

ORDINANCE NUMBER 2002- 2

**AN ORDINANCE OF THE TOWN OF CLOVERDALE GOVERNING
BUILDING AND CONSTRUCTION REGULATIONS**

WHEREAS, it is in the interest of the Town of Cloverdale to establish a uniform system for building and construction within the town, and;

WHEREAS, the Town of Cloverdale, by its town council desires to revise, amend, and enact certain regulations concerning building and construction within the Town and;

WHEREAS, in order to be consistent, the arrangement of such ordinances, rules and regulations should conform to the form of the proposed "Cloverdale Town Code", and;

IT IS THEREFORE ORDAINED by the Town Board of the Town of Cloverdale, Indiana, that this Chapter 7, Building and Construction Regulations be enacted:

CHAPTER 7

BUILDING AND CONSTRUCTION REGULATIONS

ARTICLE 1. ENFORCEMENT OF BUILDING STANDARDS

Section 7-1. Adoption by Reference.

Indiana Code, § 36-7-9 on enforcement of building standards is adopted by reference as if fully set out herein. A copy of *Indiana Code* § 36-7-9 is on file in the office of the Town Clerk-Treasurer for public inspection.

Section 7-2. Definition of Substantial Property Interest.

The definition of "**substantial property interest**" used in *Indiana Code*, § 36-7-9-2 is applicable to this ordinance and 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.

Section 7-3. Administration – Building Commissioner.

The Building Commissioner is authorized and directed to administer and enforce all of the provisions of this Chapter. Whenever in this Article it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, this shall be construed to give such officer only the discretion of determining whether this Article has been complied with; and no such provision shall be construed as giving any officer discretionary

powers as to what this Article shall be, or power to require conditions not prescribed by ordinances, or to enforce this Article in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under *Indiana Code*, § 22-13-2-7(b).

***** sections 4 through 9 reserved *****

ARTICLE 2. INSPECTION, REPAIR OR REMOVAL OF UNSAFE BUILDINGS.

Section 7-10. Title.

Under the provisions of *Indiana Code*, § 36-7-9, there is established the Town of Cloverdale Unsafe Building Law.

Section 7-11. Unsafe Building Law Incorporated by Reference.

Indiana Code, §§ 36-7-9-1 through 36-7-9-28, together with all hearing requirements, is incorporated by reference in the Town of Cloverdale Unsafe Building Law. All proceedings within the Town of Cloverdale for the inspection, repair and removal of unsafe buildings shall be governed by said law and the provisions of this ordinance. In the event the provisions of this ordinance conflict with the provisions of *Indiana Code*, §§ 36-7-9-1 through 36-8-9-28, then the provisions of the state statute shall control. (Ord. No. 1995-7, 12-22-95)

Section 7-12. Public Nuisances.

All buildings or portions thereof within the Town of Cloverdale which are determined after inspection by the Building Commissioner to be unsafe as defined in this ordinance are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal, in accordance with the procedure specified in the Cloverdale Unsafe Building Law (Ord. No. 1995-7, 12-22-95)

Section 7-13. Role of Building Commissioner.

The Town of Cloverdale Building Commissioner, as chief administrative officer, and after consultation with appropriate Town officials and/or agencies, shall be authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter. (Ord. No. 1995-7, 12-22-95).

Section 7-14. Guidelines.

Whenever, in the building regulations of the Town of Cloverdale or the Town of Cloverdale Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the building Commissioner, or any other officer or agency of the Town of Cloverdale, 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

provisions shall be construed as giving any officer of agency 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. (Ord. No. 1995-7, 12-22-95).

Section 7-15. Unsafe Building Defined.

The definition of an unsafe building contained in *Indiana Code*, § 36-7-9-4 is supplemented to provide minimum standards for building condition or maintenance in the Town of Cloverdale, Indiana, by adding the following to said definition:

Unsafe Building means any building or structure which has any or all of the conditions of 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 sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic, as established by the applicable Indiana State or Town Building Code then in force.
- (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 ($1 \frac{1}{2}$) times the working stress or stresses allowed for new buildings of similar structure, purpose or location, as established by the applicable Indiana State or Town Building Code then in force.
- (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, as established by the applicable Indiana State or Town Building Code then in force.
- (e) Whenever any portion of a building, or any 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 of 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 ($\frac{1}{2}$) of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted

for such building, as established by the applicable Indiana State or Town Building Code then in force.

- (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 winds or earthquakes than is required in the case of similar new construction.
- (h) 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.
- (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 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 (1/3) of the base.
- (k) Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting members, or fifty percent (50%) damage or deterioration of its non-supporting members, inclosing 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 (1) an attractive nuisance to children, or (2) 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 Town, or of any law or ordinance of this State, County or Town 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 and 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.

- (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 is determined by the Building Commissioner 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, lack of sufficient fire-resistive construction is determined by the Building Commissioner to be a fire hazard.
- (q) 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 (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
(Ord. No. 1995-7, 12-22-95)

Section 7-16. Definition of Substantial Property Interest.

The definition of "substantial property interest" set forth in *Indiana Code*, § 36-7-9-2 is incorporated by reference herein as if copied in full. (Ord. No. 1995-7, 12-22-95)

Section 7-17. Standards and Practices in the Trade.

All work for the reconstruction, 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 building laws, as defined by *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 ordinance or orders issued pursuant to this ordinance by the Building Commissioner of the Town of Cloverdale, Indiana. (Ord. No. 1995-7, 12-22-95)

Section 7-18. Administrator and Hearing Authority.

The Building Commissioner of the Town of Cloverdale is designated the Administrator responsible for the administration of this Chapter in accordance with the provisions of *Indiana Code*, § 36-7-9-3; and the Plan Commission of the Town of Cloverdale is designated the hearing authority for the purpose of conducting hearings in accordance with *Indiana Code*, § 36-7-9-7. (Ord. No. 1995-7, 12-22-95).

Section 7-19. Unsafe Building Fund.

An Unsafe Building Fund is established in the operating budget of the Town in accordance with the provisions of *Indiana Code*, § 36-7-9-14. (Ord. No. 1995-7, 12-22-95)

Section 7-20. Penalties.

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 ordinance or any order issued by the Building Commissioner. Any person violating the provisions of this ordinance may be fined in an amount not to exceed two thousand five hundred dollars (\$2,500.00) for each day such violation continues. (Ord. No. 1995-7, 12-22-95)

Section 7-21. Severability.

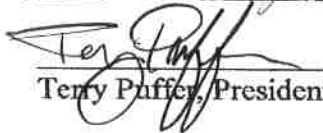
Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reasons, the remainder of said ordinance shall not be affected thereby. (Ord. No. 1995-7, 12-22-95)

This Ordinance shall have full force and effect after legal publication pursuant to I.C. 5-3-1.

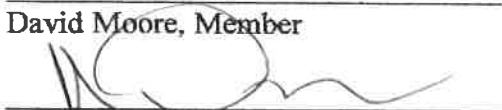
The Clerk-Treasurer of the Town of Cloverdale is directed to publish this ordinance by inserting a copy of the ordinance in the official set(s) of the Town of Cloverdale Code maintained on file for public inspection in the office of the Clerk-Treasurer.

PASSED AND ADOPTED by the Town Board of the Town of Cloverdale, Indiana this

13th day of August, 2002.


Terry Puffer, President

David Moore, Member


John Davis, Member


Cathleen Monaco, Member


Herman Cox, Member

ATTEST:


Patti Truax, Clerk-Treasurer