

BILL NO. G-12-05-21 (AS AMENDED)

GENERAL ORDINANCE NO. G- _____

**AN ORDINANCE REPEALING AND REPLACING
CHAPTER 150: MINIMUM CONDITIONS AND
MAINTENANCE OF COMMERCIAL, INDUSTRIAL,
AND OTHER PROPERTY OR PREMISES OF THE
CITY OF FORT WAYNE, INDIANA CODE OF
ORDINANCES.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE:**

SECTION 1. That Chapter 150: MINIMUM CONDITIONS AND
MAINTENANCE OF COMMERCIAL, INDUSTRIAL, AND OTHER
PROPERTY OR PREMISES of the City of Fort Wayne, Indiana Code of
Ordinances is hereby repealed and replaced in its entirety as follows:

**CHAPTER 150: MINIMUM CONDITIONS AND MAINTENANCE OF
COMMERCIAL, INDUSTRIAL, AND OTHER PROPERTY OR PREMISES**

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§ 150.01 APPLICABILITY FOR COMMERCIAL CODE.

(A) The provisions of this chapter shall be cited as the "Minimum Maintenance Standards for Commercial, Non- Residential, and Mixed-use Structures". The purpose of this chapter is to ensure maintenance of privately and publicly owned properties, to maintain adequate sanitation and public health, enhance property values, and to encourage development. This chapter establishes legislation which provides for administration and enforcement of, and cites minimum standards for the following:

(1) The determination of the responsibilities of owners, operators, and occupants of commercial, non-residential, and mixed-use buildings to maintain their buildings and properties.

(2) Safety from fire and accidents.

(3) Basic equipment and facilities with respect to light, ventilation, and thermal conditions.

(B) The provisions of this chapter shall apply to all commercial, non-residential, and mixed-use properties existing at the date of the adoption of this chapter and thereafter erected, and shall apply to all conversions and future conversions of existing buildings from non-residential to residential, residential to commercial, or mixed use structures and property.

(C) Vacant or unoccupied non-residential, commercial and mixed-use structures shall not be required to meet the same interior standards as

operational or occupied structures. It is not the purpose of this chapter to impede or inhibit development of non-residential properties. Therefore the interior standards of the structure shall be limited to maintaining it in a safe and sanitary condition, free of hazards, trash and debris, infestation, or any issues which potentially creates a health and safety concern to the community. All exterior and site standards of this chapter shall apply regardless of occupancy or operation of these properties.

('74 Code, § 14.7-10) (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-07-09, passed 2-24-09)

§ 150.02 INTERPRETATION.

(A) *Scope.* Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings shown in this chapter.

(B) *Interchangeability.* Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

(C) *Terms defined in other codes.* Where terms are not defined in this chapter, such terms shall have the meanings ascribed to them as stated in those codes.

(D) *Terms not defined.* Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(E) *Parts.* Whenever the words "premises", "building", or "story" are stated in this chapter, they shall be construed as though they were followed by the words "or any part thereof". (International Property Maintenance Code herein after IPMC 2006 Sec. 201)

(Ord. G-07-09, passed 2-24-09)

1
2 § 150.03 DEFINITIONS.
3

4 For the purpose of this section, the following
5 definitions shall apply unless the context clearly
6 indicates or requires a different meaning:

7 **ACCESSORY STRUCTURE.** A detached building or other
8 structure in a secondary or subordinate capacity from
9 the main or principal structure on the same premises.

10 **APPROVED.** Approved by the Enforcement Authority.

11 **APPURTENANCE.** A subordinate portion of a structure
12 attached to the primary structure.

13 **BASEMENT.** The portion of a building that is partly
14 or completely below grade.

15 **BATHROOM.** A room containing plumbing fixtures
16 including a bathtub or shower.

17 **BEDROOM.** Any habitable room or space used or
18 intended to be used for sleeping purposes in either a
19 dwelling or sleeping unit.

20 **CENTRAL HEATING/PRIMARY HEAT SOURCE.** The heating
21 system permanently installed and adjusted so as to
22 provide the distribution of heat to all habitable rooms,
23 bathrooms and water closet compartments from a source
24 outside of these rooms.

25 **CHIMNEY.** A vertical shaft of reinforced concrete,
26 masonry or other approved material enclosing one or more
27 flues, for the purpose of removing products of
28 combustion from solid, liquid or gaseous fuel.

29 **CITY.** The City of Fort Wayne, Indiana.

30 **CODE OFFICIAL.** The City of Fort Wayne official, or
any duly authorized representative, including but not
limited to the Enforcement Authority, who is charged in
his or her official duties with the administration and
enforcement of this chapter and who has been given a

1 special police commission granted by the Board of Public
2 Safety authorizing him or her to enforce this chapter.

3 **CONDEMN.** To adjudge unsafe and/or unfit for
4 occupancy.

5 **DILAPIDATED.** In a state of disrepair or ruin and no
6 longer adequate for the purpose or use for which it was
originally intended.

7 **DWELLING.** A structure, partly or wholly, intended
8 for or being used for residential purposes.

9 (1) **SINGLE-FAMILY DWELLING.** A building containing a
one or two family dwelling unit.

10 (2) **MULTI-FAMILY DWELLING.** A building or portion
11 thereof containing three or more dwelling units.

12 **DWELLING UNIT.** A single unit providing complete,
13 independent living facilities for one or more persons,
14 including permanent provisions for living, sleeping,
eating, cooking and sanitation.

15 **EASEMENT.** That portion of land or property reserved
16 for present or future use by a person or agency other
17 than the legal fee owner(s) of the property. The
easement shall be permitted to be for use under, on or
above a said lot or lots.

18 **EGRESS.** An arrangement of exit facilities to assure
19 a safe means of exit from a building to ground level.

20 **ENFORCEMENT AUTHORITY.** Department of Neighborhood
21 Code Enforcement of the City of Fort Wayne, which is
22 responsible for the administration and enforcement of
the provisions of this chapter.

23 **EXTERIOR PROPERTY.** The open space on the premises
24 and on adjoining property under the control of owners or
operators of such premises.

25 **EXTERMINATION.** The control and elimination of
26 insects, rodents or other pests by eliminating their
27 harborage places; by removing or making inaccessible
materials that may serve as their food; by poisoning,

1 spraying, fumigating, trapping or by any other
2 recognized and legal pest elimination methods approved
3 by the local or state authority having such
administrative authority.

4 **GARBAGE.** The animal or vegetable waste resulting
5 from the handling, preparation, cooking and consumption
of food.

6 **GUARD.** A building component or a system of building
7 components located at or near the open sides of elevated
8 walking surfaces that minimizes the possibility of a
fall from the walking surface to a lower level.

9 **HABITABLE SPACE.** A space in a building for living,
10 sleeping, eating, or cooking. Bathrooms, toilet rooms,
11 closets, halls, storage or utility spaces and similar
areas are not considered habitable spaces.

12 **HEARING OFFICER.** As used in this chapter, "Hearing
13 Officer" shall have the same meaning as "Hearing
14 Authority" under IC 36-7-9-2, and the same is
incorporated by reference herein.

15 **HOTEL.** A building providing, for compensation,
16 sleeping accommodations and customary lodging services
17 where guests enter through a main lobby of the building
18 to get to each rental unit. Related ancillary uses may
include but shall not be limited to conference and
meeting rooms, restaurants, bars, and recreational
facilities.

19 **IMMINENT DANGER.** A condition which could cause
20 serious or life-threatening injury or death.

21 **INFESTATION.** The presence, within or contiguous to
22 a structure or premises, of insects, rodents, vermin or
other pests.

23 **INOPERABLE VEHICLE.** A vehicle which cannot be
24 driven/operated upon the public streets for reasons
25 including but not limited to being wrecked, abandoned,
26 in a state of disrepair, or incapable of being moved
under its own power.

1 **LABELED.** Devices, equipment, appliances, or
2 materials to which has been affixed a label, seal,
3 symbol or other identifying mark of a nationally
4 recognized testing laboratory, inspection agency or
5 other organization concerned with product evaluation
6 that maintains periodic inspection of the production of
the above-labeled items and by whose label the
manufacturer attests to compliance with applicable
nationally recognized standards.

7 **MOTEL.** A building or series of buildings, typically
8 one or two stories, in which sleeping accommodations are
9 offered for compensation, and which is distinguished
10 from a hotel/motel primarily by providing independent
exterior access to, and adjoining parking for, each
rental unit.

11 **OCCUPANCY.** The purpose for which a building or
12 portion thereof is utilized or occupied.

13 **OCCUPANT.** Any individual, living, sleeping, cooking
14 or eating in or having possession of a dwelling unit,
structure, or premises.

15 **OPENABLE AREA.** That part of a window, skylight or
16 door which is available for unobstructed ventilation and
which opens directly to the outdoors.

17 **OPERATOR.** Any person who has charge, care or
18 control of a structure or premises which is let or
offered for occupancy.

19 **OWNER.** Any person, agent, operator, firm or
20 corporation having a legal or equitable interest in the
21 property or recorded in the official records of the
22 state, county or municipality as holding title to the
23 property; or otherwise having control of the property,
including a receiver, trustee, conservator or the
24 guardian of the estate of any such person, and the
executor or administrator of the estate of such person
if ordered to take possession of real property by a
25 court.

26 **PERSON.** An individual, heirs, executors,
27 administrators or assigns, and also includes a firm,

1 entity partnership or corporation or their successors or
2 assigns, or the agent of any aforesaid.

3 **PREMISES.** A lot, plot or parcel of land, easement
4 or public way, including any structures thereon.

5 **PROPERLY CONNECTED.** Connected in accordance with
6 all applicable state and local codes and ordinances. The
7 application of this definition shall not require the
8 alteration or replacement of any existing connection in
9 good working order and not constituting a hazard to
10 health or safety or deterioration of property.

11 **PUBLIC NUISANCE.** Includes the following:

12 (1) Any physical condition, use or occupancy of any
13 premises or its appurtenances considered an attractive
14 nuisance to children, including but not limited to
15 abandoned wells, shafts, basements, excavations and
16 unsafe fences or structures; or the required precautions
17 against trespassers have not been provided; or

18 (2) Any premises from which the plumbing, heating,
19 electrical and/or facilities required by this chapter
20 have been removed or from which utilities have been
21 disconnected, destroyed, removed or rendered
22 ineffective; or

23 (3) Any structure or building that is in a state of
24 dilapidation, deterioration or decay; faulty
25 construction; overcrowded; open, vacant or abandoned;
26 damaged by fire to the extent as not to provide shelter;
27 in danger of collapse or failure and is dangerous to
28 anyone on or near the premises; or

29 (4) Any structure where the paint has been severely
30 removed by time or where the paint is chipped or
bleeding; or

(5) Any condition on a premises including but not
limited to: improper drainage, weeds, or any similar
condition affecting the general health and/or safety of
the community.

PUBLIC WAY. Any street, alley or similar parcel of
land essentially unobstructed from the ground to the

1 sky, which is deeded, dedicated or otherwise permanently
2 appropriated to the public for public use.

3 **REFUSE.** All waste solids (except body wastes)
4 including garbage, rubbish, ashes and dead animals.

5 **REFUSE CONTAINER.** A watertight container that is
6 constructed of metal or other durable material such as
7 vinyl or plastic that is capable of being serviced
8 without creating unsanitary conditions.

9 **ROOMING HOUSE.** Any dwelling, or that part of any
10 dwelling containing one or more rooming units, in which
11 space is let by the owner or operator for occupancy by
12 three or more persons who are not husband or wife, son
13 or daughter, mother or father, or sister or brother of
14 the owner operator.

15 **ROOMING UNIT.** Any room or group of rooms forming a
16 single habitable unit used or intended to be used as a
17 residence, but not for cooking or eating purposes.

18 **SAFE and SAFETY.** The condition of being reasonably
19 free from danger and hazards which may cause accidents
20 or disease.

21 **STAIRWAY.** One or more flights of stairs and the
22 necessary landings and platforms connecting them to form
23 a continuous and uninterrupted passage from one floor or
24 level to another in a building or structure.

25 **STANDARD OPERATING PROCEDURES.** Written procedures
26 prescribed for repetitive use as a practice, and written
27 in accordance with agreed upon directives aimed at
28 obtaining a desired outcome without loss of
29 effectiveness.

30 **STRICT LIABILITY OFFENSE.** An offense in which the
prosecution in a legal proceeding is not required to
prove criminal intent as a part of its case. It is
enough to prove that the defendant either did an act
which was prohibited, or failed to do an act which the
defendant was legally required to do.

STRUCTURE. That which is built or constructed,
including without limitation because of enumeration,

1 buildings for any occupancy or use whatsoever, fences,
2 signs, billboards, fire escapes, chute escapes,
3 railings, water tanks, towers, open grade steps,
4 sidewalks or stairways, tents or anything erected and
framed of component parts which is fastened, anchored or
rests on a permanent foundation or on the ground.

5 **SUBSTANTIAL PROPERTY INTEREST.** The definition of
6 "Substantial Property Interest" under IC 36-7-9-2 is
7 hereby incorporated into this chapter by reference.

8 **TENANT.** A person, corporation, partnership or
9 group, whether or not the legal owner of record,
occupying a building or portion thereof as a unit.

10 **TOILET ROOM.** A room containing a water closet or
11 urinal but not a bathtub or shower.

12 **TOXIC SUBSTANCE.** Any chemical product which
13 constitutes a potential hazard to human health at acute
or chronic exposure levels.

14 **TRASH AND DEBRIS.** Combustible waste materials,
15 including the residue from the burning of wood, coal,
16 coke, and other combustible materials: paper, rags,
17 cartons, boxes, wood, excelsior, rubber, leather, tree
branches, yard trimmings, tin cans, metals, mineral
matter, glass, crockery, tires, garbage and other
similar materials.

18 **UNSAFE BUILDING LAW.** The Indiana Unsafe Building
19 Law codified as IC 36-7-9-1 through 36-7-9-29, as it may
20 be amended from time to time.

21 **UNSAFE PREMISES.** A tract of real property that may
22 or may not contain a building or structure, excluding
23 land used for agriculture, that is found to be a fire
hazard, a hazard to public health, a public nuisance; or
24 dangerous to a person or property because of a violation
of a statute or an ordinance.

25 **VENTILATION.** The natural or mechanical process of
26 supplying conditioned or unconditioned air to, or
removing such air from, any space.

1 **WORKMANLIKE.** Done in a reasonably skillful manner,
2 especially when used in reference to maintenance and
3 repair and according to current industry standards, or
4 otherwise applicable state and local codes and
5 ordinances.

6 ('74 Code. § 14.7-1)

7 (IPMC 2006 Sec. 202) (International Residential Code,
8 hereinafter IRC, 2006 Sec. R202)

9 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
10 12-14-99; Am. Ord. G-07-09, passed 2-24-09)

11 **§ 150.04 GENERAL REQUIREMENTS.**

12 (A) *Scope.* The provisions of this chapter shall
13 govern the minimum conditions and the responsibilities
14 of persons for maintenance of commercial, industrial,
15 non-residential, or mixed-use structures, mechanical
16 equipment, premises, and exterior property.

17 (B) *Responsibility.* The owner, occupant, or
18 responsible person of the premises shall maintain the
19 structures and exterior property in compliance with
20 these requirements, except as otherwise provided for in
21 this chapter. A person shall not occupy as owner-
22 occupant or permit another person to occupy premises
23 which are not in a sanitary and safe condition and which
24 do not comply with the requirements of this chapter.

25 (C) *Vacant structures and land.* All vacant
26 structures and premises thereof or vacant land shall be
27 maintained in a clean, safe, secure and sanitary
28 condition as provided herein so as not to cause a
29 blighting problem, adversely affect the public health
30 and/or safety, or decrease property values.

 (D) *Adoption of state laws.* Indiana Code 36-7-9-1
through 36-7-9-29, collectively entitled "The Unsafe
Building Law," are hereby adopted in their entirety,
incorporated by reference and made a part hereof as if
copied verbatim. These provisions are further
supplemented by the provisions of this chapter. All

1 proceedings within the city for the inspection, repair
2 and removal of unsafe buildings shall be governed by IC
3 36-7-9-1 through 36-7-9-29 and by the provisions of this
chapter and any other applicable city ordinance.

4 (1) *Certain building conditions deemed unsafe.* The
5 description of an unsafe building contained in IC 36-7-
6 9-4 is hereby supplemented to provide minimum standards
7 for building conditions or maintenance in the city. Any
8 building or structure which has any or all of the
9 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:

10 (a) Whenever any door, aisle, passageway or other
11 means of exit is not of sufficient width or size or is
12 not so arranged as to provide safe and adequate means of
exit in case of fire or panic;

13 (b) Whenever the stress in any materials, member
14 or portion thereof, due to all dead and live loads, is
15 more than 1½ times the working stress or stresses
16 approved for new buildings of similar structure, purpose
or location;

17 (c) Whenever any building or structure or portion
18 thereof has been damaged by fire, earthquake, wind,
19 flood, or by any other cause, to such an extent that the
20 building or structure or any portion thereof has become
21 so dilapidated or deteriorated so as to become an
attractive nuisance to children, or freely accessible to
persons for the purpose of committing unlawful acts, or
is less than the approved minimum requirements for new
buildings of similar structure, purpose or location;

22 (d) Whenever any portion, member or appurtenance
23 thereof is likely to fail, become detached or dislodged
24 or to collapse and thereby injure persons or damage
property;

25 (e) Whenever any portion of a building or any
26 member, appurtenance, or ornamentation on the exterior
27 thereof is not of sufficient strength or stability or is
not so anchored, attached or fastened in place so as to

1 be capable of resisting a wind pressure of 50% of that
2 specified for new buildings of similar structure,
3 purpose or location without exceeding the working
4 stresses approved for such building; or whenever any
5 portion thereof has cracked, warped, buckled or settled
6 to such an extent that walls or other structural
portions have materially less resistance to winds or
earthquakes than is approved in the case of similar new
construction;

7 (f) Whenever the building or structure, or any
8 portion thereof, because of dilapidation, deterioration,
9 or decay, faulty construction, the removal, movement, or
10 instability of any portion of the ground necessary for
11 the purpose of supporting such building; the
deterioration, decay, or inadequacy of its foundation,
or any other cause, is likely to partially or completely
collapse;

12 (g) Whenever the building or structure, or any
13 portion thereof, is manifestly unsafe for the purpose
for which it is being used;

14 (h) Whenever the exterior walls or other vertical
15 structural members list, lean or buckle to such an
16 extent that a plumb line passing through the center of
17 gravity does not fall inside the middle 1/3 of the
footer, this item shall not be the sole criteria for
evaluating uninhabited accessory structures;

18 (i) Whenever the building or structure, exclusive
19 of the foundation, shows 33% or more damage or
20 deterioration of its supporting member or members, or
21 50% damage or deterioration of its non-supporting
members, enclosing or outside walls or coverings;

22 (j) Whenever any building or structure that has
23 been constructed, exists, or is maintained in violation
24 of any specific requirement or prohibition applicable to
25 such building or structure provided by the regulations
26 of the Allen County Building Department or of any state
and local codes and ordinances of this state or city
relating to the condition, location of structures or
buildings;

1 (k) Whenever any building or structure, whether or
2 not erected in accordance with all applicable laws and
3 ordinances, has in any non-supporting part, member or
4 portion less than 66% of the strength, fire resisting
5 and/or weather resisting qualities or characteristics,
6 approved by law in the case of a newly constructed
7 building of like area, height and occupancy in the same
8 location;

9 (l) Whenever a building or structure, used or
10 intended to be used for residential or nonresidential
11 purposes because of inadequate maintenance,
12 dilapidation, decay, damage, faulty construction or
13 arrangements, inadequate light, air or sanitation
14 facilities or otherwise is determined by the Enforcement
15 Authority to be unfit for human occupancy, to be
16 unsanitary or in such a condition that is likely to
17 cause sickness or disease;

18 (m) Whenever any building or structure,
19 because of obsolescence, dilapidated condition,
20 deterioration, damage, inadequate egress, lack of
21 sufficient fire resistive construction, faulty electric
22 wiring, gas connection or heating apparatus or other
23 cause is determined by the Enforcement Authority to be a
24 fire hazard; or

25 (n) Whenever any portion of a building or
26 structure remains on a site after the demolition or
27 destruction of the building or structure or whenever any
28 building or structure is abandoned for a period in
29 excess of six months so as to constitute such building
30 or portion thereof an attractive nuisance or hazard to
the public.

('74 Code, § 14.7-6)

(E) *Handrails and guardrails.* Every exterior and
interior flight of stairs 30 inches or more above the
grade below shall have a handrail on one side of the
stair. Every open portion of a stair, landing, balcony,
porch, deck, ramp or other walking surface which is more
than 30 inches above the floor or grade below shall have
guardrails.

(1) *Handrails and guardrails provision.* Every handrail and guardrail shall be firmly fastened and shall be capable of supporting normally imposed loads and shall be maintained in good condition.

(2) *Minimum height.* Handrails and guardrails must comply with state and local codes and ordinances.

(3) *Minimum width.* Minimum width between vertical balusters or ornamental patterns shall comply with all state and local codes and ordinances. (International Building Code, hereinafter IBC, 2006 Sec. 1012-1013) (IPMC 2006 Sec. 306)

(F) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition.

(G) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of standing or stagnant water thereon, or within any structure, or accessory structure located thereon.

(H) *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(I) *Weeds*. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 9 inches. All noxious weeds or other undesirable plants shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than properly maintained trees or shrubs provided; however, this term shall not include cultivated flowers and gardens and shall exclude property that is defined in City Code §100.16, as "Excluded Property".

(J) *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be exterminated by processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

1
2 (K) *Exhaust vents.* Pipes, ducts, conductors, fans or
3 blowers shall be properly maintained when discharging
4 gases, steam, vapor, hot air, grease, smoke, odors or
5 other gaseous or particulate wastes and shall be
6 installed according to state and local codes and
7 ordinances.

8
9 (L) *Accessory structures.* All accessory structures,
10 including detached garages, sheds, fences, walls, pools
11 and all similar structures or buildings, shall be
12 maintained structurally sound and in good repair.

13
14 (M) *Vehicles.* Except as provided for in other
15 regulations, no inoperable vehicle shall be parked, kept
16 or stored on any premises, and no vehicle shall at any
17 time be in a state of major disassembly, disrepair, or
18 in the process of being stripped or dismantled. All
19 operable vehicles must be parked on an approved surface
20 and shall be in accordance with applicable state and
21 local codes and ordinances.

22 (IPMC 2006 Sec. 302)

23 ('74 Code, § 32-2)

24 (N) *Exterior structure.*

25 (1) *General.* The exterior of a structure shall be
26 maintained in good repair, structurally sound and
27 sanitary so as not to pose a threat to the public
28 health, safety or welfare.

29 (2) *Protective treatment.* All exterior surfaces,
30 including but not limited to doors, windows, door and
window frames and sashes, cornices, porches, trim,
balconies, decks and fences shall be maintained in good
condition. Exterior wood surfaces, other than decay-
resistant woods, shall be protected from the elements
and decay by painting or other protective covering or
treatment. Peeling, flaking and chipped paint shall be
eliminated and surfaces repainted. All siding and
masonry joints as well as those between the building
envelope and the perimeter of windows, doors, and
skylights shall be maintained weather resistant and
water tight. All metal surfaces subject to rust or

1 corrosion shall be coated to inhibit such rust and
2 corrosion and all surfaces with rust or corrosion shall
3 be stabilized and coated to inhibit future rust and
4 corrosion. Oxidation stains shall be removed from
5 exterior surfaces. Surfaces designed for stabilization
6 by oxidation or non-ferrous materials are exempt from
7 this requirement.

8
9 (3) *Structural members.* All structural members
10 shall be maintained free from deterioration, and shall
11 be capable of safely supporting the imposed dead and
12 live loads.

13 (4) *Foundation walls.* All foundation walls shall be
14 maintained plumb and free from open cracks and breaks.
15 They shall be kept in such condition so as to prevent
16 entry of rodents and other pests. Basement and crawl
17 spaces shall be maintained reasonably free of dampness
18 to prevent conditions conducive to decay or
19 deterioration of the structure. Basements, crawl spaces,
20 or other similar below grade structures shall be kept
21 free of standing or stagnant water to ensure public
22 health and safety.

23 (5) *Exterior walls.* All exterior walls shall be
24 free from holes, breaks, and loose or rotting materials;
25 and maintained weatherproof and properly surface coated
26 where required to prevent deterioration.

27 (6) *Roofs and drainage.* The roof and flashing shall
28 be sound, tight and free from defects that admit
29 moisture. Roof drainage shall be adequate to prevent
30 dampness or deterioration in the walls or interior
portion of the structure. Roof drains, gutters and
downspouts shall be maintained in good repair and free
from obstructions. Roof water shall not be discharged in
a manner that creates a public nuisance. Drainage must
be in accordance with state and local codes and
ordinances.

(7) *Decorative features.* All cornices, belt
courses, corbels, terra cotta trim, wall facings and
similar decorative features or appurtenances shall be
maintained in good repair with proper anchorage and in a
safe condition.

1 (8) *Overhang extensions.* All overhang extensions
2 including, but not limited to canopies, marquees, signs,
3 metal awnings, fire escapes, standpipes and exhaust
4 ducts shall be maintained in good repair and be properly
5 anchored so as to be kept in a sound condition. When
6 required, all exposed surfaces of metal or wood shall be
7 protected from the elements and against decay or rust by
8 periodic application of weather-coating materials, such
9 as paint or similar surface treatment.

10 (9) *Stairways, decks, porches and balconies.* Every
11 exterior stairway, deck, porch and balcony, and all
12 appurtenances attached thereto, shall be maintained
13 structurally sound, in good repair, with proper
14 anchorage and capable of supporting the imposed loads.

15 (10) *Chimneys and towers.* All chimneys, cooling
16 towers, smoke stacks, and similar appurtenances shall be
17 maintained structurally safe and sound, and in good
18 repair. All exposed surfaces of metal or wood shall be
19 protected from the elements and against decay or rust by
20 periodic application of weather-coating materials, such
21 as paint or similar surface treatment.

22 (11) *Window, skylight and door.* Every window,
23 skylight, door and all components shall be kept in sound
24 condition, good repair and weather tight.

25 (12) *Glazing.* All glazing materials shall be
26 maintained free from cracks and holes.

27 (13) *Operable windows.* Every window, other than a
28 fixed window, shall be easily operable and capable of
29 being held in position by window hardware.

30 (14) *Exterior doors.* All exterior doors, door
assemblies and hardware shall be maintained in good
condition and be a suitable means of ingress and egress
pursuant to local fire codes.

 (15) *Guards for basement windows.* Every basement
window that is openable shall be supplied with rodent
shields, storm windows or other approved protection
against the entry of rodents.

 (16) *Building security.* Doors, windows or hatchways

1 for a structure shall be provided with devices designed
2 to provide security for the occupants and property
3 within.

4 (a) *Exterior door hardware.* Doors providing
5 access to a structure other than marked exit doors shall
6 be equipped with a lock(s) that tightly secures the
7 door, and are designed to be readily openable from the
8 side from which egress is to be made without the need
9 for keys, special knowledge or effort. Such locks shall
10 be installed according to the manufacturer's
11 specifications and maintained in good working order.

12 (b) *Windows.* Operable windows located in whole
13 or in part within 12 feet above ground level or a
14 walking surface below that provide access to a structure
15 shall be equipped with a window sash locking device.

16 (c) *Basement hatchways.* Basement hatchways shall
17 be maintained to be structurally sound, weather tight,
18 watertight, and rodent proof. Hatchways shall also be
19 equipped with locking devices which secure the unit from
20 unauthorized entry.

21 (17) *Defacement of property.* Defacement of the
22 exterior surfaces of any structures by marking, carving,
23 tagging, or graffiti shall be properly abated by the
24 owner or operator of the premises.

25 (18) *Swimming pools and spas.* Pools, spas, hot tubs
26 shall be maintained in a safe and sanitary manner, in
27 conformance with state and local codes and ordinances.

28 (19) *Premise identification.*

29 (a) No person, who may be the owner lessee or
30 occupant of any building required to be numbered by this
chapter or any subsequent ordinance, shall refuse or
neglect to correctly number his building in conformity
with this chapter. The numbers shall consist of figures
not less than three inches in height and placed in a
conspicuous location on the front of the primary
structure in a manner which is clearly discernible from
the street or roadway.

1 (b) If the address numbers affixed to the
2 structure are not easily read from the street due to lot
3 configuration, obstructed view, or other condition, an
4 additional marker or placard must be prominently
displayed on the premises visible from the street or
roadway.

5 (c) The egress to the rear portion of the
6 building or other structure shall be affixed with
7 numbers placed in a conspicuous location indicating the
8 official address in characters no less than three inches
tall.

9 ('74 Code, §§ 25-68, 25-69) (Code §§ 99.113-99.114)

10 (20) *Insect screening.* All openings requiring
11 screening for ventilation of habitable rooms, food
12 preparation areas, food service areas, or any areas
13 where products to be included or utilized in food for
14 human consumption are processed, manufactured, packaged,
or stored shall be supplied with approved tightly
fitting screens maintained in good repair, properly
fitted to the opening in conformance with state and
local codes and ordinances.

15 *Exception:* Screens shall not be required where
16 other approved means are employed.

17 (21) *Loose building components.* Any place, part or
18 attachment of the structure not securely fixed so as to
19 be in danger of falling or being dislodged by the
20 elements creating the possibility of injury to person or
property shall be secured, removed or replaced. (IPMC
2006 Sec. 303-304) (IBC 2006 Sec. 1008)

21 (0) *Trash and debris.* All exterior property and
22 premises, and the interior of every structure, shall be
23 free from any accumulation of trash and debris.

24 (1) *Disposal of trash and debris.* Every occupant of
25 a
26 structure shall dispose of all refuse in a clean and
sanitary manner by placing such rubbish in refuse
containers.

27 (2) *Trash storage facilities.* The owner of every

1 occupied premise shall supply covered refuse containers
2 for trash, and the owner of the premises shall be
3 responsible for the removal of the trash. (IPMC 2006
4 Sec. 307)

5 (P) *Extermination.* All structures shall be kept free
6 from insect and rodent infestation.

7 (1) *Infestation.* All structures in which insects,
8 rodents, or other undesirable animals are found shall be
9 cleared of such infestation by extermination processes
10 that will not be injurious to human health. After
11 extermination or abatement, proper precautions shall be
12 taken to prevent re-infestation.

13 (2) *Owner.* The owner of any structure shall be
14 responsible for extermination or abatement within the
15 structure or premises. (IPMC 2006 Sec. 308)

16 ('74 Code, § 14.7-30)

17 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-04-88, passed
18 5-24-88; Am. Ord. G-06-92, passed 2-20-92; Am. Ord. G-
19 11-02, passed 4-23-02; Am. Ord. G-07-09, passed 2-24-09)

20 **§ 150.05 INTERIOR STRUCTURE.**

21 (A) *General.* The interior of a structure and
22 equipment therein shall be maintained in good repair,
23 structurally sound and in a sanitary condition. Every
24 owner of a structure containing a rooming house,
25 housekeeping units, a hotel/motel, a dormitory, three or
26 more dwelling units or any nonresidential occupancies,
27 shall maintain, in a clean and sanitary condition, the
28 shared or public areas of the structure.

29 (B) *Structural members.* All structural members
30 shall be maintained free from deterioration, and shall
be capable of safely supporting the imposed dead and
live loads.

(C) *Interior surfaces.* All interior surfaces,
including windows and doors, shall be maintained in

1 good, clean and sanitary condition. Peeling, chipping,
2 flaking or abraded paint shall be repaired, removed or
3 covered. Cracked or loose plaster, decayed wood and
other defective surface conditions shall be corrected.

4 (D) *Stairs and walking surfaces.* Every floor,
5 stair, ramp, landing, balcony, porch, deck or other
6 walking surface shall be maintained in sound, sanitary
condition and good repair.

7 (E) *Interior doors.* Every interior door shall be
8 maintained in good condition, fit reasonably well within
9 its frame, and shall be capable of being opened and
10 closed by being properly and securely attached to jambs,
11 headers or tracks as intended by the manufacturer of the
attachment hardware. (IPMC 2006 Sec. 305) (Ord. G-07-09,
passed 2-24-09)

12 **§ 150.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.**

13
14 (A) *Scope.* The provisions of this chapter shall govern
15 the minimum conditions and standards for light,
ventilation and space for occupancy of a structure.

16 (B) *Responsibility.* The owner of the structure shall
17 provide and maintain light, ventilation and space
18 conditions in compliance with these requirements. A
19 person shall not occupy as owner-occupant, or permit
another person to occupy, any premises that do not
comply with the requirements of this chapter.

20 (C) *Alternative devices.* In lieu of the means for
21 natural light and ventilation herein prescribed,
22 artificial light or mechanical ventilation complying
with the state and local codes and ordinances shall be
permitted. (IPMC 2006 Sec. 401)

23 (D) *Light.*

24
25 (1) *Habitable spaces.* Every habitable space shall
26 have at least one window of approved size facing
27 directly to the outdoors or to a court. The minimum
total glazed area for every habitable space shall be 8%
of the floor area of such room. Wherever walls or other

portions of a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room in compliance with state and local codes and ordinances.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total floor area being served.

(2) *Means of egress: common halls and stairways.* Every common hall and stairway in residential occupancies, other than single and multi-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet of floor area or provided that the spacing between lights shall not be greater than 30 feet.

(3) *Other spaces.* All occupiable spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures and in accordance with state and local codes and ordinances. (IPMC 2006 Sec. 402)

(E) *Ventilation.*

(1) *Occupiable spaces.* All occupiable spaces shall be provided with natural or artificial ventilation to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures and in accordance with state and local codes and ordinances.

(2) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall have at least one openable window with a minimum glazed area of 8% of the total floor area. The

total openable area of the window shall be a minimum of 45% of the minimum glazed window area. A window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge directly to the outdoors and shall not be re-circulated in accordance with state and local codes and ordinances.

(3) *Cooking facilities.* Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

(4) *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source and the air shall be vented to the exterior and not be re-circulated to any space in accordance with state and local codes and ordinances.

(5) *Clothes dryer exhaust.* Clothes dryer exhaust systems shall be independent of all other systems, and discharged directly to the outdoors in accordance with state and local codes and ordinances. (IPMC 2006 Sec. 402-403)

(F) *Occupancy limitations.*

(1) *Privacy.* Dwelling units, hotel/motel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(2) *Minimum room widths.* A habitable room, other than a kitchen, shall not be less than seven feet in any plan dimension. Kitchens shall have a clear passageway of not less than three feet between counter fronts and appliances or counter fronts and walls.

(3) *Minimum ceiling heights.* Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet

rooms and habitable basement areas shall have a clear ceiling height of not less than seven feet.

Exceptions: Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five feet or more shall be included.

(4) *Bedroom and living room requirements.* Every bedroom and living room shall comply with the requirements of state and local codes and ordinances.

(5) *Room area.* Every living room shall contain at least 120 square feet and every bedroom shall contain at least 70 square feet.

(6) *Access from bedrooms.* Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

(7) *Toilet room accessibility.* Every bedroom shall have access to at least one toilet room without passing through another bedroom. Every bedroom in such a dwelling unit shall have access to at least one toilet room located on the same story as the bedroom or an adjacent story.

(8) *Prohibited occupancy.* Kitchens, living rooms, dining rooms, other public or common areas, and non-habitable spaces shall not be used for sleeping purposes. (IPMC 2006 Sec. 404) (Ord. G-07-09, passed 2-24-09)

1 § 150.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

2
3 (A) *Scope.* The provisions of this chapter shall govern
4 the minimum plumbing systems, facilities and plumbing
5 fixtures to be provided.

6 (B) *Responsibility.* The owner of the structure shall
7 provide and maintain such plumbing facilities and
8 plumbing fixtures in compliance with these requirements.
9 A person shall not occupy as owner-occupant or permit
10 another person to occupy any structure or premises which
11 does not comply with the requirements of this chapter.
12 (IPMC 2006 Sec. 501)

13 (C) *Required facilities.*

14 (1) *Dwelling units.* Every dwelling unit shall
15 contain its own bathtub or shower, lavatory, toilet room
16 and kitchen sink which shall be maintained in a
17 sanitary, safe working condition. The lavatory shall be
18 placed in the same room as the toilet room or located in
19 close proximity to the door leading directly into the
20 room in which such toilet room is located. A kitchen
21 sink shall not be used as a substitute for the required
22 lavatory.

23 (2) *Rooming houses/sleeping units.* At least one
24 toilet room, lavatory and bathtub or shower shall be
25 supplied for each four rooming/sleeping units.

26 (3) *Hotel/motels.* Where private toilet rooms,
27 lavatories and baths are not provided, one toilet room,
28 one lavatory and one bathtub or shower having access
29 from a public hallway shall be provided for each ten
30 occupants.

(4) *Employees' facilities.* A minimum of one toilet
room, one lavatory and one drinking facility shall be
available to employees.

(5) *Drinking facilities.* Drinking facilities shall
consist of a drinking fountain, water cooler, bottled
water cooler or disposable cups next to a sink or water
dispenser. Drinking facilities shall not be located in
toilet rooms or bathrooms. (IPMC 2006 Sec. 502)

1
2 (D) *Toilet rooms.*

3 (1) *Privacy.* Toilet rooms and bathrooms shall
4 provide privacy and shall not constitute the only
5 passageway to a hall or other space, or to the exterior.
6 A door and interior locking device shall be provided for
7 all common or shared bathrooms and toilet rooms in a
8 multiple dwelling.

9 *Exception:* A toilet room designed for use by multiple
10 individuals at once shall not be required to provide
11 facilities with doors and interior locking devices.
12 However, privacy from public view shall be afforded by
13 means of adequate screening or configuration of
14 structural components as required by state and local
15 codes and ordinances.

16 (2) *Location.* Toilet rooms and bathrooms serving
17 hotel/motel units, rooming units, sleeping units,
18 dormitory units, or housekeeping units shall have access
19 by traversing not more than one adjacent story and shall
20 have access from a common hall or passageway.

21 (3) *Location of employee toilet facilities.* Toilet
22 facilities shall have access from within the employees'
23 working area. The required toilet facilities shall be
24 located not more than one story above or below the
25 employees' working area and the path of travel to such
26 facilities shall not exceed a distance of 500 feet (152
27 m). Employee facilities shall either be separate
28 facilities or combined employee and public facilities.

29 *Exception:* Facilities that are required for employees
30 in storage structures or kiosks, which are located in
adjacent structures under the same ownership, lease or
control, shall not exceed a travel distance of 500 feet
from the employees' regular working area to the
facilities.

(4) *Floor surface.* In other than dwelling units,
every toilet room floor shall be maintained to be a
hard, nonabsorbent surface to permit such floor to be
easily kept in a clean and sanitary condition. (IPMC
2006 Sec. 503)

1
2 (E) *Plumbing systems and fixtures.*

3 (1) *General.* All plumbing fixtures shall be
4 properly installed and maintained in working order, and
5 shall be kept free from obstructions, leaks and defects
6 and be capable of performing the function for which such
7 plumbing fixtures are designed. All plumbing fixtures
8 shall be maintained in a safe, sanitary and functional
9 condition.

10 (2) *Fixture clearances.* Plumbing fixtures shall
11 have adequate clearances for usage and cleaning. (IPMC
12 2006 Sec. 504)

13 (F) *Water systems.*

14 (1) *General.* Every sink, lavatory, bathtub or
15 shower, drinking fountain, water closet or other
16 plumbing fixture shall be legally connected to either a
17 public water system or to an approved private water
18 system. All kitchen sinks, lavatories, laundry
19 facilities, bathtubs and showers shall be supplied with
20 hot or tempered and cold running water in accordance
21 with state and local codes and ordinances.

22 (2) *Contamination.* The water supply shall be
23 maintained free from contamination, and all water inlets
24 for plumbing fixtures shall be located above the flood-
25 level rim of the fixture. Shampoo basin faucets, janitor
26 sink faucets and other hose bibs or faucets to which
27 hoses are attached and left in place, shall be protected
28 by an approved atmospheric-type vacuum breaker or an
29 approved permanently attached hose connection vacuum
30 breaker.

(3) *Supply.* The water supply system shall be
installed and maintained to provide a supply of water to
plumbing fixtures, devices and appurtenances in
sufficient volume and at pressures adequate to enable
the fixtures to function properly, safely, and free from
defects and leaks.

(4) *Water heating facilities.* Water heating
facilities shall be properly installed, maintained and
capable of providing an adequate amount of water to be

drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 120°F (49°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. (IPMC 2006 Sec. 505)

(G) *Sanitary drainage system.*

(1) *General.* All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(2) *Maintenance.* Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstruction, leaks and defects. (IPMC 2006 Sec. 506)

(H) *Storm drainage.* Storm water runoff of roofs and paved areas, yards and courts, and other surfaces on the premises shall not be discharged in a manner that creates a public nuisance.

(I) *Sump Pumps.* Sump Pumps shall be operated in accordance with state and local codes and ordinances. They shall not be discharged in a manner that creates health and safety issues.

(IPMC 2006 Sec. 507) (Ord. G-07-09, passed 2-24-09)

§ 150.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) *Scope.* The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(B) *Responsibility.* The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these

1 requirements. A person shall not occupy as owner-
2 occupant or permit another person to occupy any premises
3 which does not comply with the requirements of this
chapter. (IPMC 2006 Sec. 601)

4 (C) *Heating facilities.*

5 (1) *Facilities required.* Primary heating facilities
6 shall be provided in structures as required by this
7 section in accordance with applicable state and local
codes and ordinances.

8 (2) *Residential occupancies.* Dwellings shall be
9 provided with heating facilities capable of maintaining
10 a room temperature of 68°F (20°C) in all habitable
11 rooms, bathrooms and toilet rooms. Cooking appliances
12 and portable heating devices shall not be used to
provide space heating to meet the requirements of this
section.

13 (3) *Heat supply.* Every owner and operator of any
14 building who rents, leases or lets one or more dwelling
15 units or sleeping units on terms, either expressed or
16 implied, to furnish heat to the occupants thereof shall
supply heat to maintain a temperature of not less than
68°F (20°C) in all habitable rooms, bathrooms, and
toilet rooms.

17 (4) *Occupiable work spaces.* Indoor occupiable work
18 spaces shall be supplied with heat to maintain a
19 temperature of not less than 65°F (18°C) during the
period the spaces are occupied.

20 *Exceptions:*

21 (a) Processing, storage and operation areas
22 that require cooling or special conditions.

23 (b) Areas in which persons are primarily
24 engaged in physical activities.

25 (5) *Room temperature measurement.* The required room
26 temperatures shall be measured three feet above the
27 floor near the center of the room and two feet inward
from the center of each exterior wall. (IPMC 2006 Sec.
602)

1
2 D) *Mechanical equipment.*

3 (1) *Mechanical appliances.* All mechanical
4 appliances, fireplaces, solid fuel-burning appliances,
5 cooking appliances and water heating appliances shall be
6 properly installed and maintained in a safe working
7 condition, and shall be capable of performing the
8 intended function.

9 (2) *Removal of combustion products.* All fuel-
10 burning equipment and appliances shall be properly
11 connected to an approved chimney or vent.

12 *Exception:* Fuel-burning equipment and appliances which
13 are labeled for unvented operation.

14 (3) *Clearances.* All required clearances to
15 combustible materials shall be maintained in accordance
16 with state and local codes and ordinances.

17 (4) *Safety controls.* All safety controls for fuel-
18 burning equipment shall be maintained in proper working
19 order.

20 (5) *Combustion air.* A supply of air for complete
21 combustion of the fuel and for ventilation of the space
22 containing the fuel-burning equipment shall be provided
23 for the fuel-burning equipment.

24 (6) *Energy conservation devices.* Devices intended
25 to reduce fuel consumption by attachment to a fuel-
26 burning appliance, to the fuel supply line thereto, or
27 to the vent outlet or vent piping there from, shall not
28 be installed unless labeled for such purpose and the
29 installation is specifically approved and conforms to
30 state and local codes and ordinances. (IPMC 2006 Sec.
603)

(E) *Electrical facilities.*

(1) *Facilities required.* Every occupied building
shall be provided with an electrical system in
compliance with state and local codes and ordinances.

1 (2) *Service.* The size of the building or structure
2 and equipment shall serve as a basis for determining the
3 need for additional facilities in accordance with state
and local codes and ordinances. (IPMC 2006 Sec. 604)

4 (F) *Electrical equipment.*

5 (1) *Installation/maintenance.* All electrical
6 equipment, wiring and appliances shall be properly
7 installed and maintained in a safe and approved manner.

8 (2) *Receptacles.* When electrical receptacles are
9 replaced, GFCI circuits must be installed where required
10 by state and local codes and ordinances. (IPMC 2006 Sec.
605)

11 (G) *Elevators, escalators and dumbwaiters.*

12 (1) *General.* Elevators, dumbwaiters and escalators
13 shall be maintained in proper working order in
14 compliance with state regulations. The most current
certification of inspection shall be on display at all
times within the elevator or attached to the escalator
or dumbwaiter.

15 (2) *Elevators.* In buildings equipped with passenger
16 elevators, at least one elevator shall be maintained in
17 operation at all times when the building is occupied.

18 *Exception:* Buildings equipped with only one elevator
19 shall be permitted to have the elevator temporarily out
20 of service for testing or servicing for a period not to
exceed 72 hours. (IPMC 2006 Sec. 606) (Ord. G-07-09,
passed 2-24-09)

21 **§ 150.09 FIRE SAFETY REQUIREMENTS.**

22
23 (A) *Scope.* The provisions of this chapter shall govern
24 the minimum conditions and standards for fire safety
25 relating to structures and exterior premises, including
fire safety facilities and equipment to be provided.

26 (B) *Responsibility.* The owner of the premises shall
27 provide and maintain such fire safety facilities and

1 equipment in compliance with state and local fire codes.
2 A person shall not occupy as owner-occupant or permit
3 another person to occupy any premises that do not comply
4 with the requirements of this chapter. (IPMC 2006 Sec.
5 701)

6 (C) *Means of egress.*

7 (1) *General.* A safe, continuous and unobstructed
8 path of travel shall be provided from any point in a
9 building or structure to the public way. Means of egress
10 shall comply with state and local codes and ordinances.

11 (2) *Aisles.* The required width of aisles shall be
12 unobstructed in accordance with state and local codes
13 and ordinances.

14 (3) *Doors.* All doors intended for use as a means of
15 egress shall be readily openable for emergency exit
16 without the need for keys, special knowledge or effort
17 in accordance with state and local codes and ordinances.

18 (4) *Emergency escape openings.* Required emergency
19 escape openings shall be marked "Exit" and maintained in
20 accordance with the code in effect at the time of
21 construction, and the following. Required emergency
22 escape and rescue openings shall be operational from the
23 inside of the room without the use of keys or tools.
24 Bars, grilles, grates or similar devices are permitted
25 to be placed over emergency escape and rescue openings
26 provided the minimum net clear opening size complies
27 with the code that was in effect at the time of
28 construction. Such devices shall be releasable or
29 removable from the inside without the use of a key, tool
30 or force greater than that which is required for normal
operation of the escape and rescue opening. (IPMC 2006
Sec. 702)

(D) *Fire resistant ratings.*

(1) *General.* The required fire-resistance rating of
fire-resistance-rated walls, fire stops, shaft
enclosures, partitions and floors shall be maintained.

1 (2) *Opening protectives.* Required opening
2 protectives shall be maintained in an operative
3 condition. All fire and smoke stop doors shall be
maintained in operable condition.

4 (3) *Fire and smoke barrier obstruction.* Fire doors
5 and smoke barrier doors shall not be blocked, obstructed
6 by, or otherwise made inoperable. (IPMC 2006 Sec. 703)

7 (E) *Fire protection systems.*

8 (1) *General.* All systems, devices and equipment to
9 detect a fire, actuate an alarm, or suppress or control
10 a fire or any combination thereof shall be maintained in
an operable condition at all times in accordance with
state and local codes and ordinances.

11 (2) *Smoke alarms.* Smoke alarms are to be in proper
12 working order and installed according to current state
and local codes and ordinances. (IPMC 2006 Sec. 704)

13 (Ord. G-07-09, passed 2-24-09)

14
15 **§ 150.10 ENFORCEMENT AND PENALTIES.**

16
17 (A) *Enforcement.* Whenever, upon inspection of any
18 commercial property, the Code Official finds that
19 conditions or practices exist which are in violation of
any provision of this chapter or the Unsafe Building
20 Law, IC 36-7-9-1 through IC 36-7-9-29. The Code Official
shall give written notice in accordance with the
21 provisions of this chapter. Unless such conditions or
practices are corrected within a reasonable period, to
22 be determined by the Enforcement Authority, the owner or
person responsible for such property shall be subject to
23 the graduated penalty scale as outlined in the standard
operating procedures of the Enforcement Authority and as
24 determined by the Safe Housing and Building Oversight
Committee. ('74 Code, § 14.7-31(a))

25 (B) *Notice of violation.* If the Code Official finds
26 that a violation of any portion of this chapter exists
27 on the property or premises, with the exception of any
violation falling under the realm of public health and

1 safety, the officer shall issue a written notice of
2 violation to the property owner or person responsible
3 for such property establishing 60 days to correct the
4 violations. Subsequent to the notice of violation, the
5 property owner or person responsible for such property
6 and the Enforcement Authority may enter into a work plan
7 for the abatement of the violations. The work plan shall
8 set a date by which the required work shall be
completed. The date established in the work plan may
extend beyond the 60 days established in the notice of
violation. The Enforcement Authority may modify or
rescind a work plan as warranted by the status of the
violations and the work to correct same.

9 (1) *Notice of Violation concerning health & safety.*
10 If the Code Official finds that a violation(s)
11 pertaining to garbage, infestation, refuse, trash and
12 debris, and/or unsanitary conditions as defined within
13 this chapter exists on the property or premises, the
14 officer shall issue a written notice of violation to the
15 property owner or person responsible for such property
16 establishing not less than 10 days but not to exceed 20
17 days to correct the violation(s). Unless such
18 condition(s) are corrected within the time frame
determined by the Enforcement Authority, the owner or
person responsible for such property shall be subject to
the graduated penalty scale as outlined in the standard
operating procedures of the Enforcement Authority and as
determined by the Safe Housing and Building Oversight
Committee subsequent to an Administrative Hearing.

19 (C) *Order for abatement.* The Code Official shall re-
20 inspect the property upon the expiration of the time
21 period given in the notice of violation, or upon the
22 expiration of the time identified in the work plan. If
23 the same violation or violations of this chapter exists,
24 the Code Official shall issue an order requiring action
pursuant to IC 36-7-9-5. The Enforcement Authority may
cause work to be performed by others to address
such violations pursuant to IC 36-7-9-10 and IC 36-7-9-
11.

1
2 (D) *Manner of serving notice.*

3 (1) A notice of violation issued pursuant to §
4 150.10(B) shall be served in accordance with IC 36-7-9-
25.

5 (2) Notice of an order issued under § 150.10(C)
6 shall be served as provided in IC 36-7-9-25.

7 (E) *Emergencies.* The Enforcement Authority may take
8 emergency action with respect to unsafe premises to
9 protect life, safety or property pursuant to IC 36-7-9-
10 9. Such emergency action may be taken without issuing a
11 notice of violation under § 150.10(B) or issuing an
order under §150.10(C), but shall be limited to the
action necessary to abate any immediate danger. ('74
Code, § 14.7-30)

12 (F) *Civil remedies.* The Enforcement Authority may
13 bring a civil action for a violation of this chapter
14 and/or Unsafe Building Law in the Allen County Circuit
15 or Superior Court pursuant to IC 36-7-9-17, and seek the
16 remedies authorized by IC 36-7-9-18 through 36-7-9-22,
17 or pursuant to IC 36-1-6-4. The civil remedies provided
18 for include injunctive relief, monetary civil penalties,
19 posting of a performance bond, appointment of a
20 receiver, authorizing work to be performed by others,
and cause action to be taken in the case of emergencies.
Any civil penalty imposed by the Circuit or Superior
Court under IC 36-7-9-19 may be certified to the County
Auditor and become a special assessment as provided
under IC 36-7-9-13.5.

21 (G) *Deposit in Unsafe Building Fund.* Monetary civil
22 penalties collected pursuant to this chapter shall be
23 deposited in the Unsafe Building Fund and may be used
according to IC 36-7-9-14(c). ('74 Code, § 14.7-8)

24 (H) *Natural disaster.* Structures damaged as a result
25 of fire, flood, storm, tornado, or other natural
26 disasters, and verified by the Enforcement Authority may
27 be excluded from the enforcement provisions of this
chapter for six months following the date of the damage.
Subsequently, said properties shall be fully subject to
the provisions of this chapter.

1
2 (I) *Order to vacate*; time allowed to vacate.

3 (1) Buildings unsafe for human occupancy.

4 (a) Whenever a building, dwelling, dwelling
5 unit, rooming house or rooming unit is declared by the
6 Enforcement Authority as unsafe or unfit for human
7 occupancy, the Enforcement Authority may post an Order
8 to Vacate placard requiring such building to be vacated
9 and to remain vacated. Such placard shall be authorized
10 by the Enforcement Authority. It shall contain the
11 address and phone number of the department and the date
12 by which the occupant shall vacate the building,
13 dwelling or dwelling unit or portion thereof. The
14 Enforcement Authority may issue an Order to Vacate
15 pursuant to IC 36-7-9-5 or 36-7-9-17 if the owner or
16 occupant fails to vacate the unsafe premises. ('74 Code,
17 § 14.7-23)

18 (b) Conditions include:

19 1. Damage, decay, dilapidation, abandonment,
20 unsanitary conditions, or vermin or rodent infestation
21 which constitute a hazard to the health or safety of
22 occupants or the public;

23 2. The lack of required utilities,
24 sanitation, illumination, ventilation, heating,
25 electrical, plumbing or other facilities and systems
26 adequate to protect the health and safety as to create a
27 hazard to the occupants or the public;

28 3. Conditions or defects described in IC 36-
29 7-9-4. ('74 Code, § 14.7-22)

30 (2) *Placarding*. Any building, dwelling or dwelling
unit condemned as unfit for human occupancy and so
designated and placarded by the Enforcement Authority,
shall be vacated as ordered by the Enforcement Authority
pursuant to IC 36-7-9-5 and IC 36-7-9-9. ('74 Code, §
14.7-24)

(3) *Placard tampering*. It shall be unlawful for any
person to deface, remove or alter any notice or placard
from any structure or dwelling which has been placarded

1 under this chapter except by the express written
2 permission of the Enforcement Authority. ('74 Code, §
3 14.7-25)

4 (4) *Approval required for Re-occupancy.*

5 No building or dwelling unit which has been placarded as
6 unfit for occupancy shall again be used for occupancy
7 until written approval is secured from and such placard
8 is removed by the Enforcement Authority subsequent to an
9 inspection. The Enforcement Authority shall remove the
10 placard whenever the defect(s) upon which the
11 condemnation and placarding action were based have been
12 corrected. ('74 Code, § 14.7-26)

13 (5) *Penalties.* Any violation of IC 36-7-9-28 or any
14 provision of this chapter for which another penalty is
15 not provided, shall, upon conviction by the court, be
16 imposed by a penalty not to exceed \$2,500 per violation.
17 Each and every day on which the condition exists shall
18 constitute a separate and distinct violation. All
19 penalties and costs recovered by the city pursuant to
20 this chapter shall be placed in the Unsafe Building
21 Fund. ('74 Code, § 14.7-32)

22 (J) *Access to premises in violation of this*
23 *chapter.* If the Enforcement Authority has issued an
24 Order to Vacate an unsafe building, the owner or person
25 in possession of same may only enter such building upon
26 signing an affidavit of acknowledgment to the
27 Enforcement Authority establishing the limited purposes
28 and time for such entry. Any unauthorized entry or use
29 of premises or structures subject to an order issued by
30 the Enforcement Authority is subject to the sanctions
specified in IC 36-7-9-28.

(K) *Affirmative defense.* It shall be an affirmative
defense to a notice and/or order issued pursuant to §
150.10 if an owner can show, by clear and convincing
evidence, that said owner could not legally enter the
premises in order to correct the violation at the time
the notice and/or order was issued.

(Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed
12-26-89; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-

26-00, passed 10-10-00; Am Ord. G-22-03, passed 6-24-03;
Am. Ord. G-07-09, passed 2-24-09)

§ 150.11 HEARING OFFICER.

(A) Establishment.

(1) The Hearing Officer shall be a person or persons designated by the Mayor, with preference given to a member of the City Law Department, and shall not be an employee of the Enforcement Authority, or any City/County Officials to which the Enforcement Authority may have delegated powers of enforcement.

(a) A hearing officer shall not preside over a hearing or approve a compliance agreement if the hearing officer believes he or she is subject to disqualification, or if by motion of any party and the hearing officer agrees he or she is subject to disqualification for:

1. Bias, prejudice, or personal interest in the outcome of a hearing;

2. Knowledge of a disputed evidentiary fact which might influence the decision;

3. Failure to dispose of any motion or hearing in an orderly and reasonably prompt manner after written request by a party.

(b) Except as to the subjects of hearing schedules and procedures, a hearing officer who:

1. Comments publicly on a hearing over which the hearing officer presides; or

2. Communicates with a party or other individual who has an interest in the outcome of a hearing, without notice and opportunity for all parties to participate in the communication; is subject to disqualification under this section.

1 (B) *Duties.*

2 (1) The Hearing Officer shall conduct
3 administrative hearings as may be required pursuant to
4 orders issued under the Unsafe Building Law as provided
5 in IC 36-7-9-7, or as provided in this § 150.11(B) and §
6 150.11(C) below.

7 (a) Ensure that each notice of administrative
8 hearing shall include the following information:

9 1. A caption for the hearing, which shall
10 include the name of each party expected to participate
11 in the hearing, and an official file or other reference
12 number;

13 2. A statement of the date, time and
14 place of the hearing;

15 3. The official title and mailing address
16 of the hearing officer and a telephone number through
17 which information concerning the hearing may be
18 obtained;

19 4. The official title, mailing
20 address and telephone number of the person who has been
21 designated to appear on behalf of the city; and

22 (2) Prior to the hearing, the hearing officer shall
23 give the parties an opportunity to file documents or
24 motions regarding matters discovery or any other
25 preliminary matter. At the time of filing, a party shall
26 serve a copy of all filed items on each other party. The
27 hearing officer, upon request by any party or upon the
28 hearing officer's own initiative, may issue discovery
29 orders.

30 (3) The hearing officer shall afford all parties
the opportunity to participate in the hearing to the
extent necessary for full consideration of all relevant
facts and issues. A party may present evidence in the
form of testimony, affidavits and documentation, engage
in argument, and conduct cross-examination. A party may
participate in person or by counsel at the party's own
expense; if the party is not an individual or is

1 incompetent to participate, then the party shall
2 participate by a duly authorized representative.

3 (a) The city shall have the burden of proving the
4 violation and the burden may be sustained by a
preponderance of the evidence.

5 (b) The hearing officer shall conduct the hearing
6 in an informal manner and without strict adherence to
7 the technical rules of evidence and procedure which
8 govern judicial proceedings. The hearing officer shall
9 rule on the admissibility of any offer of proof, and on
10 other motions, and shall exclude evidence that is
irrelevant, immaterial, unduly repetitious, or
excludable on constitutional or statutory grounds. The
testimony of each party and witness shall be made under
oath or affirmation.

11 (c) The hearing officer may take official notice
12 of any section of the Code, and any law or fact that
13 could be judicially noticed in the courts.

14 (d) The hearing officer shall cause an audio
15 recording of the hearing to be made at the expense of
the city.

16 (4) The decision of the Hearing Officer shall be
17 based exclusively upon the evidence of record in the
hearing and on matters officially noticed therein.

18 (5) The record of each hearing under this article
19 consists of the following:

20 (a) The notice of hearing;

21 (b) The notice of violation, if any;

22 (c) Any documents, motions, or exhibits filed or
23 entered into evidence;

24 (d) Any written orders and decision of the
25 hearing officer;

26 (C) *Hearings/appeals.* An order issued by the Code
27 Official is subject to review at a hearing conducted by
the Hearing Officer as provided in IC 36-7-9-7.

1
2 (1) The Hearing Officer may affirm, rescind or
modify the order as provided in IC 36-7-9-7(d).

3
4 (2) The Hearing Officer may also impose a civil
penalty of up to \$2,500.

5 (3) In accordance with IC 36-7-9-7(i), civil
6 penalties imposed may be collected as judgment under IC
36-7-9-13, or may be processed as a special assessment
7 as provided under IC 36-7-9-13.5.

8 (4) Appeal of a decision made by a Hearing Officer
9 under this chapter will be heard in accordance to IC 36-
7-9-8.

10 (5) Detailed Appeal Rights shall be provided at
11 the conclusion of the hearing that shall include time to
12 appeal, how to appeal, what will be considered on appeal
and what constitutes appropriate grounds for appeal.

13 (Ord. G-07-09, passed 2-24-09)

14
15 **§ 150.12 ADMINISTRATION AND ENFORCEMENT.**

16 (A) *Delegation of enforcement power.* The Enforcement
17 Authority may delegate to other city/county officials
18 the authority to enforce all or part of the provisions
19 of this chapter. Such officials shall include but not be
limited to the City/County Board of Health and the Fire
Department.

20 (B) *Conflict of interest.* No Code Official or employee
21 connected with the Enforcement Authority shall have a
22 financial interest in the furnishing of labor, material
23 or appliances for the repair, alteration or maintenance
of a building, dwelling or dwelling unit on which a
24 notice or order by the Enforcement Authority has been
issued or in the making of plans or specifications there
25 from, unless he or she is the owner of such building.

26 (C) *Provisions for inspection authority.* The Code
27 Official shall inspect any premises or structures as
28 defined in this chapter, based on the Department of

1 Neighborhood Code Enforcement's standard operating
2 procedures as well as the following provisions:

3 (1) The Enforcement Authority is authorized and
4 directed to make inspections where probable cause exists
5 or with consent of the owner, agent or occupant to
6 determine the condition of the premises or structures
7 located within the city in order that they may perform
8 their duty of safeguarding the health and safety of the
9 occupants of such premises or structures and of the
10 general public.

11 (a) For the purpose of making such inspections,
12 the Enforcement Authority is authorized to enter,
13 examine and survey at all reasonable times all such
14 premises or structures.

15 (b) In the event the owner or occupant of any
16 such premises or structures, or the person in
17 possession, refuses to give the Enforcement Authority
18 free access for inspection purposes, the Enforcement
19 Authority may apply for an inspection warrant pursuant
20 to IC 36-7-9-16.

21 (2) Where conditions of an area, the nature of the
22 premises or structure, or a need to conduct an area-wide
23 inspection exists, and where a showing of such is made
24 by affidavit, an inspection warrant shall be issued by a
25 court of record in Allen County directing the inspection
26 of the property concerned.

27 (3) The Enforcement Authority is authorized and
28 directed to proceed with a full inspection of any
29 premises or structures that are deemed to be a public
30 nuisance by the fact that they are unsealed, unsecured
and vacant. ('74 Code, § 14.7-30)

(D) *Statistical data.* Accurate statistical data shall
be recorded and maintained by the Enforcement Authority
employee hired specifically to assist in such data
collection and maintenance, and other duties as
described, so data can be provided with a full
accounting upon request to Common Council to determine
the effectiveness of data collection to date.

1 (E) *Severability*. The invalidity of any section,
2 clause, sentence or provision of the chapter shall not
3 affect the validity of any other part of this chapter.

4 (F) *Building Code compliance*. Wherever this chapter
5 refers to compliance with state and local codes and
6 ordinances, additions and alterations to any structure
7 shall conform to that required of a new structure
8 without requiring the existing structure to comply with
9 all the requirements of this code, provided it was in
10 compliance with applicable state and local codes and
11 ordinances when originally constructed. However, any
12 building or element thereof that has deteriorated to a
13 point that such condition is considered to be unsafe
14 under this chapter, the repair and or replacement of
15 such building or element thereof shall be subject to the
16 enforcement provisions contained herein and must conform
17 to current state and local codes and ordinances.
18 (General Administrative Rules, hereinafter GAR, 675 IAC
19 12-4-99)

20 (G) *Safe Housing and Building Oversight Committee*. The
21 Safe Housing and Building Oversight Committee is the
22 commission or board having control over the Enforcement
23 Authority. The Committee shall be subject to the
24 following:

25 (1) *Establishment and composition*. The Mayor shall
26 appoint one member from the Fire Department, one member
27 from the private business sector, one member who owns or
28 manages commercial property, two citizen members who own
29 and reside in a single family residence and one member
30 at-large. The Common Council shall appoint three members
to the Committee, each selected from a slate of three
nominees submitted by each of the following
organizations: The Board of Realtors, the Apartment
Association of Northeast Indiana and the Greater Fort
Wayne Chamber of Commerce. If one or more of these
nominees is/are not acceptable or unavailable, then the
Council will appoint the members(s) in lieu of the
organizational nominee(s).

(2) *Appointment and terms*. The Safe Housing and
Building Oversight Committee shall be appointed:

1 (a) On January 1 of each year.

2 (b) To serve a three-year term, terms to be
3 staggered. No limit shall be set on numbers of terms a
4 committee member can serve. All members are to serve
5 without compensation.

6 (c) At the outset by the Mayor: Two persons to
7 serve one year; two persons to serve two years; and two
8 persons to serve three years. The Common Council
9 appointees shall serve two years.

10 (3) *Meetings and organization.* The first meeting of
11 the Safe Housing and Building Oversight Committee shall
12 be convened by the director of Neighborhood Code
13 Enforcement. At the initial meeting, the committee shall
14 elect a Chair and Secretary from among its members. At
15 that meeting and each subsequent meeting:

16 (a) The Secretary shall be charged with the duty
17 of keeping and maintaining the necessary minutes and
18 other records.

19 (b) In the absence of the Chair at a meeting, the
20 Secretary shall chair the meeting.

21 (4) *Rules.* The committee shall meet at the request
22 of the Enforcement Authority at least four times a year
23 or upon special call by the Chair; or upon written
24 request to the Chair by any three members.

25 (5) *Quorum.* Five members of the Safe Housing and
26 Building Oversight Committee shall the vacancy for the
27 unexpired term only.

28 (7) *Duties.* The Safe Housing and Building Oversight
29 Committee shall adopt a schedule setting forth the
30 maximum amount of performance bonds applicable to
various types or orders pursuant to IC 36-7-9-7(f),
determine the amount of the average processing expense
pursuant to IC 36-7-9-12, and to provide oversight and
guidance relevant to the standard operating procedures
of Neighborhood Code Enforcement. ('74 Code, § 14.7-
34(2)-(5); § 14.7-35)

1
2 SECTION 2. That this Ordinance shall be in full force and effect from
3 and after its passage and any and all necessary approval by the Mayor.
4

5
6 _____
7 Council Member

8 APPROVED AS TO FORM AND LEGALITY
9

10
11 _____
12 Carol Helton, City Attorney
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