe buildings shall be governed by that law and the provisions of this section. In the event the provisions of this Chapter conflict with the provisions of Indiana Code §36-7-9, then the provisions of the state statute shall control.
- C. The "Department" authorized to administer this Ordinance is the Huntington Countywide Department of Community Development.

- D. The Department is the "Enforcement Authority" and shall be authorized to administer and to proceed under the provisions of this subchapter in ordering the inspection, repair, demolition, or removal of any building found to be unsafe as specified therein or as specified hereafter.
- E. The "Hearing Authority" relative to this subchapter is the Town Council.
- F. The definition of "Known or Recorded Substantial Property Interest" set forth in Indiana Code §36-7-9-2 is hereby incorporated by reference herein as if copied in full.
- G. The definition of "Substantial Property Interest" set forth in Indiana Code §36-7-9-2 is hereby incorporated by reference herein as if copied in full.
- H. The description of an unsafe building contained in Indiana Code §36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the Town, by adding the following definition. As used in this subchapter, "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:
1. 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.
 2. 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.
 3. 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.
 4. 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.
 5. 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.
 6. 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, 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.
 7. Whenever any portion thereof has cracked, 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.
8. 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.
 9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 10. Whenever the exterior walls or other vertical structural member 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.
 11. 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.
 12. Whenever any 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.
 13. 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 the Town, or of any law or ordinance of this state relating to the condition, location or structure of buildings.
 14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member, or portion less than 66% of the strength, fire-resistant 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.
 15. 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, is determined by the County Health Officer or designee to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
 16. Whenever any building or structure, because of dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the fire chief, or appointed designee, to be a fire hazard.
 17. 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 months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

- I. All buildings or portions thereof within the Town which are determined, after inspection by the Enforcement Authority, 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.
- J. Wherever in the building regulations of the Town Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Enforcement Authority or its authorized agent, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by this Section have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.
- K. All work for the reconstruction, repair, or demolition of buildings or 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 Indiana Code §22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission, shall be considered standard and acceptable practice for all matters covered by this Section or orders issued pursuant to this Chapter.
- L. An Unsafe Building Fund is hereby established in accordance with the provisions of Indiana Code §36-7-9-14.
- M. No person, firm, 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 Section or any order issued pursuant to this Chapter.
- N. Violations of this subchapter are subject to the penalties provided in §151.999.

§151.121 UNSAFE PROCEDURE

- A. The Department shall proceed with enforcement on an unsafe building or structure upon receipt of a written complaint, either hardcopy or digital.
- B. Following receipt of a complaint, the Department shall conduct a site visit to assess the conditions of the property in question. Following the initial site visit, a courtesy letter detailing all observed unsafe conditions and required corrective measures shall be sent to the property owner. The Department may allow the owner up to ninety (90) days to comply. If compliance is not obtained through the courtesy process, the Department shall issue an Order of Enforcement pursuant to Indiana Code §36-7-9-5.

§151.122 AVAILABILITY OF STATE LAW

The Department shall maintain a current copy of 675 IAC on file in the Department office.

§151.123 APPEALS OF ADMINISTRATIVE DECISIONS

- A. At any hearing before the Hearing Authority to review any administrative decision, the Hearing Authority shall make findings of fact and affirm, rescind, or modify the administrative decision. If, at a hearing to review an administrative decision, a person, firm, or corporation aggrieved by the decision requests an additional period of time to accomplish any action required by the decision, and shows good cause for the request to be granted, the Hearing Authority may grant the request.
- B. Pursuant to Indiana Code §36-7-9-8, any final action taken by the Hearing Authority is subject to review by the Huntington Circuit or Superior Court on request of any person who has a substantial property interest relating to the property affected by the administrative decision, or any person to whom that order was issued. A person requesting judicial review must file a verified complaint with the appropriate court within ten days after the date final action was taken by the Hearing Authority. A judicial review is an action de novo and the court may affirm, modify, or reverse the action taken by the Hearing Authority.

§151.124 ACCESS TO PROPERTY; INSPECTIONS

The Enforcement Authority may inspect any building, structure, or lot in the Town at any reasonable time for the purpose of inspection, or for administering and enforcing applicable law, relating to the subject matter of this Ordinance.

§151.125 EMERGENCY MEASURES

The Enforcement Authority shall have the authority to order and implement emergency measures necessary for safety to persons or property, pursuant to Indiana Code §36-7-9-9. The Enforcement Authority may recover the costs incurred in taking emergency action from the persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the Enforcement Authority found it necessary to take emergency action.

§151.126 VIOLATIONS

- A. No person, firm, or corporation, whether as owner, lessee, sub-lessee, occupant, contractor, subcontractor, or licensee shall erect, construct, reconstruct, enlarge, expand, alter, move, convert, use, occupy, or maintain any building or structure in the Town, or cause or permit the same to exist or to be done, contrary to or in violation of any condition imposed by the Department, any provision of this Ordinance, or any other applicable law.

- B. Pursuant to Indiana Code §§36-7-9-13 and -13.5, the Department may recover the costs incurred by the Enforcement Authority in taking corrective action regarding an unsafe premises.
- C. Pursuant to Indiana Code §§36-7-9-17 and -18, the Department may file a civil action in the Huntington County Circuit or Superior Court against the persons who held a fee interest, life estate interest, or equitable interest of a contact purchaser in the unsafe premises."

BE IT FURTHER ORDAINED by the Town Council of Markle that the Town of Markle Code of Ordinances be amended by deleting §151.999 in its entirety and inserting the following

"§ 151.999 PENALTY.

- A. The following fines shall be imposed for each violation of this Chapter:

First Violation:	\$50.00
Second Violation:	\$100.00
Subsequent Violations:	\$200.00
- B. Any person in violation of this Chapter shall be liable to the Town for any expenses and costs incurred.
- C. The fines and penalties provided for in this section shall be in addition to all other remedies and penalties provided for herein and by law and, except where otherwise provided, every day any violation continues after the expiration of the time set forth by legal notice shall constitute a separate violation."

BE IT FINALLY ORDAINED that this Ordinance shall be published in accordance with Indiana Law and shall be effective immediately upon its publication.

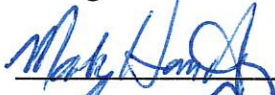
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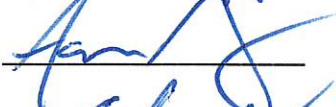
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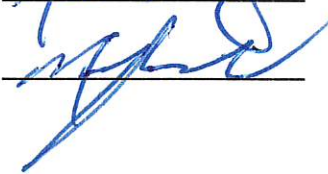
Upon Council's unanimous consent to consider Ordinance 2019-2 for final adoption on the same day of its introduction, Ordinance 2019-2 was duly adopted this 31st day of August, 2019, by a vote of 3 in favor and 0 in opposition.

THE TOWN OF MARKLE, INDIANA by its TOWN COUNCIL

Voting in Favor:







Mark Hamilton, President

Aaron McClary, Vice President

Matthew Doss, Member

Voting in Opposition:

ATTEST:

By: 
(Carolyn Hamilton) as Clerk-
 Treasurer