

Ordinance No. 2003 - T - 025

**AN ORDINANCE AMENDING AND REPLACING ORDINANCE 1986-T-03
ESTABLISHING, IMPLEMENTING AND, ENFORCING STANDARDS,
REGULATIONS, AND RULES CONCERNING THE MAINTENANCE, REPAIR,
AND/OR REMOVAL OF ANY STRUCTURES CONSTITUTING A HAZARD TO
PUBLIC SAFETY, HEALTH AND WELFARE**

BE IT ORDAINED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA

THAT:

WHEREAS, the Town Council of the Town of Greenville is the entity responsible for providing standards for the protection of life, limb, health, environment, public safety and welfare within the Town of Greenville, Indiana;

WHEREAS, the Town Council of the Town of Greenville is the entity responsible for establishing and enforcing standards, regulations, and rules concerning the maintenance and repair of any structures that constitute a hazard to public health, safety and welfare;

WHEREAS, the Town Council of the Town of Greenville desires to authorize and direct the President of the Town Council of the Town of Greenville, Indiana and/or the person or persons so appointed by the President of the Town Council of the Town of Greenville, Indiana to enforce all of the provisions of this Ordinance within the Town; and

WHEREAS, pursuant to Indiana Code 36-7-9-1 et seq. series, the Town Council of the Town of Greenville is desirous of implementing standards, regulations and rules concerning the maintenance and repair of any structures that constitute a hazard to public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED, this Ordinance, and all ordinances supplemental or amendatory hereon shall be known as the "Unsafe Building Code of the

Town of Greenville, Indiana” (hereinafter “Unsafe Building Code”), and may be cited as such.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Town of Greenville, Indiana, that the ordinance for the control and regulation of unsafe buildings be adopted to read as follows:

Unsafe Building Code

- Section 1. Definitions for Use in this Ordinance
- Section 2. General Prohibition of Unsafe Buildings
- Section 3. Orders; Contents; Notice; Expiration
- Section 4. Modification or Rescission of Orders
- Section 5. Hearing; Extension of Time Limits; Performance Bonds; Record of Findings and Action
- Section 6. Emergency Action; Recovery of Costs; Challenge of Determination of Emergency
- Section 7. Action to Enforce Orders
- Section 8. Performance of Work Required by Orders; Procedure
- Section 9. Liability for Costs for Performance of Work Required by Orders
- Section 10. Notice of Unpaid Costs; Filing with Clerk of Court; Hearing; Judgment Lien
- Section 11. Unpaid Costs for Unsafe Premises Repairs; Notice; Certification as Special Assessment; Collection as Delinquent Taxes; Disposition of Collections
- Section 12. Unsafe Building Fund
- Section 13. Inspection Warrants
- Section 14. Civil Actions Regarding Unsafe Premises
- Section 15. Manner of Serving Notice
- Section 16. Recording of Orders, Statements of Rescission, Statements of Public Bids, and Records of Actions Taken by Hearing Authority
- Section 17. Transfers of Property by Person Not Complying with Orders
- Section 18. Violations; Penalties
- Section 19. Appeals

SECTION 1. DEFINITIONS FOR USE IN THIS ORDINANCE

As used in this ordinance, the following definitions shall apply:

Department: refers to the executive department, that is, the Town Council of the Town of Greenville, Indiana, so authorized by this ordinance to administer Indiana Code 36-7-9-1 et seq. series as adopted in this ordinance;

Enforcement Authority: refers to the chief administrative officer of the Department, that is, the President of the Town Council of the Town of Greenville, Indiana and/or the person or persons so appointed by the President of the Town Council of the Town of Greenville, Indiana;

Hearing Authority: refers to the Town Council of the Town of Greenville, Indiana;

Substantial Property Interest: means any right in real property that may be affected in a substantial way by actions authorized by this Ordinance; including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

Unsafe Buildings: for purposes of this Ordinance, a building or structure, or any part of a building or structure, that is:

1. in an impaired structural condition that makes it unsafe to a person or property;
2. a fire hazard;
3. a hazard to the public health;
4. a public nuisance;
5. dangerous to a person or property because of a violation of a statute or ordinance concerning building conditions or maintenance; and/or
6. vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

Additionally, any building or structure which has any or all 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 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 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.
3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by 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 person, or damage property.
5. Whenever any portion, of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength of 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.
6. 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 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 (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.
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 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.
10. 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, of fifty percent (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 so as to become (1) an attractive nuisance to children, or (2) freely accessible to persons for the purpose of committing unlawful acts.
12. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the building regulations of the Town of Greenville, Indiana, or of any law or ordinance of this state or municipality 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 or 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-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.
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 facilities, or otherwise, is determined by the Floyd County Health Department or its officers to be unsanitary, unfit for human habitation, or in such a condition that 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 concerned Fire Department 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.

Unsafe Premises: for the purposes of this Ordinance, the tract of real property on which an unsafe building is located is considered an unsafe premises.

SECTION 2. GENERAL PROHIBITION OF UNSAFE BUILDINGS

It shall be unlawful to permit any building of any kind to remain in a manner in which the structure constitutes a hazard to public health, safety and welfare.

SECTION 3. ORDERS; CONTENTS; NOTICE; EXPIRATION

(A) The enforcement authority may issue an order requiring action relative to any unsafe premises, including

1. vacating of an unsafe building;
2. sealing an unsafe building against intrusion by unauthorized persons;
3. extermination of vermin in and about the unsafe premises;

4. removal of trash, debris, or fire hazardous material in and about the unsafe premises;
5. repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under Indiana Code 4-22-2, or an ordinance;
6. removal of part of an unsafe building;
7. removal of an unsafe building; and
8. requiring, for an unsafe building that will be sealed for a period more than ninety (90) days:
 - a. sealing against intrusion by unauthorized persons and the effects of weather;
 - b. exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - c. continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given in accordance with Section 15 of this Ordinance. Notice of the ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(B) The order must contain:

1. the name of the person to whom the order is issued;
2. the legal description or address of the unsafe premises that are the subject of the order;
3. the action that the order requires;
4. 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;
5. if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that the person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;
6. if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), or (a)(4) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;
7. a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

8. a statement indicating the obligation created by Section 17 of this Ordinance relating to notification of subsequent interest holders and the enforcement authority; and
9. the name, address, and telephone number of the enforcement authority.

(C) The order must allow a sufficient time, of at least ten (10) days from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(D) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

1. A complaint requesting judicial review is filed under Section 6 of this Ordinance.
2. A contract for action required by the order is let at public bid under Section 8 of this Ordinance.
3. A civil action is filed under Section 14 of this Ordinance.

SECTION 4. MODIFICATION OR RESCISSION OF ORDERS

(A) The enforcement authority may issue an order that modifies the order previously issued.

(B) The enforcement authority may rescind an order previously issued, even if the order has been affirmed by the hearing authority.

SECTION 5. HEARING; EXTENSION OF TIME LIMITS; PERFORMANCE BONDS; RECORD OF FINDINGS AND ACTION;

(A) A hearing must be held relative to each order of the enforcement authority, except for an order issued under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance. An order issued under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(B) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after

the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by Section 15 of this Ordinance. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under Section 15 of this Ordinance by a method other than publication.

- (C) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.
- (D) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:
 - 1. affirm the order;
 - 2. rescind the order; or
 - 3. modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done.

- (E) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for the request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.
- (F) The Town Council of the Town of Greenville shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with Indiana Code 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered

action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (E).

- (G) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.
- (H) A civil penalty under subsection (D) may be collected in the same manner as costs under Section 10 of this Ordinance. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

SECTION 6. EMERGENCY ACTION; RECOVERY OF COSTS; CHALLENGE OF DETERMINATION OF EMERGENCY

- (A) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.
- (B) The Town of Greenville may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against 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.
- (C) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this Ordinance's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any persons required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the enforcement authority's determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

SECTION 7. ACTION TO ENFORCE ORDERS

- (A) The enforcement authority may cause the action required by an order issued under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance to be performed by a contractor if:

1. the order has been served, in the manner prescribed by Section 15 of this Ordinance, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject to the order;
 2. the order has not been complied with;
 3. a hearing was not requested under Section 3(b)(6) of this Ordinance, or, if a hearing was requested, the order was affirmed at the hearing; and
 4. the order is not being reviewed under Section 19 of this Ordinance.
- (B) The enforcement authority may cause the action required by an order, other than an order under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance, to be performed if:
1. service of an order, in the manner prescribed by Section 15 of this Ordinance, has been made on each person having a substantial property interest in the unsafe premises that are subject of the order;
 2. the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;
 3. the order, as affirmed or modified at the hearing, has not been complied with; and
 4. the order is not being reviewed under Section 19 of this Ordinance.
- (C) If action is being taken under this Section on the basis of an order that was served by publication, it is sufficient to serve the statement that the enforcement authority intends to perform the work by publication, unless the authority has received information in writing that enables it to make service under Section 15 of this Ordinance by a method other than publication.

SECTION 8. PERFORMANCE OF WORK REQUIRED BY ORDERS; PROCEDURE

- (A) The work required by an order of the enforcement authority may be performed in the following manners:
1. If the work is being performed under an order other than an order under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance, and if the cost of the work is estimated to be less than five thousand dollars (\$5,000.00), the enforcement authority or other agent, may perform the work by means of its own workers and equipment owned or leased by it. Notice that the work is to be performed must be given to all persons with a substantial

property interest, in the manner prescribed in subsection (C) at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

2. If the work is being performed under an order other than an order under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance, and if the estimated cost of this work is five thousand dollars (\$5,000.00) or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by Section 9 of this Ordinance is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.
 3. If the work is being performed under an order issued under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the Town Council of the Town of Greenville, acting through its enforcement authority or other governmental agency and using its own workers and equipment owned or leased by it. Work performed under an order issued under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the cost incurred by the enforcement authority in processing the matter and performing the work, as provided by Section 9 of this Ordinance.
- (B) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by Section 9 (A)(1) of this Ordinance.
- (C) All persons who have a substantial property interest in the unsafe premises and are subject to an order other than an order under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance must be notified about the public bid in the manner prescribed by Section 15 of this Ordinance, by means of a written statement including:

1. the name of the person to whom the order was issued;
 2. a legal description or address of the unsafe premises that are the subject of the order;
 3. a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
 4. a description of work to be accomplished;
 5. a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
 6. the time of the bid opening;
 7. the place of the bid opening; and
 8. the name, address and telephone number of the enforcement authority.
- (D) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (C), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of the public bid may be obtained from the enforcement authority.
- (E) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a substantial property interest in the property and are subject to an order other than an order under Section 3(a)(2), 3(a)(3), or 3(a)(4) of this Ordinance.
- (F) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables it to make service under Section 15 of this chapter by a method other than publication.

SECTION 9. LIABILITY FOR COSTS FOR PERFORMANCE OF WORK REQUIRED BY ORDERS

- (A) When action required by order is performed by the enforcement authority or by a contractor acting under Section 8 of this Ordinance, each person who held a fee interest, life estate, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the following costs:

1. The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under Section 8 of this Ordinance.
2. An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this Ordinance so that the action required by an order may be performed by a contractor under Section 8 of this Ordinance. In calculating the amount of the average processing expense, the following cost may be considered:
 - a. The cost of obtaining reliable information about the identity and location of persons who own substantial property interest in the unsafe premises.
 - b. The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with Section 15 of this Ordinance.
 - c. Salaries for employees.
 - d. The cost of supplies, equipment, and office space.

(B) The Town Council for the Town of Greenville shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action by the Town Council. In determining the average processing expense, the Town Council may fix the amount as a full dollar amount that is an even multiple of ten (10).

SECTION 10. NOTICE OF UNPAID COSTS; FILING WITH CLERK OF COURT; HEARING; JUDGEMENT LIEN

- (A) If all or any part of the costs listed in Section 9 of this Ordinance remain unpaid for any unsafe premises (other than premises owned by a governmental entity) for more than fifteen (15) days after the completion of the work, the enforcement authority does not act under Section 11 of this Ordinance, and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:
1. the name and last known address of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;
 2. the legal description or address of the unsafe premises that were the subject of work;
 3. the nature of the work that was accomplished;

4. the amount of the unpaid bid price of the work that was accomplished; and
5. the amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

- (B) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by Section 15 of this Ordinance.
- (C) A judgment by the circuit court, to the extent that it is not satisfied under Indiana Code 27-2-15-1 et seq., is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on real and personal property of the persons named. The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

SECTION 11. UNPAID COST FOR UNSAFE PREMISES REPAIRS; NOTICE CERTIFICATION AS SPECIAL ASSESSMENT; COLLECTION AS DELINQUENT TAXES; DISPOSITION OF COLLECTIONS

- (A) This section does not apply to the collection of an amount if a court determines under Section 10 of this Ordinance that the enforcement authority is not entitled to the amount.
- (B) If all or any part of the cost listed in Section 9 of this Ordinance remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work, the enforcement authority may send notice under Section 15 of this Ordinance to each person who held a fee interest, life estate interest, or an equitable interest of a contract purchaser in the unsafe premises. The notice must require full payment of the amount owed within thirty (30) days.
- (C) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:
 1. the name of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
 2. the description of the unsafe premises, as shown by the records of the county auditor;

3. the amount of the delinquent payment, including all costs described in Section 9 of this Ordinance.
- (D) The county auditor shall place the total amount certified under subsection (C) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.
- (E) An amount collected under subsection (D), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

SECTION 12. UNSAFE BUILDING FUND

- (A) The Unsafe Building Fund is hereby created.
- (B) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The Unsafe Building Fund shall also be established in the operating budget. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund. The following money shall be deposited in the fund:
1. Money received as payment for or settlement of obligations or judgments established under Sections 6 through 10 of this Ordinance and Indiana Code 36-7-9 sections 17 through 22.
 2. Money received from bonds posted under Indiana Code 36-7-9-20.
 3. Money received in satisfaction of receivers' notes or certificates that were issued under Indiana Code 36-7-9-20 and were purchased with money from the unsafe building fund.
 4. Money received for payment or settlement of civil penalties imposed under Section 5 of this Ordinance.
 5. Money received from the collection of special assessments under Section 11 of this Ordinance.
- (C) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this Ordinance, including:
1. the cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;
 2. the cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the Town of Greenville;
 3. the cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

4. 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 Section 15 of this Ordinance;
5. the bid price of work by a contractor under Section 7 or Section 14 of this Ordinance;
6. the cost of emergency action under Section 6 of this Ordinance; and
7. the cost of notes or receivers' certificates issued under Indiana Code 36-7-9-20.

(D) Payment of money from the unsafe building fund must be made in accordance with applicable law.

SECTION 13. INSPECTION WARRANTS

(A) If the owners or those in possession of a building refuse inspection, an inspection officer of the enforcement authority may seek an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building.

(B) The person seeking the warrant:

1. must establish that the building to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.
2. An affidavit establishing one (1) of the grounds described in subsection (1) must be signed under oath or affirmation by the affiant.

SECTION 14. CIVIL ACTIONS REGARDING UNSAFE PREMISES

The Town Council of the Town of Greenville, acting through the enforcement authority or a person designated by the enforcement authority, may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. Pursuant to Indiana Code 36-7-9 sections 18 through 22, the civil action may request: injunctions; civil forfeitures; appointment of receiver; court order authorizing performance of work and judgment of cost; and/or an emergency court order authorizing action to make premises safe and judgment for costs.

SECTION 15. MANNER OF SERVING NOTICE

(A) Notice of orders, notice of continued hearings without specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

1. sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;
2. delivering a copy of the order or statement personally to the person to be notified; or
3. leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified.

(B) If, after a reasonable effort, service is not obtained by a means described in subsection (A), service may be made by publishing a notice of the order or statement in accordance with Indiana Code 5-3-1-1 et seq. in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivision (1), (2), (4), (5), (6), (7), and (9) of Section 3(B) of this Ordinance; and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority.

(C) When service is made by any means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(D) The date when notice of the order or statement is considered given is as follows:

1. If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his dwelling or usual place of abode.
2. If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.
3. Notice of publication is considered given on the date of the second day that publication was made.

(E) Notice of orders, notice of continued hearings without a specified date, and notice of a statement that public bids are to be let need not be given to a person holding a property interest in an unsafe premises if:

1. no instrument reflecting the property interest held by the person is recorded in the recorder's office of the county where the unsafe premises is located;
2. the order or statement was recorded in accordance with Section 16 of this Ordinance; and
3. the enforcement authority has received neither written information nor actual notice of the identity of the person who holds a property interest in the unsafe premises.

A person who failed to record an instrument reflecting an interest in his unsafe premises is considered to consent to action taken under this Ordinance relative to which notice would otherwise be given.

SECTION 16. RECORDING OF ORDERS, STATEMENTS OF RESCISSION, STATEMENTS OF PUBLIC BIDS, AND RECORDS OF ACTIONS TAKEN BY HEARING AUTHORITY

- (A) The enforcement authority shall record in the office of the county recorder orders issued under Section 3 or 4(A) of this Ordinance, statements of rescission issued under Section 4(B) of this Ordinance, statements that public bids are to be let under Section 8 of this Ordinance, and records of action in which an order is affirmed, modified, or rescinded taken by the hearing authority under Section 5 of this Ordinance.
- (B) A person who takes an interest in unsafe premises that are the subject of an order takes that interest, whether or not a hearing has been held, subject to the terms of the order and in such a manner that all of the requirements of Sections 7 and 8 of this Ordinance and any court action taken pursuant to IC 36-7-9 sections 17 through 22 relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing and in such a manner that all of the requirements of Section 7 and 8 and any court action taken pursuant to IC 36-7-9 sections 17 through 22 relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.
- (C) A person who takes an interest in unsafe premises that are the subject of a statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 8 of this Ordinance is considered given to the person.

SECTION 17. TRANSFERS OF PROPERTY BY PERSON NOT COMPLYING WITH ORDERS

(A) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

1. must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and
2. must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:
 - a. the full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and
 - b. the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(B) If a judgment is obtained against the Town of Greenville, any of its agents, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in unsafe premises in an action taken by the entity under this Ordinance, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

SECTION 18. VIOLATIONS; PENALTIES

Pursuant to Indiana Code 36-7-9-28, a person who:

1. remains in, uses, or enters a building in violation of an order made under this chapter;
2. knowingly interferes with or delays the carrying out of an order made under this chapter;
3. knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this chapter; or
4. fails to comply with IC 36-7-9-27 (referred to as Section 17 in this Ordinance);

commits a Class "C" infraction. Each day that the violation continues constitutes a separate offense.

SECTION 19. APPEALS

(A) an action taken under Section 5(D) of this Ordinance is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

1. any person who has a substantial property interest in the unsafe premises;
or
2. any person to whom that order was issued.

(B) A person requesting judicial review under this section must file a verified authority. The complaint must be filed within ten (10) days after the date when the action was taken.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that upon the effective date of the Ordinance herein, any provision of any Ordinance that is in conflict with this Ordinance is hereby repealed, and that any provision of any Ordinance that is not in conflict with this amendment shall remain in full force and effect.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that this Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED by the Town Council for the Town of Greenville, Indiana this 10th day of March, 2003.

TOWN COUNCIL FOR
THE TOWN OF GREENVILLE

L. Ray Gibson, President

Hanzel Barclay, Member

David Matthews
David Matthews, Member

Ted Miller
Ted Miller, Member

Mike Receveur
Mike Receveur, Member

Attest:

Jack Spriglet
Jack Spriglet, Clerk/Treasurer