

ORDINANCE NO. 2019-3

**AN ORDINANCE OF THE TOWN OF GENEVA, INDIANA ADOPTING
THE PROVISIONS OF INDIANA CODE IC 36-7-9
ENTITLED UNSAFE BUILDING LAW**

WHEREAS, the Board of Trustees of the Town of Geneva (“Town”) heretofore enacted Ordinance No. 2012-3 adopting provisions of the Unsafe Building Law as set forth in IC 36-7-9; and

WHEREAS, said Ordinance No 2012-3 was codified in the Geneva Town Code as Article IX, Chapter 97; and

WHEREAS, the Board of Trustees believes that said Article IX, Chapter 97 of the Geneva Town Code should be amended in order to identify the Enforcement Authority under said statute as well as the composition of the Hearing Authority under said statute; and

WHEREAS, the Town of Geneva is committed to protect and promote the physical and mental health and social well being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health and safety and to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health by establishing legislation which provides for the administration and enforcement of minimum standards for safety from fire and accidents, the use, location and amount of space for human occupancy and the determination of the responsibilities of owners, operators and occupants of buildings, and

WHEREAS, the Board of Trustees of the Town of Geneva, being the legislative body of the municipality may adopt IC 36-7-9, entitled “Unsafe Building Law” by ordinance; and

WHEREAS, the ordinance must specify the executive department of the unit responsible for the administration of IC 36-7-9 or establish such a department; and

WHEREAS, the ordinance must also incorporate by reference the definition of “substantial property interest”.

NOW THEREFORE, BE IT RESOLVED AND ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF GENEVA, INDIANA THAT ARTICLE IX, CHAPTER 97 OF THE GENEVA TOWN CODE IS AMENDED AS FOLLOWS:

§97.01. ADOPTION OF STATE LAW.

(A) Under the provisions of IC 36-7-9, there is hereby established the Town of Geneva Unsafe Building Law.

(B) IC 36-7-9-1 through 36-7-9-29 are hereby adopted by reference as the Town of Geneva Unsafe Building Law and two copies of the same are on file in the office of the Clerk-

Treasurer. All proceedings within the Town for the inspection, repair, and removal of unsafe buildings shall be governed by this law and the provisions of this subchapter. In the event the provisions of this subchapter conflict with the provisions of IC 36-7-9-1 through 36-7-9-29, then the provisions of the state statute shall control.

§97.02. DECLARATION OF PUBLIC NUISANCE.

All buildings or portions thereof within the Town which are determined after inspection by the Building and Planning Director to be unsafe as defined in this subchapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

§97.03. ADMINISTRATION.

(A) The Building and Planning Director, as the Enforcement Authority, shall be authorized to administer and to proceed under the provisions of this law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(B) Whenever in the building regulations of the Building Department or the Town of Geneva Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building and Planning Director, or any other officer of the Building Department, this shall be construed to give that officer only the discretion of determining whether the rules and standards established by the ordinance have been complied with; and no such provision shall be construed as giving any office 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.

§97.04. DEFINITIONS.

(A) "Enforcement Authority" shall be the Town's Building and Planning Director, and he shall have all of the duties and authority as set forth for an Enforcement Authority in IC 36-7-9-1 through 36-7-9-29.

(B) "Hearing Authority" shall be a committee composed of the Clerk-Treasurer and two (2) members of the Board of Trustees, and said committee shall have all of the duties and authority as set forth for a Hearing Authority in IC 36-7-9-1 through 36-7-9-29.

(C) "Known or Recorded Substantial Property Interest" as set forth in IC 36-7-9-2 is hereby incorporated by reference herein as if copied in full.

(D) "Unsafe Building" contained in IC 36-7-9-4 is hereby incorporated by reference herein as if copied in full, but is also supplemented to provide minimum standards for building conditions or maintenance in the Town by adding the following definition:

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 conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are in danger.

1. Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size of is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. 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 or similar structure, purpose, or location.
3. 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.
4. 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.
5. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is 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.
6. Whenever any portion thereof has cracked, warped, or 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.
7. 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.
8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
9. Whenever the exterior walls of other vertical 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.
10. 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.

11. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts.

12. Whenever the 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 Building Department or of any law or ordinance of this state or county relating to the condition, location, or structure of buildings.

13. 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 50% or in any supporting part, member, or portion less than 66% of the strength, fire resisting qualities and characteristics, or weather resisting qualities or characteristics required by law in the case of a newly construction building of like area, height, and occupancy in the same location.

14. 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 filters or otherwise, is determined by the Adams County Health Officer to be unsanitary, unfit for human habitation, or in such condition that it is likely to cause sickness or disease.

15. 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 Fire Chief to be a fire hazard.

16. 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.

§97.05. UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the Town in accordance with the provisions of IC 36-7-9-14.

§97.06. WORK STANDARDS.

All work for the reconstruction, alteration, repair, or demolition of buildings and other construction shall be performed in a good and workmanship manner accordance to the accepted standards and practices in the trade. The provisions of the rules pertaining to the construction, plumbing, electrical, mechanical, and one and two family dwellings, promulgated by the Administrative Building Council of Indiana, shall be considered standard and acceptable practice

for all matters covered by this subchapter or orders issued pursuant to this subchapter by the Building and Planning Director of the Town.

§97.07. COMPLIANCE REQUIRED.

No person, firm, or corporation, whether as owner, lessee, sublessee, 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 subchapter or any other issued by the Building and Planning Director of the Town.

§97.08. PENALTY.

(A) Any person violating any provision of this chapter may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this chapter.

(B) Any person violating the provisions of this Ordinance or IC 36-7-9 as incorporated herein, commits a Class C infraction for each day such violation continues pursuant to IC 36-7-9-28.

§97.09. EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon passage of the Town of Geneva Board of Trustees and due publication thereof.

PASSED AND ADOPTED by the Board of Trustees of the Town of Geneva by all members present and voting on May 14, 2019.

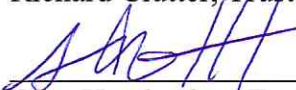
BOARD OF TRUSTEES OF THE TOWN OF GENEVA



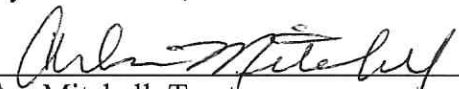
Agnes Schoch, President



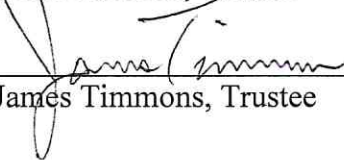
Richard Clutter, Trustee



Gary Hendershot, Trustee



Arlen Mitchell, Trustee



James Timmons, Trustee

ATTEST:



Jane Kaverman, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless otherwise required by law. David N. Baumgartner

PREPARED IN THE LAW OFFICES OF
BAUMGARTNER
ATTORNEYS PC

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