

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

2 **GENERAL ORDINANCE NO. G- 19-12**

3  
4  
5 **AN ORDINANCE REPEALING AND REPLACING**  
6 **CHAPTER 152: HOUSING AND BUILDING**  
7 **STANDARDS OF THE CITY OF FORT WAYNE,**  
8 **INDIANA CODE OF ORDINANCES.**

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

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13 ORDINANCES is hereby repealed and replaced in its entirety as follows:

14 **CHAPTER 152: HOUSING AND BUILDING STANDARDS**

15 Section

16 **General Provisions**

17 152.01 Title and purpose

18 152.02 Interpretation

19 152.03 Definitions

20 **Minimum Housing and Maintenance Standards**

21 152.04 General requirements

22 152.05 Interior structure

23 152.06 Light, ventilation and occupancy  
24 limitations

25 152.07 Plumbing facilities and fixture  
26 requirements

27 152.08 Mechanical and electrical requirements

- 1                   152.09        Discontinuance of utilities or service
- 2                   152.10        Safety and sanitary maintenance
- 3                   152.11        Rooming houses, dormitories and other
- 4                                   occupancies
- 5                   152.12        Enforcement and penalties
- 6                   152.13        Hearing officer
- 7                   152.14        Administration and enforcement
- 8

9                                   **GENERAL PROVISIONS**

10

11        **§ 152.01 TITLE AND PURPOSE.**

12

13                   The provisions of this chapter shall be cited as

14                   the "Minimum Housing and Maintenance Standards." This

15                   chapter articulates the commitment of the City of Fort

16                   Wayne IN, hereinafter referred to as the City, to

17                   protect, preserve and promote the physical and mental

18                   health and social well being of the people, to prevent

19                   and control the incidence of communicable diseases, to

20                   reduce environmental hazards to health and safety and to

                 regulate privately and publicly owned dwellings for the

                 purpose of maintaining adequate sanitation and public

                 health; by establishing legislation which provides for

                 the administration and enforcement of minimum standards

                 and maintenance for the following:

21                   (A) Basic equipment and facilities with respect to

                 mechanicals, light, ventilation and thermal conditions;

22                   (B) Safety from fire and accidents;

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

24                   occupancy; and

25                   (D) The determination of the responsibilities of

26                   owners, operators and occupants of residential

27                   buildings, and mixed-use buildings to maintain their

                 buildings and properties.

1 ('74 Code, § 14.7-10) (Ord. G-31-85, passed 12-23-85;  
2 Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-03-09,  
3 passed 2-24-09)

4 **§ 152.02 INTERPRETATION.**

5  
6 (A) *Scope.* Unless otherwise expressly stated, the  
7 following terms shall have the meanings shown in this  
8 chapter.

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

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

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

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

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

26 **§ 152.03 DEFINITIONS.**

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

30 **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.

1  
2           **APPURTENANCE.** A subordinate portion of a structure  
attached to the primary structure.

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

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

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

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

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

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

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

21           **CONDEMN.** To adjudge unsafe and/or unfit for  
22 occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**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.

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

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

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

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

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

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

21                   **PLUMBING FIXTURE.** A receptacle or device which is  
22 either permanently or temporarily connected to the water  
23 distribution system of the premises and demands a supply  
24 of water therefrom, or discharges used water, liquid-  
25 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.

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

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

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

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

15                   (2) Any premises from which the plumbing, heating,  
16 electrical and/or facilities required by this chapter  
17 have been removed or from which utilities have been  
18 disconnected, destroyed, removed or rendered  
19 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,  
24 in danger of collapse or failure and is dangerous to  
25 anyone on or near the premises; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 ('74 Code, § 14.7-1)

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

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

## 12           **MINIMUM HOUSING and MAINTENANCE STANDARDS**

### 13           **§ 152.04 GENERAL REQUIREMENTS.**

#### 14           (A) *General.*

##### 15           (1) *Scope.*

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

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

##### 28           (2) *Responsibility.*

###### 29           (a) *Owner.*

30           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

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

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

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

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

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

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

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

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

1  
2 (b) *Occupants.*

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

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

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

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

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

27 6. *Flammable liquids or gases or combustible*  
28 *materials.* The occupant of any dwelling or dwelling unit  
29 shall not have or store flammable or combustible liquids  
30 or gas within the dwelling or dwelling unit in an amount  
considered dangerous by the Enforcement Authority and/or  
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

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

3 8. Heat.

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

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

16 ('74 Code, § 14.7-15)

17 (3) Vacant structures and land.

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

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

('74 Code, § 14.7-29)

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

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

5 (5) *Certain building conditions deemed unsafe.* The  
6 description of an unsafe building contained in IC 36-7-  
7 9-4 is hereby supplemented to provide minimum standards  
8 for building conditions or maintenance in the city. Any  
9 building or structure which has any or all of the  
10 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:

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

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

17 (c) Whenever any building or structure or  
18 portion thereof has been damaged by fire, earthquake,  
19 wind, flood, or by any other cause, to such an extent  
20 that the building or structure or any portion thereof  
21 has become so dilapidated or deteriorated so as to  
22 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;

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

26 (e) Whenever any portion of a building or any  
27 member, appurtenance, or ornamentation on the exterior  
28 thereof is not of sufficient strength or stability or is

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

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

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

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

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

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

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

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

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

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

( '74 Code, § 14.7-6)

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

(1) Handrails and guardrails provision. Every  
handrail and guardrail shall be firmly fastened and

1 shall be capable of supporting normally imposed loads  
2 and shall be maintained in good condition.

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

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

9 ('74 Code, § 14.7-1)

10 (International Building Code, hereinafter IBC, 2006 Sec.  
11 1012-1013) (IPMC 2006 Sec. 306)

12 (C) *Exterior property areas.*

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

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

22 (b) Any dead animal or animal parts.

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

28 (3) *Rodent harborage.* All structures and exterior  
29 property shall be kept free from rodent harborage and  
30 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,

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

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

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

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

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

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

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

( '74 Code, § 32-2)

(IPMC 2006 Sec. 302)

1 (D) *Exterior structure.*

2 (1) *General.*

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

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

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

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

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

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

5 (6) *Roofs and drainage.*

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) *Windows.* Operable windows located in whole  
30 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.

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

5 (17) *Premise identification.*

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

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

21 ('74 Code, §§ 25-68, 25-69) (Code §§ 99.113-99.114)

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

30 ('74 Code, § 14.7-1, 12)

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

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

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

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

5 ('74 Code, § 14.7-11)

6 (IPMC 2006 Sec. 307)

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

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

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

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

## 24 § 152.05 INTERIOR STRUCTURE.

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

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

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

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

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

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

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

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

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

(G) *Kitchen and kitchen facilities.*

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

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

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

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

16 ('74 Code, § 14.7-1, 11)

17 (IPMC 2006 Sec. 305)

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

21 **§ 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.**

22 (A) *General.*

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

26 (2) *Responsibility.* The owner of the structure  
27 shall provide and maintain light fixtures, ventilation  
28 and space conditions in compliance with these  
29 requirements. A person shall not occupy as owner-  
30 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

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

3  
4 (B) *Light.*

5 (1) Every habitable room shall have at least one  
6 window or skylight facing directly to the outdoors. The  
7 minimum total window area, measured between stops, for  
8 every habitable room, shall be not less than 8% of the  
9 floor area of such room. Whenever walls or other  
10 portions of structures face a window of any such room  
11 and such light-obstructing structures are located less  
12 than three feet from the window and extend to a level  
13 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.

14 (2) *Means of egress:* common halls and stairways.  
15 Every common hall and stairway in residential structures  
16 shall be lighted with at least a 60-watt standard  
17 incandescent light bulb or equivalent for each 200  
18 square feet of floor area, provided that the spacing  
19 between lights shall not be greater than 30 feet. Every  
20 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.

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

25 ('74 Code, §14.7-12)

26 (IPMC 2006 Sec. 402)

1 (C) *Ventilation.*

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

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

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

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

('74 Code, Sec. 14.7-12)

(IPMC 2006 Sec. 402-403)

(D) *Occupancy limitations.*

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

5 (2) *General requirements.*

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

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

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

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

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

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

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

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

13 ('74 Code, § 14.7-14)

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

16 **§ 152.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.**

17 (A) *General.*

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

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

28 (B) *Required facilities.*

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

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

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

10 (C) *Plumbing systems and fixtures.*

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

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

18 (D) *Water systems.*

19 (1) *General.* Every sink, lavatory, bathtub or  
20 shower, water closet or other plumbing fixture shall be  
21 legally connected to either a public water system or to  
22 an approved private water system. The water supply  
23 system shall be installed and maintained to provide at  
24 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.

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

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

13 ('74 Code, § 14.7-11)

14 (IPMC 2006 Sec. 505)

15 (E) *Sanitary drainage system.*

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

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

24 (F) *Storm drainage.*

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

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

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

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

2                   (A) *General.*

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

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

14                   (B) *Heating facilities.*

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

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

26                   (3) *Heat supply.* Every owner and operator of  
27 any building who rents, leases or lets one or more  
28 dwelling units or sleeping units on terms, either  
29 expressed or implied, to furnish heat to the occupants  
30 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 (C) *Mechanical equipment.*

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

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

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

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

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

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

18 (6) *Energy conservation devices.* Devices intended  
19 to reduce fuel consumption by attachment to a fuel-  
20 burning appliance, to the fuel supply line thereto, or  
21 to the vent outlet or vent piping therefrom, shall not  
22 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)

23 (D) *Electrical facilities.*

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

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

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

4 ('74 Code, § 14.7-12)

5 (IPMC 2006 Sec. 604)

6 (E) *Electrical equipment.*

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

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

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

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

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

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

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

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

3 ('74 Code, § 14.7-12)

4 (IPMC 2006 Sec. 605)

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

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

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

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

20 ('74 Code, § 14.7-1)

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

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

25 (A) *General.*

26  
27 (1) *Scope.* The provisions of this chapter shall  
28 govern the minimum conditions and standards for safety

1 and sanitary maintenance relating to structures and  
2 premises.

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

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

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

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

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

25 ('74 Code, § 14.7-1)

26 (IPMC 2006 Sec. 701)

27 (B) *Means of egress.*

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

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

6 (C) *Fire protection systems.*

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

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

14 (IPMC 2006 Sec. 704)

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

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

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

27 ('74 Code, § 14.7-17)

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

('74 Code, § 14.7-18)

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

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

25 ('74 Code, § 14.7-19)

26 (D) *Standards and minimum requirements.* No person  
27 shall operate a rooming house or dormitory, or shall  
28 occupy or let to another for occupancy any dormitory  
29 room and/or rooming unit in any rooming house or  
30 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ('74 Code, § 14.7-20)

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

16 **§ 152.12 ENFORCEMENT AND PENALTIES.**

17  
18 (A) *Enforcement.* Whenever, upon inspection of any  
19 residential property, the Code Official finds that  
20 conditions or practices exist which are in violation of  
21 any provision of this chapter, or the Unsafe Building  
22 Law, IC 36-7-9-1 through IC 36-7-9-29, the Code Official  
23 shall give written notice in accordance with the  
24 provisions of this chapter. Unless such conditions or  
25 practices are corrected within a reasonable period, to  
be determined by the Enforcement Authority, the owner or  
26 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.

26 ('74 Code, § 14.7-31(a))

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

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

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

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

1 (D) *Manner of serving notice.*

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

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

7 (E) *Emergencies.* The Enforcement Authority may take  
8 emergency action with respect to unsafe premises to  
9 protect life, safety or property pursuant to IC 36-7-9-  
10 9. Such emergency action may be taken without issuing a  
11 notice of violation under § 152.12(B) or issuing an  
12 order under §152.12(C), but shall be limited to the  
13 action necessary to abate any immediate danger.  
14 ('74 Code, § 14.7-30)

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

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

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

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

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

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

17 (b) Conditions include:

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

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

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

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

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

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

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

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

19 (K) *Affirmative defense.* It shall be an affirmative  
20 defense to a notice and/or order issued pursuant to §  
21 152.12 if an owner can show, by clear and convincing  
22 evidence, that said owner could not legally enter the  
premises in order to correct the violation at the time  
the notice and/or order was issued.

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

26 **§ 152.13 HEARING OFFICER.**

27 (A) *Establishment.*

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

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

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

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

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

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

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

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

30 (B) *Duties.*

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

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

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

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

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

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

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

26 (3) The hearing officer shall afford all  
27 parties the opportunity to participate in the hearing to  
28 the extent necessary for full consideration of all  
29 relevant facts and issues. A party may present evidence  
30 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

1 adherence to the technical rules of evidence and  
2 procedure which govern judicial proceedings. The hearing  
3 officer shall rule on the admissibility of any offer of  
4 proof, and on other motions, and shall exclude evidence  
5 that is irrelevant, immaterial, unduly repetitious, or  
6 excludable on constitutional or statutory grounds. The  
7 testimony of each party and witness shall be made under  
8 oath or affirmation.

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

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

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

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

20 (a) The notice of hearing;

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

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

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

26 (C) *Hearings/appeals.*

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

30 (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.

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

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

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

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

13 § 152.14 ADMINISTRATION AND ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (a) On January 1 of each year.

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

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

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

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

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

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

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


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

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**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

Read the first time in full and on motion by Crawford and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at Room 030 - Council Discussion Garden Level - Citizens Square, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 5-22-12 Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Crawford and duly adopted, placed on its passage. PASSED LOST  
by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>7</u>	_____	<u>1</u>	<u>1</u>
<u>BENDER</u>	_____	_____	_____	<u>1</u>
<u>CRAWFORD</u>	<u>✓</u>	_____	_____	_____
<u>DIDIER</u>	<u>✓</u>	_____	_____	_____
<u>HARPER</u>	_____	_____	<u>✓</u>	_____
<u>HINES</u>	<u>✓</u>	_____	_____	_____
<u>JEHL</u>	<u>✓</u>	_____	_____	_____
<u>PADDOCK</u>	<u>✓</u>	_____	_____	_____
<u>SHOAF</u>	<u>✓</u>	_____	_____	_____
<u>SMITH</u>	<u>✓</u>	_____	_____	_____

DATED: 6-12-12 Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE (RESOLUTION) NO. B-19-12 on the 12<sup>th</sup> day of June, 2012

ATTEST: Sandra E. Kennedy SEAL [Signature]  
SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13<sup>th</sup> day of June, 2012, at the hour of 1:30 o'clock P. M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 18<sup>th</sup> day of June, 2012, at the hour of 3:30 o'clock P. M., E.S.T.

Thomas C. Henry  
THOMAS C. HENRY, MAYOR