

BILL NO. G-17-03-27

GENERAL ORDINANCE NO. G- _____

**AN ORDINANCE REPEALING AND REPLACING
CHAPTER 152: HOUSING AND BUILDING
STANDARDS OF THE CITY OF FORT WAYNE,
INDIANA CODE OF ORDINANCES.**

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

SECTION 1. That Chapter 152: HOUSING AND BUILDING
STANDARDS OF THE CITY OF FORT WAYNE, INDIANA CODE OF
ORDINANCES is hereby repealed and replaced in its entirety as follows:

CHAPTER 152: HOUSING AND BUILDING STANDARDS

Section

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8

9 **GENERAL PROVISIONS**

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11 **§ 152.01 TITLE AND PURPOSE.**

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

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

28 (B) Safety from fire and accidents;

29 (C) The use, location and amount of space for human
30 occupancy; and

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

('74 Code, § 14.7-10) (Ord. G-31-85, passed 12-23-85;
Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-03-09,
passed 2-24-09)

§ 152.02 INTERPRETATION.

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

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

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

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

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

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

§ 152.03 DEFINITIONS.

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

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

APPROVED. Approved by the Enforcement Authority.

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

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

7 **BASEMENT.** The portion of a building which is partly
8 or completely below grade.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **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.

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

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

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

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

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

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

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

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

27 **LEAD-BASED PAINT.** Any paint containing more lead
28 than the level established by the U.S. Consumer Product
29 Safety Commission as being the "safe" level of lead in
30 residential paint and paint products.

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

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

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

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

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

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12 **OWNER.** Any person, agent, operator, firm or
13 corporation having a legal or equitable interest in the
14 property; or recorded in the official records of the
15 state, county or municipality as holding title to the
16 property; or otherwise having control of the property,
17 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.

18 **PERMISSIBLE OCCUPANCY.** The maximum number of
19 individuals permitted to reside in a dwelling or
dwelling unit.

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

23 **PLUMBING.** The practice, materials and fixtures used
24 in the installation, maintenance, extension and
25 alteration of all piping, fixtures, appliances and
26 appurtenances used for, or intended to be used for the
transfer of water or waste.

27 **PLUMBING FIXTURE.** A receptacle or device which is
28 either permanently or temporarily connected to the water

1 distribution system of the premises and demands a supply
2 of water therefrom, or discharges used water, liquid-
3 borne waste materials, or sewage either directly or
4 indirectly to the drainage system of the premises, or
which requires both a water supply connection and a
discharge to the drainage system of the premises.

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

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

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

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

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

20 (3) Any structure or building that is in a state
21 of dilapidation, deterioration or decay, faulty
22 construction, overcrowded, open, vacant or abandoned;
23 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

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

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

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

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

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

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

13 **ROOMING HOUSE.** Any dwelling, or that part of any
14 dwelling containing one or more rooming units, in which
15 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.

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

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

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

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

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

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

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

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

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

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

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

29 **TOXIC SUBSTANCE.** Any chemical product which
30 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, household
items, and other similar materials.

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

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

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

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

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

21 ('74 Code, § 14.7-1)

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

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

26 **MINIMUM HOUSING and MAINTENANCE STANDARDS**

27 **§ 152.04 GENERAL REQUIREMENTS.**

28 (A) General.

29 (1) Scope.

30 (a) The provisions of this chapter shall apply
to all residential structures, residential portions of
mixed occupancy buildings, and temporary housing)
existing at the date of the adoption of this chapter and

1 thereafter erected, and shall apply to all conversions
2 and future conversions of existing buildings from
3 nonresidential to residential or partially residential.
('74 Code, § 14.7-10)

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

8 (2) *Responsibility.*

9 (a) *Owner.*

10 1. *Prohibited occupancy.* No owner shall rent,
11 lease or permit the subletting to another for occupancy
12 any vacant or vacated dwelling or dwelling unit which
13 has been condemned by the Enforcement Authority, unless
14 permission for such occupancy has been granted by the
Enforcement Authority subsequent to an inspection. Such
permission shall not be unreasonably withheld by the
Enforcement Authority.

15 2. *Sanitary maintenance.* Every owner of a
16 dwelling containing two or more dwelling units shall be
17 responsible for maintaining in a clean and sanitary
condition the shared or public area of the dwelling and
the premises thereof.

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

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

1 5. *Rodent proofing and pest extermination.* Every
2 owner shall be responsible for the eradication of any
3 insects, rodents or other pests in dwellings containing
4 two or more dwelling units and in the shared or public
5 parts thereof.

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

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

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

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

24 (b) *Occupants.*

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

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

 3. *Pest extermination.* Every owner or occupant
of a single family dwelling shall be responsible for the

1 extermination of any insects, rodents or other pests
2 therein or on the premises.

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

7 5. *Egress.* The occupant of any dwelling or
8 dwelling unit shall not obstruct in any manner any means
9 of egress from any portion of the premises.

10 6. *Flammable liquids or gases or combustible*
11 *materials.* The occupant of any dwelling or dwelling unit
12 shall not have or store flammable or combustible liquids
13 or gas within the dwelling or dwelling unit in an amount
14 considered dangerous by the Enforcement Authority and/or
15 the Fort Wayne Fire Department.

16 7. *Access for repairs.* Every occupant of a
17 dwelling or dwelling unit shall give the owner thereof,
18 or his agent or employee, access to any part of such
19 dwelling or dwelling unit, or its premises, at all
20 reasonable times for the purpose of making such
21 inspection and such repairs or alterations which are
22 necessary to effect compliance with the provisions of
23 this standard or with any lawful rule or regulation
24 adopted or any lawful order issued pursuant to the
25 provision of this standard.

26 8. *Heat.*

27 A. Where the heating facilities of any
28 dwelling are under the control of the occupant thereof,
29 it shall be the responsibility of the occupant to
30 operate the heating facilities in order to maintain
above freezing temperature at all times in all portions
of the dwelling and the premises he occupies and
controls so as to prevent damage to water pipes and
plumbing.

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

('74 Code, § 14.7-15)

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2 (3) *Vacant structures and land.*

3 (a) Vacant or unoccupied residential structures
4 shall not be required to meet the same interior
5 standards as operational, occupied residential
6 structures. It is not the purpose of this chapter to
7 impede or inhibit development of residential properties.
8 Therefore, the interior standards of the structure shall
9 be limited to maintaining it in a safe and sanitary
10 condition, free of hazards, trash and debris,
infestation, or any issues which potentially create a
health and safety concern to the community. All exterior
and property standards of this chapter shall apply
regardless of occupancy or operation of residential
properties.

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

14 ('74 Code, § 14.7-29)

15 (4) *Unsafe building law.* The city hereby adopts
16 the Unsafe Building Law pursuant to and cited as IC 36-
17 7-9-1 through IC 36-7-9-29, as may be amended, pursuant
18 to the authority granted there under. Any citation in
19 this chapter to a section of the Unsafe Building Law
shall be deemed to apply to any subsequent amendment to
or replacement of said section.

20 (5) *Certain building conditions deemed unsafe.* The
21 description of an unsafe building contained in IC 36-7-
22 9-4 is hereby supplemented to provide minimum standards
23 for building conditions or maintenance in the city. Any
24 building or structure which has any or all of the
25 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:

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

3 (b) Whenever the stress in any materials, member
4 or portion thereof, due to all dead and live loads, is
5 more than $1\frac{1}{2}$ times the working stress or stresses
6 approved for new buildings of similar structure, purpose
7 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
13 attractive nuisance to children, or freely accessible to
14 persons for the purpose of committing unlawful acts, or
15 is less than the approved minimum requirements for new
16 buildings of similar structure, purpose or location;

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

21 (e) Whenever any portion of a building or any
22 member, appurtenance, or ornamentation on the exterior
23 thereof is not of sufficient strength or stability or is
24 not so anchored, attached or fastened in place so as to
25 be capable of resisting a wind pressure of 50% of that
26 specified for new buildings of similar structure,
27 purpose or location without exceeding the working
28 stresses approved for such building; or whenever any
29 portion thereof has cracked, warped, buckled or settled
30 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;

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

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

10 (i) Whenever the building or structure, exclusive
11 of the foundation, shows 33% or more damage or
12 deterioration of its supporting member or members, or
13 50% damage or deterioration of its non-supporting
14 members, enclosing or outside walls or coverings;

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

23 (k) Whenever any building or structure, whether or
24 not erected in accordance with all applicable laws and
25 ordinances, has in any non-supporting part, member or
26 portion less than 66% of the strength, fire resisting
27 and/or weather resisting qualities or characteristics,
28 approved by law in the case of a newly constructed
29 building of like area, height and occupancy in the same
30 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,

1 damage, inadequate egress, lack of sufficient fire
2 resistive construction, faulty electric wiring, gas
3 connection or heating apparatus or other cause is
4 determined by the Enforcement Authority to be a fire
5 hazard; or

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

12 ('74 Code, § 14.7-6)

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

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

24 (2) Minimum height. Handrails and guardrails must
25 be in accordance with applicable state and local codes
26 and ordinances.

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

30 ('74 Code, § 14.7-1)

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

(C) *Exterior property areas.*

(1) *Sanitation.* All exterior property and premises
shall be maintained in a clean, safe and sanitary
condition. Examples of unclean, unsafe and unsanitary

1 conditions may include, but not be limited to, the
2 following:

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

7 (b) Any dead animal or animal parts.

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

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

20 (4) *Exhaust vents.* Pipes, ducts, conductors, fans
21 and blowers that discharge gases, steam, vapor, hot air,
22 grease, smoke, odors, dust or other gaseous or
23 particulate wastes shall be properly maintained at all
24 times, and shall be installed in accordance with all
25 applicable state and local codes and ordinances.

26 (5) *Accessory structures.* All accessory structures,
27 including but not limited to, detached garages,
28 detached carports, storage containers, sheds, fences,
29 walls, pools and all similar structures or buildings,
30 shall be maintained, structurally sound, and/or in good
repair in accordance with all applicable state and local
codes and ordinances.

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

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

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

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

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

14 (8) **DEAD OR DAMAGED TREE REMOVAL ON PRIVATE PROPERTY.**
15 The Enforcement Authority shall have the authority to
16 order the removal of any dead or damaged trees, as
17 determined by a certified arborist, on private property
18 within the City, upon receiving a complaint, when such
19 trees constitute a public nuisance to the occupants,
adjacent property or to the public. The owner shall
20 remove such trees or parts thereof at the owner's
expense pursuant to the Order to Abate. In the event the
21 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.

22 ('74 Code, § 32-2)

23 (IPMC 2006 Sec. 302)

24 (D) *Exterior structure.*

25 (1) *General.*

26 (a) Every building and all parts thereof
27 intended for use as a residential dwelling and premises
28 shall, while in use or at any time when the lack of
29
30

1 maintenance affects neighboring property, be kept in
2 good repair and in safe condition.

3 (b) Any place, part or attachment of the
4 structure not securely fixed as to be in danger of
5 falling or being dislodged by the elements so that it
6 may possibly injure any person or property shall be
7 secured, removed or replaced.

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

28 (3) *Structural members.* All structural members
29 shall be maintained free from deterioration, and shall
30 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.

(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.

(6) *Roofs and drainage.*

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

6 (b) *Gutters and Down Spouts.* Gutters and
7 downspouts shall be maintained in good repair and free
8 from obstructions. Roof water shall not be discharged in
9 a manner that creates a public nuisance. Drainage must
10 be in accordance with applicable state and local codes
11 and ordinances.

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

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

25 (9) *Stairways, Steps, Decks, Porches, Balconies,*
26 *Walkways, Driveways and Ramps.* All exterior stairways,
27 steps, decks, porches, balconies, walkways, driveways,
28 ramps and any additional appurtenances attached thereto
29 shall be structurally sound, maintained in good repair,
30 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, flues 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

1 weather-coating materials, such as paint or similar
2 surface treatment.

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

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

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

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

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

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

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

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

27 (16) *Defacement of property.* Defacement of the
28 exterior surfaces of any structures by marking, carving,
29
30

1 tagging, or graffiti shall be properly abated by the
2 owner or operator of the premises.

3 (17) *Premise identification.*

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

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

19 ('74 Code, §§ 25-68, 25-69) (Code §§ 99.113-99.114)

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

28 ('74 Code, § 14.7-1, 12)

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

30 (E) *Trash and debris, Exterior.* 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 in refuse containers.

(2) *Approved Refuse containers.* The owner of every
occupied premise shall be responsible to supply covered

1 refuse containers for trash sufficient to meet the needs
2 of the occupants.

3 (3) Trash and debris, Interior. Interior of
4 structure(s) shall be free from any accumulation of
trash and debris.

5 ('74 Code, § 14.7-11)

6 (IPMC 2006 Sec. 307)

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

9 (1) *Infestation*. All structures in which insects,
10 rodents, or other undesirable animals are found shall be
11 cleared of such infestation by an extermination that
12 will not be injurious to human health. After
extermination, 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
structure or upon the premises. (IPMC 2006 Sec. 308)

15 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
16 11-25-86; Am. Ord. G-04-88, passed 5-24-88; Am. Ord. G-
17 06-92, passed 2-20-92; Am. Ord. G-02-94, passed 2-22-94;
18 Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-26-00,
passed 10-10-00; Am. Ord. G-11-02, passed 4-23-02; Am.
19 Ord. G-03-09, passed 2-24-09)

20 **§ 152.05 INTERIOR STRUCTURE.**

21
22 (A) *General*. The interior of a structure and
23 equipment therein shall be maintained in good repair,
structurally sound and in a sanitary condition.

24 (B) *Structural members*. All structural members
25 shall be maintained structurally sound, and be capable
26 of supporting the imposed loads.

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

1 good, clean and sanitary condition. Peeling, chipping,
2 flaking or abraded paint shall be removed, painted or
3 covered. Cracked or loose plaster, drywall, decayed
4 wood and other defective surface conditions shall be
5 corrected. No paint shall be used for interior painting
6 or any dwelling, dwelling unit, rooming house or rooming
7 unit that is lead-based.

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

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

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

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

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

(G) *Kitchen and kitchen facilities.*

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

1 cooking facilities and a space for refrigerated food
2 storage.

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

10 (3) The use of gasoline stoves or other similar
11 fuel burning appliances using highly flammable liquids
12 and the use of portable kerosene stoves or other similar
13 fuel burning portable appliances for cooking is
14 prohibited.

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

18 ('74 Code, § 14.7-1, 11)

19 (IPMC 2006 Sec. 305)

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

23 § 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

24 (A) General.

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

28 (2) *Responsibility.* The owner of the structure
29 shall provide and maintain light fixtures, ventilation
30 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.

1 (3) *Alternative devices.* In lieu of the means for
2 natural light and ventilation herein prescribed,
3 artificial light or mechanical ventilation in accordance
4 with applicable state and local codes and ordinances
5 shall be permitted. (IPMC 2006 Sec. 401)

6 (B) *Light.*

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

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

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

('74 Code, §14.7-12)

(IPMC 2006 Sec. 402)

(C) *Ventilation.*

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

(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 all applicable state and local codes and ordinances.

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

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

('74 Code, Sec. 14.7-12)

(IPMC 2006 Sec. 402-403)

1
2 (D) *Occupancy limitations.*

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

7 (2) *General requirements.*

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

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

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

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

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

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

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

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

12 ('74 Code, § 14.7-14)

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

15 **§ 152.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.**

16
17 (A) *General.*

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

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

25 (B) *Required facilities.*

26 (1) *Water closet and lavatory facilities.* Every
27 dwelling unit shall contain, within a room which affords
28 privacy, a water closet and a lavatory basin in good

1 working condition which shall be properly connected to
2 the public sanitary sewer, or private sanitary sewer
3 system approved by the Allen County Board of Health.
4 Such water closet and lavatory basin shall be within and
5 accessible from within the dwelling unit. The lavatory
6 basin shall be properly connected to both hot and cold
7 water lines, and the water closet shall be properly
8 connected to a cold water line.

9 (2) *Bathing facilities.* Every dwelling unit shall
10 contain within a room which affords privacy, a bathtub
11 or shower in good working condition which shall be
12 properly connected to both hot and cold water lines and
13 to the public sanitary sewer, or private sanitary sewer
14 system approved by the Allen County Board of Health.
15 Such bathing facilities shall be within and accessible
16 from within the dwelling unit.

17 ('74 Code, § 14.7-11)

18 (C) *Plumbing systems and fixtures.*

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

26 (2) *Fixture clearances.* Plumbing fixtures shall
27 have adequate clearances for usage and cleaning. (IPMC
28 2006 Sec. 504)

29 (D) *Water systems.*

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

(2) *Supply.* The water supply system shall be
installed and maintained to provide a supply of water to

1 plumbing fixtures, devices and appurtenances in
2 sufficient volume and at pressures adequate to enable
3 the fixtures to function properly, safely, and free from
defects and leaks.

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

11 ('74 Code, § 14.7-11)

12 (IPMC 2006 Sec. 505)

13 (E) *Sanitary drainage system.*

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

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

21 (F) *Storm drainage.*

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

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

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

§ 152.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) General.

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

(2) *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)

(B) Heating facilities.

(1) *Facilities required.* Primary heating facilities shall be provided in structures as required by this section and shall be 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 primary 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) *Room temperature measurement.* The required room temperature shall be measured three feet above the floor near the center of the room and two feet inward from the center of each exterior wall. (IPMC 2006 Sec. 602)

1
2 (C) *Mechanical equipment.*

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

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

13 *Exception:* Fuel-burning equipment and appliances which
14 are Underwriters Laboratories (UL) labeled for unvented
15 operation.

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

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

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

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

(D) *Electrical facilities.*

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

1 (2) *Service.* Every dwelling unit and all public
2 and common areas shall be supplied with adequate
3 electric service, outlets and fixtures which shall be
4 properly installed, shall be maintained in good and safe
5 working condition and shall be connected to the source
6 of electric power in accordance with all applicable
7 state and local codes and ordinances.

8 ('74 Code, § 14.7-12)

9 (IPMC 2006 Sec. 604)

10 (E) *Electrical equipment.*

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

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

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

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

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

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

1 (3) *Electrical fixtures.* At least one supplied
2 ceiling or wall-type electric light fixture shall be
3 provided in every toilet room, bathroom, laundry room,
4 furnace room, hall, stairway, basement or any other area
in which artificial light is required for the safety and
welfare of the occupants.

5 ('74 Code, § 14.7-12)

6 (IPMC 2006 Sec. 605)

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

9
10 **§ 152.09 DISCONTINUANCE OF UTILITIES OR SERVICE.**

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

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

22 ('74 Code, § 14.7-1)

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

1 **§ 152.10 SAFETY AND SANITARY MAINTENANCE.**

2
3 (A) *General.*

4 (1) *Scope.* The provisions of this chapter shall
5 govern the minimum conditions and standards for safety
6 and sanitary maintenance relating to structures and
premises.

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

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

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

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

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

22 ('74 Code, § 14.7-1)

23 (IPMC 2006 Sec. 701)

24
25 (B) *Means of egress.*

26 (1) *General.* Every dwelling, dwelling unit and
27 rooming house shall have at least two safe unobstructed
28 means of egress leading to safe and open space at ground

1 level. At least one means of egress must have a minimum
2 head room of six feet six inches. All means of egress
3 shall be in accordance with applicable state and local
4 codes and ordinances.

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

10 (C) *Fire protection systems.*

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

15 (2) *Smoke alarms.* Smoke alarms are to be in proper
16 working order and installed according to applicable
17 state and local fire codes.

18 (IPMC 2006 Sec. 704)

19 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-37-86, passed
20 11-25-86; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-
21 03-09, passed
22 2-24-09)

23 **§ 152.11 ROOMING HOUSES, DORMITORIES AND OTHER**
24 **OCCUPANCIES.**

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

(`74 Code, § 14.7-17)

(B) *Sanitation and cleanliness.* The operator of every
rooming house shall be responsible for the sanitary
maintenance of all walls, floors and ceilings;
maintenance of a sanitary condition in every other part
of the rooming house and the sanitary maintenance of the

1 entire premises where the entire structure or building
2 is leased or occupied by the operator.
3 ('74 Code, § 14.7-18)

4 (C) *Violations and notice.* Whenever, upon inspection
5 of any rooming house, the Compliance Officer finds that
6 conditions or practices exist which are in violation of
7 any provision of this chapter, the Compliance Officer
8 shall give notice in writing that unless such conditions
9 or practices are corrected within a reasonable period,
10 to be determined by the Enforcement Authority, the
11 operation of such premises as such rooming house shall
12 be discontinued and, if such rooming house operation is
13 licensed by any duly constituted governmental agency, a
14 recommendation that such license be revoked for the
15 protection of public health shall be given to such
16 licensing governmental body or agency by the Enforcement
17 Authority. At the end of such period the Compliance
18 Officer shall re-inspect such rooming house and if he
19 finds that such conditions or practices have not been
20 corrected, he shall give notice in writing to the
21 operator that such operations shall cease, and, if such
22 rooming house operation is licensed by any duly
23 constituted governmental agency, the Enforcement
24 Authority shall recommend the immediate revocation of
25 such license by such issuing agency. Upon receipt of
26 such notice from the Enforcement Authority such operator
27 shall immediately cease operation of such rooming house
28 and no person shall occupy, for sleeping or living
29 purposes, any rooming unit within the house.
30 ('74 Code, § 14.7-19)

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

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

1
2 (a) That in a rooming house where rooms are
3 let only to males, flush urinals may be substituted for
4 not more than 50% the required number of water closets
5 and provided that there shall be at least one water
6 closet.

7 (b) That all such facilities shall be so
8 located within the dwelling as to be reasonably
9 accessible to all persons sharing such facilities and
10 from a common hall or passageway and provided that such
11 facilities are not located more than one floor above or
12 below the rooming unit(s) served.

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

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

19 (2) *Cooking facilities.* The following provision
20 shall apply in all rooming houses and dormitories
21 concerning cooking facilities and food service:

22 (a) Cooking in dormitory rooms and rooming
23 units is prohibited.

24 (b) All food service and dining facilities
25 provided in a rooming house or dormitory for the
26 occupants of the same shall comply with applicable food
27 service legislation.

28 (3) *Access doors.* Access doors to rooming units
29 and dormitory rooms shall have operating locks to ensure
30 privacy.

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

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

1
2 (6) *Egress*. Every rooming unit shall have immediate
3 access to two or more approved means of egress, with
4 minimum head room of six feet and six inches,
5 appropriately marked, leading to a safe and open space
6 at ground level or as required by applicable state and
7 local codes and ordinances.

8
9 (7) *Handrails and guardrails*. All buildings
10 containing rooming units, dormitories or dormitory units
11 shall comply with all requirements of this chapter
12 pertaining to handrails and guardrails.

13
14 (8) *Separation of rooming units*. Access to or
15 egress from each rooming unit shall be provided without
16 passing through any other rooming unit.

17
18 (9) *Application of section to motels and hotels*.
19 Every provision of this chapter which applies to rooming
20 houses shall also apply to motels, motor lodges and
21 hotels except to the extent that any such provision may
22 be found in conflict with state and local codes and
23 ordinances.

24 ('74 Code, § 14.7-20)

25 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
26 12-14-99; Am. Ord.
27 G-03-09, passed 2-24-09)

28 § 152.12 ENFORCEMENT AND PENALTIES.

29
30 (A) *Enforcement*. Whenever, upon inspection of any
residential 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.*

(1) *Notice of Violation Concerning Minimum Housing 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 Official 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.

(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.

(C) *Order to Repair.* The Code Official shall reinspect the property upon expiration of the time

1 period given in the Notice of Violation, or upon
2 expiration of the time given by the Enforcement
3 Authority. If any or all of the previously existing
4 violations listed in the Notice of Violation remain, the
5 Code Official shall issue an Order requiring action
6 pursuant to IC 36-7-9-5.

7 (D) *Order for Abatement.* The Code Official shall re-
8 inspect the property upon the expiration of the time
9 period given in the initial order. If the same violation
10 or violations of the Order exists, the Enforcement
11 Authority may cause work to be performed by others to
12 address such violations pursuant to IC 36-7-9-10 and IC
13 36-7-9-11.

14 (E) *Manner of serving notice.*

15 (1) A notice of violation issued pursuant to §
16 152.12(B) shall be served in accordance with IC 36-7-9-
17 25.

18 (2) Notice of an order issued under § 152.12(D)
19 shall be served as provided in IC 36-7-9-25.

20 (F) *Emergencies.* The Enforcement Authority may take
21 emergency action with respect to unsafe premises to
22 protect life, safety or property pursuant to IC 36-7-9-
23 9. Such emergency action may be taken without issuing a
24 notice of violation under § 152.12(B) or issuing an
25 order under §152.12(D), but shall be limited to the
26 action necessary to abate any immediate danger.
27 ('74 Code, § 14.7-30)

28 (G) *Civil remedies.* The Enforcement Authority may
29 bring a civil action for a violation of this chapter
30 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 of 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

1 Court under IC 36-7-9-19 may be certified to the County
2 Auditor and become a special assessment as provided
3 under IC 36-7-9-13.5.

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

8 (I) *Natural disaster.* Structures damaged as a result
9 of fire, flood, storm, tornado, or other natural
10 disasters, and verified by the Enforcement Authority,
11 may be excluded from the enforcement provisions of this
12 chapter for six months following the date of the damage.
13 Subsequently, said properties shall be fully subject to
14 the provisions of this chapter.

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

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

17 (a) Whenever a building, dwelling, dwelling
18 unit, rooming house or rooming unit is declared by the
19 Enforcement Authority as unsafe or unfit for human
20 occupancy, the Enforcement Authority may post an Order
21 to Vacate placard requiring such building to be vacated
22 and to remain vacated. Such placard shall be authorized
23 by the Enforcement Authority. It shall contain the
24 address and phone number of the department and the date
25 by which the occupant shall vacate the building,
26 dwelling or dwelling unit or portion thereof. The
27 Enforcement Authority may issue an Order to Vacate
28 pursuant to IC 36-7-9-5 or 36-7-9-17 if the owner or
29 occupant fails to vacate the unsafe premises. ('74 Code,
30 § 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 sanitation, illumination,
ventilation, heating, electrical, plumbing or other
facilities and systems adequate to protect the health

1 and safety as to create a hazard to the occupants or the
2 public;

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

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

10 (2) *Tampering with placard.* It shall be unlawful
11 for any person to deface, remove or alter any notice or
12 placard from any structure or dwelling which has been
13 placarded under this chapter except by the express
14 written permission of the Enforcement Authority. ('74
15 Code, § 14.7-25)

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

25 (4) *Penalties.* Any violation of IC 36-7-9-28 or
26 any provision of this chapter for which another penalty
27 is not provided, shall, upon conviction by the court, be
28 imposed by a penalty not to exceed \$2,500 per violation.
29 Each and every day on which the condition exists shall
30 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

1 the Enforcement Authority is subject to the sanctions
2 specified in IC 36-7-9-28.

3 (L) *Affirmative defense.* It shall be an affirmative
4 defense to a notice and/or order issued pursuant to §
5 152.12 if an owner can show, by clear and convincing
6 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.

7 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed
8 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-
9 03; Am. Ord. G-03-09, passed 2-24-09)

10 **§ 152.13 HEARING OFFICER.**

11 (A) *Establishment.*

12
13 (1) The Hearing Officer shall be a person or
14 persons designated by the Mayor, with preference given
15 to a member of the City Law Department, and shall not be
16 an employee of the Enforcement Authority, or any
City/County Officials to which the Enforcement Authority
may have delegated powers of enforcement.

17 (a) A Hearing Officer shall not preside over a
18 hearing or approve a compliance agreement if the hearing
19 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:

20
21 1. Bias, prejudice, or personal interest
in the outcome of a hearing;

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

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

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

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

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

8 (B) *Duties.*

9 (1) The Hearing Officer shall conduct
10 administrative hearings as may be required pursuant to
11 orders issued under the Unsafe Building Law as provided
12 in IC 36-7-9-7, or as provided in this § 152.13(B) and §
13 152.13(C) below.

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

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

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

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

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

29 (2) Prior to the hearing, the Hearing Officer
30 shall give the parties an opportunity to file documents
or motions regarding matters 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.

1 (3) The Hearing Officer shall afford all
2 parties the opportunity to participate in the hearing to
3 the extent necessary for full consideration of all
4 relevant facts and issues. A party may present evidence
5 in the form of testimony, affidavits and documentation,
6 engage in argument, and conduct cross-examination. A
7 party may participate in person or by counsel at the
8 party's own expense; if the party is not an individual
9 or is incompetent to participate, then the party shall
10 participate by a duly authorized representative.

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

14 (b) The Hearing Officer shall conduct the
15 hearing in an informal manner and without strict
16 adherence to the technical rules of evidence and
17 procedure which govern judicial proceedings. The hearing
18 officer shall rule on the admissibility of any offer of
19 proof, and on other motions, and shall exclude evidence
20 that is irrelevant, immaterial, unduly repetitious, or
21 excludable on constitutional or statutory grounds. The
22 testimony of each party and witness shall be made under
23 oath or affirmation.

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

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

30 (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;

1
2 (d) Any written orders and decision of
the hearing officer;

3 (C) *Hearings/appeals.*

4
5 (1) An order issued by the Enforcement Authority
is subject to review at a hearing conducted by the
6 Hearing Officer as provided in IC 36-7-9-7.

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

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

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

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

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

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

20 § 152.14 ADMINISTRATION AND ENFORCEMENT.
21

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

26 (B) *Conflict of interest.* No Code Official or
27 employee connected with the Enforcement Authority shall
28 have a financial interest in the furnishing of labor,

1 material or appliances for the repair, alteration or
2 maintenance of a building, dwelling or dwelling unit on
3 which a notice or order by the Enforcement Authority has
4 been issued or in the making of plans or specifications
therefrom, unless he or she is the owner of such
building. ('74 Code, § 14.7-4)

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

9 (1) The Enforcement Authority is authorized and
10 directed to make inspections where probable cause exists
11 or with consent of the owner, agent or occupant to
12 determine the condition of the premises or structures
13 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.

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

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

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

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

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

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

11 (F) *Building Code compliance.* Whenever this chapter
12 refers to compliance with state and local codes and
13 ordinances, additions and alterations to any structure
14 shall conform to that required of a new structure
15 without requiring the existing structure to comply with
16 all the requirements of this code, provided it was in
17 compliance with applicable state and local building
18 codes when originally constructed. However, any building
19 or element thereof that has deteriorated to a point that
20 such condition is considered to be unsafe under this
21 chapter, the repair and/or replacement of such building
22 or element thereof shall be subject to the enforcement
23 provisions contained herein and must conform to current
24 state and local building code provisions.

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

30 (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).

1
2 (2) *Appointment and terms.* The Safe Housing and
3 Building Oversight Committee shall be appointed:

4 (a) On January 1 of each year.

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

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

13 (3) *Meetings and organization.* The first meeting of
14 the Safe Housing and Building Oversight Committee shall
15 be convened by the Director of the Department of
16 Neighborhood Code **Compliance**. At the initial meeting the
17 Committee shall elect a Chair and Secretary from among
18 its members. At that meeting and each subsequent
19 meeting:

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

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

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

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

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

1
2 (7) *Duties.* The Safe Housing and Building Oversight
3 Committee shall adopt a schedule setting forth the
4 maximum amount of performance bonds applicable to
5 various types or orders pursuant to IC 36-7-9-7(f),
6 determine the amount of the average processing expense
7 pursuant to IC 36-7-9-12, and to provide oversight and
8 guidance relevant to the standard operating procedures
9 of Neighborhood Code **Compliance**. ('74 Code,
10 § 14.7-34 (2)-(5)); 14.7-35)

11 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed
12 12-14-99; Am. Ord. G-19-03, passed 5-27-03; Am. Ord. G-
13 22-03, passed 6-24-03; Am. Ord. G-03-09, passed 2-24-09;
14 Am. Ord. G-11-09, passed 4-28-09)

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

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Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

REDLINE COPY

BILL NO. G-

GENERAL ORDINANCE NO. G- _____

✓ AN ORDINANCE REPEALING AND REPLACING
CHAPTER 152: HOUSING AND BUILDING
STANDARDS OF THE CITY OF FORT WAYNE,
INDIANA CODE OF ORDINANCES.

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

SECTION 1. That Chapter 152: HOUSING AND BUILDING
STANDARDS OF THE CITY OF FORT WAYNE, INDIANA CODE OF
ORDINANCES is hereby repealed and replaced in its entirety as follows:

CHAPTER 152: HOUSING AND BUILDING STANDARDS

Section

General Provisions

- 152.01 Title and purpose
- 152.02 Interpretation
- 152.03 Definitions

Minimum Housing and Maintenance Standards

- 152.04 General requirements
- 152.05 Interior structure
- 152.06 Light, ventilation and occupancy
limitations
- 152.07 Plumbing facilities and fixture
requirements
- 152.08 Mechanical and electrical requirements

- 152.09 Discontinuance of utilities or service
- 152.10 Safety and sanitary maintenance
- 152.11 Rooming houses, dormitories and other
 occupancies
- 152.12 Enforcement and penalties
- 152.13 Hearing officer
- 152.14 Administration and enforcement

GENERAL PROVISIONS

§ 152.01 TITLE AND PURPOSE.

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

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

(B) Safety from fire and accidents;

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

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

('74 Code, § 14.7-10) (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-03-09, passed 2-24-09)

§ 152.02 INTERPRETATION.

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

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

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

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

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

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

§ 152.03 DEFINITIONS.

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

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

APPROVED. Approved by the Enforcement Authority.

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 which 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.

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

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

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.

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

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

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

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 same is incorporated thereto by reference.

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.

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

LET FOR OCCUPANCY or LET. To permit possession or occupancy of a dwelling or dwelling unit by a person who shall be the legal owner of record or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or licensee, or pursuant to a

recorded or unrecorded agreement of contract for the sale of land.

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

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.

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

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.

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

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

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, injuries or disease.

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

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.

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

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 ~~DELETE~~ (for more than 30 consecutive days).

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, household items, 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 in accordance with 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-03-09, passed 2-24-09)

MINIMUM HOUSING and MAINTENANCE STANDARDS

§ 152.04 GENERAL REQUIREMENTS.

(A) General.

(1) Scope.

(a) The provisions of this chapter shall apply

to all residential structures ~~ADD(,)~~DELETE (and) residential portions of mixed occupancy buildings ~~ADD(, and temporary housing)~~ 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 nonresidential to residential or partially residential. ('74 Code, § 14.7-10)

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

(2) *Responsibility.*

(a) *Owner.*

1. *Prohibited occupancy.* No owner shall rent, lease or permit the subletting to another for occupancy any vacant or vacated dwelling or dwelling unit which has been condemned by the Enforcement Authority, unless permission for such occupancy has been granted by the Enforcement Authority subsequent to an inspection. Such permission shall not be unreasonably withheld by the Enforcement Authority.

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

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

4. *Heat.* If the heating facilities of any dwelling or dwelling unit are not under the control of the occupant thereof, and except as otherwise provided herein, it is the responsibility of the owner, operator or agent in charge to operate the heating facilities, during the period between September 1 to May 1, and to

maintain an inside temperature as required in § 152.08(B)(2).

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

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

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

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

(ADD) 7. *Flammable liquids or gases or combustible materials.* The occupant of any dwelling or dwelling unit shall not have or store flammable or combustible liquids or gas within the dwelling or dwelling unit in an amount considered dangerous by the Enforcement Authority and/or the Fort Wayne Fire Department.

(b) *Occupants.*

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

2. *Sanitary maintenance.* Every occupant of a dwelling or dwelling unit shall keep it in a clean and sanitary condition (that part of the dwelling or

dwelling unit) and the premises thereof which he occupies or controls.

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

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

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

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

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

8. *Heat.*

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

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

('74 Code, § 14.7-15)

(3) *Vacant structures and land.*

(a) Vacant or unoccupied residential structures shall not be required to meet the same interior standards as operational, occupied residential structures. It is not the purpose of this chapter to impede or inhibit development of 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 create a health and safety concern to the community. All exterior and property standards of this chapter shall apply regardless of occupancy or operation of residential properties.

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

('74 Code, § 14.7-29)

(4) *Unsafe building law.* The city hereby adopts the Unsafe Building Law pursuant to and cited as IC 36-7-9-1 through IC 36-7-9-29, as may be amended, pursuant to the authority granted there under. Any citation in this chapter to a section of the Unsafe Building Law shall be deemed to apply to any subsequent amendment to or replacement of said section.

(5) *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)

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

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

(2) Minimum height. Handrails and guardrails must be in accordance with applicable state and local codes and ordinances.

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

('74 Code, § 14.7-1)

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

(C) *Exterior property areas.*

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

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

(b) Any dead animal or animal parts.

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

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

(4) *Exhaust vents.* Pipes, ducts, conductors, fans and blowers that discharge gases, steam, vapor, hot air, grease, smoke, odors, dust or other gaseous or particulate wastes shall be properly maintained at all times, and shall be installed in accordance with all applicable state and local codes and ordinances.

(5) *Accessory structures.* All accessory structures, including **ADD** (but not limited to,) detached garages, **ADD** (detached carports, storage containers,) sheds, fences, walls, pools and all similar structures or buildings, shall be maintained, structurally sound, and **ADD** (/or) in good repair in accordance with all applicable state and local codes and ordinances.

(6) *Vehicles.* Except as provided for in other regulations, no inoperable vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or

in the process of being stripped or dismantled. All operable vehicles shall be parked on an approved surface.

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

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

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

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

(ADD) (8) 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 constitute 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, § 32-2)

(IPMC 2006 Sec. 302)

(D) *Exterior structure.*

(1) *General.*

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

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

(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.

(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.

(6) *Roofs and drainage.*

(a) *Roofs.* The roof and flashing shall be sound, **ADD** (weather) tight and **ADD** (/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 Down Spouts.* 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 **ADD** (soffits, fascia,) canopies and awnings 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. All exterior steps and stairways shall be maintained so as not to have any broken, warped or loose treads and risers.~~

ADD (9) *Stairways, Steps, Decks, Porches, Balconies, Walkways, Driveways and Ramps.* All exterior stairways, steps, decks, porches, balconies, walkways, driveways, 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, flues 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 doors.* 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 in good condition, structurally sound and be maintained so as to be weather tight, watertight and rodent-proof. All exterior doors shall also be a suitable means of ingress and egress pursuant to state and local fire codes.

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

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

(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.

(16) *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.

(17) *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 their 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.

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

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

('74 Code, § 14.7-1, 12)

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

(E) *Trash and debris (ADD), Exterior.* All exterior property and premises ~~(DELETE)~~, 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 in refuse containers.

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

(3) *Trash and debris, Interior.* Interior of structure(s) shall be free from any accumulation of trash and debris.

('74 Code, § 14.7-11)

(IPMC 2006 Sec. 307)

(F) *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 an extermination that will not be injurious to human health. After extermination, 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 upon the premises. (IPMC 2006 Sec. 308)

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

§ 152.05 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.

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

(C) *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be removed, painted or covered. Cracked or loose plaster, drywall, decayed wood and other defective surface conditions shall be corrected. No paint shall be used for interior painting or any dwelling, dwelling unit, rooming house or rooming unit that is lead-based.

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

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

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

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

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

(G) *Kitchen and kitchen facilities.*

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

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

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

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

('74 Code, § 14.7-1, 11)

(IPMC 2006 Sec. 305)

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

§ 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

(A) *General.*

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

(2) *Responsibility.* The owner of the structure shall provide and maintain light fixtures, 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.

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

(B) *Light.*

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

(2) *Means of egress:* common halls and stairways. Every common hall and stairway in residential structures shall be lighted with at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet of floor area, provided that the spacing between lights shall not be greater than 30 feet. Every public hall and stairway in structures devoted solely to a dwelling occupancy and containing not more than three dwelling units shall be supplied with conveniently located light switches, controlling a lighting system

which may be turned on when needed, instead of full time lighting.

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

('74 Code, §14.7-12)

(IPMC 2006 Sec. 402)

(C) *Ventilation.*

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

(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 all applicable state and local codes and ordinances.

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

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

('74 Code, Sec. 14.7-12)

(IPMC 2006 Sec. 402-403)

(D) *Occupancy limitations.*

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

(2) *General requirements.*

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

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

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

such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

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

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

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

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

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

('74 Code, § 14.7-14)

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

§ 152.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

(A) General.

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

(2) *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)

(B) *Required facilities.*

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

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

(C) *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)

(D) *Water systems.*

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

(2) *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.

(3) *Water heating facilities.* Every dwelling unit shall contain water heating facilities which are properly installed **ADD** (with an operable pressure relief valve and drip leg), operated and maintained in safe and good working condition and are properly connected to the bathtub or shower, sink and lavatory basin. Such water heating facilities shall be capable of automatically heating water to such a temperature as to permit water to be drawn at every required bathtub or shower, sink and lavatory basin at a temperature of not less than 120° F. All gas-fired water heaters shall be properly vented to the outside.

('74 Code, § 14.7-11)

(IPMC 2006 Sec. 505)

(E) *Sanitary drainage system.*

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

(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)

(F) *Storm drainage.*

(1) *General.* 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. (IPMC 2006 Sec. 507)

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

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

§ 152.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) *General.*

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

(2) *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)

(B) *Heating facilities.*

(1) *Facilities required.* Primary heating facilities shall be provided in structures as required by this section and shall be 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 primary 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) *Room temperature measurement.* The required room temperature shall be measured three feet above the floor near the center of the room and two feet inward from the center of each exterior wall. (IPMC 2006 Sec. 602)

(C) *Mechanical equipment.*

(1) *Mechanical appliances.* All mechanical appliances, **ADD** (including but not limited to, furnaces,) fireplaces, solid fuel-burning appliances **ADD** (,) **DELETE** (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 Underwriters Laboratories (UL) labeled for unvented operation.

(3) *Clearances.* All required clearances to combustible materials shall be maintained in accordance with applicable 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 such 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 therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved and in accordance with applicable state and local codes and ordinances. (IPMC 2006 Sec. 603)

(D) *Electrical facilities.*

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

(2) *Service.* Every dwelling unit and all public and common areas shall be supplied with adequate electric service, outlets and fixtures which shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in accordance with all applicable state and local codes and ordinances.

('74 Code, § 14.7-12)

(IPMC 2006 Sec. 604)

(E) *Electrical equipment.*

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

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

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

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

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

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

(3) *Electrical fixtures.* At least one supplied ceiling or wall-type electric light fixture shall be provided in every toilet room, bathroom, laundry room, furnace room, hall, stairway, basement or any other area in which artificial light is required for the safety and welfare of the occupants.

('74 Code, § 14.7-12)

(IPMC 2006 Sec. 605)

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

§ 152.09 DISCONTINUANCE OF UTILITIES OR SERVICE.

(A) *Required.* No owner, operator or occupant shall cause any service, facility or utility which is required to be supplied under this standard to be removed from, shut off from or discontinued from any occupied dwelling let or occupied by him except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary

emergencies when discontinuance of service is approved by the Enforcement Authority.

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

('74 Code, § 14.7-1)

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

§ 152.10 SAFETY AND SANITARY MAINTENANCE.

(A) General.

(1) *Scope.* The provisions of this chapter shall govern the minimum conditions and standards for safety and sanitary maintenance relating to structures and premises.

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

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

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

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

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

('74 Code, § 14.7-1)

(IPMC 2006 Sec. 701)

(B) *Means of egress.*

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

(2) *Exits.* All exits 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 applicable state and local building and fire codes.

(C) *Fire protection systems.*

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

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

(IPMC 2006 Sec. 704)

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

§ 152.11 ROOMING HOUSES, DORMITORIES AND OTHER OCCUPANCIES.

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

('74 Code, § 14.7-17)

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

('74 Code, § 14.7-18)

(C) *Violations and notice.* Whenever, upon inspection of any rooming house, the ~~ADD?~~ Compliance ~~DELETE?~~ Enforcement Officer finds that conditions or practices exist which are in violation of any provision of this chapter, the Enforcement? Officer shall give notice in writing that unless such conditions or practices are corrected within a reasonable period, to be determined by the Enforcement Authority, the operation of such premises as such rooming house shall be discontinued and, if such rooming house operation is licensed by any duly constituted governmental agency, a recommendation that such license be revoked for the protection of public health shall be given to such licensing governmental body or agency by the Enforcement Authority. At the end of such period the Enforcement? Officer shall re-inspect such rooming house and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the operator that such operations shall cease, and, if such rooming house operation is licensed by any duly

constituted governmental agency, the Enforcement Authority shall recommend the immediate revocation of such license by such issuing agency. Upon receipt of such notice from the Enforcement Authority such operator shall immediately cease operation of such rooming house and no person shall occupy, for sleeping or living purposes, any rooming unit within the house.
('74 Code, § 14.7-19)

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

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

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

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

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

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

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

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

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

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

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

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

(6) *Egress.* Every rooming unit shall have immediate access to two or more approved means of egress, with minimum head room of six feet and six inches, appropriately marked, leading to a safe and open space at ground level or as required by applicable state and local codes and ordinances.

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

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

(9) *Application of section to motels and hotels.* Every provision of this chapter which applies to rooming houses shall also apply to motels, motor lodges and hotels except to the extent that any such provision may

be found in conflict with state and local codes and ordinances.

('74 Code, § 14.7-20)

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

§ 152.12 ENFORCEMENT AND PENALTIES.

(A) Enforcement. Whenever, upon inspection of any residential 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 Housing 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.

(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.

(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:

~~(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 may 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.

(D) *Order for Abatement.* The Code Official shall re-inspect the property upon the expiration of the time period given in the ~~DELETE~~ (notice of violation,) ~~ADD~~ (initial order.) ~~DELETE~~ (or upon the expiration of the time identified in the work plan.) If the same violation or violations of ~~ADD~~ (the Order) ~~DELETE~~ (this chapter) exists, ~~DELETE~~ (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.

(E) *Manner of serving notice.*

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

(2) Notice of an order issued under § 152.12(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 § 152.12(B) or issuing an order under §152.12(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 of 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 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)

4. 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, § 14.7-22-24)

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

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

(4) *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 § 152.12 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-03-09, passed 2-24-09)

§ 152.13 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 § 152.13(B) and § 152.13(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;

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.*

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

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

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

(c) 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.

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

(3) 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-03-09, passed 2-24-09)

§ 152.14 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. ('74 Code, § 14.7-2-3)

(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 therefrom, unless he or she is the owner of such building. ('74 Code, § 14.7-4)

(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 structures, 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 collected to date.

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

(F) *Building Code compliance.* Whenever this chapter refers to compliance with state and local codes and ordinances, additions and alterations to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all the requirements of this code, provided it was in compliance with applicable state and local building codes 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 building code provisions.

(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 the Department 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 constitute a quorum to do business.

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

the Common Council, the Council shall fill 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 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)

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

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

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney