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§155.01 DEFINITIONS.

For the purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

"ADULT OCCUPANT." Any person over eighteen years of age, including owner or operators, living and sleeping in a dwelling unit or having actual possession of the dwelling or rooming unit.

"APPROVED." As applied to material, device, or method of construction, official sanction given by the building commissioner or other official authorized by or designated by the building commissioner or by law to give official sanction in the matter in question.

"BASEMENT." A portion of the building partly underground, but having **more than** half of its clear height below the average grade of the adjoining ground. (See "CELLAR.")

"BOARDING HOUSE." A building not open to transients, where lodging and/or meals are provided regularly for not less than 3 nor more than 30 persons; a lodging house.

"BUILDING CODE." Any code officially adopted or officially designated by the legislative body of the municipality for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of buildings and structures.

"BUILDING COMMISSIONER." The official designated by the municipality to enforce building, housing quality, zoning, or similar laws, or his duly authorized representative.

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

"EXTERIOR PROPERTY AREAS." 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 the harborage place; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

"GARBAGE." The animal, vegetable and mineral wastes resulting from the handling, preparation, cooking, and consumption of food.

"GROSS FLOOR AREA." The total area of all habitable space in a building or structure.

"HABITABLE ROOM." A room or enclosed floor space arranged for living, eating, or sleeping purposes, not including bathrooms, water closet compartments, laundries, pantries, foyers, hallways,

and other accessory floor spaces.

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

"OPENABLE AREA." That part of a window 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 dwelling unit or rooming house in which rental units or rooming units are let for occupancy.

"OWNER." Any person or legal entity having a legal or equitable interest in the property.

"PERSON." A natural person or any legal entity.

"PLUMBING OR PLUMBING FIXTURES." Water heating facilities, water pipes, gas pipes, garbage and disposal units waste lavatories, bathtubs, shower baths, installed clothes washing machines. or other similar equipment, catch basins. drains. vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

"PREMISES." A lot, plot, or parcel of land including the buildings or structures thereon.

"RENTAL BUILDING." A building containing one or more rental units.

"RENTAL DWELLING UNIT.-" A dwelling unit in residential premises covered by a tenancy agreement.

"RENTAL UNIT." Rented dwelling unit or rooming unit.

"ROOMING HOUSE." Any residence building. or any part thereof, containing one or more rental units, in which space is let by the owner or operator to more than 3 persons who are not members of the family.

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

"RUBBISH. " Combustible and noncombustible waste materials, except garbage; and shall include without limitation 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, dust, and other similar materials.

"TENANT." Any person entitled to occupy a rental unit under a tenancy agreement to the exclusion of others.

"TENANCY AGREEMENT." All agreements, written, oral or implied, and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit and premises.

"TRANSIENT OCCUPANCY". Occupancy which is less than two weeks duration in the same or similar units owned by the same owner.

"VENTILATION." The process of supplying and removing air by natural or mechanical means to or from any space, and shall include:

(A) "MECHANICAL." Ventilation by power-driven devices.

(B) "NATURAL." Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks, without wind-driven devices.

"WORKMANLIKE." Made in a reasonably skillful manner consistent with local standards and in conformance with legally required standards.

"YARD." An open unoccupied space on the same lot with a building, extending along the entire length of the front, or rear or side lot-line.

§155.02 TITLE; PURPOSE; SCOPE.

(A) Title. This chapter, together with any revisions, amendments, restatements, or additions thereto, and all matters included therein by reference, shall be known as the "Minimum Housing Standards Code of the City of Muncie, Indiana." It may be referred to and cited as the "Muncie Housing Code of 2002."

(B) Purpose. The purpose of this chapter is to protect the public health, safety, and welfare in buildings and premises used for dwelling purposes as hereinafter provided:

(1) Establishing minimum standards for basic equipment and facilities for light, ventilation, heating, and sanitation; for safety from fire; for space, use, and location; for parking; for safe and sanitary maintenance; and for cooking equipment in all dwellings.

(2) Fixing the responsibilities of owners, operators, and occupants of dwellings;

(3) Providing for administration, enforcement, and penalties.

(C) Scope. The provisions of this chapter shall apply to all structures used for human habitation, which are now, or may in the future become, substandard with respect to structure, protection against fire hazards, equipment or maintenance, inadequate provisions for light and air, lack of proper heating, unsanitary conditions, and overcrowding, or otherwise may be deemed to constitute a menace to the safety, health, or welfare of their occupant. The existence of such conditions, factors, or characteristics adversely affect public safety, health, and welfare, and lead to the continuation, extension, and aggravation of urban blight. Adequate protection of the public, therefore, requires the establishment and enforcement of these minimum housing standards.

(D) Travel trailers and mobile homes. All movable units used for human habitation, and the areas, grounds, or parcels on which they are located, as provided for in the laws or ordinances of the city applicable thereto, shall comply with the requirements of this chapter.

§ 155.03 APPLICABILITY.

Every portion of a building or premise used or intended to be used for residential purposes, except hotels and motels having transient guests only, rest homes, convalescent homes, and nursing homes, shall comply with the provisions of this chapter, except as hereinafter provided.

(A) Application of building code and zoning laws. Any alterations to buildings, or changes of use therein, which may be caused directly or indirectly by the enforcement of this chapter shall be done in accordance with applicable sections of the then existing building code and zoning laws of the municipality.

(B) Conflict with other ordinances. In any case where a provision of this chapter is found to be in conflict with the provision of any zoning, building, fire, safety, or health ordinance of the city existing on the effective date of this chapter, the provision which establishes the higher standard protection of the safety and health of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance of this municipality, existing on the effective date of this chapter, which establishes a lower standard for the promotion and protection of the safety and health of the people, the provisions of this chapter shall prevail.

(C) Existing buildings. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, alteration, or use of buildings, equipment, or facilities.

(D) Where it is determined that there is a condition in any building which is hazardous to human life or health or to adjoining property and in violation of this housing code, the Building Commissioner shall have full power and authority to require changes or alterations therein regardless of whether the buildings were built in compliance with laws applicable at the time or whether there was no applicable law within the scope of this section at the time of construction.

§ 155.04 EXISTING REMEDIES.

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary.

ADMINISTRATION AND ENFORCEMENT

§ 155.05 ENFORCEMENT AUTHORITY; COORDINATION OF ENFORCEMENT.

(A) Enforcement officer. It shall be the duty and responsibility of the building commissioner of the municipality to enforce the provisions of the housing code as hereby provided.

(B) Coordination of Enforcement. Inspection of premises and the issuing of orders in connection therewith under the provisions of this chapter shall be the exclusive responsibility of the building commissioner of the municipality. Wherever, in the opinion of the building commissioner, it is necessary or desirable to have inspection of any condition by any other department, he shall arrange for this to be done in such a manner that the owners or occupants of the building shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders.

§ 155.06 ADMINISTRATIVE LIABILITY.

(A) Administrative liability. Except as may otherwise be provided by statute or local law or ordinance, no officer, agent, or employee of the municipality charged with the enforcement of the

housing code shall be held personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his duties under this chapter. No person who institutes or assists in the prosecution of a criminal proceeding under this chapter shall be liable to damages hereunder unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any suit brought against any officer, agent, or employee of the municipality, as a result of any act required or permitted in the discharge of his duties under this chapter, shall be defended by the legal representative of the municipality until the final determination of the proceedings therein.

§ 1 55.07 INSPECTIONS AND CITATIONS

(A) The Building Commissioner or authorized representative shall perform inspections and enforce the provisions of this Code 1) upon complaint of a code violation, or 2) whenever the Commissioner has cause to believe that a structure or premise does not comply with the provisions of this Code.

(B) Notice of Inspection. Citations.

(1) Prior to the inspection, written notice of the inspection shall be given to the owner or the owner's agent and to the occupant at least seven (7) days prior to the date of inspection by certified mail, by personal service, or by leaving a copy at the structure to be inspected. If service is by personal delivery or leaving a copy at the structure, service shall also be made by ordinary mail to the last known address of the person being served. The Building Commissioner shall in each instance keep a record of the service of the notice. If the Building Commissioner determines there is a potential condition hazardous to life or health, or property, the inspection may be made immediately and the notice served contemporaneously therewith.

(2) The notice shall show the date and time the inspection will be made, the address of the property to be inspected, the nature of the inspection and reason therefore, and such other information as the Building Commissioner shall deem pertinent.

(C) Every owner and every occupant of a dwelling unit shall give the Building Commissioner or his authorized representative access to any part of the dwelling unit and its premises for the purpose of making inspections, and every occupant shall give the owner or the owners agent access thereto for the purpose of maintenance, repair or alterations necessary to comply with the provisions of this Code.

(D) Notice & Citation. Upon completion of the inspection, if the Building Commissioner finds a violation of any provision of this code, a notice specifying the violation(s) shall be issued and served upon the owner and the occupant in the manner set forth in Section B hereof The violations shall be cured within 30 days from the date of receipt of the notice. If the violations are **not cured within 30 days**, with no extension granted, the Building Commissioner shall cause a citation to be filed by the city legal representative against the owner or operator. Upon good cause shown why the

violation(s) cannot be cured within 30 days, the Building Commissioner may in his discretion extend in writing the time for curative work for a definite period of time, not to exceed 60 days.

CONDEMNATION

§ 155.10 DANGEROUS STRUCTURES; STRUCTURES UNFIT FOR HUMAN OCCUPANCY.

(A) Dangerous structures. If all or part of any building or structure, including, among others, a fence, billboard, or sign, or the equipment for the operation thereof, the heating plant, plumbing, electric wiring, moving stairways, elevators, and fire extinguishing apparatus, shall be found, in the opinion of the building commissioner, to be in an unsafe condition dangerous to life, health, or property, he shall proceed to have the same condemned pursuant to the applicable laws pertaining to unsafe structures.

(B) Structures unfit for human occupancy. Whenever the building commissioner finds that any dwelling constitutes a hazard to the safety, health, or welfare of the occupants, or to the public, because it lacks maintenance; or is in disrepair, unsanitary, vermin-infested, or rodent infested; or because it lacks the sanitary facilities or equipment; or otherwise fails to comply with the minimum provisions of this chapter, but has not yet reached such state of complete disrepair as to be condemned as a dangerous structure, as hereinbefore provided, he may declare such dwelling as unfit for human habitation, and order it to be vacated.

(C) Unlawful structure. If any dwelling, or any part thereof, is occupied by more occupants than permitted under this chapter, or was erected, altered, or occupied contrary to law, such dwelling shall be deemed an unlawful structure, and the building commissioner may cause such dwelling to be vacated. It shall be unlawful to again occupy such dwelling until it or its occupation as the case may be, has been made to conform to the law.

§155.11 NOTICE

(A) Notice. Notice of the declaration of any building as unfit for human habitation, and the order to vacate it shall be served as provided in the following sections. When the condition requires the removal or demolition of the building, such notice shall be given as provided in the building code or any other laws or ordinances of the municipality pertaining to unsafe buildings.

(B) Posting of notice. Any dwelling declared as unfit for human habitation shall be posted with a placard by the building commissioner. The placard shall include the following:

- (1) Name of City;
- (2) The name of the authorized department having jurisdiction;

(3) The section of the chapter under which it is issued;

(4) An order that the dwelling, when vacated, must remain vacated until the provisions of the order are complied with and the order to vacate is withdrawn;

(5) The date that the placard is posted;

(6) A statement of the penalty for defacing or removal of the placard.

(C) Form of notice. Whenever the building commissioner has declared a dwelling as unfit for human habitation, he shall give notice to the owner of such declaration and placarding of the dwelling as unfit for human habitation. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate, sufficient for identification;

(3) Include a statement of the reason or reasons why it is being issued;

(4) State the time to correct the condition;

(5.) State the time occupants must vacate the dwelling units.

§ 1 55.12 SERVICE OF NOTICE.

Service of notice to vacate shall be made on the occupant and owner as follows:

(A) By delivering to the owner and occupant personally; or,

(B) By sending a copy of the notice to vacate by certified mail to the last known address of the owner. and by sending a copy by certified mail addressed to the occupant; or

(C) By publication of the notice in a local newspaper of general circulation for 3 consecutive days, if all other methods of service shall fail.

§ 1 55.13 REMOVAL OF PLACARD OR NOTICE.

No person shall deface or remove the placard from any dwelling which has been declared or placarded as unfit for human habitation, except by authority in writing from the building commissioner.

§ 155.14 VACATION OF DECLARED BUILDING.

Any dwelling which has been declared and placarded by the building commissioner as unfit for human habitation shall be vacated within a reasonable time as required by the building commissioner, and it shall be unlawful for any owner or operator to let such dwelling or dwelling unit therein to any person for human habitation. After the date set forth in the placard, no person shall occupy any dwelling which has been declared or placarded by the building commissioner as unfit for human habitation. If the building commissioner determines that the structure presents an immediate threat to life or health, the immediate vacation of the dwelling may be ordered. Extensions of time may be granted for good reason, in sole judgment of the building commissioner.

§ 155.15 OCCUPANCY OF BUILDING.

No dwelling which has been declared or placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the building commissioner, who shall remove such placard, whenever the defect or defects upon which the declaration and placarding action were based have been eliminated. The building commissioner shall reinspect such dwelling within 3 working days after notification of correction.

§ 155.16 REPORT OF NOTICE TO VACATE.

The building commissioner shall furnish to any other designated officials in the municipality concerned therewith, a copy of each notice to vacate a building.

§ 155.20 TENANCY AGREEMENTS

(A) Any person operating a rental unit shall have a written tenancy agreement with each adult individual dwelling on the premises. This agreement shall include the name, address and phone number of the owner of the property and the agent, if any, for the owner, and shall include or be accompanied by information summarizing current city codes, on a form provided by the Building Inspector, including but not limited to the following:

(1) Trash placement and disposal, including proper containers, regular trash pickup day, placement of containers, and other restrictions desired by the owner.

(2) Noise ordinances, including noise limits for appliances, machinery, and social gatherings.

(3) Parking for vehicles, including:

(a) Provisions and designations for legal off-street parking as required by city codes.

(b) A summary of any on-street parking regulations for both sides of any street contiguous with the rental unit.

(4) Legal limitations on number of occupants.

(B) A person operating a rental unit shall execute and shall secure from each tenant an executed affidavit of occupancy on a form to be provided by the Building Commissioner. The affidavit(s) shall be kept by the person operating the rental unit and each tenant shall retain a copy

at the rental unit.

§155.21 VARIANCES. No variance in the application of the provisions of this chapter shall be made by the, Building Commissioner relating to dwellings, or premises now existing or to be constructed, unless, after a public hearing, the Building Commissioner shall find that the structure or the plans and specifications for the construction of any such structure are substantially in keeping with the intent and purposes of this chapter, and that the granting of such variance will not be detrimental to the public health, safety, and welfare. No variance will be granted if such structure or premises are in violation of any existing building, zoning, or other ordinances of the municipality.

An application for a variance shall be in writing and verified, and specifically state all facts in support thereof, on forms provided by the Building Commissioner. The applicant shall conclusively prove that he cannot secure reasonable use of the property if compelled to comply with this ordinance, that he suffers a hardship as defined herein, resulting from the provisions of the ordinance. that the hardship claimed is suffered by his property directly, not merely by other properties, and is not the result of applicant's own actions. The applicant must prove and the Building Commissioner must find that there are peculiar circumstances applicable to the property or its intended use that do not apply generally to other property in the neighborhood, that the variance will not be detrimental to public welfare or to property in the neighborhood, and that it will not be contrary to the goals of this ordinance. It is not a hardship that the property would be worth more or produce more income if the variance were granted.

The variance shall be subject to public bearing and the Building Commissioner shall publish notice of the hearing in a newspaper of general circulation in the city at least ten days prior to the hearing. The applicant shall cause the notice to be published and pay all cost therefore. The applicant shall submit a complete list of all surrounding property owners within a 300 foot radius of the property.. together with addressed envelopes and postage necessary to mail the hearing notice to such owners. All hearings shall be open to the public and the applicant may appear in person and/or by an agent or attorney. The decision of the Building Commissioner shall be made within 30 days of the hearing and shall be final with no further appeal.

ENVIRONMENTAL REQUIREMENTS

§155.25 EXTERIOR PROPERTY AREA.

(A) The provisions of this section shall govern the minimum conditions of property and buildings to be used for human occupancy. Every building or structure occupied by human beings, and the premises on which it stands, shall comply with the conditions herein prescribed as they May apply thereto.

(B) No person shall occupy as owner-occupant or let to another for occupancy for the purpose of living therein, any premises or dwelling unit which do not comply with the following requirements.

(l) Sanitation. All exterior property areas shall be maintained in a clean and sanitary

condition, free from any accumulation of rubbish or garbage.

(2) Grading and drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon or within any building or structure located thereon.

(3) Noxious weeds. All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.

(4) Accessory structures. All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.

§ 155.26 EXTERIOR STRUCTURE.

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

(A) Foundations, walls, and roof. Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to prevent the presence of rodents.

(B) Foundations. The foundation elements shall adequately support the building at all times.

(C) Exterior walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other condition which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building.

(D) Roofs. The roof shall be structurally sound, and have no defects which might admit rain; and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building.

(E) Stairs, porches, and railings. Stairs and other exit facilities shall be adequate for safety as provided in any other codes or ordinances of the municipality regulating construction, alteration, or repair and maintenance of buildings and structures, and shall comply with the following:

(1) Structural safety. Every outside stair, every porch, and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the building code of the city, and shall be kept in sound condition and good repair.

(2) Handrails. Where the building commissioner deems it necessary for safety, every flight of stairs which is more than 2 risers high shall have handrails which shall be located as required by the building code: and every porch which is more than 2 risers high shall have handrails so located and of such design as required by the building code. Every handrail and balustrade shall

be firmly fastened and shall be maintained in good condition.

(F) Windows.

(1) Windows, doors, and hatchways. Every window, exterior door, and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.

(2) Windows to be glazed. Every window sash shall be fully supplied with glass window panes or approved substitutes which are without open cracks or holes.

(3) Windows to be tight. Every window sash shall be in good condition and fit reasonably tight within its frame.

(4) Windows to be openable. Every window, other than a fixed window, shall be capable of being easily opened, and shall be held position by window hardware.

(G) Doors.

(1) Door hardware. Every exterior door, door hinge, and door latch shall be maintained in good condition.

(2) Doors to fit in frame. Every exterior door, when closed, shall fit reasonably well within its frame.

(3) Window and door frames to fit in wall. Every window, door, and frame shall be constructed and maintained in such relation to the adjacent wall construction as to exclude rain as completely as possible, and to substantially exclude wind from entering dwellings.

(4) Basement hatchways. Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage water into the dwelling.

(5) Exit doors. Every door available as an exit shall be capable of being opened from the inside easily and without the use of a key.

(H) Screening. Guards and screens shall be supplied for protection against rodents and insects in accordance with the following requirements:

(1) Guards for basement windows. Every basement or cellar window which is openable shall be supplied with corrosion-resistive rodent-proof shields.

Insect screens. From June 1 to October 15 of each year, **every door, other than steel** or fiberglass doors, opening directly from any dwelling to the outdoors, and every window or outside opening used for ventilation purposes, shall be supplied with a screen.

§ 155.27 INTERIOR STRUCTURE.

No persons shall occupy as owner occupant, or let to another for occupancy, for the purposes of living therein, any dwelling, dwelling unit, rooming house, rooming unit, or portion thereof which does not comply with the following requirements:

(A) Structural members. The supporting structural members of every dwelling used for human habitation shall be maintained structurally sound, showing no evidence of deterioration which would render them incapable of carrying the imposed loads in accordance with the provision of the building code.

(B) Interior stairs and railings. Stairs shall be provided in every dwelling, rooming, and boarding house as required by the building code of the municipality.

(C) Maintained in good repair. All interior stairs of every structure used for human habitation shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped, or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting a load as required by the provisions of the building code of the municipality.

(D) Handrails. Every stairwell and every flight of stairs which is more than 2 risers high shall have handrails and railings located in accordance with the provisions of the building code of the municipality. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustraded railings, capable of bearing normally imposed loads as required by the building code, shall be placed on the open portions of stairs balconies, landings and stairwells.

(E) Bathroom floors. Every toilet and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(F) Sanitation. The interior of every dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept in inside temporary storage facilities as required under § 155.30.

(G) Insect and rodent harborage. Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects or rodents are found, they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precaution shall be taken -to prevent reinfestation.

(H) Extermination from buildings. Every owner and occupant of a dwelling shall be responsible for the extermination of insects, rodents, vermin, or other pests wherever infestation exists in a dwelling unit, or in the shared or public parts of the structure.

(I)Responsibility of owner. Notwithstanding the foregoing provisions, whenever infestation

of rodents is caused by failure of the owner to maintain any dwelling in rodent-proof condition, extermination of such rodents shall be the responsibility of the owner.

SPACE AND OCCUPANCY REQUIREMENTS

§ 155.30 BASIC FACILITIES.

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

(A) Sanitary facilities. The following minimum sanitary facilities shall be supplied and maintained in a sanitary, safe, working condition:

(1) Water closet. Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy and which is equipped with a water closet.

(2) Lavatory. Every dwelling unit shall contain a lavatory which, shall be in the same room with the water closet, or in close proximity thereto;

(3) Bathtub or shower. Every dwelling unit shall contain a room which affords privacy to a person in such room and which is equipped with a bathtub or shower;

(4) Kitchen sink. Every dwelling unit shall contain a kitchen sink apart from the lavatory required in (A) (2) above.

(B) Water.

(1) Water and sewer system. Every kitchen sink, lavatory, basin, bathtub or shower, and water closet required under the provisions of this section shall be properly connected to either a public water and sewer system or to an approved private water and sewer system. All sinks, lavatories, bathtubs, and showers shall be supplied with hot and cold running water;

(2) Water-heating facilities. Every dwelling unit shall be supplied with water-heating facilities which are installed in an approved manner, properly maintained, and properly connected with hot-water lines to the fixtures required to be supplied with hot water in (B) (1) above. Water-heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of heated water to be drawn at every required kitchen sink, lavatory, basin, bathtub, shower and laundry facility or other similar unit.

(C) Heating facilities and incinerators.

(1) Heating facilities. Every dwelling shall have heating facilities, and the owner of the heating facilities shall be required to see that they are properly installed, safely maintained, in good working condition, and that they are capable of safely and adequately heating all habitable rooms,

bathrooms, and toilet rooms located therein to a temperature of at least an average of 70°F., with an outside temperature of -10°F.

(2) Operation of heating and incinerator facilities. Every heating or water-heating facility and incinerator shall be installed and shall operate in accordance with the requirements of the building code or the air pollution control ordinances of the municipality.

(D) Rubbish storage facilities; responsibility for removal of rubbish.

(1) Rubbish storage facilities. Every dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish.

(2) (a) Responsibility for removal of rubbish. Every occupant in a dwelling or dwelling unit therein shall be responsible for the removal of rubbish from such dwelling or dwelling unit and shall be responsible for placing such rubbish in the approved containers for storage of such material.

(b) Every occupant shall be required to maintain the entire demised premises free of rubbish.

(E) There shall be at least one designated, improved, off-street parking space per adult occupant. If a dwelling unit existed prior to the passage of this ordinance with off street parking space which complied with prior requirements, and it is physically impossible to comply with the requirements thereof for off-street parking, the owner may upon proof of the same to the Building Commissioner receive a special permit for the pre-existing non-conforming off-street parking. Parking areas shall meet the following standards:

(1) Parallel parking spaces shall be 8' x 23' minimum;

(2) All other parking spaces shall be 9' x 18' minimum.

(3) Each parking space shall require direct access to an alley or driveway;

(4) Parking spaces created to accommodate parking requirements set forth above for expanded dwelling units must be gravel or paved with a minimum of 1% slope for bituminous/asphalt paving surface, or 1/2% for concrete paving surface.

(F) There shall be an open space ratio (open space area/living area) of no less than 1.2 to 1. The open space requirement shall be met in the side yard, back yard and that portion of the front yard in excess of any set back. The parking area or portion of the front yard contained within any setback shall not be used to meet the requirement.

(G) Parking areas will be limited to rear and/or side yards, except as stated below. No parking will be allowed in front yards except for permitted parking in easement areas presently in place. A front yard is defined as the space bounded by a line extending across the front wall of the house or structure (excluding porches) to the lot line on each side, and by the street right of way line.

(H) Building facades, lawns, and other landscape elements must be maintained on a

regular basis.

(I) Each sleeping area must have at least one primary and one secondary escape route to a fire-rated area.

(J) Each residential unit must have a minimum of eight square feet of window surface per resident.

§ 155.31 INSTALLATION AND MAINTENANCE.

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

(A) Facilities and equipment. All required equipment and all building space and parts in dwellings shall be constructed and maintained so as to properly and safely perform their intended function in accordance with the provisions of the building code of the municipality.

(B) Maintained clean and sanitary. All housing facilities shall be maintained in a clean and sanitary condition by the occupants, so as not to breed insects and rodents or produce dangerous or offensive gases or odors.

(C) Plumbing fixtures. In buildings and structures used for human habitation, water lines, plumbing fixtures, vents, and drains shall be properly installed, connected, and maintained in working order, and shall be kept free from obstructions, leaks, and defects, and capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the building code or plumbing code or any other applicable codes and ordinances of the municipality.

(D) Plumbing systems. In buildings and structures used for human habitation, every plumbing stack, waste, and sewer line shall be so installed and maintained as to function properly, and shall be kept free from obstruction, leaks, and defects, to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the building code or plumbing code of the municipality.

(E) Heating equipment. Every space-heating, cooking, and water-heating device located in a dwelling shall be properly installed, connected, and maintained, and shall be capable of performing the function for which it was designed, in accordance with the provisions of the **building** code or any other code or ordinance of the municipality applicable thereto.

(F) Electrical outlets and fixtures. Every electrical outlet and fixture as required in S 155.33 shall be installed, maintained, and connected to the source of electrical power in accordance with the provisions of the building code or electrical code or any other code or ordinance of the municipality applicable thereto.

(G) Correction of defective system. Where it is found, in the opinion of the building official, that the plumbing or heating system or the electrical system in a building **constitutes** a

hazard to the occupants or to the building, (in the case of the electrical system, by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for other similar reasons,) the building commissioner shall require the defects to be corrected, to eliminate the hazard.

155.32 OCCUPANCY REQUIREMENTS.

No person shall occupy or let to another for occupancy, for the purpose of living therein, any Dwelling until which does not comply with the following requirements:

- (A) Minimum ceiling heights. Habitable rooms in existing buildings shall have a clear ceiling height of not less than 7-1/3 feet, except that in attics or top half stories the ceiling height shall be not less than 7 feet over not less than 1/3 of the area when used for sleeping, study, or similar activity. In calculating the floor area of such rooms, only those portions of the floor area of the room having a clear ceiling height of 5 feet or more may be included.

- (B)
 - (1) All existing and subsequently erected residential structures shall have not less than the following living area per adult occupant:
 - 250 square feet for one
 - 400 square feet for two
 - 650 square feet for three
 - 900 square feet for four
 - 1400 square feet for five
 - 1900 square feet for six

Except that efficiency apartments which have exclusive self-contained cooking and bathroom facilities shall have at least 250 square feet of living area for the first adult occupant and at least 100 square feet of living area for the second adult occupant. The living area shall be calculated on the basis of the total area of all habitable rooms.

More than six adult occupants requires a variance by the Building Commissioner upon good cause shown.

- (C) Required space in sleeping rooms. In every dwelling unit, every room occupied for sleeping purposes by one occupant shall have a minimum gross floor area of at least 90 square feet. Every room, occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet of floor area for each occupant thereof.
- (D) The number of adult occupants shall not exceed twice the number of bedrooms. Common living areas may not be counted as bedrooms. The number of adult occupants shall not exceed 4 times the number of full bathrooms. A full bathroom shall be defined as: a sink, toilet, and

a bathtub or shower.

(E) Access limitation of dwelling unit to commercial uses. No habitable room, bathroom, or water closet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with a food store, barber or beauty shop, doctors' or dentists' examination treatment room, or similar room used for commercial or public purposes. '

"(F) Location of bath in second sleeping room. No residence building or dwelling unit containing two, or more sleeping rooms shall have such room arrangement 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 the room arrangement 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.

(G) Occupancy of dwelling units below grade. No dwelling unit partially below grade shall be used for living purposes unless:

- (1) Floors and walls are watertight;
- (2) Total window area, total openable area, and ceiling height are in accordance with this chapter; and
- (3) Required minimum window area of every habitable room is entirely above the grade of the ground adjoining the window area.

(H) All requirements of this section are cumulative and compliance with one subsection does not relieve compliance with other subsections.

§ 155.33 LIGHT AND VENTILATION.

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

(A) Natural light in habitable room. Every habitable room shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops., for every habitable room shall be 4% of the floor area of such room, except in kitchens where artificial light be provided in accordance with the provisions of the building code or any other code or ordinance of the municipality applicable thereto. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 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 or to a court and shall not be included as contributing to the required minimum total window area for the room.

(B) Light in non-habitable work space. Every laundry, furnace room, and all similar non-

habitable work spaces located in a dwelling shall have one supplied electrical light fixture available at all times.

(C) Light in public halls and stairways. Every public hall and inside stairway in every dwelling shall be adequately lighted at all times with an illumination of at least 5 lumens per square foot in the darkest portion of the normally traveled stairs and passageways.

(D) Electric outlets required. , Every habitable room of the dwelling shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture. In the kitchen, three electric separate such convenience outlets and one ceiling or wall-type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room, or furnace room shall contain at least one electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one electric outlet.

(E) Adequate ventilation. Every habitable room shall have at least one window which can be easily opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size required in (A) above, except where mechanical ventilation is provided in accordance with the provisions of the building code or any other code or ordinance of the municipality applicable thereto.

(F) Ventilation and light in bathroom and water closet. Every bathroom and water closet compartment shall comply with the light and ventilation requirement for habitable rooms as required by (A) and (D) above, except that no window shall be required in bathrooms or water closet compartments equipped with an approved ventilation system.

§ 155.34 MINIMUM REQUIREMENTS FOR SAFETY FROM FIRE.

No person shall occupy as owner occupant, or shall let to another for occupancy, any dwelling, dwelling unit, rooming house, rental unit, lodging house, or lodging unit which does not comply with the applicable provisions of the fire prevention sections of the building code or any other code or ordinance of the municipality providing requirements for safety from fire, and the following additional requirements for safety from fire: All such dwellings shall be equipped with functioning smoke alarms as required by the Muncie City Code.

(A) Storage of flammable liquids prohibited. No dwelling, dwelling unit, or rental unit shall be located within a building containing any area handling, dispensing, or storing flammable liquids with a flash point of 10°F. or lower.

(B) Cooking and heating equipment. All cooking and heating equipment, components, and accessories in every heating, cooking, and water-heating device shall be maintained free from all leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, plumbing code, or any other codes or ordinances of the municipality applicable thereto.

RESPONSIBILITIES OF PERSONS

§ 155.40 SCOPE.

Owners and Occupants of dwellings or dwelling units, and owners or operators of rooming houses shall be responsible for maintenance thereof as provided in this section:

- (A) Cleanliness. Each occupant of a dwelling unit shall keep that part of the unit, and premises thereof, being occupied, controlled, or used, in a clean and sanitary condition.
- (B) Disposal of rubbish. Each occupant of a dwelling unit shall dispose of all his rubbish in a clean and sanitary manner, by placing it in the rubbish containers required in § 155.30 (D).
- (C) Disposal of garbage. Each occupant of a dwelling unit shall dispose of his garbage in a clean and sanitary manner by placing it in the garbage disposal facilities or, if such facilities are not available, by removing all non-burnable matter and securely wrapping such garbage and placing it in a tight metal storage container as required by § 155.30 (D); or by such other disposal method as may be required by applicable laws or ordinances of the municipality. Every occupant shall be required to maintain the entire demised premises free of garbage and rubbish.
- (D) Use and operation of supplied plumbing fixtures. Each occupant of a dwelling unit shall keep the supplied plumbing fixtures therein clean and sanitary, and shall be responsible for the exercise and reasonable care of their proper use and operation.

§ 155.41 PROSECUTION OF VIOLATION.

In case any citation or other lawful order is not promptly complied with, the building commissioner may request the legal representative of the municipality to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation

- (A) To restrain, correct, or remove the violation, or refrain from any further execution of work;
- (B) To restrain or correct the erection, installation, or alteration of a building;
- (C) To require the removal of work in violation;
- (D) To enjoin the occupation and use of the building, structure, or part thereof maintained in violation of any provision of this Code; or
- (E) To enforce the penalty provisions of this Code.
- (F) To secure any other proper remedy.

§ 155. 42 PENALTY

Every person, or legal entity who shall violate any provision of this code shall, upon conviction, be punished by fine. Each day that each violation continues after due notice has been served , shall be deemed a separate offense; provided, that for one (1) offense, no penalty or fine shall exceed one thousand \$1,000.00, nor shall be less than two hundred fifty dollars (\$250.00). A person or entity who commits a second or subsequent offense involving the same building or premise shall be fined not less than five hundred dollars (\$500.00) for each offense.