

**STATE OF INDIANA
CITY OF CHARLESTOWN
CHARLESTOWN CITY COUNCIL**

ORDINANCE NO. 2007 - OR - 01

**ORDINANCE OF THE CHARLESTOWN CITY COUNCIL
PROVIDING FOR THE INSPECTION, REPAIR OR REMOVAL
OF UNSAFE STRUCTURES WITHIN THE CITY**

WHEREAS, there exists, in the City of Charlestown both vacant and occupied structures that are not properly maintained and that constitute a hazard to public health, safety and welfare; and

WHEREAS, vacant and / or occupied structures often become dilapidated because the structures are not properly maintained and / or repaired by the owners or persons in control of the structures; and

WHEREAS, vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists; and

WHEREAS, unkept grounds surrounding vacant and / or occupied structures invite dumping of garbage, trash and other debris; and

WHEREAS, some vacant structures are situated in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation; and

WHEREAS, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to their properties; and

WHEREAS, structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving to the neighborhood and encouraging persons to move out of the neighborhood; and

WHEREAS, vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood; and

WHEREAS, the blighting influence of deteriorated structures adversely affects the tax revenue of the City of Charlestown; and

WHEREAS, in recognition of the problem created by both vacant and occupied unsafe structures and that enforcement of rules and regulations pertaining to vacant and occupied

structures is in the best interest of the citizens of the City of Charlestown, the Common Council does hereby find that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant and occupied structures;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Charlestown :

SECTION 1: Definitions

For the purpose of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. "Dwelling" means any structure or building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.
- B. "Dwelling Unit" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and / or sanitation.
- C. "Enforcement Authority" means any County Health Department Inspector, Charlestown Building Inspector, a Police Officer and / or Charlestown Code Enforcement Officer or authorized designee.
- D. "Hearing Authority" means the Charlestown City Court.
- E. "Manufactured Home" means a structure transportable in one or more sections which, in the traveling mode, is 8 body feet (2438 body mm) or more in width or 40 feet (12192 body mm) or more in length or, when erected on site, is 320 or more square feet (30m²), and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary (HUD) and complies with the standards established under this title. For Mobile Homes built prior June 15, 1976, a label certifying to the Standard compliance to the standard for Mobil Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture is required. For the purpose of these provisions, a mobile home shall be considered a manufactured home.
- F. "Mobile Home" means a vehicle, including the equipment sold as a part of a vehicle, that meets the following conditions:
 - 1. Is constructed for use as a conveyance upon public streets or highways by either self-propelled or non-self-propelled means.
 - 2. Is designed, constructed or reconstructed, or added to by means of an enclosed addition or room, to permit the occupancy as a dwelling for at least one (1) person:
 - 3. Is used and occupied as a dwelling.

4. Does not have a foundation other than wheels, jacks, skirting, or other temporary supports.
- G. "Mobile Home Park" means an area of land on which at least five (5) mobile homes, other than mobile homes on permanent foundations, are harbored on temporary supports for the purpose of being occupied as principal residences. The term includes the following:
1. All real and personal property used in the operation of the mobile home park.
 2. An area of land that is subdivided and contains individual lots that are leased or otherwise contracted if at least five (5) mobile homes (other than mobile homes on permanent foundations) are harbored on temporary supports there for the purpose of being occupied as principal residences.
- H. "Structure and Building" are interchangeable terms that mean the common definitions attributed to those terms and for purposes of this Ordinance apply whether the structure or building is vacant or occupied.
- I. "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 interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.
- J. "Unsafe Building or Structure" means any building or structure or part of a building or structure that is:
1. In an impaired, dilapidated, or not properly maintained structural condition that makes it unsafe for persons or other properties; or
 2. A fire hazard; or
 3. A hazard to public health; or
 4. A public nuisance; or
 5. Dangerous to persons or other properties because of a violation of a statute or ordinance concerning building condition or maintenance; or
 6. Vacant or occupied and not maintained in a manner that would allow human habitations, occupancy, or use under the requirements of a statute or an ordinance; or
 7. In any of the conditions or possesses any of the defects described below, 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, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe adequate means of exit in case of fire or panic;
 - 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 times

the working stress or stresses allowed in the building code for new buildings of similar structure purpose or location;

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 of the building code of new buildings of similar structure, purpose or location;

e. Whenever any portion or member or appurtenance thereof is likely to fail, or 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 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 building;

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 of the base;

k. Whenever the building or structure, exclusive of the foundation,

shows thirty-three percent (33%) or more damage of deterioration of its supporting members or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

l. Whenever any building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage of deterioration of its supporting members or members, enclosing or outside walls or covering:

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 City, specified in the Building Code of the City of Charlestown or the IRC Indiana Residential Code or any law of this state or ordinance of the City relating to the condition, location or structure of building;

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 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;

o. Whenever a building or structure used or intended to be used for dwelling purpose, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by a County Health Inspector, Building Inspector, Police Officer, or Code Enforcement Officer 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 exists, lack of sufficient fire resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by any Fire Department, Police Officer, Code Enforcement Officer or the Building Inspector to be a fire hazard;

q. Whenever any building or structure is in such a condition as to constitute a public nuisance;

r. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure 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.

(K) "Unsafe Premises" means both an unsafe dwelling, structure or building and / or tract of real property on which a dwelling, structure or building is located.

SECTION 2: Scope of Ordinance

The following are subject to the provisions of this Ordinance, the IC Indiana Code and IRC Indiana Residential Code if located within the corporate boundaries of the City of Charlestown:

- (1) Any dwelling;
- (2) Any other structure or building;
- (3) Any existing mobile homes;
- (4) Any and all new mobile home and / or
- (5) Any and all owned, rented, private or leased lots.

SECTION 3: Title

This Ordinance, and all ordinances supplemental or amendatory hereto, shall be known as the "Unsafe Structures Ordinance of the City of Charlestown," and may be cited as such."

SECTION 4: Public Nuisance

All dwellings, structures and / or buildings or portions thereof within the city which are determined after inspection by the Building Inspector, County Health Inspector, Police Officer or Code Enforcement Officer to be unsafe as defined in this Ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition and removal.

SECTION 5: Adoption Of State Law By Reference

Indiana Code 36-7-9-1 et seq., now existing or as hereafter amended, is adopted by reference as a part of this Ordinance.

SECTION 6: Authority

The Building Inspector, County Health Inspector, Police Officer or Code Enforcement Officer shall be authorized to administer and to proceed

under the provisions of this Ordinance in ordering the repair or removal of any building found to be unsafe as specified therein or as specified hereafter.

SECTION 7: Order And Notice

(A) The Building Inspector, County Health Inspector, Police Officer or Code Enforcement Officer are authorized to issue an Order relative to any unsafe premises, including

- (1) Shut off of any or all utilities if deemed unsafe,
- (2) Vacating of an unsafe structure or building,
- (3) Sealing an unsafe structure or building due to intrusion by unauthorized persons,
- (4) Extermination of vermin in and about the unsafe premises,
- (5) Removal of trash, debris, or fire hazardous material in and about the unsafe premises,
- (6) Repair or rehabilitation of an unsafe structure or 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 IC 4-22-2, or an ordinance,
- (7) Removal of part of unsafe structure or building,
- (8) Removal of an unsafe structure or building, and
- (9) Requiring, for an unsafe structure or building that will be sealed for a period of more than ninety (90) days:

- (a) Sealing against intrusion by unauthorized persons and the affects of weather;
- (b) Exterior improvements to make the structure or building compatible in appearance with other structures or buildings in the area, and
- (c) Continuing maintenance and upkeep of the structure or building and premises in accordance with standards established by ordinance;

(B) The Order shall contain information required by IC 36-7-9-5. Said Order shall allow at least ten (10) days, but not more than sixty (60) days from the time when notice of the Order is given, to accomplish the required action.

(C) An Ordinance requiring sealing a building under IC 36-7-9-5(a) requires notification to each person holding any fee interest or life estate; for other, orders under IC 36-7-9-5 each person having substantial property interest in the unsafe premises must be notified. Notification procedure shall be as stated IC 36-7-9-25.

SECTION 8: Hearing And Review

If required, a hearing and review shall be provided as set forth in IC 36-7-9-7 and 36-7-9-8.

SECTION 9: Emergency Orders

Emergency action in order to protect life, safety or property may be taken without issuing an Order or giving notice, but shall be taken in accordance with IC 36-7-9-9. The action is limited to removal of any immediate danger. The City may recover costs of the action by filing suit in Circuit or Superior court against persons holding a fee interest or life estate in the premises at the time. As an alternative, the City may bring a civil action under IC 36-7-9-17 and 36-7-9-22, alleging the existence of unsafe premises presenting an immediate danger to the community sufficient to warrant emergency action.

SECTION 10: Manners Of Performance

Manners of performance of work including bids and notification are to be in accordance with IC 36-7-9-11. All work for the reconstruction, repair, or demolition of buildings 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 in IC 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 Inspector, Health Inspector of Clark County, Police Officer or Code Enforcement Officer of the City of Charlestown, Indiana.

SECTION 11: Costs

Costs for work performed under this Ordinance are the responsibility of interest holders or life estate holders in the unsafe premises. Costs shall be determined on the basis of the factors listed in IC 36-7-9-12. Unpaid costs are subject to the procedures in IC 36-7-9-13 and 36-7-9-13-5, and may result in a judgment, special tax assessment, and / or lien on real or personal property or persons responsible for said costs.

SECTION 12: Unsafe Building Fund

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

SECTION 13: No Work Without Permission

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 Inspector, County Health Inspector, Police Officer or Code Enforcement Officer.

Under no circumstance shall any person have any building service equipment connected to the water, fuel or power supply or sewer system until authorized by the Building Official as provided in IRC AE 305.5.3.

SECTION 14: Inspection Warrants

The Building Inspector, County Health Inspector, Police Officer, or Code Enforcement Officer may obtain an inspection warrant from the Charlestown City Court in cases when the owner or possessor refuse the Building Inspector, County Health Inspector, Police Officer or Code Enforcement Officer permission to inspect as provided in IC6-7-9-16.

SECTION 15: Violations

It shall be a violation of this Ordinance for a person to (a) remain in, use, or enter a building in violation of this Ordinance, (b) knowingly interfere with or delay the carrying out of an order made under this section, (c) knowingly obstruct, damage, or interfere with persons engaged or property used in performing any work or duty under this Ordinance or (d) fail to comply with IC 36-7-9-27 regarding information on transfers of property interest.

SECTION 16: Penalties And Costs

Whoever violates any provisions of this Ordinance for which no other penalty is otherwise specifically provided shall be fined \$250.00 for the first violation, \$350.00 for the second violation and \$500.00 for the third and each subsequent violation. A separate offense shall be deemed committed on each day that a violation occurs or continues. Additionally, the violator shall be obligated to pay all attorney fees and other costs associated with the enforcement of this Ordinance.

SECTION 17: Miscellaneous

All ordinances and parts thereof in conflict herewith are hereby repealed.

This Ordinance shall be in full force and effect upon and after its passage by the Charlestown City Council or as otherwise mandated by statute and/or rule.

ADOPTED by the City Council of Charlestown, this 2nd day of July, 2007.

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<u>Jeff Aaron</u> Jeff Aaron	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Bruce Bottorff</u> Bruce Bottorff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Ted Little</u> Ted Little	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Terry Pierce</u> Terry Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Brian Walker</u> Brian Walker, President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED: Michael D. Hall DATE: 7/2/07
Michael D. Hall, Mayor

ATTEST: Donna S. Coomer DATE: 7/2/07
Donna Coomer, Clerk- Treasurer