CHAPTER 152: HOUSING AND BUILDING STANDARDS

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, Indiana 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.


§ 152.02 INTERPRETATION.

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

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

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

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

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

(Ord. G-03-09, passed 2-24-09; Am. Ord. G-19-12, passed 6-12-13)

§ 152.03 DEFINITIONS.

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

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

APPROVED. Approved by the Enforcement Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FAMILY.** One individual living alone or two or more individuals living together, whether related by birth or not, and having common housekeeping facilities.
FIREWOOD. Wood which is neatly stacked, processed, readily usable for fuel and ready to burn.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLUMBING. The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances used for, or intended to be used for the transfer of water or waste.
PLUMBING FIXTURE. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom, or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises.

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

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

PUBLIC NUISANCE. Includes the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.
WORKMANLIKE. Done in a reasonably skillful manner, especially when used in reference to maintenance and repair and according to current industry standards, or otherwise in accordance with applicable state and local codes and ordinances.

(‘74 Code, § 14.7-1)

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


MINIMUM HOUSING AND MAINTENANCE STANDARDS

§ 152.04 GENERAL REQUIREMENTS.

(A) General.

(1) Scope.

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

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

(2) Responsibility.

(a) Owner.

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

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

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

4. Heat. If the heating facilities of any dwelling or dwelling unit are not under the control of the occupant thereof, and except as otherwise provided herein, it is the responsibility of the
5. **Rodent proofing and pest extermination.** Every owner shall be responsible for the eradication of any insects, rodents or other pests in dwellings containing two or more dwelling units and in the shared or public parts thereof.

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

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

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

   (b) **Occupants.**

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

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

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

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

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

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

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

8. **Heat.**

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

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

('74 Code, § 14.7-15)

(3) Vacant structures and land.

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

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

('74 Code, § 14.7-29)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

('74 Code, § 14.7-6)

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

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

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

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

('74 Code, § 14.7-1)

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

(C) **Exterior property areas.**

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

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

   b. Any dead animal or animal parts.

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

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

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

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

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

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

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

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

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

('74 Code, § 32-2)

(IPMC 2006 Sec. 302)

(D) Exterior structure.

(1) General.

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

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

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

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

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

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

(6) Roofs and drainage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

('74 Code, § 14.7-1, 12)

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

(E) **Trash and debris.** 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 refuse containers for trash sufficient to meet the needs of the occupants.

('74 Code, § 14.7-11)

(IPMC 2006 Sec. 307)

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

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

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


§ 152.05 INTERIOR STRUCTURE.
(A)  **General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

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

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

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

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

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

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

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

(G)  **Kitchen and kitchen facilities.**

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

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

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

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

('74 Code, § 14.7-1, 11)

(IPMC 2006 Sec. 305)
§ 152.06 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

(A) General.

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

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

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

(B) Light.

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

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

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

('74 Code, §14.7-12)

(IPMC 2006 Sec. 402)

(C) Ventilation.

(1) Habitable spaces. Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size

or minimum skylight type window size, as required in division (B) above, except where there is supplied by mechanical means or some other device affording ventilation and approved by the Enforcement Authority.

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

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

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

('74 Code, Sec. 14.7-12)
(IPMC 2006 Sec. 402-403)

(D) **Occupancy limitations.**

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

(2) **General requirements.**

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

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

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

(d) At least 50% of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
(3) **Basement occupancy.** No basement space shall be used as a habitable room or dwelling unit unless in accordance with applicable state and local codes and ordinances.

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

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

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

('74 Code, § 14.7-14)


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

(A) **General.**

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

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

(B) **Required facilities.**

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

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

('74 Code, § 14.7-11)

(C) **Plumbing systems and fixtures.**

(1) **General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
(2) **Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning. (IPMC 2006 Sec. 504)

(D) **Water systems.**

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

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

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

('74 Code, § 14.7-11)

(IPMC 2006 Sec. 505)

(E) **Sanitary drainage system.**

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

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

(F) **Storm drainage.**

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

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


§ 152.08 MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) **General.**

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

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

(B) Heating facilities.

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

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

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

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

(C) Mechanical equipment.

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

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

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

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

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

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

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

(D) Electrical facilities.

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

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

(‘74 Code, § 14.7-12)

(IPMC 2006 Sec. 604)

(E) Electrical equipment.

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

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

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

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

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

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

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

(‘74 Code, § 14.7-12)

(IPMC 2006 Sec. 605)


§ 152.09 DISCONTINUANCE OF UTILITIES OR SERVICE.

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

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

('74 Code, § 14.7-1)

12-14-99; Am. Ord. G-03-09, passed 2-24-09; Am. Ord. G-19-12, passed 6-12-12)

§ 152.10 SAFETY AND SANITARY MAINTENANCE.

(A) General.

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

(2) Responsibility. No person shall occupy or let to another for occupancy any dwelling or
dwelling unit for the purpose of living therein which

does not comply with the following requirements and in a clean and sanitary condition including,
but not limited to, the following standards:

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

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

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

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

('74 Code, § 14.7-1)

(IPMC 2006 Sec. 701)

(B) Means of egress.

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

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

(C) Fire protection systems.

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

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

(IPMC 2006 Sec. 704)


§ 152.11 ROOMING HOUSES, DORMITORIES AND OTHER OCCUPANCIES.

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

('74 Code, § 14.7-17)

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

('74 Code, § 14.7-18)

(C) Violations and notice. Whenever, upon inspection of any rooming house, the Enforcement Officer finds that conditions or practices exist which are in violation of any provision of this chapter, the Enforcement Officer shall give notice in writing that unless such conditions or practices are corrected within a reasonable period, to be determined by the Enforcement Authority, the operation of such premises as such rooming house shall be discontinued and, if such rooming house operation is licensed by any duly constituted governmental agency, a recommendation that such license be revoked for the protection of public health shall be given to such licensing governmental body or agency by the Enforcement Authority. At the end of such period the Enforcement Officer shall re-inspect such rooming house and if he finds that such conditions or practices have not been corrected, he shall give notice in writing to the operator that such operations shall cease, and, if such rooming house operation is licensed by any duly constituted governmental agency, the Enforcement Authority shall recommend the immediate revocation of such license by such issuing agency. Upon receipt of such notice from the Enforcement Authority such operator shall immediately cease operation of such rooming house and no person shall occupy, for sleeping or living purposes, any rooming unit within the house.

('74 Code, § 14.7-19)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(‘74 Code, § 14.7-20)


§ 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 36-7-9-29, the Code Official shall give written notice in
accordance with the provisions of this chapter. Unless such conditions or practices are corrected within a reasonable period, to be determined by the Enforcement Authority, the owner or person responsible for such property shall be subject to the graduated penalty scale as outlined in the standard operating procedures of the Enforcement Authority and as determined by the Safe Housing and Building Oversight Committee.

('74 Code, § 14.7-31(a))

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

(1) Notice of violation concerning health and safety. If the Code Official finds that a violation(s) pertaining to garbage, infestation, refuse, trash and debris, and/or unsanitary conditions as defined within this chapter exists on the property or premises, the officer shall issue a written notice of violation to the property owner or person responsible for such property establishing not less than 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 as outlined in the standard operating procedures of the Enforcement Authority and as determined by the Safe Housing and Building Oversight Committee subsequent to an administrative hearing.

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

(D) Manner of serving notice.

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

(2) Notice of an order issued under division (C) above shall be served as provided in IC 36-7-9-25.

(E) Emergencies. The Enforcement Authority may take emergency action with respect to unsafe premises to protect life, safety or property pursuant to IC 36-7-9-9. Such emergency action may be taken without issuing a notice of violation under division (B) above or issuing an order under division (C) above, but shall be limited to the action necessary to abate any immediate danger.

('74 Code, § 14.7-30)

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

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

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

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

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

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

(b) Conditions include:

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

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

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

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

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

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

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

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

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


§ 152.13 HEARING OFFICER.

(A) Establishment.

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

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

1. Bias, prejudice, or personal interest in the outcome of a hearing;
2. Knowledge of a disputed evidentiary fact which might influence the decision;
3. Failure to dispose of any motion or hearing in an orderly and reasonably prompt manner after written request by a party.

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

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

(B) Duties.

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

(a) Ensure that each notice of administrative hearing shall include the following information:
1. A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;

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

3. The official title, and mailing address of the Hearing Officer and a telephone number through which information concerning the hearing may be obtained;

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

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

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

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

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

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

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

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

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

(a) The notice of hearing;

(b) The notice of violation, if any;

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

(d) Any written orders and decision of the Hearing Officer.

(C) Hearings/appeals.

1) An order issued by the Enforcement Authority is subject to review at a hearing conducted by the Hearing Officer as provided in IC 36-7-9-7.
(a) The Hearing Officer may affirm, rescind or modify the order as provided in IC 36-7-9-7(d).

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

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

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

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

(Ord. G-03-09, passed 2-24-09; Am. Ord. G-19-12, passed 6-12-12)

§ 152.14 ADMINISTRATION AND ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. **Appointment and terms.** The Safe Housing and Building Oversight Committee shall be appointed:
   
   (a) On January 1 of each year.
   
   (b) To serve a three-year term, terms to be staggered. No limit shall be set on numbers of terms a committee member can serve. All members are to serve without compensation.
   
   (c) At the outset by the Mayor: Two persons to serve one year; two persons to serve two years; and two persons to serve three years. The Common Council appointees shall serve two years.

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

   (a) The Secretary shall be charged with the duty of keeping and maintaining the necessary minutes and other records.
   
   (b) In the absence of the Chair at a meeting, the Secretary shall chair the meeting.

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

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

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

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