

BILL NO. G-17-03-26

GENERAL ORDINANCE NO. G- _____

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

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

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Ordinances is hereby repealed and replaced in its entirety as follows:

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

Section

- | | |
|--------|---|
| 150.01 | Applicability for Commercial Code |
| 150.02 | Interpretation |
| 150.03 | Definitions |
| 150.04 | General requirements |
| 150.05 | Interior structure |
| 150.06 | Light, ventilation and occupancy
limitations |
| 150.07 | Plumbing facilities and fixture
requirements |

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

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

§ 150.02 INTERPRETATION.

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

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

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

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

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

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

1
2
3 § 150.03 DEFINITIONS.

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

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

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

11 **APPROVED SURFACE:** Includes, but is not limited to,
12 a concrete, asphalt or gravel area which is continuous
13 to a driveway or right-of-way.

14 **APPURTENANCE.** A subordinate portion of a structure
15 attached to the primary structure.

16 **BASEMENT.** The portion of a building that is partly
17 or completely below grade.

18 **BATHROOM.** A room containing plumbing fixtures
19 including a bathtub or shower.

20 **BEDROOM.** Any habitable room or space used or
21 intended to be used for sleeping purposes in either a
22 dwelling or sleeping unit.

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

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

CITY. The City of Fort Wayne, Indiana.

1 **CODE OFFICIAL.** The City of Fort Wayne official, or
2 any duly authorized representative, including but not
3 limited to the Enforcement Authority, who is charged in
4 his or her official duties with the administration and
5 enforcement of this chapter and who has been given a
6 special police commission granted by the Board of Public
7 Safety authorizing him or her to enforce this chapter.

8 **CONDEMN.** To adjudge unsafe and/or unfit for
9 occupancy.

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

13 **DWELLING.** A structure, partly or wholly, intended
14 for or being used for living or sleeping by human
15 occupants; provided that temporary housing as defined in
16 this section shall not be regarded as a dwelling.

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

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

21 **DWELLING UNIT.** A single unit providing complete,
22 independent living facilities for one or more persons,
23 including permanent provisions for living, sleeping,
24 eating, cooking and sanitation.

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

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

ENFORCEMENT AUTHORITY. Department of Neighborhood
Code Compliance of the City of Fort Wayne, which is
responsible for the administration and enforcement of
the provisions of this chapter.

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

4 **EXTERMINATION.** The control and elimination of
5 insects, rodents or other pests by eliminating their
6 harborage places; by removing or making inaccessible
7 materials that may serve as their food; by poisoning,
8 spraying, fumigating, trapping or by any other
9 recognized and legal pest elimination methods approved
10 by the local or state authority having such
11 administrative authority.

12 **GARBAGE.** The animal or vegetable waste resulting
13 from the handling, preparation, cooking and consumption
14 of food.

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

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

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

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

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

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

1
2 **INOPERABLE VEHICLE.** A vehicle which cannot be
3 driven/operated upon the public streets for reasons
4 including but not limited to being wrecked, abandoned,
5 in a state of disrepair, or incapable of being moved
6 under its own power.

7 **LABELED.** Devices, equipment, appliances, or
8 materials to which has been affixed a label, seal,
9 symbol or other identifying mark of a nationally
10 recognized testing laboratory, inspection agency or
11 other organization concerned with product evaluation
12 that maintains periodic inspection of the production of
13 the above-labeled items and by whose label the
14 manufacturer attests to compliance with applicable
15 nationally recognized standards.

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

22 **OCCUPANCY.** The purpose for which a building or
23 portion thereof is utilized or occupied.

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

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

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

ORDER FOR ABATEMENT. A notice requiring action to
lessen, reduce or remove a nuisance including but not
limited to Order to Abate, Order to Seal, Order to
Demolish, and/or Emergency Order to Demolish.

1 **OWNER.** Any person, agent, operator, firm or
2 corporation having a legal or equitable interest in the
3 property or recorded in the official records of the
4 state, county or municipality as holding title to the
5 property; or otherwise having control of the property,
6 including a receiver, trustee, conservator or the
7 guardian of the estate of any such person, and the
8 executor or administrator of the estate of such person
9 if ordered to take possession of real property by a
10 court.

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

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

17 **PROPERLY CONNECTED.** Connected in accordance with
18 all applicable state and local codes and ordinances. The
19 application of this definition shall not require the
20 alteration or replacement of any existing connection in
21 good working order and not constituting a hazard to
22 health or safety or deterioration of property.

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

24 (1) Any physical condition, use or occupancy of any
25 premises or its appurtenances considered an attractive
26 nuisance to children, including but not limited to
27 abandoned wells, shafts, basements, excavations and
28 unsafe fences or structures; or the required precautions
29 against trespassers have not been provided; or

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

(3) Any structure or building that is in a state of
dilapidation, deterioration or decay; faulty
construction; overcrowded; open, vacant or abandoned;
damaged by fire to the extent as not to provide shelter;

1 in danger of collapse or failure and is dangerous to
2 anyone on or near the premises; or

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

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

10 (6) Dead trees within the City which are determined
11 to constitute a public hazard or threat to health,
12 safety, life, or property.

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

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

19 **REFUSE CONTAINER.** A watertight container that is
20 constructed of metal or other durable material such as
21 vinyl or plastic that is capable of being serviced
22 without creating unsanitary conditions.

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

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

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

STAIRWAY. One or more flights of stairs and the
necessary landings and platforms connecting them to form

1 a continuous and uninterrupted passage from one floor or
2 level to another in a building or structure.

3 **STANDARD OPERATING PROCEDURES.** Written procedures
4 prescribed for repetitive use as a practice, and written
5 in accordance with agreed upon directives aimed at
6 obtaining a desired outcome without loss of
7 effectiveness.

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

14 **STRUCTURE.** That which is built or constructed,
15 including without limitation because of enumeration,
16 buildings for any occupancy or use whatsoever, fences,
17 signs, billboards, fire escapes, chute escapes,
18 railings, water tanks, towers, open grade steps,
19 sidewalks or stairways, tents or anything erected and
20 framed of component parts which is fastened, anchored or
21 rests on a permanent foundation or on the ground.

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

25 **TEMPORARY HOUSING.** Any tent, trailer, mobile home
26 or any temporary structure used for human shelter which
27 is not attached to the ground, to another structure, or
28 to any utility system on the same premises.

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

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

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

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

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

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

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

15 **VEHICLE.** Any device in, upon or by which is used for
16 transporting people or goods or drawn upon a highway,
public road or thoroughfare.

17 **WORKMANLIKE.** Done in a reasonably skillful manner,
18 especially when used in reference to maintenance and
19 repair and according to current industry standards, or
otherwise applicable state and local codes and
ordinances.

20 ('74 Code. § 14.7-1)

21 (IPMC 2006 Sec. 202) (International Residential Code,
22 hereinafter IRC, 2006 Sec. R202)

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

1 § 150.04 GENERAL REQUIREMENTS.

2
3 (A) *Scope.* The provisions of this chapter shall
4 govern the minimum conditions and the responsibilities
5 of persons for maintenance of commercial, industrial,
6 non-residential, or mixed-use structures, mechanical
7 equipment, premises, and exterior property.

8 (B) *Responsibility.* The owner, occupant, or
9 responsible person of the premises shall maintain the
10 structures and exterior property in compliance with
11 these requirements, except as otherwise provided for in
12 this chapter. A person shall not occupy as owner-
13 occupant or permit another person to occupy premises
14 which are not in a sanitary and safe condition and which
15 do not comply with the requirements of this chapter.

16 (C) *Vacant structures and land.* All vacant
17 structures and premises thereof or vacant land shall be
18 maintained in a clean, safe, secure and sanitary
19 condition as provided herein so as not to cause a
20 blighting problem, adversely affect the public health
21 and/or safety, or decrease property values.

22 (D) *Adoption of state laws.* Indiana Code 36-7-9-1
23 through 36-7-9-29, collectively entitled "The Unsafe
24 Building Law," are hereby adopted in their entirety,
25 incorporated by reference and made a part hereof as if
26 copied verbatim. These provisions are further
27 supplemented by the provisions of this chapter. All
28 proceedings within the city for the inspection, repair
29 and removal of unsafe buildings shall be governed by IC
30 36-7-9-1 through 36-7-9-29 and by the provisions of this
chapter and any other applicable city ordinance.

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

1
2 (a) Whenever any door, aisle, passageway or other
3 means of exit is not of sufficient width or size or is
4 not so arranged as to provide safe and adequate means of
exit in case of fire or panic;

5 (b) Whenever the stress in any materials, member
6 or portion thereof, due to all dead and live loads, is
7 more than $1\frac{1}{2}$ times the working stress or stresses
approved for new buildings of similar structure, purpose
or location;

8 (c) Whenever any building or structure or portion
9 thereof has been damaged by fire, earthquake, wind,
10 flood, or by any other cause, to such an extent that the
11 building or structure or any portion thereof has become
12 so dilapidated or deteriorated so as to become an
attractive nuisance to children, or freely accessible to
13 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;

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

17 (e) Whenever any portion of a building or any
18 member, appurtenance, or ornamentation on the exterior
19 thereof is not of sufficient strength or stability or is
20 not so anchored, attached or fastened in place so as to
be capable of resisting a wind pressure of 50% of that
21 specified for new buildings of similar structure,
22 purpose or location without exceeding the working
stresses approved for such building; or whenever any
23 portion thereof has cracked, warped, buckled or settled
to such an extent that walls or other structural
24 portions have materially less resistance to winds or
earthquakes than is approved in the case of similar new
construction;

25 (f) Whenever the building or structure, or any
26 portion thereof, because of dilapidation, deterioration,
27 or decay, faulty construction, the removal, movement, or
instability of any portion of the ground necessary for
the purpose of supporting such building; the

deterioration, decay, or inadequacy of its foundation, or any other cause, is likely to partially or completely collapse;

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

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

(i) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, 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;

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

(l) Whenever a building or structure, used or intended to be used for residential or nonresidential purposes because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities or otherwise is determined by the Enforcement Authority to be unfit for human occupancy, to be

1 unsanitary or in such a condition that is likely to
2 cause sickness or disease;

3 (m) Whenever any building or structure,
4 because of obsolescence, dilapidated condition,
5 deterioration, damage, inadequate egress, lack of
6 sufficient fire resistive construction, faulty electric
7 wiring, gas connection or heating apparatus or other
8 cause is determined by the Enforcement Authority to be a
9 fire hazard; or

10 (n) Whenever any portion of a building or
11 structure remains on a site after the demolition or
12 destruction of the building or structure or whenever any
13 building or structure is abandoned for a period in
14 excess of six months so as to constitute such building
15 or portion thereof an attractive nuisance or hazard to
16 the public.

17 ('74 Code, § 14.7-6)

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

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

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

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

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

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

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

13 (I) *Weeds.* All premises and exterior property shall be
14 maintained free from weeds or plant growth in excess of
15 9 inches. All noxious weeds or other undesirable plants
16 shall be prohibited. Weeds shall be defined as all
17 grasses, annual plants and vegetation, other than
18 properly maintained trees or shrubs provided; however,
19 this term shall not include cultivated flowers and
20 gardens and shall exclude property that is defined in
21 City Code §100.16, as "Excluded Property".

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

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

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.

1 (L) *Accessory structures.* All accessory structures,
2 including but not limited to, detached garages, detached
3 carports, tents, storage containers, sheds, fences,
4 walls, pools and all similar structures or buildings,
5 shall be maintained, and/or in good repair in accordance
6 with all applicable state and local codes and
7 ordinances.

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

16 (IPMC 2006 Sec. 302)

17 ('74 Code, § 32-2)

18 (N) *Exterior structure.*

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

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

1 by oxidation or non-ferrous materials are exempt from
2 this requirement.

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

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

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

21 (6) *Roofs and drainage.*

22 (a) *Roofs.* The roof and flashing shall be sound,
23 weather tight and/or free of defects that admit
24 moisture. Roof drainage shall be adequate to prevent
25 dampness or deterioration in the walls or interior
26 portion of the structure.

27 (b) *Gutters and Downspouts.* Gutters and
28 downspouts shall be maintained in good repair and free
29 from obstructions. Roof water shall not be discharged in
30 a manner that creates a public nuisance. Drainage must
be in accordance with applicable state and local codes
and ordinances.

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

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

7 (9) *Stairways, Steps, Decks, Porches, Balconies,*
8 *Walkways, and Ramps.* All exterior stairways, steps,
9 decks, porches, balconies, walkways, ramps and any
10 additional appurtenances attached thereto shall be
11 structurally sound, maintained in good repair, with
12 proper anchorage and capable of supporting the imposed
13 loads. All exterior stairways and steps, shall be
properly maintained so as not to have any deteriorated,
broken, warped or loose treads and risers. All walkways
driveways and ramps shall be properly maintained.

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

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

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

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

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

1
2 (15) *Guards for basement windows.* Every basement
3 window that is openable shall be supplied with rodent
4 shields, storm windows or other approved protection
against the entry of rodents.

5 (16) *Building security.* Doors, windows or hatchways
6 for a structure shall be provided with devices designed
7 to provide security for the occupants and property
within.

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

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

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

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

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

24 (19) *Premise identification.*

25 (a) No person, who may be the owner lessee or
26 occupant of any building required to be numbered by this
27 chapter or any subsequent ordinance, shall refuse or
neglect to correctly number his building in conformity

1 with this chapter. The numbers shall consist of figures
2 not less than three inches in height and placed in a
3 conspicuous location on the front of the primary
4 structure in a manner which is clearly discernible from
the street or roadway.

5 (b) If the address numbers affixed to the
6 structure are not easily read from the street due to lot
7 configuration, obstructed view, or other condition, an
8 additional marker or placard must be prominently
9 displayed on the premises visible from the street or
10 roadway.

11 (c) The egress to the rear portion of the
12 building or other structure shall be affixed with
13 numbers placed in a conspicuous location indicating the
14 official address in characters no less than three inches
15 tall.

16 ('74 Code, §§ 25-68, 25-69) (Code §§ 99.113-99.114)

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

26 *Exception:* Screens shall not be required where
27 other approved means are employed.

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

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

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

4 (2) *Trash storage facilities.* The owner of every
5 occupied premise shall supply covered refuse containers
6 for trash, and the owner of the premises shall be
responsible for the removal of the trash. (IPMC 2006
7 Sec. 307)

8 (P) *Extermination.* All structures shall be kept free
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 extermination processes
12 that will not be injurious to human health. After
extermination or abatement, proper precautions shall be
taken to prevent re-infestation.

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

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

19 (R) *Dead or Damaged Tree Removal on Private Property.*
20 The Enforcement Authority shall have the authority to
21 order the removal of any dead or damaged trees, as
22 determined by a certified arborist, on private property
23 within the City, upon receiving a complaint, when such
24 trees constitutes a public nuisance to the occupants,
25 adjacent property or to the public. The owner shall
26 remove such trees or parts thereof at the owner's
expense pursuant to the Order to Abate. In the event the
owner fails to comply with the notice, the Enforcement
Authority shall have the authority to remove such trees
and charge the cost of removal to the owner.

27 ('74 Code, § 14.7-30)

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

§ 150.05 INTERIOR STRUCTURE.

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

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

(C) *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

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

(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 and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. (IPMC 2006 Sec. 305) (Ord. G-07-09, passed 2-24-09)

1 **§ 150.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.**
2

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

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

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

17 (D) *Light.*

18 (1) *Habitable spaces.* Every habitable space shall
19 have at least one window of approved size facing
20 directly to the outdoors or to a court. The minimum
21 total glazed area for every habitable space shall be 8%
22 of the floor area of such room. Wherever walls or other
23 portions of a structure face a window of any room and
24 such obstructions are located less than three feet from
25 the window and extend to a level above that of the
26 ceiling of the room, such window shall not be deemed to
27 face directly to the outdoors nor to a court and shall
28 not be included as contributing to the required minimum
29 total window area for the room in compliance with state
30 and local codes and ordinances.

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

 (2) *Means of egress: common halls and stairways.*
Every common hall and stairway in residential

occupancies, other than single and multi-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet of floor area or provided that the spacing between lights shall not be greater than 30 feet.

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

(E) *Ventilation.*

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

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

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

(4) *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are

generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source and the air shall be vented to the exterior and not be re-circulated to any space in accordance with state and local codes and ordinances.

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

(F) *Occupancy limitations.*

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

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

(3) *Minimum ceiling heights.* Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven feet.

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

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

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

1
2 (6) *Access from bedrooms.* Bedrooms shall not
3 constitute the only means of access to other bedrooms or
4 habitable spaces and shall not serve as the only means
5 of egress from other habitable spaces.

6
7 *Exception:* Units that contain fewer than two bedrooms.

8
9 (7) *Toilet room accessibility.* Every bedroom shall
10 have access to at least one toilet room without passing
11 through another bedroom. Every bedroom in such a
12 dwelling unit shall have access to at least one toilet
13 room located on the same story as the bedroom or an
14 adjacent story.

15
16 (8) *Prohibited occupancy.* Kitchens, living rooms,
17 dining rooms, other public or common areas, and non-
18 habitable spaces shall not be used for sleeping
19 purposes. (IPMC 2006 Sec. 404) (Ord. G-07-09, passed 2-
20 24-09)

21 22 **§ 150.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.**

23 (A) *Scope.* The provisions of this chapter shall govern
24 the minimum plumbing systems, facilities and plumbing
25 fixtures to be provided.

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

(C) *Required facilities.*

(1) *Dwelling units.* Every dwelling unit shall
contain its own bathtub or shower, lavatory, toilet room
and kitchen sink which shall be maintained in a
sanitary, safe working condition. The lavatory shall be
placed in the same room as the toilet room or located in
close proximity to the door leading directly into the
room in which such toilet room is located. A kitchen

1 sink shall not be used as a substitute for the required
2 lavatory.

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

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

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

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

14
15 (D) *Toilet rooms.*

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

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

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

1
2 (3) *Location of employee toilet facilities.* Toilet
3 facilities shall have access from within the employees'
4 working area. The required toilet facilities shall be
5 located not more than one story above or below the
6 employees' working area and the path of travel to such
7 facilities shall not exceed a distance of 500 feet (152
8 m). Employee facilities shall either be separate
9 facilities or combined employee and public facilities.

10
11 *Exception:* Facilities that are required for employees
12 in storage structures or kiosks, which are located in
13 adjacent structures under the same ownership, lease or
14 control, shall not exceed a travel distance of 500 feet
15 from the employees' regular working area to the
16 facilities.

17 (4) *Floor surface.* In other than dwelling units,
18 every toilet room floor shall be maintained to be a
19 hard, nonabsorbent surface to permit such floor to be
20 easily kept in a clean and sanitary condition. (IPMC
21 2006 Sec. 503)

22 (E) *Plumbing systems and fixtures.*

23 (1) *General.* All plumbing fixtures shall be
24 properly installed and maintained in working order, and
25 shall be kept free from obstructions, leaks and defects
26 and be capable of performing the function for which such
27 plumbing fixtures are designed. All plumbing fixtures
28 shall be maintained in a safe, sanitary and functional
29 condition.

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

(F) *Water systems.*

(1) *General.* Every sink, lavatory, bathtub or
shower, drinking fountain, water closet or other
plumbing fixture shall be legally connected to either a
public water system or to an approved private water
system. All kitchen sinks, lavatories, laundry
facilities, bathtubs and showers shall be supplied with

1 hot or tempered and cold running water in accordance
2 with state and local codes and ordinances.

3 (2) *Contamination.* The water supply shall be
4 maintained free from contamination, and all water inlets
5 for plumbing fixtures shall be located above the flood-
6 level rim of the fixture. Shampoo basin faucets, janitor
7 sink faucets and other hose bibs or faucets to which
8 hoses are attached and left in place, shall be protected
9 by an approved atmospheric-type vacuum breaker or an
10 approved permanently attached hose connection vacuum
11 breaker.

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

18 (4) *Water heating facilities.* Water heating
19 facilities shall be properly installed, maintained and
20 capable of providing an adequate amount of water to be
21 drawn at every required sink, lavatory, bathtub, shower
22 and laundry facility at a temperature of not less than
23 120°F (49°C). A gas-burning water heater shall not be
24 located in any bathroom, toilet room, bedroom, or other
25 occupied room normally kept closed, unless adequate
26 combustion air is provided. An approved combination
27 temperature and pressure-relief valve and relief valve
28 discharge pipe shall be properly installed and
29 maintained on water heaters. (IPMC 2006 Sec. 505)

30 (G) *Sanitary drainage system.*

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

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

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

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

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

8
9 **§ 150.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.**

10
11 (A) *Scope.* The provisions of this chapter shall govern
12 the minimum mechanical and electrical facilities and
equipment to be provided.

13 (B) *Responsibility.* The owner of the structure shall
14 provide and maintain mechanical and electrical
15 facilities and equipment in compliance with these
16 requirements. A person shall not occupy as owner-
17 occupant or permit another person to occupy any premises
18 which does not comply with the requirements of this
chapter. (IPMC 2006 Sec. 601)

19 (C) *Heating facilities.*

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

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

26 (3) *Heat supply.* Every owner and operator of any
27 building who rents, leases or lets one or more dwelling

units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

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

Exceptions:

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

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

(5) *Room temperature measurement.* The required room temperatures 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)

D) *Mechanical equipment.*

(1) *Mechanical appliances.* All mechanical appliances, including but not limited to, furnaces, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances and components thereof shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

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

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

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

1 (4) *Safety controls.* All safety controls for fuel-
2 burning equipment shall be maintained in proper working
3 order.

4 (5) *Combustion air.* A supply of air for complete
5 combustion of the fuel and for ventilation of the space
6 containing the fuel-burning equipment shall be provided
7 for the fuel-burning equipment.

8 (6) *Energy conservation devices.* Devices intended
9 to reduce fuel consumption by attachment to a fuel-
10 burning appliance, to the fuel supply line thereto, or
11 to the vent outlet or vent piping there from, shall not
12 be installed unless labeled for such purpose and the
13 installation is specifically approved and conforms to
14 state and local codes and ordinances. (IPMC 2006 Sec.
15 603)

16 (E) *Electrical facilities.*

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

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

24 (F) *Electrical equipment.*

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

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

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

32 (1) *General.* Elevators, dumbwaiters and escalators
33 shall be maintained in proper working order in
34 compliance with state regulations. The most current
35 certification of inspection shall be on display at all

1 times within the elevator or attached to the escalator
2 or dumbwaiter.

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

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

9 **§ 150.09 FIRE SAFETY REQUIREMENTS.**

10
11 (A) *Scope.* The provisions of this chapter shall govern
12 the minimum conditions and standards for fire safety
13 relating to structures and exterior premises, including
fire safety facilities and equipment to be provided.

14 (B) *Responsibility.* The owner of the premises shall
15 provide and maintain such fire safety facilities and
16 equipment in compliance with state and local fire codes.
17 A person shall not occupy as owner-occupant or permit
another person to occupy any premises that do not comply
with the requirements of this chapter. (IPMC 2006 Sec.
701)

18 (C) *Means of egress.*

19
20 (1) *General.* A safe, continuous and unobstructed
21 path of travel shall be provided from any point in a
building or structure to the public way. Means of egress
shall comply with state and local codes and ordinances.

22 (2) *Aisles.* The required width of aisles shall be
23 unobstructed in accordance with state and local codes
24 and ordinances.

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

1 (4) *Emergency escape openings.* Required emergency
2 escape openings shall be marked "Exit" and maintained in
3 accordance with the code in effect at the time of
4 construction, and the following. Required emergency
5 escape and rescue openings shall be operational from the
6 inside of the room without the use of keys or tools.
7 Bars, grilles, grates or similar devices are permitted
8 to be placed over emergency escape and rescue openings
9 provided the minimum net clear opening size complies
10 with the code that was in effect at the time of
11 construction. Such devices shall be releasable or
12 removable from the inside without the use of a key, tool
13 or force greater than that which is required for normal
14 operation of the escape and rescue opening. (IPMC 2006
15 Sec. 702)

16 (D) *Fire resistant ratings.*

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

20 (2) *Opening protectives.* Required opening
21 protectives shall be maintained in an operative
22 condition. All fire and smoke stop doors shall be
23 maintained in operable condition.

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

27 (E) *Fire protection systems.*

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

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

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

1 **§ 150.10 ENFORCEMENT AND PENALTIES.**

2
3 (A) *Enforcement.* Whenever, upon inspection of any
4 commercial property, the Code Official finds that
5 conditions or practices exist which are in violation of
6 any provision of this chapter or the Unsafe Building
7 Law, IC 36-7-9-1 through IC 36-7-9-29. The Code Official
8 shall give written notice in accordance with the
9 provisions of this chapter. Unless such conditions or
10 practices are corrected within a reasonable period, to
be determined by the Enforcement Authority, the owner or
person responsible for such property shall be subject to
the graduated penalty scale as outlined in the standard
operating procedures of the Enforcement Authority and as
determined by the Safe Housing and Building Oversight
Committee. ('74 Code, § 14.7-31(a))

11 (B) *Notice of violation.*

12
13 (1) *Notice of Violation Concerning Minimum Standards.*
14 If the Code Official finds that a violation of any
15 portion of this chapter exists on the property or
16 premises, with the exception of any violation falling
17 under the realm of public health and safety, the
18 Official shall issue a written notice of violation to
19 the property owner or person responsible for such
20 property establishing 60 days to correct the violations.
21 Subsequent to the notice of violation, the property
22 owner or person responsible for such property and the
23 Enforcement Authority may enter into a work plan for the
24 abatement of the violations. The work plan shall set a
25 date by which the required work shall be completed. The
26 date established in the work plan may extend beyond the
27 60 days established in the notice of violation. The
28 Enforcement Authority may modify or rescind a work plan
29 as warranted by the status of the violations and the
30 work to correct same.

24 (2) *Notice of Violation Concerning Health and*
25 *Safety.* If the Code Official finds that a violation(s)
26 pertaining to garbage, infestation, refuse, evidence of
27 a clandestine laboratory, existing fire hazard, occupant
28 and/or tenant safety, and/or trash and debris as

1 defined within this chapter, or any condition deemed
2 unsanitary, exists on the property or premises, the
3 Official shall issue a written notice of violation to
4 the property owner or person responsible for such
5 property establishing no less than ten days but not to
6 exceed 20 days to correct the violation(s). Unless such
7 condition(s) are corrected within the time frame
8 determined by the Enforcement Authority, the owner or
9 person responsible for such property shall be subject to
10 the graduated penalty scale subsequent to an
11 administrative hearing as outlined in the Standard
12 Operating Procedures of the Enforcement Authority and as
13 determined by the Safe Housing and Building Oversight
14 Committee.

15 (C) *Order to Repair.* The Code Official shall reinspect
16 the property upon expiration of the time period given in
17 the Notice of Violation, or upon expiration of the time
18 given by the Enforcement Authority. If any or all of the
19 previously existing violations listed in the Notice of
20 Violation remain, the Code Official shall issue an Order
21 requiring action pursuant to IC 36-7-9-5.

22 (D) *Order for Abatement.* The Code Official shall re-
23 inspect the property upon the expiration of the time
24 period given in the initial order. If the same violation
25 or violations of the Order exists, the Enforcement
26 Authority may cause work to be performed by others to
27 address such violations pursuant to IC 36-7-9-10 and IC
28 36-7-9-11.

29 (E) *Manner of serving notice.*

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

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

(F) *Emergencies.* The Enforcement Authority may take
emergency action with respect to unsafe premises to

1 protect life, safety or property pursuant to IC 36-7-9-
2 9. Such emergency action may be taken without issuing a
3 notice of violation under § 150.10(B) or issuing an
4 order under §150.10(D), but shall be limited to the
action necessary to abate any immediate danger. ('74
Code, § 14.7-30)

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

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

17 (I) *Natural disaster.* Structures damaged as a result
18 of fire, flood, storm, tornado, or other natural
19 disasters, and verified by the Enforcement Authority may
20 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.

21 (J) *Order to vacate; time allowed to vacate.*

22 (1) Buildings unsafe for human occupancy.

23 (a) Whenever a building, dwelling, dwelling
24 unit, rooming house or rooming unit is declared by the
25 Enforcement Authority as unsafe or unfit for human
26 occupancy, the Enforcement Authority may post an Order
27 to Vacate placard requiring such building to be vacated
and to remain vacated. Such placard shall be authorized
by the Enforcement Authority. It shall contain the

1 address and phone number of the department and the date
2 by which the occupant shall vacate the building,
3 dwelling or dwelling unit or portion thereof. The
4 Enforcement Authority may issue an Order to Vacate
5 pursuant to IC 36-7-9-5 or 36-7-9-17 if the owner or
6 occupant fails to vacate the unsafe premises. ('74 Code,
7 § 14.7-23)

8 (b) Conditions include:

9 1. Damage, decay, dilapidation, abandonment,
10 unsanitary conditions, or vermin or rodent infestation
11 which constitute a hazard to the health or safety of
12 occupants or the public;

13 2. The lack of required utilities,
14 sanitation, illumination, ventilation, heating,
15 electrical, plumbing or other facilities and systems
16 adequate to protect the health and safety as to create a
17 hazard to the occupants or the public;

18 3. Conditions or defects described in IC 36-
19 7-9-4. ('74 Code, § 14.7-22)

20 (2) *Placarding*. Any building, dwelling or dwelling
21 unit condemned as unfit for human occupancy and so
22 designated and placarded by the Enforcement Authority,
23 shall be vacated as ordered by the Enforcement Authority
24 pursuant to IC 36-7-9-5 and IC 36-7-9-9. ('74 Code, §
25 14.7-24)

26 (3) *Placard tampering*. It shall be unlawful for any
27 person to deface, remove or alter any notice or placard
28 from any structure or dwelling which has been placarded
29 under this chapter except by the express written
30 permission of the Enforcement Authority. ('74 Code, §
14.7-25)

(4) *Approval required for Re-occupancy*.
No building or dwelling unit which has been placarded as
unfit for occupancy shall again be used for occupancy
until written approval is secured from and such placard
is removed by the Enforcement Authority subsequent to an
inspection. The Enforcement Authority shall remove the
placard whenever the defect(s) upon which the

1 condemnation and placarding action were based have been
2 corrected. ('74 Code, § 14.7-26)

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

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

22 (L) *Affirmative defense.* It shall be an affirmative
23 defense to a notice and/or order issued pursuant to §
24 150.10 if an owner can show, by clear and convincing
25 evidence, that said owner could not legally enter the
26 premises in order to correct the violation at the time
27 the notice and/or order was issued.

28 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed
29 12-26-89; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
30 26-00, passed 10-10-00; Am Ord. G-22-03, passed 6-24-03;
Am. Ord. G-07-09, passed 2-24-09)

31 § 150.11 HEARING OFFICER.

32 (A) *Establishment.*

33 (1) The Hearing Officer shall be a person or
34 persons designated by the Mayor, with preference given
35 to a member of the City Law Department, and shall not be
36 an employee of the Enforcement Authority, or any

1 City/County Officials to which the Enforcement Authority
2 may have delegated powers of enforcement.

3 (a) A Hearing Officer shall not preside over a
4 hearing or approve a compliance agreement if the Hearing
5 Officer believes he or she is subject to
6 disqualification, or if by motion of any party and the
7 Hearing Officer agrees he or she is subject to
8 disqualification for:

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

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

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

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

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

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

25 (B) *Duties.*

26 (1) The Hearing Officer shall conduct
27 administrative hearings as may be required pursuant to
28 orders issued under the Unsafe Building Law as provided
29 in IC 36-7-9-7, or as provided in this § 150.11(B) and §
30 150.11(C) below.

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

1. A caption for the hearing, which shall
include the name of each party expected to participate

1 in the hearing, and an official file or other reference
2 number;

3 2. A statement of the date, time and place of
4 the hearing;

5 3. The name of the Hearing Officer, mailing address
6 and telephone number for the Enforcement Authority
7 through which information concerning the hearing may be
8 obtained;

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

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

20 (3) The Hearing Officer shall afford all parties
21 the opportunity to participate in the hearing to the
22 extent necessary for full consideration of all relevant
23 facts and issues. A party may present evidence in the
24 form of testimony, affidavits and documentation, engage
25 in argument, and conduct cross-examination. A party may
26 participate in person or by counsel at the party's own
27 expense; if the party is not an individual or is
28 incompetent to participate, then the party shall
29 participate by a duly authorized representative.

30 (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 adherence to
the technical rules of evidence and procedure which
govern judicial proceedings. The Hearing Officer shall
rule on the admissibility of any offer of proof, and on
other motions, and shall exclude evidence that is

1 irrelevant, immaterial, unduly repetitious, or
2 excludable on constitutional or statutory grounds. The
3 testimony of each party and witness shall be made under
oath or affirmation.

4 (c) The Hearing Officer may take official notice
5 of any section of the Code, and any law or fact that
could be judicially noticed in the courts.

6 (d) The Hearing Officer shall cause an audio
7 recording of the hearing to be made at the expense of
8 the city.

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

11 (5) The record of each hearing under this article
12 consists of the following:

13 (a) The notice of hearing;

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

15 (c) Any documents, motions, or exhibits filed or
16 entered into evidence;

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

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

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

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

24 (3) In accordance with IC 36-7-9-7(i), civil
25 penalties imposed may be collected as judgment under IC
26 36-7-9-13, or may be processed as a special assessment
as provided under IC 36-7-9-13.5.

1 (4) Appeal of a decision made by a Hearing Officer
2 under this chapter will be heard in accordance to IC 36-
3 7-9-8.

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

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

9 § 150.12 ADMINISTRATION AND ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

22 (F) *Building Code compliance.* Wherever this chapter
23 refers to compliance with state and local codes and
24 ordinances, additions and alterations to any structure
25 shall conform to that required of a new structure
26 without requiring the existing structure to comply with
27 all the requirements of this code, provided it was in
compliance with applicable state and local codes and
ordinances when originally constructed. However, any
building or element thereof that has deteriorated to a

1 point that such condition is considered to be unsafe
2 under this chapter, the repair and or replacement of
3 such building or element thereof shall be subject to the
4 enforcement provisions contained herein and must conform
5 to current state and local codes and ordinances.
(General Administrative Rules, hereinafter GAR, 675 IAC
12-4-99)

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

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

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

25 (a) On January 1 of each year.

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

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

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

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

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

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

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

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

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

5 _____
6 Council Member

7 APPROVED AS TO FORM AND LEGALITY
8

9 _____
10 Carol Helton, City Attorney
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

REDLINE COPY

BILL NO. G-

GENERAL ORDINANCE NO. G- _____

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

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

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

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

Section

- | | |
|--------|---|
| 150.01 | Applicability for Commercial Code |
| 150.02 | Interpretation |
| 150.03 | Definitions |
| 150.04 | General requirements |
| 150.05 | Interior structure |
| 150.06 | Light, ventilation and occupancy
limitations |
| 150.07 | Plumbing facilities and fixture
requirements |

- 150.08 Mechanical and electrical requirements
- 150.09 Fire safety requirements
- 150.10 Enforcement and penalties
- 150.11 Hearing Officer
- 150.12 Administration and enforcement

§ 150.01 APPLICABILITY FOR COMMERCIAL CODE.

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

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

(2) Safety from fire and accidents.

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

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

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

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

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

§ 150.02 INTERPRETATION.

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

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

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

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

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

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

§ 150.03 DEFINITIONS.

For the purpose of this section, 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.

APPROVED SURFACE: Includes, but is not limited to, a concrete, asphalt or gravel area which is continuous to a driveway or right-of-way.

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

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

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

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

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

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

CITY. The City of Fort Wayne, Indiana.

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

CONDEMN. To adjudge unsafe and/or unfit for occupancy.

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

DWELLING. A structure, partly or wholly, intended for or being used for ~~DELETE~~ (residential purposes.) **ADD** (living or sleeping by human occupants; provided that temporary housing as defined in this section shall not be regarded as a dwelling.)

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

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

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

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

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

ENFORCEMENT AUTHORITY. Department of Neighborhood Code **ADD** Compliance ~~DELETE~~ Enforcement of the City of Fort Wayne, which is responsible for the administration and enforcement of the provisions of this chapter.

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

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADD

ORDER FOR ABATEMENT. A notice requiring action to lessen, reduce or remove a nuisance including but not limited to Order to Abate, Order to Seal, Order to Demolish, and/or Emergency Order to Demolish.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property or recorded in the official records of the state, county or municipality as holding title to the 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.

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

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

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

PUBLIC NUISANCE. Includes the following:

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

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

(3) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; 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

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

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

(6) Dead trees within the City which are determined to constitute a public hazard or threat to health, safety, life, or property.

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

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

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

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

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

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

STAIRWAY. One or more flights of stairs and the necessary landings and platforms connecting them to form

a continuous and uninterrupted passage from one floor or level to another in a building or structure.

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

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

STRUCTURE. That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

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

(ADD) TEMPORARY HOUSING. Any tent, trailer, mobile home or any temporary structure used for human shelter which is not attached to the ground, to another structure, or to any utility system on the same premises.

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

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

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

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

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

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

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

VEHICLE. Any device in, upon or by which is used for transporting people or goods or drawn upon a highway, public road or thoroughfare.

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

('74 Code. § 14.7-1)

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

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

§ 150.04 GENERAL REQUIREMENTS.

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

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

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

(D) *Adoption of state laws.* Indiana Code 36-7-9-1 through 36-7-9-29, collectively entitled "The Unsafe Building Law," are hereby adopted in their entirety, incorporated by reference and made a part hereof as if copied verbatim. These provisions are further supplemented by the provisions of this chapter. All proceedings within the city for the inspection, repair and removal of unsafe buildings shall be governed by IC 36-7-9-1 through 36-7-9-29 and by the provisions of this chapter and any other applicable city ordinance.

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

(a) Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is

not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(b) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than $1\frac{1}{2}$ times the working stress or stresses approved for new buildings of similar structure, purpose or location;

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

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

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

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

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

(i) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, 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;

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

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

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

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

('74 Code, § 14.7-6)

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

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

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

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

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

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

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

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

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

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

(DELETE)

~~(L) *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.~~

(ADD)

(L) *Accessory structures.* All accessory structures, including but not limited to, detached garages, detached carports, tents, storage containers, sheds, fences,

walls, pools and all similar structures or buildings, shall be maintained, and/or in good repair in accordance with all applicable state and local codes and ordinances.

(M) *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 must be parked on an approved surface and shall be in accordance with applicable state and local codes and ordinances.

(IPMC 2006 Sec. 302)

('74 Code, § 32-2)

(N) *Exterior structure.*

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

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

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

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

(ADD)

(6) *Roofs and drainage.*

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

(b) *Gutters and Downspouts.* Gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance. Drainage must

be in accordance with applicable state and local codes and ordinances.

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

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

~~(DELETE) (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.~~

(ADD)

(9) *Stairways, Steps, Decks, Porches, Balconies, Walkways, and Ramps.* All exterior stairways, steps, decks, porches, balconies, walkways, ramps and any additional appurtenances attached thereto shall be structurally sound, maintained in good repair, with proper anchorage and capable of supporting the imposed loads. All exterior stairways and steps, shall be properly maintained so as not to have any deteriorated, broken, warped or loose treads and risers. All walkways driveways and ramps shall be properly maintained.

(10) *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by

periodic application of weather-coating materials, such as paint or similar surface treatment.

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

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

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

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

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

(16) *Building security.* Doors, windows or hatchways for a structure shall be provided with devices designed to provide security for the occupants and property within.

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

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

(c) *Basement hatchways.* Basement hatchways shall be maintained to be structurally sound, weather tight, watertight, and rodent proof. Hatchways shall also be

equipped with locking devices which secure the unit from unauthorized entry.

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

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

(19) *Premise identification.*

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

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

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

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

(20) *Insect screening.* All openings requiring screening for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens maintained in good repair, properly

fitted to the opening in conformance with state and local codes and ordinances.

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

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

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

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

(2) *Trash storage facilities.* The owner of every occupied premise shall supply covered refuse containers for trash, and the owner of the premises shall be responsible for the removal of the trash. (IPMC 2006 Sec. 307)

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

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

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

(ADD)

(Q) *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:

(R) *Dead or Damaged Tree Removal on Private Property.* The Enforcement Authority shall have the authority to order the removal of any dead or damaged trees, as determined by a certified arborist, on private property within the City, upon receiving a complaint, when such trees constitutes a public nuisance to the occupants, adjacent property or to the public. The owner shall remove such trees or parts thereof at the owner's expense pursuant to the Order to Abate. In the event the owner fails to comply with the notice, the Enforcement Authority shall have the authority to remove such trees and charge the cost of removal to the owner.

('74 Code, § 14.7-30)

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

§ 150.05 INTERIOR STRUCTURE.

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

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

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

covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

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

(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 and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. (IPMC 2006 Sec. 305) (Ord. G-07-09, passed 2-24-09)

§ 150.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

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

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

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

(D) *Light.*

(1) *Habitable spaces.* Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8%

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

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

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

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

(E) *Ventilation.*

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

(2) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall have at least one openable window **ADD**

(directly to the outdoors) with a minimum glazed area of 8% of the total floor area. The total openable area of the window shall be a minimum of 45% of the minimum glazed window area. A window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge directly to the outdoors and shall not be re-circulated in accordance with state and local codes and ordinances.

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

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

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

(F) *Occupancy limitations.*

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

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

(3) *Minimum ceiling heights.* Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven feet.

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

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

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

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

Exception: Units that contain fewer than two bedrooms.

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

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

§ 150.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

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

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

(C) *Required facilities.*

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

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

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

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

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

(D) *Toilet rooms.*

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

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

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

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

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

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

(E) *Plumbing systems and fixtures.*

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

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

(F) *Water systems.*

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

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

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

(4) *Water heating facilities.* Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 120°F (49°C). A gas-burning water heater shall not be

located in any bathroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. (IPMC 2006 Sec. 505)

(G) *Sanitary drainage system.*

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

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

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

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

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

§ 150.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.

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

(B) *Responsibility.* The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises

which does not comply with the requirements of this chapter. (IPMC 2006 Sec. 601)

(C) *Heating facilities.*

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

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

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

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

Exceptions:

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

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

(5) *Room temperature measurement.* The required room temperatures 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)

D) *Mechanical equipment.*

(1) *Mechanical appliances.* All mechanical appliances, **ADD** (including but not limited to, furnaces,) fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances **ADD** (and components thereof) shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

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

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

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

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

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

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

(E) *Electrical facilities.*

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

(2) *Service.* The size of the building or structure and equipment shall serve as a basis for determining the

need for additional facilities in accordance with state and local codes and ordinances. (IPMC 2006 Sec. 604)

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

(G) *Elevators, escalators and dumbwaiters.*

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

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

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

§ 150.09 FIRE SAFETY REQUIREMENTS.

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

(B) *Responsibility.* The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with state and local fire codes. A person shall not occupy as owner-occupant or permit

another person to occupy any premises that do not comply with the requirements of this chapter. (IPMC 2006 Sec. 701)

(C) *Means of egress.*

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

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

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

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

(D) *Fire resistant ratings.*

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

(2) *Opening protectives.* Required opening protectives shall be maintained in an operative

condition. All fire and smoke stop doors shall be maintained in operable condition.

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

(E) *Fire protection systems.*

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

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

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

§ 150.10 ENFORCEMENT AND PENALTIES.

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

(B) *Notice of violation.*

ADD

(1) *Notice of Violation Concerning Minimum Standards.* If the Code Official finds that a violation

of any portion of this chapter exists on the property or premises, with the exception of any violation falling under the realm of public health and safety, the **ADD** (Official) **DELETE** (officer) shall issue a written notice of violation to the property owner or person responsible for such property establishing 60 days to correct the violations. Subsequent to the notice of violation, the property owner or person responsible for such property and the Enforcement Authority may enter into a work plan for the abatement of the violations. The work plan shall set a date by which the required work shall be completed. The date established in the work plan may extend beyond the 60 days established in the notice of violation. The Enforcement Authority may modify or rescind a work plan as warranted by the status of the violations and the work to correct same.

ADD

(2) *Notice of Violation Concerning Health and Safety.* If the Code Official finds that a violation(s) pertaining to garbage, infestation, refuse, evidence of a clandestine laboratory, existing fire hazard, occupant and/or tenant safety, and/or trash and debris as defined within this chapter, or any condition deemed unsanitary, exists on the property or premises, the Official shall issue a written notice of violation to the property owner or person responsible for such property establishing no less than ten days but not to exceed 20 days to correct the violation(s). Unless such condition(s) are corrected within the time frame determined by the Enforcement Authority, the owner or person responsible for such property shall be subject to the graduated penalty scale subsequent to an administrative hearing as outlined in the Standard Operating Procedures of the Enforcement Authority and as determined by the Safe Housing and Building Oversight Committee.

(DELETE)

~~(1) *Notice of Violation concerning health & safety.* If the Code Official finds that a violation(s)~~

pertaining to garbage, infestation, refuse, trash and debris, and/or unsanitary conditions as defined within this chapter exists on the property or premises, the officer shall issue a written notice of violation to the property owner or person responsible for such property establishing not less than 10 days but not to exceed 20 days to correct the violation(s). Unless such condition(s) are corrected within the time frame determined by the Enforcement Authority, the owner or person responsible for such property shall be subject to the graduated penalty scale as outlined in the standard operating procedures of the Enforcement Authority and as determined by the Safe Housing and Building Oversight Committee subsequent to an Administrative Hearing.

(C) *Order to Repair.* The Code Official shall reinspect the property upon expiration of the time period given in the Notice of Violation, or upon expiration of the time given by the Enforcement Authority. If any or all of the previously existing violations listed in the Notice of Violation remain, the Code Official shall issue an Order requiring action pursuant to IC 36-7-9-5.

(DELETE)

~~(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.~~

(ADD)

(D) *Order for Abatement.* The Code Official shall re-inspect the property upon the expiration of the time period given in the initial order. If the same violation or violations of the Order exists, 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.

(E) *Manner of serving notice.*

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

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

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

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

(H) *Deposit in Unsafe Building Fund.* Monetary civil 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)

(I) *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.

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

(1) Buildings unsafe for human occupancy.

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

(b) Conditions include:

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

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

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

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

(3) *Placard tampering.* It shall be unlawful for any person to deface, remove or alter any notice or placard from any structure or dwelling which has been placarded under this chapter except by the express written permission of the Enforcement Authority. ('74 Code, § 14.7-25)

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

(5) *Penalties.* Any violation of IC 36-7-9-28 or any provision of this chapter for which another penalty is not provided, shall, upon conviction by the court, be imposed by a penalty not to exceed \$2,500 per violation. Each and every day on which the condition exists shall 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)

(K) *Access to premises in violation of this chapter.* If the Enforcement Authority has issued an Order to Vacate an unsafe building, the owner or person in possession of same may only enter such building upon signing an affidavit of acknowledgment to the 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.

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

(Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed 12-26-89; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-26-00, passed 10-10-00; Am Ord. G-22-03, passed 6-24-03; Am. Ord. G-07-09, passed 2-24-09)

§ 150.11 HEARING OFFICER.

(A) Establishment.

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

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

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

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

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

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

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

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

(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 § 150.11(B) and § 150.11(C) below.

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

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

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

~~DELETE 3. The official title and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;~~

ADD 3. The name of the Hearing Officer, mailing address and telephone number for the Enforcement Authority through which information concerning the hearing may be obtained;

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

(2) Prior to the hearing, the Hearing Officer shall give the parties an opportunity to file documents or motions regarding matters **ADD** (of) discovery or any other preliminary matter. At the time of filing, a party shall serve a copy of all filed items on each other party. The Hearing Officer, upon request by any party or upon the Hearing Officer's own initiative, may issue discovery orders.

(3) The Hearing Officer shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant

facts and issues. A party may present evidence in the form of testimony, affidavits and documentation, engage in argument, and conduct cross-examination. A party may participate in person or by counsel at the party's own expense; if the party is not an individual or is 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 adherence to the technical rules of evidence and procedure which govern judicial proceedings. The Hearing Officer shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds. The testimony of each party and witness shall be made under oath or affirmation.

(c) The Hearing Officer may take official notice of any section of the Code, and any law or fact that could be judicially noticed in the courts.

(d) The Hearing Officer shall cause an audio recording of the hearing to be made at the expense of the city.

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

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

(a) The notice of hearing;

(b) The notice of violation, if any;

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

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

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

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

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

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

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

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

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

§ 150.12 ADMINISTRATION AND ENFORCEMENT.

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

(B) *Conflict of interest.* No Code Official or employee connected with the Enforcement Authority shall have a financial interest in the furnishing of labor, material or appliances for the repair, alteration or maintenance of a building, dwelling or dwelling unit on which a notice or order by the Enforcement Authority has been

issued or in the making of plans or specifications there from, unless he or she is the owner of such building.

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

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

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

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

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

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

(D) *Statistical data.* Accurate statistical data shall be recorded and maintained by the Enforcement Authority

employee **DELETE** (hired specifically) **ADD** (designated) to assist in such data collection and maintenance, and other duties as described, so data can be provided with a full accounting upon request to Common Council to determine the effectiveness of data collection to date.

(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.* Wherever 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 all the requirements of this code, provided it was in compliance with applicable state and local codes and ordinances when originally constructed. However, any building or element thereof that has deteriorated to a point that such condition is considered to be unsafe under this 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 codes and ordinances. (General Administrative Rules, hereinafter GAR, 675 IAC 12-4-99)

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

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

Council will appoint the members(s) in lieu of the organizational nominee(s).

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

(a) On January 1 of each year.

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

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

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

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

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

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

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

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

various types **ADD** (of) **DELETE** (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 **ADD** Compliance **DELETE** Enforcement. ('74 Code, § 14.7-34(2)-(5); § 14.7-35)

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