

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

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

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ORDINANCES is hereby repealed and replaced in its entirety as follows:

**CHAPTER 152: HOUSING AND BUILDING STANDARDS**

Section

**General Provisions**

- 152.01 Title and purpose  
152.02 Interpretation  
152.03 Definitions

**Minimum Housing and Maintenance Standards**

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

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

**GENERAL PROVISIONS**

**§ 152.01 TITLE AND PURPOSE.**

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

- (A) Basic equipment and facilities with respect to mechanicals, light, ventilation and thermal conditions;
- (B) Safety from fire and accidents;
- (C) The use, location and amount of space for human occupancy; and
- (D) The determination of the responsibilities of owners, operators and occupants of residential buildings, and mixed-use buildings to maintain their buildings and properties.

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.**

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STANDARD OPERATING PROCEDURES.** Written procedures  
prescribed for repetitive use as a practice, and written

1 in accordance with agreed upon directives aimed at  
2 obtaining a desired outcome without loss of  
3 effectiveness.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ('74 Code, § 14.7-1)

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

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

## 26                   **MINIMUM HOUSING and MAINTENANCE STANDARDS**

### 27                   **§ 152.04 GENERAL REQUIREMENTS.**

28                   (A) *General.*

29                   (1) *Scope.*

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

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

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

9 (2) *Responsibility.*

10 (a) *Owner.*

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

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

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

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

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

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

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

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B. Posted in a public or prominent place on the premises visible from outside the structure or, in the alternative, provided to Neighborhood Code Compliance. 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.

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

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(b) *Occupants.*

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

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

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

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

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

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

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

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

26 8. *Heat.*

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

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

('74 Code, § 14.7-15)

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2 (3) *Vacant structures and land.*

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

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

21 ('74 Code, § 14.7-29)

22 (4) *Unsafe building law.* The city hereby adopts  
23 the Unsafe Building Law pursuant to and cited as IC 36-  
24 7-9-1 through IC 36-7-9-29, as may be amended, pursuant  
25 to the authority granted there under. Any citation in  
26 this chapter to a section of the Unsafe Building Law  
27 shall be deemed to apply to any subsequent amendment to  
28 or replacement of said section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Whenever any building or structure, because of  
obsolescence, dilapidated condition, deterioration,

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

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

12 ('74 Code, § 14.7-6)

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

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

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

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

30 ('74 Code, § 14.7-1)

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

(C) *Exterior property areas.*

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

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

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

7 (b) Any dead animal or animal parts.

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

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

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

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

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

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

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

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

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

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

29 ('74 Code, § 32-2)

30 (IPMC 2006 Sec. 302)

(D) *Exterior structure.*

(1) *General.*

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

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

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

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

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

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

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

(6) *Roofs and drainage.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (17) *Premise identification.*

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

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

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

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

28 ('74 Code, § 14.7-1, 12)

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

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

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

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

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

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

6 ('74 Code, § 14.7-11)

7 (IPMC 2006 Sec. 307)

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

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

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

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

25 **§ 152.05 INTERIOR STRUCTURE.**

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

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

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

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

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

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

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

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

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

(G) *Kitchen and kitchen facilities.*

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

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

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

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

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

18 ('74 Code, § 14.7-1, 11)

19 (IPMC 2006 Sec. 305)

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

23 **§ 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.**

24 (A) *General.*

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

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

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

6 (B) *Light.*

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

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

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

( '74 Code, §14.7-12)

1 (IPMC 2006 Sec. 402)

2  
3 (C) *Ventilation.*

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

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

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

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

('74 Code, Sec. 14.7-12)

(IPMC 2006 Sec. 402-403)

1  
2 (D) *Occupancy limitations.*

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

7 (2) *General requirements.*

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

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

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

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

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

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

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

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

12 ('74 Code, § 14.7-14)

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

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

16  
17 (A) *General.*

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

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

25 (B) *Required facilities.*

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

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

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

17 ('74 Code, § 14.7-11)

18 (C) *Plumbing systems and fixtures.*

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

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

29 (D) *Water systems.*

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

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

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

5 (3) *Water heating facilities.* Every dwelling unit  
6 shall contain water heating facilities which are  
7 properly installed with an operable pressure relief  
8 valve and drip leg, operated and maintained in safe and  
9 good working condition and are properly connected to the  
10 bathtub or shower, sink and lavatory basin. Such water  
11 heating facilities shall be capable of automatically  
12 heating water to such a temperature as to permit water  
13 to be drawn at every required bathtub or shower, sink  
14 and lavatory basin at a temperature of not less than  
15 120° F. All gas-fired water heaters shall be properly  
16 vented to the outside.

17 ('74 Code, § 14.7-11)

18 (IPMC 2006 Sec. 505)

19 (E) *Sanitary drainage system.*

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

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

28 (F) *Storm drainage.*

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

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

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

3 **§ 152.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.**

4 (A) *General.*

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

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

15 (B) *Heating facilities.*

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

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

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

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

1  
2 (C) *Mechanical equipment.*

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

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

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

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

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

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

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

(D) *Electrical facilities.*

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

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

8 ('74 Code, § 14.7-12)

9 (IPMC 2006 Sec. 604)

10 (E) *Electrical equipment.*

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

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

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

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

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

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

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

5 ('74 Code, § 14.7-12)

6 (IPMC 2006 Sec. 605)

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

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

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

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

22 ('74 Code, § 14.7-1)

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



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

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

10 (C) *Fire protection systems.*

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

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

18 (IPMC 2006 Sec. 704)

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

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

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

( '74 Code, § 14.7-17)

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

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

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

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

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

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

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

9 (c) That every lavatory basin and bathtub or  
10 shower shall be supplied with hot and cold water under  
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  
concerning cooking facilities and food service:

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

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

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

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

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

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

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

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

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

24  
25 ('74 Code, § 14.7-20)

26  
27 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-25-99, passed  
28 12-14-99; Am. Ord.  
29 G-03-09, passed 2-24-09)

30  
**§ 152.12 ENFORCEMENT AND PENALTIES.**

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

1 determined by the Safe Housing and Building Oversight  
2 Committee.  
3 ('74 Code, § 14.7-31(a))

4 (B) *Notice of violation.*

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

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

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

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

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

14 *(E) Manner of serving notice.*

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

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

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

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

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

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

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

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

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

17 (a) Whenever a building, dwelling, dwelling  
18 unit, rooming house or rooming unit is declared by the  
19 Enforcement Authority as unsafe or unfit for human  
20 occupancy, the Enforcement Authority may post an Order  
21 to Vacate placard requiring such building to be vacated  
22 and to remain vacated. Such placard shall be authorized  
23 by the Enforcement Authority. It shall contain the  
24 address and phone number of the department and the date  
25 by which the occupant shall vacate the building,  
26 dwelling or dwelling unit or portion thereof. The  
27 Enforcement Authority may issue an Order to Vacate  
28 pursuant to IC 36-7-9-5 or 36-7-9-17 if the owner or  
29 occupant fails to vacate the unsafe premises. ('74 Code,  
30 § 14.7-23)

(b) Conditions include:

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

2. The lack of required sanitation, illumination,  
ventilation, heating, electrical, plumbing or other  
facilities and systems adequate to protect the health

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

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

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

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

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

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

(K) *Access to premises in violation of this chapter.*  
If the Enforcement Authority has issued an Order to  
Vacate an unsafe building, the owner or person in  
possession of same may only enter such building upon  
signing an affidavit of acknowledgment to the  
Enforcement Authority establishing the limited purposes  
and time for such entry. Any unauthorized entry or use  
of premises or structures subject to an order issued by

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

3 (L) *Affirmative defense.* It shall be an affirmative  
4 defense to a notice and/or order issued pursuant to §  
5 152.12 if an owner can show, by clear and convincing  
6 evidence, that said owner could not legally enter the  
premises in order to correct the violation at the time  
the notice and/or order was issued.

7 (Ord. G-31-85, passed 12-23-85; Am. Ord. G-31-89, passed  
8 12-26-89; Am. Ord. G-25-99, passed 12-14-99; Am. Ord. G-  
26-00, passed 10-10-00; Am. Ord. G-22-03, passed 6-24-  
9 03; Am. Ord. G-03-09, passed 2-24-09)

10 **§ 152.13 HEARING OFFICER.**

11 (A) *Establishment.*

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

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

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

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

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

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

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

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

8                   (B) *Duties.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The notice of hearing;

(b) The notice of violation, if any;

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

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

3 (C) *Hearings/appeals.*

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

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

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

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

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

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

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

20 § 152.14 ADMINISTRATION AND ENFORCEMENT.

21  
22 (A) *Delegation of enforcement power.* The Enforcement  
23 Authority may delegate to other City/County Officials  
24 the authority to enforce all or part of the provisions  
of this chapter. Such officials shall include but not be  
25 limited to the City/County Board of Health and the Fire  
Department. ('74 Code, § 14.7-2-3)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (a) On January 1 of each year.

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

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

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

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

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

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

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

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



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

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

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

17  
18  
19   
20 Council Member

21 APPROVED AS TO FORM AND LEGALITY

22   
23 Carol Helton, City Attorney  
24  
25  
26  
27  
28  
29  
30 

**BILL NO. G-17-03-27**

**REPORT OF COMMITTEE ON REGULATIONS**

**April 25, 2017**

**John Crawford Chair**

**Michael Barranda Co-Chair**

**All Council Members**

An Ordinance repealing and replacing Chapter 152: Housing and Building Standards of the City of Fort Wayne, Indiana, Code of Ordinances


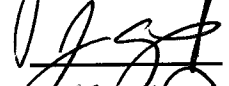
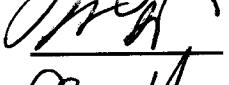




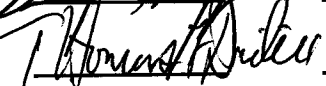
**COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

DO PASS

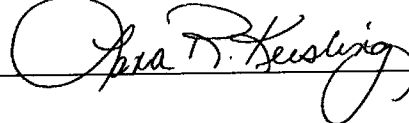
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
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	_____	_____	_____

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date:

Read the first time in full and on motion by Councilman Crawford.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Crawford, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


DATED: April 25, 2017

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

General Ordinance No. G-17-03-27 on the 25th day of April, 2017

ATTEST:

  
 \_\_\_\_\_  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th of April 2017, at the hour of 10:00 o'clock A.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 27<sup>th</sup> day of APRIL 2017, at the hour of 1:00 O'clock Pm E.S.T.

  
 \_\_\_\_\_  
 THOMAS C. HENRY, MAYOR