

BILL NO. G-12-05-22 (AS AMENDED)

GENERAL ORDINANCE NO. G- _____

**AN ORDINANCE REPEALING AND REPLACING
CHAPTER 152: HOUSING AND BUILDING
STANDARDS 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 152: HOUSING AND BUILDING
STANDARDS OF THE CITY OF FORT WAYNE, INDIANA CODE OF
ORDINANCES is hereby repealed and replaced in its entirety as follows:

CHAPTER 152: HOUSING AND BUILDING STANDARDS

Section

General Provisions

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4 occupancies
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9 **GENERAL PROVISIONS**

10
11 **§ 152.01 TITLE AND PURPOSE.**

12
13 The provisions of this chapter shall be cited as
14 the "Minimum Housing and Maintenance Standards." This
15 chapter articulates the commitment of the City of Fort
16 Wayne IN, hereinafter referred to as the City, to
17 protect, preserve and promote the physical and mental
18 health and social well being of the people, to prevent
19 and control the incidence of communicable diseases, to
20 reduce environmental hazards to health and safety and to
 regulate privately and publicly owned dwellings for the
 purpose of maintaining adequate sanitation and public
 health; by establishing legislation which provides for
 the administration and enforcement of minimum standards
 and maintenance for the following:

21 (A) Basic equipment and facilities with respect to
 mechanicals, light, ventilation and thermal conditions;

22 (B) Safety from fire and accidents;

23 (C) The use, location and amount of space for human
24 occupancy; and

25 (D) The determination of the responsibilities of
26 owners, operators and occupants of residential
27 buildings, and mixed-use buildings to maintain their
 buildings and 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-03-09,
passed 2-24-09)

§ 152.02 INTERPRETATION.

(A) *Scope*. Unless otherwise expressly stated, the following terms shall 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, hereinafter IPMC 2006 Sec. 201)

(Ord. G-03-09, passed 2-24-09)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

APPROVED. Approved by the Enforcement Authority.

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2 **APPURTENANCE.** A subordinate portion of a structure
3 attached to the primary structure.

4 **BASEMENT.** The portion of a building which is partly
5 or completely below grade.

6 **BATHROOM.** A room containing plumbing fixtures
7 including a bathtub or shower.

8 **BEDROOM.** Any habitable room or space used or
9 intended to be used for sleeping purposes in either a
10 dwelling or sleeping unit.

11 **CENTRAL HEATING/PRIMARY HEAT SOURCE.** The heating
12 system permanently installed and adjusted so as to
13 provide the distribution of heat to all habitable rooms,
14 bathrooms and water closet compartments from a source
15 outside of these rooms.

16 **CHIMNEY.** A vertical shaft of reinforced concrete,
17 masonry or other approved material enclosing one or more
18 flues, for the purpose of removing products of
19 combustion from solid, liquid or gaseous fuel.

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

21 **CODE OFFICIAL.** The City of Fort Wayne official, or
22 any duly authorized representative, including but not
23 limited to the Enforcement Authority, who is charged in
24 his or her official duties with the administration and
25 enforcement of this chapter, and who has been given a
26 special police commission granted by the Board of Public
27 Safety authorizing him or her to enforce this chapter.

28 **CONDEMN.** To adjudge unsafe and/or unfit for
29 occupancy.

30 **DECAY RESISTANT-WOODS.** Includes, but not limited
to, cedar, pressure treated lumber, redwood, and
applicable tropical hard woods.

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

1 **DWELLING.** A structure, partly or wholly, intended
2 for or being used for residential purposes.

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

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

7 **DWELLING UNIT.** A single unit providing complete,
8 independent living facilities for one or more persons,
9 including permanent provisions for living, sleeping,
10 eating, cooking and sanitation.

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

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

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

22 **EXTERIOR PROPERTY.** The open space on the premises
23 and on adjoining property under the control of owners or
24 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
28 materials that may serve as their food; by poisoning,
29 spraying, fumigating, trapping or by any other
30 recognized and legal pest elimination methods approved
by the local or state authority having such
administrative authority.

FAMILY. One individual living alone or two or more
individuals living together, whether related by birth or
not, and having common housekeeping facilities.

FIREWOOD. Wood which is neatly stacked, processed,
readily usable for fuel and ready to burn.

1
2 **GARBAGE.** The animal or vegetable waste resulting
3 from the handling, preparation, cooking and consumption
4 of food.

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

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

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

15 **INFESTATION.** The presence, within or contiguous to
16 a structure or premises, of insects, rodents, vermin or
17 other pests.

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

23 **LEAD-BASED PAINT.** Any paint containing more lead
24 than the level established by the U.S. Consumer Product
25 Safety Commission as being the "safe" level of lead in
26 residential paint and paint products.

27 **LET FOR OCCUPANCY or LET.** To permit possession or
28 occupancy of a dwelling or dwelling unit by a person who
29 shall be the legal owner of record or not be the legal
30 owner of record thereof, pursuant to a written or
unwritten lease, agreement or licensee, or pursuant to a
recorded or unrecorded agreement of contract for the
sale of land.

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

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

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

7 **OWNER.** Any person, agent, operator, firm or
8 corporation having a legal or equitable interest in the
9 property; or recorded in the official records of the
10 state, county or municipality as holding title to the
11 property; or otherwise having control of the property,
including a receiver, trustee, conservator or the
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
court.

12 **PERMISSIBLE OCCUPANCY.** The maximum number of
13 individuals permitted to reside in a dwelling or
14 dwelling unit.

15 **PERSON.** An individual, heirs, executors,
16 administrators or assigns, and also includes a firm,
entity partnership or corporation or their successors or
assigns, or the agent of any aforesaid.

17 **PLUMBING.** The practice, materials and fixtures used
18 in the installation, maintenance, extension and
19 alteration of all piping, fixtures, appliances and
20 appurtenances used for, or intended to be used for the
transfer of water or waste.

21 **PLUMBING FIXTURE.** A receptacle or device which is
22 either permanently or temporarily connected to the water
23 distribution system of the premises and demands a supply
24 of water therefrom, or discharges used water, liquid-
borne waste materials, or sewage either directly or
indirectly to the drainage system of the premises, or
which requires both a water supply connection and a
discharge to the drainage system of the premises.

25 **PREMISES.** A lot, plot or parcel of land, easement
26 or public way, including any structures thereon.
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1 **PROPERLY CONNECTED.** Connected in accordance with
2 all applicable state and local codes and ordinances. The
3 application of this definition shall not require the
4 alteration or replacement of any existing connection in
good working order and not constituting a hazard to
health or safety or deterioration of property.

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

6 (1) Any physical condition, use or occupancy of
7 any premises or its appurtenances considered an
8 attractive nuisance to children, including but not
9 limited to abandoned wells, shafts, basements,
10 excavations and unsafe fences or structures; or the
required precautions against trespassers have not been
provided; or

11 (2) Any premises from which the plumbing, heating,
12 electrical and/or facilities required by this chapter
13 have been removed or from which utilities have been
disconnected, destroyed, removed or rendered
ineffective; or

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

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

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

23 **PUBLIC WAY.** Any street, alley or similar parcel of
24 land essentially unobstructed from the ground to the
25 sky, which is deeded, dedicated or otherwise permanently
appropriated to the public for public use.

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

1 **REFUSE CONTAINER.** A watertight container that is
2 constructed of metal or other durable material such as
3 vinyl or plastic that is capable of being serviced
without creating unsanitary conditions.

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

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

10 **SAFE and SAFETY.** The condition of being reasonably
11 free from danger and hazards which may cause accidents,
12 injuries or disease.

13 **SPACE HEATER.** A self-contained heating appliance of
14 either the conventional type or the radiant type and
intended primarily to heat only a limited space or area
such as one room or two adjoining rooms.

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

18 **STANDARD OPERATING PROCEDURES.** Written procedures
19 prescribed for repetitive use as a practice, and written
20 in accordance with agreed upon directives aimed at
obtaining a desired outcome without loss of
21 effectiveness.

22 **STRICT LIABILITY OFFENSE.** An offense in which the
23 prosecution in a legal proceeding is not required to
24 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
25 defendant was legally required to do.

26 **STRUCTURE.** That which is built or constructed,
27 including without limitation because of enumeration,
buildings for any occupancy or use whatsoever, fences,
28 signs, billboards, fire escapes, chute escapes,

1 railings, water tanks, towers, open grade steps,
2 sidewalks or stairways, tents or anything erected and
3 framed of component parts which is fastened, anchored or
rests on a permanent foundation or on the ground.

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

6 **SUPPLIED.** Paid for, furnished by, provided by, or
7 under the control of the owner, operator or agent.

8 **TEMPORARY HOUSING.** Any tent, trailer, mobile home
9 or any temporary structure used for human shelter which
is not attached to the ground, to another structure, or
10 to any utility system on the same premises for more than
30 consecutive days.

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

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

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

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

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

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

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

5 ('74 Code, § 14.7-1)

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

8 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
9 12-14-99; Am. Ord. G-03-09, passed 2-24-09)

10 **MINIMUM HOUSING and MAINTENANCE STANDARDS**

11 **§ 152.04 GENERAL REQUIREMENTS.**

12 (A) *General.*

13 (1) *Scope.*

14 (a) The provisions of this chapter shall apply
15 to all residential structures and residential portions
16 of mixed occupancy buildings existing at the date of the
17 adoption of this chapter and thereafter erected, and
18 shall apply to all conversions and future conversions of
19 existing buildings from nonresidential to residential or
partially residential. ('74 Code, § 14.7-10)

20 (b) Material used in making any repairs shall be
21 of a quality suitable for the purpose. Such repair shall
22 be accomplished in a workmanlike manner and according to
23 the accepted standards and practices of the appropriate
trade. ('74 Code, § 4.7-1)

24 (2) *Responsibility.*

25 (a) *Owner.*

26 1. *Prohibited occupancy.* No owner shall rent,
27 lease or permit the subletting to another for occupancy
28 any vacant or vacated dwelling or dwelling unit which
has been condemned by the Enforcement Authority, unless

1 permission for such occupancy has been granted by the
2 Enforcement Authority subsequent to an inspection. Such
3 permission shall not be unreasonably withheld by the
4 Enforcement Authority.

5 2. *Sanitary maintenance.* Every owner of a
6 dwelling containing two or more dwelling units shall be
7 responsible for maintaining in a clean and sanitary
8 condition the shared or public area of the dwelling and
9 the premises thereof.

10 3. *Garbage and refuse.* For every dwelling
11 containing three or more dwelling units, the owner shall
12 provide in a location accessible to all dwelling units
13 an adequate number of receptacles into which garbage,
14 rubbish and ashes from the dwelling unit receptacles may
15 be emptied for storage between the days of collection.

16 4. *Heat.* If the heating facilities of any
17 dwelling or dwelling unit are not under the control of
18 the occupant thereof, and except as otherwise provided
19 herein, it is the responsibility of the owner, operator
20 or agent in charge to operate the heating facilities,
21 during the period between September 1 to May 1, and to
22 maintain an inside temperature as required in §
23 152.08(B)(2).

24 5. *Rodent proofing and pest extermination.*
25 Every owner shall be responsible for the eradication of
26 any insects, rodents or other pests in dwellings
27 containing two or more dwelling units and in the shared
28 or public parts thereof.

29 6. *Posts of identification of owner or agent.*
30 In any dwelling in which the owner does not reside, the
name, address and telephone number of the owner or his
agent or other responsible person, if any, shall be:

A. Supplied in writing to the occupants of
the dwelling; and

B. Posted in a public or prominent place on
the premises visible from outside the structure or, in
the alternative, provided to Neighborhood Code
Enforcement. The information shall be legible, accurate,
and kept up to date. A Post Office box number shall be
unacceptable for the address required by this section.

1
2 (b) *Occupants.*

3 1. *Prohibited occupancy.* An occupant or tenant
4 shall not sublet any dwelling or dwelling unit which
5 does not comply with the provisions of this standard. In
6 particular, but not by way of limitation, an occupant
7 shall not permit any portion of a dwelling or dwelling
unit to be occupied in violation of the standards and
requirements for light, ventilation and occupancy as
provided in this standard.

8 2. *Sanitary maintenance.* Every occupant of a
9 dwelling or dwelling unit shall keep it in a clean and
10 sanitary condition (that part of the dwelling or
11 dwelling unit) and the premises thereof which he
occupies or controls.

12 3. *Pest extermination.* Every owner or occupant
13 of a single family dwelling shall be responsible for the
extermination of any insects, rodents or other pests
therein or on the premises.

14 4. *Garbage and refuse.* Every occupant of a
15 structure or part thereof shall dispose of all garbage
16 and rubbish in a clean and sanitary manner by placing it
in storage containers as required by this standard.

17 5. *Egress.* The occupant of any dwelling or
18 dwelling unit shall not obstruct in any manner any means
19 of egress from any portion of the premises.

20 6. *Flammable liquids or gases or combustible*
21 *materials.* The occupant of any dwelling or dwelling unit
22 shall not have or store flammable or combustible liquids
or gas within the dwelling or dwelling unit in an amount
considered dangerous by the Enforcement Authority and/or
Fire Department.

23 7. *Access for repairs.* Every occupant of a
24 dwelling or dwelling unit shall give the owner thereof,
25 or his agent or employee, access to any part of such
26 dwelling or dwelling unit, or its premises, at all
reasonable times for the purpose of making such
27 inspection and such repairs or alterations which are
28 necessary to effect compliance with the provisions of
this standard or with any lawful rule or regulation

1 adopted or any lawful order issued pursuant to the
2 provision of this standard.

3 8. *Heat.*

4 A. Where the heating facilities of any
5 dwelling are under the control of the occupant thereof,
6 it shall be the responsibility of the occupant to
7 operate the heating facilities in order to maintain
8 above freezing temperature at all times in all portions
9 of the dwelling and the premises he occupies and
10 controls so as to prevent damage to water pipes and
11 plumbing.

12 B. If an occupant has control of the heat
13 in any other dwelling unit in addition to their own
14 dwelling unit, said occupant shall comply with the
15 provisions as set forth in 152.08 (B) (2).

16 ('74 Code, § 14.7-15)

17 (3) *Vacant structures and land.*

18 (a) Vacant or unoccupied residential structures
19 shall not be required to meet the same interior
20 standards as operational, occupied residential
21 structures. It is not the purpose of this chapter to
22 impede or inhibit development of residential properties.
23 Therefore, the interior standards of the structure shall
24 be limited to maintaining it in a safe and sanitary
25 condition, free of hazards, trash and debris,
26 infestation, or any issues which potentially create a
27 health and safety concern to the community. All exterior
28 and property standards of this chapter shall apply
29 regardless of occupancy or operation of residential
30 properties.

(b) Unsecured openings in any building, dwelling,
dwelling unit or structure shall be secured according to
Neighborhood Code Enforcement specifications. Other
boarding specifications may be approved by the
department.

('74 Code, § 14.7-29)

(4) *Unsafe building law.* The city hereby adopts
the Unsafe Building Law pursuant to and cited as IC 36-

1 7-9-1 through IC 36-7-9-29, as may be amended, pursuant
2 to the authority granted there under. Any citation in
3 this chapter to a section of the Unsafe Building Law
4 shall be deemed to apply to any subsequent amendment to
5 or replacement of said section.

6 (5) *Certain building conditions deemed unsafe.* The
7 description of an unsafe building contained in IC 36-7-
8 9-4 is hereby supplemented to provide minimum standards
9 for building conditions or maintenance in the city. Any
10 building or structure which has any or all of the
11 conditions or defects hereinafter described shall be
12 deemed to be an unsafe building provided that such
13 conditions or defects exist to the extent that life,
14 health, property or safety of the public or its
15 occupants are endangered:

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

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

25 (c) Whenever any building or structure or
26 portion thereof has been damaged by fire, earthquake,
27 wind, flood, or by any other cause, to such an extent
28 that the building or structure or any portion thereof
29 has become so dilapidated or deteriorated so as to
30 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;

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

(e) 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

1 not so anchored, attached or fastened in place so as to
2 be capable of resisting a wind pressure of 50% of that
3 specified for new buildings of similar structure,
4 purpose or location without exceeding the working
5 stresses approved for such building; or whenever any
6 portion thereof has cracked, warped, buckled or settled
7 to such an extent that walls or other structural
8 portions have materially less resistance to winds or
9 earthquakes than is approved in the case of similar new
10 construction;

11 (f) Whenever the building or structure, or any
12 portion thereof, because of dilapidation, deterioration,
13 or decay, faulty construction, the removal, movement, or
14 instability of any portion of the ground necessary for
15 the purpose of supporting such building; the
16 deterioration, decay, or inadequacy of its foundation,
17 or any other cause, is likely to partially or completely
18 collapse;

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

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

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

(j) Whenever any building or structure that has
been constructed, exists, or is maintained in violation
of any specific requirement or prohibition applicable to
such building or structure provided by the regulations
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
2 or not erected in accordance with all applicable laws
3 and ordinances, has in any non-supporting part, member
4 or 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, because
19 of obsolescence, dilapidated condition, deterioration,
20 damage, inadequate egress, lack of sufficient fire
21 resistive construction, faulty electric wiring, gas
22 connection or heating apparatus or other cause is
23 determined by the Enforcement Authority to be a fire
24 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)

(B) 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 be in accordance with applicable state and local codes and ordinances.

(3) Minimum width. Minimum width between vertical balusters or ornamental patterns shall be in accordance with applicable state and local codes and ordinances.

('74 Code, § 14.7-1)

(International Building Code, hereinafter IBC, 2006 Sec. 1012-1013) (IPMC 2006 Sec. 306)

(C) *Exterior property areas.*

(1) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. Examples of unclean, unsafe and unsanitary conditions may include, but not be limited to, the following:

(a) Any wastewater, filth, noxious substance, garbage, rubbish, animal waste, or human excrement, which is deposited, allowed or caused to be upon any public or private property.

(b) Any dead animal or animal parts.

(2) *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.

(3) *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.

(4) *Exhaust vents.* Pipes, ducts, conductors, fans and blowers that discharge gases, steam, vapor, hot air,

grease, smoke, odors, dust or other gaseous or particulate wastes shall be properly maintained at all times, and shall be installed in accordance with all applicable state and local codes and ordinances.

(5) *Accessory structures.* All accessory structures, including detached garages, sheds, fences, walls, pools and all similar structures or buildings, shall be maintained, structurally sound, and in good repair in accordance with all applicable state and local codes and ordinances.

(6) *Vehicles.* Except as provided for in other regulations, no inoperable vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. All operable vehicles shall be parked on an approved surface.

(7) *Prohibited outdoor storage.* It shall be unlawful and prohibited for any occupant to cause, keep, permit or maintain a public nuisance. Public nuisance shall include, but not be limited to, the following:

(a) Building materials stored on any premises, except the following: building materials and equipment placed or stored on premises during the process of actively building on said premises, or for a period of no longer than 30 days prior to a commencement of building, and no longer than ten days after the completion of building on said premises.

(b) Any furniture, appliances or household items not originally designed or manufactured solely for outdoor use, including tools, auto parts, and other similar items.

(c) Any equipment, furniture, bicycles or children's toys which were originally designed or manufactured for outdoor use and which are now dilapidated, deteriorated or dismantled.

('74 Code, § 32-2)

(IPMC 2006 Sec. 302)

1 (D) *Exterior structure.*

2 (1) *General.*

3 (a) Every building and all parts thereof
4 intended for use as a residential dwelling and premises
5 shall, while in use or at any time when the lack of
6 maintenance affects neighboring property, be kept in
7 good repair and in safe condition.

8 (b) Any place, part or attachment of the
9 structure not securely fixed as to be in danger of
10 falling or being dislodged by the elements so that it
11 may possibly injure any person or property shall be
12 secured, removed or replaced.

13 (2) *Protective treatment.* All exterior surfaces,
14 including but not limited to: doors, windows, door and
15 window frames and sashes, cornices, porches, trim,
16 balconies, decks and fences shall be maintained in good
17 condition. Exterior wood surfaces, other than decay-
18 resistant woods, shall be protected from the elements
19 and decay by painting or other protective covering or
20 treatment. Peeling, flaking and chipped paint shall be
21 eliminated and surfaces repainted. All siding and
22 masonry joints as well as those between the building
23 envelope and the perimeter of windows, doors, and
24 skylights shall be maintained weather resistant and
25 water tight. All metal surfaces subject to rust or
26 corrosion shall be coated to inhibit such rust and
27 corrosion and all surfaces with rust or corrosion shall
28 be stabilized and coated to inhibit future rust and
29 corrosion. Oxidation stains shall be removed from
30 exterior surfaces. Surfaces designed for stabilization
by oxidation or non-ferrous materials are exempt from
this requirement.

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

(4) *Foundation walls.* All foundation walls shall be
maintained plumb and free from open cracks and breaks.
They shall be kept in such condition so as to prevent
entry of rodents and other pests.

1 (5) *Exterior walls.* All exterior walls shall be
2 free from holes, breaks, and loose or rotting materials,
3 and maintained weatherproof and properly surface coated
4 where required to prevent deterioration.

5 (6) *Roofs and drainage.*

6 (a) *Roofs.* The roof and flashing shall be sound,
7 tight and free of defects that admit moisture. Roof
8 drainage shall be adequate to prevent dampness or
9 deterioration in the walls or interior portion of the
10 structure.

11 (b) *Gutters and Down Spouts.* Gutters and
12 downspouts shall be maintained in good repair and free
13 from obstructions. Roof water shall not be discharged in
14 a manner that creates a public nuisance. Drainage must
15 be in accordance with applicable state and local codes
16 and ordinances.

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

22 (8) *Overhang extensions.* All overhang extensions
23 including, but not limited to canopies and awnings shall
24 be maintained in good repair and be properly anchored so
25 as to be kept in a sound condition. When required, all
26 exposed surfaces of metal or wood shall be protected
27 from the elements and against decay or rust by periodic
28 application of weather-coating materials such as paint
29 or similar surface treatment.

30 (9) *Stairways, decks, porches and balconies.* Every
exterior stairway, deck, porch and balcony, and all
appurtenances attached thereto, shall be maintained
structurally sound, in good repair, with proper
anchorage and capable of supporting the imposed loads.
All exterior steps and stairways shall be maintained so
as not to have any broken, warped or loose treads and
risers.

 (10) *Chimneys and towers.* All chimneys, flues and
similar appurtenances shall be maintained structurally
safe and sound, and in good repair. All exposed surfaces

1 of metal or wood shall be protected from the elements
2 and against decay or rust by periodic application of
3 weather-coating materials, such as paint or similar
surface treatment.

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

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

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

10 (14) *Exterior doors.* All exterior doors, door
11 assemblies and hardware shall be in good condition,
12 structurally sound and be maintained so as to be weather
tight, watertight and rodent-proof. All exterior doors
13 shall also be a suitable means of ingress and egress
pursuant to state and local fire codes.

14 (15) *Building security.* Doors, windows or hatchways
15 for a structure shall be provided with devices designed
16 to provide security for the occupants and property
within. All such devices shall be installed according to
17 the manufacturer's specifications and maintained in good
working order.

18 (a) *Exterior door hardware.* Doors providing
19 access to a structure other than marked exit doors
20 equipped with a deadbolt lock shall be designed to open
from the side which egress is to be made without the
21 need for keys, special knowledge or effort.

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

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

1 (16) *Defacement of property.* Defacement of the
2 exterior surfaces of any structures by marking, carving,
3 tagging, or graffiti shall be properly abated by the
owner or operator of the premises.

4 (17) *Premise identification.*

5 (a) No person, who may be the owner, lessee or
6 occupant of any building required to be numbered by this
7 chapter or any subsequent ordinance, shall refuse or
8 neglect to correctly number their building in conformity
9 with this chapter. The numbers shall consist of figures
10 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.

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

15 ('74 Code, §§ 25-68, 25-69) (Code §§ 99.113-99.114)

16 (18) *Insect screening.* All openings requiring
17 screening for ventilation of habitable rooms shall be
18 supplied with tightly fitting screens maintained in good
19 repair, properly fitted to the opening in accordance
20 with applicable state and local codes and ordinances.
The owner of a dwelling unit shall be responsible for
providing and hanging all screens whenever the same are
required under the provisions of this chapter.

21 ('74 Code, § 14.7-1, 12)

22 (IPMC 2006 Sec. 303-304) (IBC 2006 Sec. 1008)

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

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

1 (2) *Approved Refuse containers.* The owner of every
2 occupied premise shall be responsible to supply covered
3 refuse containers for trash sufficient to meet the needs
4 of the occupants.

5 ('74 Code, § 14.7-11)

6 (IPMC 2006 Sec. 307)

7 (F) *Extermination.* All structures shall be kept free
8 from insect and rodent infestation.

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

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

18 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
19 11-25-86; Am. Ord. G-04-88, passed 5-24-88; Am. Ord. G-
20 06-92, passed 2-20-92; Am. Ord. G-02-94, passed 2-22-94;
21 Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-26-00,
22 passed 10-10-00; Am. Ord. G-11-02, passed 4-23-02; Am.
23 Ord. G-03-09, passed 2-24-09)

24 **§ 152.05 INTERIOR STRUCTURE.**

25 (A) *General.* The interior of a structure and
26 equipment therein shall be maintained in good repair,
27 structurally sound and in a sanitary condition.

28 (B) *Structural members.* All structural members
29 shall be maintained structurally sound, and be capable
30 of supporting the imposed loads.

 (C) *Interior surfaces.* All interior surfaces,
including windows and doors, shall be maintained in
good, clean and sanitary condition. Peeling, chipping,
flaking or abraded paint shall be removed, painted or

covered. Cracked or loose plaster, drywall, decayed wood and other defective surface conditions shall be corrected. No paint shall be used for interior painting or any dwelling, dwelling unit, rooming house or rooming unit that is lead-based.

(D) *Floors, stairs and walking surfaces.*

(1) All interior stairways, landings and appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. All interior steps and stairways and landings shall be maintained so as not to have any broken, warped or loose treads and risers.

(2) Floors and floor coverings shall be maintained free of holes, large cracks or loose and deteriorated materials so parts that become defective do not constitute a hazard to the occupants. Split, splintered or badly worn floor boards shall be replaced. Unsanitary floors and floor coverings shall be cleaned and/or replaced.

(E) *Interior doors.* Every interior door shall be maintained in good condition, fit reasonably well within its frame and shall be capable of being opened, closed and latched by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer.

(F) *Basements and crawl spaces.* Basements and crawl spaces shall be maintained reasonably free of dampness to prevent conditions conducive to decay or deterioration of the structure. Basements, crawl spaces, or other similar below grade structures shall be kept free of standing or stagnant water to ensure public health and safety.

(G) *Kitchen and kitchen facilities.*

(1) Every dwelling unit shall contain a room or space for the preparation and cooking of food which shall include space and connections for stoves or other cooking facilities and a space for refrigerated food storage.

1 (2) Every dwelling unit shall contain a kitchen
2 sink in good working condition which shall be properly
3 connected to both hot and cold water lines and to the
4 public sanitary sewer or a private sewage disposal
5 system approved by Allen County Board of Health. A
lavatory basin shall not meet this requirement of a
kitchen sink.

6 (3) The use of gasoline stoves or other similar
7 fuel burning appliances using highly flammable liquids
8 and the use of portable kerosene stoves or other similar
fuel burning portable appliances for cooking is
prohibited.

9 (4) Hoods and ducts over kitchen ranges shall be
10 reasonably free from the collection of grease or other
flammable residues that collect therein.

11 ('74 Code, § 14.7-1, 11)

12 (IPMC 2006 Sec. 305)

13 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
14 11-25-86; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
15 03-09, passed 2-24-09)

16 **§ 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.**

17 (A) *General.*

18 (1) *Scope.* The provisions of this chapter shall
19 govern the minimum conditions and standards for light,
20 ventilation and space for occupancy of a structure.

21 (2) *Responsibility.* The owner of the structure
22 shall provide and maintain light fixtures, ventilation
23 and space conditions in compliance with these
24 requirements. A person shall not occupy as owner-
25 occupant, or permit another person to occupy, any
premises that do not comply with the requirements of
this chapter.

26 (3) *Alternative devices.* In lieu of the means for
27 natural light and ventilation herein prescribed,
28 artificial light or mechanical ventilation in accordance

1 with applicable state and local codes and ordinances
2 shall be permitted. (IPMC 2006 Sec. 401)

3 (B) *Light.*

4 (1) Every habitable room shall have at least one
5 window or skylight facing directly to the outdoors. The
6 minimum total window area, measured between stops, for
7 every habitable room, shall be not less than 8% of the
8 floor area of such room. Whenever walls or other
9 portions of structures face a window of any such room
10 and such light-obstructing structures are located less
11 than three feet from the window and extend to a level
12 above that of the ceiling of the room, such a window
13 shall not be deemed to face directly to the outdoors and
14 shall not be included as contributing to the required
15 minimum total window area. Whenever the only window in a
16 room is a skylight-type window in the top of such room,
17 the total window area of such skylight shall equal at
18 least 15% of the total floor area of such room.

19 (2) *Means of egress:* common halls and stairways.
20 Every common hall and stairway in residential structures
21 shall be lighted with at least a 60-watt standard
22 incandescent light bulb or equivalent for each 200
23 square feet of floor area, provided that the spacing
24 between lights shall not be greater than 30 feet. Every
25 public hall and stairway in structures devoted solely to
26 a dwelling occupancy and containing not more than three
27 dwelling units shall be supplied with conveniently
28 located light switches, controlling a lighting system
29 which may be turned on when needed, instead of full time
30 lighting.

(3) *Other spaces.* All habitable 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 applicable state and local codes and ordinances.

('74 Code, §14.7-12)

(IPMC 2006 Sec. 402)

1 (C) Ventilation.

2 (1) *Habitable spaces.* Every habitable room shall
3 have at least one window or skylight which can easily be
4 opened or such other device as will ventilate the room.
5 The total of openable window area in every habitable
6 room shall be equal to at least 45 percent of the
7 minimum window area size or minimum skylight type window
8 size, as required in (B) above, except where there is
9 supplied by mechanical means or some other device
10 affording ventilation and approved by the Enforcement
11 Authority.

12 (2) *Bathrooms and toilet rooms.* Every bathroom
13 and toilet room shall have at least one openable window
14 with a minimum glazed area of 8% of the total floor
15 area. The total openable area of the window shall be a
16 minimum of 45% of the minimum glazed window area. A
17 window shall not be required in such spaces equipped
18 with a mechanical ventilation system. Air exhausted by a
19 mechanical ventilation system from a bathroom or toilet
20 room shall discharge directly to the outdoors and shall
21 not be re-circulated in accordance with all applicable
22 state and local codes and ordinances.

23 (3) *Clothes dryer exhaust.* Clothes dryer exhaust
24 systems shall be independent of all other systems, and
25 discharged directly to the outdoors in accordance with
26 applicable state and local codes and ordinances.

27 (4) *Screens.* The owner of a dwelling unit shall
28 be responsible for providing and hanging all screens
29 whenever the same are required under the provisions of
30 this chapter. Every window or other device with openings
to outdoor space, used or intended to be used for
ventilation shall likewise be supplied with screens.
Screens shall be required during April 1 through
November 1 to provide protection against bats,
mosquitoes, flies and other insects.

('74 Code, Sec. 14.7-12)

(IPMC 2006 Sec. 402-403)

(D) *Occupancy limitations.*

1 (1) No person shall occupy or let to another for
2 occupancy any dwelling or dwelling unit for the purpose
3 of living therein, which does not comply with the
4 following requirements.

5 (2) *General requirements.*

6 (a) For every dwelling unit there shall be at
7 least 150 square feet of floor area for the first
8 occupant and at least 100 additional square feet of
9 floor area for each additional occupant. The floor area
10 shall be calculated on the basis of the total floor area
11 of the dwelling unit exclusive of stairways. For the
12 purpose of such calculation, only the floor area in a
13 basement meeting the requirements for basement occupancy
14 shall be counted.

15 (b) No room used for sleeping purposes shall
16 have a floor area of less than 70 square feet. No room
17 shall be used for sleeping purposes by two or more
18 persons unless there is at least 50 square feet of floor
19 area for each person 12 years of age and over and at
20 least 35 square feet of floor area for each child over
21 one year of age and less than 12 years of age.

22 (c) No dwelling or dwelling unit, containing
23 two or more sleeping rooms, shall have room arrangements
24 such that access to a bathroom or water closet
25 compartment intended for use by occupants of more than
26 one sleeping room can be had only by going through
27 another sleeping room, nor shall room arrangements be
28 such that access to a sleeping room can be had only by
29 going through another sleeping room or a bathroom or
30 water closet compartment.

(d) At least 50% of the floor area of every
habitable room shall have a ceiling height of at least
seven feet; and the floor area of that part of any room
where the ceiling height is less than five feet shall
not be considered as part of the floor area in computing
the total floor area of the room for the purpose of
determining the maximum permissible occupancy thereof.

(3) *Basement occupancy.* No basement space shall
be used as a habitable room or dwelling unit unless in
accordance with applicable state and local codes and
ordinances.

1
2 (a) The floor and walls are impervious to
3 leakage of underground and surface runoff water and the
4 area is insulated against dampness.

5 (b) The total of window area in each room is
6 equal to at least the minimum window area sizes as
7 required in §152.06(C)(1).

8 (4) *Prohibited uses.* Kitchens and uninhabitable
9 or public spaces shall not be used for sleeping
10 purposes. No basement space shall be used as a habitable
11 space unless it conforms to the minimum requirements of
12 this chapter.

13 ('74 Code, § 14.7-14)

14 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
15 12-14-99; Am. Ord. G-03-09, passed 2-24-09)

16 § 152.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

17 (A) *General.*

18 (1) *Scope.* The provisions of this chapter shall
19 govern the minimum plumbing systems, facilities and
20 plumbing fixtures to be provided.

21 (2) *Responsibility.* The owner of the structure
22 shall provide and maintain such plumbing facilities and
23 plumbing fixtures in compliance with these requirements.
24 A person shall not occupy as owner-occupant or permit
25 another person to occupy any structure or premises which
26 does not comply with the requirements of this chapter.
27 (IPMC 2006 Sec. 501)

28 (B) *Required facilities.*

29 (1) *Water closet and lavatory facilities.* Every
30 dwelling unit shall contain, within a room which affords
privacy, a water closet and a lavatory basin in good
working condition which shall be properly connected to
the public sanitary sewer, or private sanitary sewer
system approved by the Allen County Board of Health.
Such water closet and lavatory basin shall be within and

1 accessible from within the dwelling unit. The lavatory
2 basin shall be properly connected to both hot and cold
3 water lines, and the water closet shall be properly
connected to a cold water line.

4 (2) *Bathing facilities.* Every dwelling unit shall
5 contain within a room which affords privacy, a bathtub
6 or shower in good working condition which shall be
7 properly connected to both hot and cold water lines and
8 to the public sanitary sewer, or private sanitary sewer
9 system approved by the Allen County Board of Health.
Such bathing facilities shall be within and accessible
from within the dwelling unit.
('74 Code, § 14.7-11)

10 (C) *Plumbing systems and fixtures.*

11 (1) *General.* All plumbing fixtures shall be
12 properly installed and maintained in working order, and
13 shall be kept free from obstructions, leaks and defects
14 and be capable of performing the function for which such
15 plumbing fixtures are designed. All plumbing fixtures
shall be maintained in a safe, sanitary and functional
condition.

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

18 (D) *Water systems.*

19 (1) *General.* Every sink, lavatory, bathtub or
20 shower, water closet or other plumbing fixture shall be
21 legally connected to either a public water system or to
22 an approved private water system. The water supply
23 system shall be installed and maintained to provide at
all times, while the dwelling or dwelling unit is
occupied, a supply of water to plumbing fixtures in
sufficient volume and at a pressure adequate to enable
them to function satisfactorily.

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

1
2 (3) *Water heating facilities.* Every dwelling unit
3 shall contain water heating facilities which are
4 properly installed, operated and maintained in safe and
5 good working condition and are properly connected to the
6 bathtub or shower, sink and lavatory basin. Such water
7 heating facilities shall be capable of automatically
8 heating water to such a temperature as to permit water
9 to be drawn at every required bathtub or shower, sink
10 and lavatory basin at a temperature of not less than
11 120° F. All gas-fired water heaters shall be properly
12 vented to the outside.

13 ('74 Code, § 14.7-11)

14 (IPMC 2006 Sec. 505)

15 (E) *Sanitary drainage system.*

16 (1) *General.* All plumbing fixtures shall be
17 properly connected to either a public sewer system or to
18 a private sewage disposal system approved by Allen
19 County Board of Health.

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

24 (F) *Storm drainage.*

25 (1) *General.* Storm water runoff of roofs and
26 paved areas, yards and courts, and other surfaces on the
27 premises shall not be discharged in a manner that
28 creates a public nuisance. (IPMC 2006 Sec. 507)

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

(Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
12-14-99; Am. Ord. G-03-09, passed 2-24-09)

1 **§ 152.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.**

2 (A) *General.*

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

6 (2) *Responsibility.* The owner of the structure
7 shall provide and maintain mechanical and electrical
8 facilities and equipment in compliance with these
9 requirements. A person shall not occupy as owner-
10 occupant or permit another person to occupy any premises
11 which does not comply with the requirements of this
12 chapter. (IPMC 2006 Sec. 601)

13 (B) *Heating facilities.*

14 (1) *Facilities required.* Primary heating
15 facilities shall be provided in structures as required
16 by this section and shall be in accordance with
17 applicable state and local codes and ordinances.

18 (2) *Residential occupancies.* Dwellings shall
19 be provided with heating facilities capable of
20 maintaining a room temperature of 68°F (20°C) in all
21 habitable rooms, bathrooms and toilet rooms. Cooking
22 appliances and portable heating devices shall not be
23 used to provide primary heating to meet the requirements
24 of this section.

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

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

1 (C) *Mechanical equipment.*

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

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

10 *Exception:* Fuel-burning equipment and appliances which
11 are Underwriters Laboratories (UL) labeled for unvented
12 operation.

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

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

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

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

(D) *Electrical facilities.*

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

(2) *Service.* Every dwelling unit and all public
and common areas shall be supplied with adequate
electric service, outlets and fixtures which shall be

properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in accordance with all applicable state and local codes and ordinances.

('74 Code, § 14.7-12)

(IPMC 2006 Sec. 604)

(E) *Electrical equipment.*

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

(2) *Receptacles.* Every habitable room shall contain at least two separate duplex convenience outlets. Outlets shall be so located as to reasonably provide service to appliances in different parts of the room.

Exception: A ceiling fixture may be substituted for one of the required duplex outlets in each habitable room except the kitchen, living room and family room.

(a) Each bathroom shall have one convenience duplex outlet and all receptacles installed in bathrooms shall have GFCI protection in accordance with applicable state and local codes and ordinances.

(b) All receptacles that serve kitchen countertop services shall have GFCI protection in conformance with state and local codes and ordinances. Each kitchen shall have at least one separate duplex convenience electrical outlet connected to a 20-amp circuit and be located so as to supply power for the refrigerator area and for other electrical appliances.

(c) Every outlet, switch, and junction box must be covered in an approved manner to prevent contact of its wiring or terminals with the body or splashing water.

(3) *Electrical fixtures.* At least one supplied ceiling or wall-type electric light fixture shall be provided in every toilet room, bathroom, laundry room, furnace room, hall, stairway, basement or any other area

1 in which artificial light is required for the safety and
2 welfare of the occupants.

3 ('74 Code, § 14.7-12)

4 (IPMC 2006 Sec. 605)

5 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
6 12-14-99; Am. Ord. G-03-09, passed 2-24-09)

7
8 **§ 152.09 DISCONTINUANCE OF UTILITIES OR SERVICE.**

9 (A) *Required.* No owner, operator or occupant shall
10 cause any service, facility or utility which is required
11 to be supplied under this standard to be removed from,
12 shut off from or discontinued from any occupied dwelling
13 let or occupied by him except for such temporary
14 interruption as may be necessary while actual repairs or
alterations are in process, or during temporary
emergencies when discontinuance of service is approved
by the Enforcement Authority.

15 (B) *Restrictions.* Utilities or services required
16 under this chapter shall not be caused to be shut off to
17 an occupied dwelling or dwelling unit by an owner,
18 operator, or agent in order to evict the occupant from a
19 dwelling or dwelling unit. However, an owner, operator
or agent may shut off utilities or services at the time
the owner, operator or agent has obtained an order of
possession to the premises, pursuant to state law.

20 ('74 Code, § 14.7-1)

21 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
22 11-25-86; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
23 03-09, passed 2-24-09)

24 **§ 152.10 SAFETY AND SANITARY MAINTENANCE.**

25
26 (A) *General.*

27 (1) *Scope.* The provisions of this chapter shall
28 govern the minimum conditions and standards for safety

1 and sanitary maintenance relating to structures and
2 premises.

3 (2) *Responsibility.* No person shall occupy or let
4 to another for occupancy any dwelling or dwelling unit
5 for the purpose of living therein which does not comply
6 with the following requirements and in a clean and
7 sanitary condition including, but not limited to, the
8 following standards:

9 (a) Floors, floor coverings and other
10 walking surfaces shall be kept free of filth, garbage,
11 human and animal waste, litter, refuse and any other
12 unsanitary matter.

13 (b) Walls, ceilings, windows and doorways
14 shall be kept free of dirt, greasy film, soot and any
15 other unsanitary matter.

16 (c) Water closets, lavatories, sinks,
17 showers and bathtubs shall be kept in a clean and
18 sanitary condition; no material shall be deposited in
19 any such fixture which may result in the obstruction of
20 such fixture or of any connected plumbing lines.

21 (d) All interior spaces of a structure
22 and accessory structure, including all contents thereof
23 shall be maintained in a clean, safe, and sanitary
24 condition.

25 ('74 Code, § 14.7-1)

26 (IPMC 2006 Sec. 701)

27 (B) *Means of egress.*

28 (1) *General.* Every dwelling, dwelling unit and
29 rooming house shall have at least two safe unobstructed
30 means of egress leading to safe and open space at ground
level. At least one means of egress must have a minimum
head room of six feet six inches. All means of egress
shall be in accordance with applicable state and local
codes and ordinances.

1 (2) *Exits.* All exits intended for use as a means
2 of egress shall be readily openable for emergency exit
3 without the need for keys, special knowledge or effort
4 in accordance with applicable state and local building
5 and fire codes.

6 (C) *Fire protection systems.*

7 (1) *General.* Every building used in whole or in
8 part for dwelling purposes shall be provided with the
9 fireproofing and fire protection systems according to
10 applicable state and local fire codes.

11 (2) *Smoke alarms.* Smoke alarms are to be in
12 proper working order and installed according to
13 applicable state and local fire codes.

14 (IPMC 2006 Sec. 704)

15 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
16 11-25-86; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
17 03-09, passed
18 2-24-09)

19 **§ 152.11 ROOMING HOUSES, DORMITORIES AND OTHER**
20 **OCCUPANCIES.**

21 (A) *General.* No person shall operate a rooming house
22 or dormitory, or shall occupy or let to another for
23 occupancy, any dormitory room and/or rooming unit in any
24 rooming house or dormitory which is not in compliance
25 with the appropriate provisions of every section of this
26 chapter.

27 ('74 Code, § 14.7-17)

28 (B) *Sanitation and cleanliness.* The operator of every
29 rooming house shall be responsible for the sanitary
30 maintenance of all walls, floors and ceilings;
maintenance of a sanitary condition in every other part
of the rooming house and the sanitary maintenance of the
entire premises where the entire structure or building
is leased or occupied by the operator.

 ('74 Code, § 14.7-18)

 (C) *Violations and notice.* Whenever, upon inspection
of any rooming house, the Enforcement Officer finds that

1 conditions or practices exist which are in violation of
2 any provision of this chapter, the Enforcement Officer
3 shall give notice in writing that unless such conditions
4 or practices are corrected within a reasonable period,
5 to be determined by the Enforcement Authority, the
6 operation of such premises as such rooming house shall
7 be discontinued and, if such rooming house operation is
8 licensed by any duly constituted governmental agency, a
9 recommendation that such license be revoked for the
10 protection of public health shall be given to such
11 licensing governmental body or agency by the Enforcement
12 Authority. At the end of such period the Enforcement
13 Officer shall re-inspect such rooming house and if he
14 finds that such conditions or practices have not been
15 corrected, he shall give notice in writing to the
16 operator that such operations shall cease, and, if such
17 rooming house operation is licensed by any duly
18 constituted governmental agency, the Enforcement
19 Authority shall recommend the immediate revocation of
20 such license by such issuing agency. Upon receipt of
21 such notice from the Enforcement Authority such operator
22 shall immediately cease operation of such rooming house
23 and no person shall occupy, for sleeping or living
24 purposes, any rooming unit within the house.
25 ('74 Code, § 14.7-19)

16 (D) *Standards and minimum requirements.* No person
17 shall operate a rooming house or dormitory, or shall
18 occupy or let to another for occupancy any dormitory
19 room and/or rooming unit in any rooming house or
20 dormitory, which does not comply with the following
21 standards and minimum requirements.

20 (1) *Water closet.* At least one flush water
21 closet, lavatory basin and bathtub or shower, properly
22 connected to a water and sewer system approved by the
23 Enforcement Authority and in good working condition,
24 shall be supplied for each six persons or fraction
25 thereof residing within a rooming house, including
26 members of the operator's family wherever they share the
27 use of the facilities provided:

25 (a) That in a rooming house where rooms are
26 let only to males, flush urinals may be substituted for
27 not more than 50% the required number of water closets
28 and provided that there shall be at least one water
29 closet.

1
2 (b) That all such facilities shall be so
3 located within the dwelling as to be reasonably
4 accessible to all persons sharing such facilities and
5 from a common hall or passageway and provided that such
6 facilities are not located more than one floor above or
7 below the rooming unit(s) served.

8 (c) That every lavatory basin and bathtub or
9 shower shall be supplied with hot and cold water under
10 pressure at all times.

11 (d) That, if the rooming house has only one
12 bathroom for use by the occupants of the rooming units,
13 such bathroom shall not be located below grade.

14 (2) *Cooking facilities.* The following provision
15 shall apply in all rooming houses and dormitories
16 concerning cooking facilities and food service:

17 (a) Cooking in dormitory rooms and rooming
18 units is prohibited.

19 (b) All food service and dining facilities
20 provided in a rooming house or dormitory for the
21 occupants of the same shall comply with applicable food
22 service legislation.

23 (3) *Access doors.* Access doors to rooming units
24 and dormitory rooms shall have operating locks to ensure
25 privacy.

26 (4) *Habitable room.* Every rooming unit shall
27 comply with all requirements of this chapter pertaining
28 to habitable rooms.

29 (5) *Occupancy.* Every rooming unit occupied by one
30 person shall contain at least 80 square feet of floor
space and every rooming unit occupied by more than one
person shall contain at least 60 square feet for each
occupant thereof.

(6) *Egress.* Every rooming unit shall have
immediate access to two or more approved means of
egress, with minimum head room of six feet and six
inches, appropriately marked, leading to a safe and open

1 space at ground level or as required by applicable state
2 and local codes and ordinances.

3 (7) *Handrails and guardrails.* All buildings
4 containing rooming units, dormitories or dormitory units
5 shall comply with all requirements of this chapter
6 pertaining to handrails and guardrails.

7 (8) *Separation of rooming units.* Access to or
8 egress from each rooming unit shall be provided without
9 passing through any other rooming unit.

10 (9) *Application of section to motels and hotels.*
11 Every provision of this chapter which applies to rooming
12 houses shall also apply to motels, motor lodges and
13 hotels except to the extent that any such provision may
14 be found in conflict with state and local codes and
15 ordinances.

16 ('74 Code, § 14.7-20)

17 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
18 12-14-99; Am. Ord.
19 G-03-09, passed 2-24-09)

20 **§ 152.12 ENFORCEMENT AND PENALTIES.**

21 (A) *Enforcement.* Whenever, upon inspection of any
22 residential property, the Code Official finds that
23 conditions or practices exist which are in violation of
24 any provision of this chapter, or the Unsafe Building
25 Law, IC 36-7-9-1 through IC 36-7-9-29, the Code Official
26 shall give written notice in accordance with the
27 provisions of this chapter. Unless such conditions or
28 practices are corrected within a reasonable period, to
29 be determined by the Enforcement Authority, the owner or
30 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.

('74 Code, § 14.7-31(a))

(B) *Notice of violation.* If the Code Official finds
that a violation of any portion of this chapter exists

1 on the property or premises, with the exception of any
2 violation falling under the realm of public health and
3 safety, the officer shall issue a written notice of
4 violation to the property owner or person responsible
5 for such property establishing 60 days to correct the
6 violations. Subsequent to the notice of violation, the
7 property owner or person responsible for such property
8 and the Enforcement Authority may enter into a work plan
9 for the abatement of the violations. The work plan shall
10 set a date by which the required work shall be
11 completed. The date established in the work plan may
12 extend beyond the 60 days established in the notice of
13 violation. The Enforcement Authority may modify or
14 rescind a work plan as warranted by the status of the
15 violations and the work to correct same.

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

(C) *Order for abatement.* The Code Official shall re-
inspect the property upon the expiration of the time
period given in the notice of violation, or upon the
expiration of the time identified in the work plan. If
the same violation or violations of this chapter exists,
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 (D) *Manner of serving notice.*

2 (1) A notice of violation issued pursuant to §
3 152.12(B) shall be served in accordance with IC 36-7-9-
4 25.

5 (2) Notice of an order issued under § 152.12(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 § 152.12(B) or issuing an
12 order under §152.12(C), but shall be limited to the
13 action necessary to abate any immediate danger.
14 ('74 Code, § 14.7-30)

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

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

(H) *Natural disaster.* Structures damaged as a result
of fire, flood, storm, tornado, or other natural
disasters, and verified by the Enforcement Authority,
may 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.

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

1
2 (1) *Buildings unsafe for human occupancy.*

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

17 (b) Conditions include:

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

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

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

29 4. Any building, dwelling or dwelling unit
30 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, § 14.7-22-24)

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

1 (3) *Approval Required for re-occupancy.* No
2 building or dwelling unit which has been placarded as
3 unfit for human occupancy shall again be used for human
4 occupancy until written approval is secured from, and
5 such placard is removed by, the Enforcement Authority.
6 The Enforcement Authority shall remove such placard
whenever the defect(s) upon which the condemnation and
placard action were based have been corrected. ('74
Code, § 14.7-26)

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

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

19 (K) *Affirmative defense.* It shall be an affirmative
20 defense to a notice and/or order issued pursuant to §
21 152.12 if an owner can show, by clear and convincing
22 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.

23 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed
24 12-26-89; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
25 26-00, passed 10-10-00; Am. Ord. G-22-03, passed 6-24-
03; Am. Ord. G-03-09, passed 2-24-09)

26 **§ 152.13 HEARING OFFICER.**

27 (A) *Establishment.*
28
29
30

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

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

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

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

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

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

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

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

30 (B) *Duties.*

(1) The Hearing Officer shall conduct
administrative hearings as may be required pursuant to
orders issued under the Unsafe Building Law as provided
in IC 36-7-9-7, or as provided in this § 152.13(B) and §
152.13(C) below.

1 (a) Ensure that each notice of
2 administrative hearing shall include the following
3 information:

4 1. A caption for the hearing, which
5 shall include the name of each party expected to
6 participate in the hearing, and an official file or
7 other reference number;

8 2. A statement of the date, time and
9 place of the hearing;

10 3. The official title, and mailing
11 address of the hearing officer and a telephone number
12 through which information concerning the hearing may be
13 obtained;

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

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

25 (3) The hearing officer shall afford all
26 parties the opportunity to participate in the hearing to
27 the extent necessary for full consideration of all
28 relevant facts and issues. A party may present evidence
29 in the form of testimony, affidavits and documentation,
30 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 incompetent to participate, then the party shall
participate by a duly authorized representative.

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

(b) The hearing officer shall conduct the
hearing in an informal manner and without strict

1 adherence to the technical rules of evidence and
2 procedure which govern judicial proceedings. The hearing
3 officer shall rule on the admissibility of any offer of
4 proof, and on other motions, and shall exclude evidence
5 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.

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

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

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

13 (5) The record of each hearing under this article
14 consists of the following:

15 (a) The notice of hearing;

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

17 (c) Any documents, motions, or exhibits
18 filed or entered into evidence;

19 (d) Any written orders and decision of
20 the hearing officer;

21 (C) *Hearings/appeals.*

22 (1) An order issued by the Enforcement Authority
23 is subject to review at a hearing conducted by the
Hearing Officer as provided in IC 36-7-9-7.

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

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

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

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

6 (3) Detailed Appeal Rights shall be provided at
7 the conclusion of the hearing that shall include time to
8 appeal, how to appeal, what will be considered on appeal
and what constitutes appropriate grounds for appeal.

9 (Ord. G-03-09, passed 2-24-09)

10
11 § 152.14 ADMINISTRATION AND ENFORCEMENT.

12
13 (A) *Delegation of enforcement power.* The Enforcement
14 Authority may delegate to other City/County Officials
15 the authority to enforce all or part of the provisions
of this chapter. Such officials shall include but not be
16 limited to the City/County Board of Health and the Fire
Department. ('74 Code, § 14.7-2-3)

17 (B) *Conflict of interest.* No Code Official or
18 employee connected with the Enforcement Authority shall
19 have a financial interest in the furnishing of labor,
material or appliances for the repair, alteration or
20 maintenance of a building, dwelling or dwelling unit on
21 which a notice or order by the Enforcement Authority has
been issued or in the making of plans or specifications
therefrom, unless he or she is the owner of such
building. ('74 Code, § 14.7-4)

22 (C) *Provisions for inspection authority.* The Code
23 Official shall inspect any premises or structures as
24 defined in this chapter based on the Department of
Neighborhood Code Enforcement's standard operating
25 procedures as well as the following provisions:

26 (1) The Enforcement Authority is authorized and
27 directed to make inspections where probable cause exists
28 or with consent of the owner, agent or occupant to
determine the condition of the premises or structures

1 located within the city in order that they may perform
2 their duty of safeguarding the health and safety of the
3 occupants of such premises or structures and of the
4 general public.

5 (a) For the purpose of making such
6 inspections, the Enforcement Authority is authorized to
7 enter, examine and survey at all reasonable times all
8 such premises or structures.

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

15 (2) Where conditions of an area, the nature of
16 the premises or structures, or a need to conduct an
17 area-wide inspection exists, and where a showing of such
18 is made by affidavit, an inspection warrant shall be
19 issued by a court of record in Allen County directing
20 the inspection of the property concerned.

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

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

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

(F) *Building Code compliance.* Whenever this chapter
refers to compliance with state and local codes and
ordinances, additions and alterations to any structure
shall conform to that required of a new structure
without requiring the existing structure to comply with

1 all the requirements of this code, provided it was in
2 compliance with applicable state and local building
3 codes when originally constructed. However, any building
4 or element thereof that has deteriorated to a point that
5 such condition is considered to be unsafe under this
6 chapter, the repair and/or replacement of such building
or element thereof shall be subject to the enforcement
provisions contained herein and must conform to current
state and local building code provisions.

7 (G) *Safe Housing and Building Oversight Committee.*
8 The Safe Housing and Building Oversight Committee is the
9 commission or board having control over the Enforcement
Authority. The Committee shall be subject to the
following:

10 (1) *Establishment and composition.* The Mayor
11 shall appoint one member from the Fire Department, one
12 member from the private business sector, one member who
13 owns or manages commercial property, two citizen members
14 who own and reside in a single family residence and one
15 member at-large. The Common Council shall appoint three
16 members to the Committee, each selected from a slate of
17 three nominees submitted by each of the following
18 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).

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

21 (a) On January 1 of each year.

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

25 (c) At the outset by the Mayor: Two persons
26 to serve one year; two persons to serve two years; and
27 two persons to serve three years. The Common Council
28 appointees shall serve two years.

1 (3) *Meetings and organization.* The first
2 meeting of the Safe Housing and Building Oversight
3 Committee shall be convened by the Director of the
4 Department of Neighborhood Code Enforcement. At the
5 initial meeting the Committee shall elect a Chair and
6 Secretary from among its members. At that meeting and
7 each subsequent meeting:

8 (a) The Secretary shall be charged with the
9 duty of keeping and maintaining the necessary minutes
10 and other records.

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

13 (4) *Rules.* The Committee shall meet at the
14 request of the Enforcement Authority at least four times
15 a year or upon special call by the Chair; or upon
16 written request to the Chair by any three members.

17 (5) *Quorum.* Five members of the Safe Housing
18 and Building Oversight Committee shall constitute a
19 quorum to do business.

20 (6) *Vacancies.* In the case of a vacancy in
21 office due to death, resignation, incapacity, removal or
22 otherwise, the appointment to fill the vacancy so
23 occurring shall be made by the Mayor for the unexpired
24 term only. In case of vacancy of the member appointed by
25 the Common Council, the Council shall fill the vacancy
26 for the unexpired term only.

27 (7) *Duties.* The Safe Housing and Building
28 Oversight Committee shall adopt a schedule setting forth
29 the maximum amount of performance bonds applicable to
30 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)

(Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
12-14-99; Am. Ord. G-19-03, passed 5-27-03; Am. Ord. G-
22-03, passed 6-24-03; Am. Ord. G-03-09, passed 2-24-09;
Am. Ord. G-11-09, passed 4-28-09)

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

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney