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CHAPTER 151: UNSAFE BUILDINGS

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UNSAFE BUILDING CODE

§ 151.01 TITLE.

This subchapter shall be known as the "Garrett Unsafe Building Law" and hereby adopts by reference the provisions of IC 36-7-9-1 et seq. in its entirety, as may be amended from time to time, as the Garrett Unsafe Building Law. For the sake of brevity, the "Garrett Unsafe Building Law" shall be referred to in the balance of this subchapter by the acronym GUBL. (Ord. 2002-1, passed 1-22-02))

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§ 151.02 PURPOSE AND SCOPE.

(A) It is the purpose of the GUBL to provide a just, equitable, and practical method whereby buildings or structures which from any cause may endanger or impair life, limb, health, morals, property, safety or welfare of the general public or the occupants of such buildings and structures may be required to be repaired, vacated or demolished. The provisions of the GUBL are not exclusive but are cumulative and in addition to any other remedy provided by the City Building Code, other provisions of the Garrett City Code or are otherwise available by any state or local law, rule or ordinance.

(B) The provisions of the GUBL shall apply to all unsafe or dangerous buildings, as defined herein, which are now in existence or which may hereafter become dangerous or unsafe in the jurisdiction of the city.

(C) All buildings or structures that are required to be repaired shall comply with the provisions of the City Building Code and all applicable regulations and building codes of the county.

(Ord. 2002-1, passed 1-22-02)

§ 151.03 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning or as specified in the City's Building Code.

BUILDING CODE. The City Building Code promulgated by the Common Council on June 21, 1988, pursuant to Ordinance 62188-2.

DEPARTMENT. The Office of the Mayor is the department that is authorized to administer the GUBL.

ENFORCEMENT AUTHORITY. The Enforcement Authority shall be the City Planning Director who may act through the Code Enforcement and Safety Officer or any other designee of the City Planning Director.

HEARING AUTHORITY. The Board of Public Works and Safety shall be the Hearing Authority.

SUBSTANTIAL PROPERTY INTEREST. The definition of substantial property interest as found in IC 36-7-9-2, as may be amended from time to time, is incorporated herein by reference.

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UNSAFE BUILDING. Any building or structure deemed to be unsafe under the provisions of the GUBL or otherwise in violation of the terms of this Chapter, the City Building Code or other applicable local, county, or state building codes or regulations. An unsafe building may also be referred to for purposes of this code as a dangerous building.

(Ord. 2002-1, passed 1-22-02)

§ 151.04 REPAIRS, REHABILITATION, ALTERATIONS OR ADDITIONS.

All buildings or structures which are required to be repaired, rehabilitated, altered or are subject to an addition under the provisions of the GUBL shall be so done according to the requirements of the building codes adopted by the city and all other applicable building codes, state, county, local or otherwise.

(Ord. 2002-1, passed 1-22-02)

§ 151.05 ENFORCEMENT AUTHORITY.

(A) The Enforcement Authority, defined herein as the City Planning Director or the Code Enforcement Safety Officer acting under the direction of the City Planning Director, or any other person designated by the City Planning Director is authorized to enforce the provision of the GUBL. The City Planning Director shall have the power to render the interpretations of the GUBL and to adopt and enforce rules and regulations supplemental to the GUBL as he or she may deem necessary in order to clarify the application of its provisions. Such interpretations, rules and regulations shall conform with the intent and purpose of the GUBL.

(B) The City's Health Officer, Fire Chief, Planning Director, Code Enforcement Safety Officer or any other person designated by the Planning Director are hereby authorized to make inspections and to take such action as may be required to enforce the GUBL, or to determine if applicable codes are being followed or if a building is an unsafe building, the Enforcement Authority may enter the building or premises at reasonable times to inspect the premises and to perform the duties imposed by the GUBL, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Enforcement Authority shall first make a reasonable effort to locate the owner or any other person having charge or control of the building or premises and request entry. If entry is refused, the Enforcement Authority shall have all remedies as provided by law to secure entry.

(Ord. 2002-1, passed 1-22-02)

§ 151.06 HEARING AUTHORITY.

(A) The Garrett Board of Public Works and Safety shall act as the Unsafe

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Building Hearing Authority. All findings and decisions shall be rendered in writing and furnished to those persons or parties subject to the order.

(B) All hearings shall be held pursuant to the provisions of IC 36-7-9-7 as amended from time to time.

(C) The Board of Public Works and Safety as the hearing authority shall have no discretion relative to the interpretation of the administrative provisions of the GUBL, nor shall the Board of Works as the hearing authority be empowered to waive any of the requirements of the GUBL.
(Ord. 2002-1, passed 1-22-02)

§ 151.07 UNSAFE BUILDING.

(A) For purposes of the GUBL, any building or structure, or 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; 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.

(B) Any building or structure which has any or all of the following conditions or defects shall be deemed an unsafe building:

(1) Whenever any door, aisle, passageway, stairway 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;

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(3) Whenever the stress on 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 in the Building Code 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 less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location;

(5) Whenever any portion, member or appurtenance thereof is likely to fail, or to become detached or dislodged, or 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 or fastened in place, so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings;

(7) Whenever any portion thereof has racked, 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 purposes 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 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;

(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,

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enclosing or outside wall coverings;

(12) 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:

(a) An attractive nuisance to children;

(b) A harbor for criminals or vagrants; or

(c) As to enable persons to resort thereto for the purpose of committing infractions, felonies or misdemeanors under the laws of the State of Indiana or the United States.

(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 this city, as specified in the Building Code, or of any law or ordinance of this state or city relating to the condition, location or structure of the 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 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;

(15) Whenever any 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 health officer to be unsanitary, unfit for human habitation, or in such a condition that it is likely to cause or contribute to sickness or disease;

(16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damaged or inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus or other cause, is determined by the Fire Marshall to be a fire hazard;

(17) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity;

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(18) Whenever any portion of the 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 otherwise a hazard to the public;

(19) Inadequate or insufficient bath, toilet or kitchen facilities;

(20) Inadequate or insufficient water supply or water supply systems;

(21) Inadequate or insufficient or other deficient air cooling, air heating or water heating equipment; and/or

(22) Any condition or conditions in violation of other applicable ordinances of the city, and/or the building standards or codes of the county or the state. (Ord. 2002-1, passed 1-22-02)

§ 151.08 CONDUCT OF HEARING.

(A) *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(B) *Testimony.* Testimony shall be taken only on oath or affirmation.

(C) *Hearsay.* Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence.

(D) *Admissibility of evidence.* Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in a court of competent jurisdiction in this state.

(E) *Exclusion of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.

(F) *Rights of parties.* Each party shall have the rights provided by IC 36-7-9-1 et seq. including:

(1) To call and examine witnesses on any matter relevant to the issue of the hearing.

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(2) To introduce documentary and physical evidence.

(3) To cross exam opposing witnesses on any matter relevant to the issues of the hearing.

(4) To impeach any witness regardless of which party called the witness to testify.

(5) To rebut any evidence.

(6) To represent himself or to be represented by an attorney duly admitted to practice law in the State of Indiana.

(G) *Inspection of premises.* The Board of Works as the Hearing Authority may inspect any building or premises involved in a hearing during the course of the hearing provided that:

(1) Notice of such inspection shall be given to the parties before the inspection is made;

(2) The parties are given the opportunity to be present during the inspection; and

(3) The Board of Works shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom.

(H) *Official notice.*

(1) In reaching a decision, the Board of Works as Hearing Authority may take official notice, either before or after submission of the case for decision, any fact or official record of any board or department of the city, the ordinance of the city, rules and regulations of the Board of Public Works and Safety, and of any notices or inspections issued by or done by the city or any of its agents.

(2) All parties present at a hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein or appended thereto.

(3) Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board of Public Works and Safety.

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(Ord. 2002-1, passed 1-22-02)

§ 151.09 AMENDMENTS TO INDIANA CODE.

It is the specific intent of this subchapter to incorporate all future amendments or changes to IC 36-7-9-1, et seq., as amended from time to time, as amendments to the City Unsafe Building Law, as they are enacted and defined in said statute.

(Ord. 2002-1, passed 1-22-02)

§ 151.10 UNSAFE BUILDING FUND.

There is hereby created an "Unsafe Building Fund" for the deposit of and the disposition of any funds collected pursuant to this chapter.

(Ord. 2002-1, passed 1-22-02)

§ 151.11 ATTORNEY FEES.

In the event that the city is required to bring any action in any court of law to enforce any provision of the GUBL or enforce the orders of the Unsafe Building Committee, the city shall be entitled to recover in addition to any fines and costs as otherwise provided by GUBL, the City Attorney fees from the property owner.

(Ord. 2004-26, passed 10-6-04)

DEMOLITION

§ 151.30 PERMIT REQUIRED.

It shall be unlawful to wreck or demolish any building or structure in the city without first securing a permit therefor.

('79 Code, § 7-114) (Ord. 4588, passed 4-5-88; Am. Ord. 2004-28, passed 11-2-04) Penalty, see § 151.99

§ 151.31 APPLICATION FOR PERMIT.

(A) An application for a permit to wreck or demolish any building or structure in the city shall be made in writing to the Zoning Administrator. Such application shall give the location of the building or structure, the date when wrecking or demolition is to commence and the approximate time which such wrecking or demolition shall take.

(B) The Zoning Administrator shall notify other parties that may be affected by the proposed demolition (utilities, property owners, governmental entities) as he/

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she may deem necessary before the start of demolition.

('79 Code, § 7-115) (Ord. 4588, passed 4-5-88; Am. Ord. 2004-28, passed 11-22-04)

§ 151.32 FEES, INSPECTIONS AND EVIDENCE OF INSURANCE.

Before a permit is issued:

(A) The applicant shall pay to the City Clerk/Treasurer a fee as prescribed by ' 153.11.8 and Table 23 of the Garret Zoning Ordinance, plus a fee scaled for moving any utility facilities. A later permit fee of \$250 plus fee scale for moving any utility facilities will be charged for any demolition work commenced without a demolition permit.

(B) An authorized representative of the City of Garrett, shall inspect the premises where the wrecking and demolition work is to take place, and ascertain that provision for proper care has been made so as not to endanger any sewer or water connections with the city's sewer and water systems, or any electrical wires or installations, and report to the Zoning Administrator; and

(C) Evidence showing adequate liability insurance has been obtained by the applicant, or the contractor or agent acting on their behalf.
('79 Code, § 7-116) (Ord. 4588, passed 4-5-88; Am. Ord., passed 6-6-88; Am. Ord. 2004-28, passed 11-2-04) Penalty, see § 151.99

§ 151.33 ISSUANCE OF PERMIT.

The zoning administrator may issue a permit for such wrecking or demolition upon submittal of an appropriate application and compliance with § 151.31 and 151.32.

('79 Code, § 7-117) (Ord. 4588, passed 4-5-88; Am. Ord. 2004-28, passed 11-2-04)

§ 151.34 INSPECTION OF PROPERTY AFTER DEMOLITION.

(A) To ensure that the property is in a proper and safe condition after wrecking or demolition, the property will be inspected by an authorized representative of the City of Garrett.

(B) By ***PROPER AND SAFE CONDITION*** it is meant that all debris is cleared away, and that any excavation is to be used for any purpose within two months of such wrecking or demolition, then adequate barricades, lighted at night, shall be installed around the perimeter of such excavation.

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('79 Code, § 7-118) (Ord. 4588, passed 4-5-88; Am. Ord., passed 6-6-88; Am. Ord. 2004-28, passed 11-2-04) Penalty, see § 151.99

§ 151.35 CARE AND PROTECTION DURING DEMOLITION.

(A) All work of such wrecking or demolition shall be performed in a workmanlike manner and with the least amount of noise possible. Care shall be taken to protect neighboring structures with adequate shoring and whatever else is needful to protect such structures. Adequate protection shall be provided to prevent injury to any city or public utility or pertinence. It shall be the duty of all persons working on or responsible for such wrecking or demolition to see to it that children are warned away from such premises and are not permitted to play in or on or frequent such structures.

(B) The Zoning Administrator may limit the hours during the day in which demolition activity may occur.

('79 Code, § 7-119) (Ord. passed 4-5-88; Am. Ord. 2004-28, passed 11-2-04) Penalty, see § 151.99

§ 151.36 EXCAVATION AND FILLING.

(A) If excavation is necessary from wrecking or demolishing, it is to be filled in and the material to be used for such fill should consist of clay, and/or bank run, gravel (or equivalent), and no appliances, such as stoves, refrigerators, freezers and similar items, shall be used, no wood materials are to be used for filling, and no brick, concrete block, from either the demolished structure, from the demolition site, or from offsite, shall be used to fill the excavation cavity. In the filling of such excavation the provisions contained in § 151.32 shall be adhered to as it relates to danger to sewer or water connections, or electrical wires or connections. Such filling shall also provide for proper and adequate drainage. Any backfill shall be placed in lifts and properly compacted.

(B) Basement walls, or other subgrade structures, including basement floors, if present on the demolition site, shall be completely removed and the resulting cavity backfilled as prescribed by subchapter § 151.36(A) above.

(C) The demolition site shall be properly graded and seeded, or properly graded and stoned or paved (if it is to be a parking area. If a new structure is to be built on the demolition site within 30 of the date of the completion of demolition, the site may be allowed to be unseeded. However, if construction does not commence after said period of time, the site shall be seeded.

('79 Code, § 7-120) (Ord. passed 4-5-88; Am. Ord. passed 6-6-88; Am. Ord. 2004-28, passed 11-2-04) Penalty, see § 151.99

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§ 151.37 SUPERVISION BY AUTHORIZED REPRESENTATIVE OF THE CITY OF GARRETT.

An authorized representative of the City of Garrett shall supervise such wrecking or demolition or filling and shall inspect such premises as necessary during such wrecking or demolition and filling and the required capping of taps, or abandoned sewer or watch lines.

('79 Code, § 7-121) (Ord. passed 4-5-88; Am. Ord. 2004-28, passed 11-2-04)

§ 151.38 ENFORCEMENT.

(A) Upon completion of demolition, the city shall inspect the property to ensure compliance with the requirements of the chapter. If the demolition work is properly completed, the city shall issue a Completion Certificate to the property owner. This certificate shall allow the owner to redevelop the property according to the requirements of the City of Garrett Zoning Ordinance and other applicable regulations, or to use the property as a yard.

(B) If the inspection performed by the city determines that the applicant is not in full compliance with the requirements of the demolition permit and this chapter, the Zoning Administrator shall advise the applicant in writing of the terms of non-compliance. The applicant shall have 30 days from the date of the notice to comply and, if full compliance is made, the city shall issue a completion certificate.

(C) In the event that the applicant fails to comply within 30 days of the notice given pursuant to § 151.38(B), the applicant shall be in violation of this ordinance which violation shall be treated as a nuisance subject to abatement and enforcement as all other nuisance violations.

(Ord. 2004-28, passed 11-2-04)

§ 151.99 PENALTY.

Any person or firm or corporation violating any provisions of § 151.30 through 151.38 shall be fined not less than \$100 nor more than \$500 for each offense, plus court costs and other expenses incurred in the enforcement of the said sections, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

('79 Code, § 7-122) (Ord. of 4-5-88; Am. Ord. 2004-28, passed 11-2-04)