

' **156.03 DEFINITIONS.**

***UNSAFE BUILDING.*** A building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) Hazard to the public health;
- (4) A public nuisance;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building conditions or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance.

***UNSAFE PREMISES.*** The tract of real estate on which an unsafe building is located.  
(Ord. 1362, passed 6-21-04; Am. Ord. 1485, passed 7-7-14)

' **156.04 MINIMUM STANDARDS FOR ALL STRUCTURES.**

No building, accessory building, or garage, whether used for residential, commercial, industrial or other purposes, shall fail to comply with the following requirements:

(A) Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(B) Every foundation, floor, wall, ceiling, and roof shall:

- (1) Be reasonably weather tight and rodent proof;
- (2) Be capable of affording privacy; and
- (3) Be kept in good repair.

(C) The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the building. Roof drainage, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a hazard on the premises of adjacent property that is contrary to other city ordinances and provisions.

(D) Every window, exterior door, and basement hatchway shall be reasonably weather tight and rodent proof, and shall be kept in sound working condition and good repair. All glazing materials shall be maintained free from cracks and holes.

(E) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair. Metal fire escapes shall be maintained in a rust free condition.

(F) Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(G) All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted.

(H) All cornices, belt coursed, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(I) All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts, and similar overhang extensions 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 against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(J) Any pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(K) All additions or improvements to any building or structure must be made in accordance with the city Building Code.

(L) All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon.

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

(N) Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged or to collapse and thereby injure persons or damage property.

(O) The building or structure shall not be unsafe for the purpose for which it is being used.

(P) The building or structure shall not be in such a condition that it is likely to partially or completely collapse due to:

(1) Dilapidation, deterioration, or decay;

(2) Faulty construction; or

(3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or the deterioration, decay or inadequacy of its foundation.

(Q) Exterior walls or other vertical structural members shall not 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 base.

(R) The building or structure, exclusive of the foundation, shall not show 33% or more damage or deterioration of its supporting member or members or 50% damage or deterioration of its non-supporting members, enclosings, or outside walls or coverings.

(S) The building or structure shall not have less than 66% of the strength, fire resisting qualities or characteristics, or weather resisting qualities or characteristics required by law in the case of newly constructed building of like area, height or occupancy in the same location.

(T) The building shall not be so damaged by fire, earthquake, flood or any other cause that the structural strength and stability is materially less than it was before the catastrophe, and is less than the minimum requirements for new buildings of similar structure, purpose or location.

(U) The building or structure shall not be so damaged by fire, wind, earthquake or flood that it has become so dilapidated and deteriorated as it becomes freely accessible to persons.

(V) The building or structure shall not, because of obsolescence, dilapidated condition, deterioration, damage, lack of sufficient fire resistive construction, electrical wiring, gas connection, or heating apparatus become a fire hazard.

(W) A portion of the building or structure shall not remain on the real estate more than three months after demolition or destruction.

(Ord. 1362, passed 6-21-04; Am. Ord. 1485, passed 7-7-14)

#### **' 156.05 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.**

No person shall occupy as owner-occupant 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:

(A) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water system and sewer system, approved by the city.

(B) Every dwelling unit, except as otherwise permitted under division (D), shall contain a room, which affords privacy to a person within said room, and which is equipped with a flush toilet and a bathroom sink in good working condition, properly connected to a water and sewer system approved by the city.

(C) Every dwelling unit, except as otherwise permitted under division (D), shall contain within a room which affords privacy to a person within said room, a bathtub or a shower in good working condition and properly connected to a water and sewer system approved by the city.

(D) The occupants of a dwelling containing not more than two dwelling units may share a single flush toilet, a single bathroom sink, and a single bathtub or shower if:

(1) Neither of the two dwelling units contains more than two rooms; provided, that for the purposes of this subsection, a kitchenette or an efficiency kitchen with less than 60 square feet floor area shall not be counted as a room; and

(2) The habitable area of each of the dwelling units shall equal not more than 250 square feet of floor area; and

(3) The toilet, bathroom sink and bathtub or shower shall be in good working condition and properly connected to water and sewer systems approved by the city.

(E) Every kitchen sink, bathroom sink, and bathtub or shower required under the provisions of this section shall be properly connected with both hot and cold water lines when used for rental or lease occupancy.

(F) Every dwelling when used for rental or lease occupancy shall have supplied water-heating facilities which are properly installed, maintained in a safe and good working condition, properly connected with the hot water lines required under the provisions of division (E), and are capable of heating water to such temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, bathroom sink, bathtub or shower at a temperature of not less than 120E Fahrenheit. Such supplied water heating facilities shall be capable of meeting the requirements of this section when the dwelling unit heating facilities required under the provisions of ' 156.06(H) are not in operation.

(G) Every dwelling unit shall have the correct house or apartment number displayed in numerals as required by " 150.55 et seq. as may be amended from time to time.

(H) Every dwelling unit shall be supplied with adequate solid waste disposal facilities and storage container.

(Ord. 1362, passed 6-21-04)

#### **' 156.06 MINIMUM STANDARDS FOR LIGHT, VENTILATION, EGRESS AND HEATING.**

No person shall occupy as owner-occupant 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:

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

(B) 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 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-obstruction 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 included as contribution 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.

(C) Every habitable room shall have at least one window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total of operable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size, as required in division (B), except where there is supplied some other device affording adequate ventilation and approved by the Inspection Officer.

(D) Every bathroom with tub and or shower shall comply with the light and ventilation requirements for habitable rooms contained in ' 156.06(B) and (C), except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an operable ceiling electrical exhaust fan.

(E) In order to provide for the safe ventilation and provide for the safety of children, dwelling units, which do not have central air conditioning systems, shall have fitted screens in good repair on all operable windows. Windows in rooms used for sleeping purposes must have screens. Every window and door opening to the outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens unless the entire dwelling unit is adequately air-conditioned.

(F) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents and/or insects shall be supplied with a screen or such other device as will effectively prevent their entry.

(G) Every dwelling unit shall have at least one safe, unobstructed means of egress leading to a safe and open space at ground level; and every bedroom shall have at least one operable egress window or exterior door. The sill height of an egress window shall not be higher than 44 inches above the floor. The minimum opening area for an egress window shall be 5.7 square feet. The minimum clear opening height of all egress windows shall be 22 inches, and the minimum width of all egress windows shall be 20 inches.

(H) Every dwelling shall have heating facilities which are properly installed, maintained in safe and good working condition, and are capable of safely and adequately heating all habitable room, bathrooms, and rooms in every dwelling unit located therein to a temperature of at least 68E Fahrenheit, at a point three feet above the floor and two feet from exterior walls.

(I) Every public hall and stairway in every dwelling containing three or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than three dwellings units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of full-time lighting.

(Ord. 1362, passed 6-21-04)

#### **' 156.07 SAFE AND SANITARY MAINTENANCE.**

No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(A) The exterior doors, including any exterior basement entrance, and every exterior window shall be supplied with a lock. The owner must supply locks and the owner and occupant shall have the right to the keys for entry to the leased space.

(B) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

(C) Every toilet room floor and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(D) No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from, shut off from, or discontinued from any occupied dwelling let or occupied by him or her, except for such temporary interruption as may be necessary when actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the Inspection officer. Provided, however, that this division is not intended to require an owner to continue to serve utilities or heat to a premises occupied by a tenant who has not paid his or her rent or utilities.

(E) Every dwelling unit shall have its own metering system for natural gas, water, electricity or any other utility provided in the dwelling. If this requirement is not met, the owner of the dwelling must have the utilities that are not metered separately in his or her own name. Separation of water meters must comply with the provisions of " 50.15 et seq.  
(Ord. 1362, passed 6-21-04)

#### **' 156.08 MINIMUM SPACE, USE AND LOCATION REQUIREMENTS.**

No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(A) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof, and at least 100 additional square feet of floor space to be calculated on the basis of total habitable room area.

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

(C) At least one-half 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 of the room for the purpose of determining the maximum permissible occupancy thereof.

(D) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by an occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

(E) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet room if said arrangements are deemed to be unsafe.

(F) No basement space shall be used as a habitable room or dwelling unit unless:

(1) The floor and wall are impervious to leakage of underground and surface runoff water and are insulated against dampness;

(2) The total window area in each room is equal to at least the minimum window area sizes as required in ' 156.06(B);

(3) The required minimum window area is located entirely above the grade of the ground adjoining such window area; and

(4) The total operable window area in each room is equal to at least the minimum as required under ' 156.06(C), except where there is supplied some other device affording ventilation, which is approved by the Inspection Officer.

(Ord. 1362, passed 6-21-04; Am. Ord. 1485, passed 7-7-14)

### **' 156.09 RESPONSIBILITIES OF OWNER AND OCCUPANTS.**

(A) 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 areas of the dwelling and premises thereof.

(B) Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling unit and premises thereof in which he or she occupies and controls.

(C) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition, and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(D) Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double doors, storm doors, and windows whenever the same are required under the provisions of this chapter, except where the owner has agreed to supply such service.

(E) Every occupant of a dwelling or dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(F) Every occupant of a dwelling or dwelling unit shall dispose of all his or her solid waste, appliances, furniture and bulky items in a sanitary manner. This provision does not relieve the owner of the responsibility to maintain his or her property in a clean and sanitary condition.

(G) Every occupant of a dwelling or dwelling unit shall dispose of all his or her solid waste, which might provide food for rodents in a clean and sanitary manner by placing it in solid waste disposal facilities or solid waste storage containers required by ' 156.05(H). It shall be the responsibility and duty of the owner of any building containing more than one dwelling unit to supply the required solid waste disposal facilities and solid waste container as provided in ' 156.05(H). In all other cases, it shall be the responsibility of the occupant to furnish such facilities or containers.

(Ord. 1362, passed 6-21-04)

### **' 156.13 INSPECTION.**

(A) The Inspection Officers are authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units, and any other building or structure, and premises within the city in order that they may perform their duties of safeguarding the health and safety of the occupants and the general public.

(1) The Inspection Officers are authorized to enter, examine and survey, at all reasonable times, all rental units. The owner or the owner's representative, and/or occupant of every rental unit shall give the Inspection Officer free access to such rental unit and its premises at all reasonable times for the purpose of such inspection, examination and survey, provided, however, that such Inspection Officer has, prior to entry thereof, positively identified himself or herself as a person authorized pursuant to this chapter to enter upon said premises. At the time of each inspection, all pets must be controlled so that the Inspection Officer can move about the dwelling and surrounding property without interruption.

(2) The owner or the owner's representative shall be entitled to 72 hours written notice from the Inspection Officer prior to conducting the inspection, examination or survey. The owner or the owner's representative shall be responsible for notifying the occupant of the rental unit of the inspection when he or she receives notice of the intent to inspect from the Inspection Officer.

(3) This provision shall not be construed to limit or restrain the right of the Inspection Officer to make an inspection of any other building or premises pursuant to any of the provisions of I.C. 36-7-9-1 et al.

(B) Except as provided at division (A)(2) above, every rental unit operated and maintained in the city shall be inspected by the Code Enforcement Officer or his designee at least one time during the term

### **' 156.14 ENFORCEMENT.**

(A) If a cited violation is not corrected within the designated time, and the Code Enforcement Officer finds that the building is unsafe within the meaning of I.C. 36-7-9-4, the Code Enforcement Officer may issue an order requiring any of the following:

- (1) Vacating of an unsafe building;
- (2) Removal of an unsafe building;
- (3) Removal of part of an unsafe building;
- (4) Sealing an unsafe building against intrusion by unauthorized persons;
- (5) Requiring, for an unsafe building that will be sealed for a period of more than 90 days:
  - (a) Sealing against intrusion by unauthorized persons and the effects of weather;
  - (b) Exterior improvements to make the building compatible in appearance with other buildings in the area; and
  - (c) Continuing maintenance and upkeep to the building and premises;



(6) Extermination of vermin in and about the unsafe premises;

(7) Removal of trash, debris or fire hazardous material in and about the unsafe premises; or

(8) Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use prescribed by a statute or this chapter.

(B) The order supercedes any permit relating to the building or land use, whether that permit is obtained before or after the order is issued.

(C) The order issued pursuant to division (A) shall contain the following:

(1) The name of the person to whom the order is issued;

(2) The legal description or address of the unsafe premises that is the subject of the order;

(3) The action that the order requires;

(4) The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) If a hearing is required, a statement indicating the exact time and place of the hearing, and stating that a person to whom the order was issued is entitled to appear at that hearing with or without counsel, present evidence, cross-examine opposing witness, and present arguments;

(6) If a hearing is not required, a statement that an order under this section becomes final ten days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, a life estate interest or an equitable interest of a contract purchased in an unsafe premises, and the request is delivered to the Clerk-Treasurer's Office before the end of the ten day period;

(7) A statement briefly indicating what action can be taken by the Code Enforcement Officer if the order is not complied with;

(8) A statement indicating the obligation created by I.C. 36-7-9-27 relating to the notification of subsequent interest holders and the Code Enforcement Officer; and

(9) The name, address and telephone number of the Code Enforcement Officer.

(D) The order must allow a sufficient time, at least ten days from the time when the notice of the order is given, to accomplish the required action.

(E) A hearing before the Board of Public Works and Safety must be held relative to each order of the Code Enforcement Officer, except for an order issued under division (A)(4), (6) and (7). A hearing shall be conducted before the Board of Public Works and Safety for all other orders to the Code Enforcement Officer under this section.

(F) The hearing shall be held on a business day no earlier than ten days after notice of the order is given. The Board of Public Works and Safety shall grant a continuance of the scheduled hearing if requested in writing by a person holding a substantial property interest in the affected real estate, if such request is received not later than five days after the notice is given. Such continuance shall be for a period of not more than 14 days past the original date of the hearing.

(G) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the Board of Public Works and Safety may grant the request. However, as a condition for allowing the additional period, the Board of Public Works and Safety may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(H) Notice to the owner and all other holders of a substantial property interest shall be deemed sufficient if the notice is given pursuant to the provisions of I.C. 36-7-9-25.

(I) The Board of Public Works and Safety, after having given notice of the time and place of a public hearing by publication in accordance with I.C. 5-3-1, shall adopt a schedule setting forth the maximum amount of performance bonds applicable to the various types of ordered action. The Board of Public Works and Safety shall use this schedule to fix the amount of the performance bond required under the previous division.

(J) At the conclusion of any hearing before the Board of Public Works and Safety, the hearing authority may make findings and take action to affirm the Code Enforcement Officer's order, rescind the Code Enforcement Officer's order, or modify the Code Enforcement Officer's order. However, unless the person to whom the order was issued or counsel for the person to whom the order was issued is present at the hearing, the Board of Public Works and Safety may not modify the order so that it is more stringent than the Code Enforcement Officer's original order.

(K) The findings made and action taken by the Board of Public Works and Safety shall be in writing and shall be available to the public upon request. However, neither the Code Enforcement Officer nor the Board of Public Works and Safety is required to give any notice of the findings and action to other than those persons having a substantial property interest.

(L) If the Code Enforcement Officer finds it necessary to take emergency action concerning unsafe premises in order to protect life, public safety or property, he or she may take that action without issuing an order or giving notice to any person having a substantial property interest. However, this emergency action must be limited to removing any immediate danger. Such action shall be taken only when it is not feasible to give notice and hold hearings as provided by division (C). Any person to whom such emergency action is directed shall comply therewith but shall be afforded a hearing before the Board of Public Works and Safety as soon as possible.

(M) The Board of Public Works and Safety may recover the costs incurred by taking emergency action, by filing a civil action in the Circuit or Superior Courts of Elkhart County against persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the Code Enforcement Officer found it necessary to take the emergency action.

(N) Any person required to vacate an unsafe premises under the emergency action of this section may challenge the emergency action to vacate in the Circuit or Superior Courts of Elkhart County by challenging the Code Enforcement Officer's determination that there is an immediate danger to life or

safety of any person. The Code Enforcement Officer shall have the burden of providing that an emergency action is necessary to prevent immediate danger to the life and safety of any person occupying or using nearby property.

(O) If a cited violation is not corrected within the designated time period and the Code Enforcement Officer finds the building is unsafe within the meaning of I.C. 36-7-9-4, the city may file a complaint with the Elkhart Superior Courts, or Elkhart Circuit Courts to assess any fine provided by this code, to seek an injunction as provided by I.C. 36-7-9-18, or any sanction allowed by I.C. 36-7-9-1 through I.C. 36-7-9-28 inclusive.

(P) If a cited violation is not corrected within the designated time period and the Code Enforcement Officer does not find that the building is unsafe within the meaning of I.C. 36-7-9-4, the city may file a complaint with Elkhart Superior Courts or the Elkhart Circuit Courts to assess any fine provided by this chapter.

(Q) Any rental unit for which the Code Enforcement Office has issued an order finding the building or premises to be unsafe shall be so designated and placarded by the Inspection Officer.

(R) No rental unit, which is placarded as unsafe, shall again be used for human habitation until the written approval is secured from the Code Enforcement Office, Board of Public Works and Safety, or a court of law. The Inspection Officer shall remove the placard whenever the defect or defects upon which the finding that the building is unsafe have been eliminated.

(S) No person shall deface or remove any notification of the Inspection Officer that any rental unit has been declared unsafe for human habitation.

(T) The order of the Board of Public Works and Safety expires two years after the notice of order is given unless one or more of the following events occur within that two year period:

(1) A complaint requesting judicial review is filed by any party having a substantial property interest;

(2) A contract for action required by the order is let at public bid; or

(3) A civil action concerning the property is filed either by the city or any person having a substantial property interest.

(U) This chapter specifically adopts the provisions of the Indiana Unsafe Building Law, which are included in I.C. 36-7-9-1 through 36-7-9-28 inclusive.

(Ord. 1362, passed 6-21-04)

(Ord. 1362, passed 6-21-04; Am. Ord. 1485, passed 7-7-14)