

Sec. 152.07. Stop order.

Whenever any work is being done contrary to the provisions of this code, the building director may order the work stopped by notice in writing, or attached to the property where the work is being performed, served on any persons engaged in the doing, or causing such work to be done, and any such persons shall forthwith stop the work until authorized by the building director to proceed with the work.

(Ord. No. 26-85, 7-1-85)

Cross reference—Penalty, § 152.99.9.

Sec. 152.08. Certificate of occupancy.

No certificate of occupancy for any building or structure erected, altered, or repaired after the adoption of this code shall be issued unless the building or structure was erected, altered, or repaired in compliance with the provisions of this code.

(Ord. No. 26-85, 7-1-85)

Sec. 152.09. Standards.

All work on the construction, alteration, and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. No. 26-85, 7-1-85)

Secs. 152.10—152.14. Reserved.

DIVISION 3. UNSAFE BUILDINGS

Sec. 152.15. Unsafe building law.

(A) Establishment. Under the provisions of IC 35-7-9-3 there is established the Muncie Unsafe Building Law.

(B) Definitions. The definitions as stated in IC 36-7-9-2 are amended and the following definitions shall apply in the enforcement of this section. Words in the singular include the plural and words in the plural include the singular.

Building. Includes *structure* and shall be construed as if followed by the words "or part thereof".

Department. The building department shall be the "department" as set out in IC 36-7-9-2 and shall have the powers and duties of the "department" as set out in IC 36-7-9-1 through IC 36-7-9-28 in addition to the powers and duties enumerated in this code and municipal ordinances of the city.

Enforcement authority. The building director shall be the "enforcement authority" within the meaning of IC 36-7-9-2 and shall have the powers and duties of the "enforcement authority" as set out in IC 36-7-9-1 through IC 36-7-9-28 in addition to the powers and duties enumerated in this Code and the municipal ordinances of the city.

Substantial property interest. Any right in real property that may be affected in a substantial way by actions authorized by this section including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. The interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a "substantial property interest" unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

- (1) Recorded in the office of the county recorder; or
- (2) The subject of a written information that is received by the building director and includes the name and address of the holder of the interest described.

Unsafe building hearing authority. There shall be created a five-member "unsafe building hearing authority" to be appointed by the mayor and serve during his term of office. This hearing authority shall consist of the historic preservation officer, a member of the Common Council of the city, and three private citizens who are residents of the corporate limits of the city, and it shall be the hearing authority within the meaning of IC 36-7-9-2 and shall have the powers and duties of the hearing authority as set out in IC 36-7-9-1 through IC 36-7-9-28 in addition to the powers and duties enumerated in this Code and the municipal ordinances of the city.

- (C)(1) Adoption of state law. I.C. 36-7-9-1, 36-7-9-3 through 36-7-9-10, 36-7-9-11, and 36-7-

9-12 as modified herein, and 36-7-9-13 through 36-7-9-28 are adopted by reference as the Muncie Unsafe Building Law together with any and all amendments thereto that are made following this date. All proceedings in the city for inspection, repair, and removal of unsafe buildings shall be governed by this law and the provisions of this section.

(2) Vacant structures.

- (a) In Muncie there exists a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety and welfare.
- (b) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.
- (c) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.
- (d) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.
- (e) Many vacant structures are situated on narrow city lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.
- (f) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.
- (g) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from

moving into the neighborhood, and encouraging persons to move out of the neighborhood.

- (h) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.
- (i) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.
- (j) The city finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.
- (k) In recognition of the problems created in the community by vacant structures the city finds that vigorous and disciplined action should be taken to ensure proper maintenance and repair of vacant structures and further ordains that all maintenance and repair standards set forth in section 152.15(G) and all remedies and penalties associated with violations thereof, shall and do apply to vacant structures.

(D) Nuisances. All buildings or portions thereof within this city which are determined, after inspection by the building director or his agent acting in his behalf, to be unsafe as defined in this section are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified in the unsafe building law.

(E) Authorization of building director. The building director for the city is authorized to administer and proceed under the provisions of this law in ordering the repair or removal of any buildings found to be unsafe as defined by state law adopted herein and the definition as set forth herein.

(F) Decision; appeal. Whenever in the building regulations of the city or the unsafe building law it is provided that anything must be done to the

approval or subject to the direction of the building director, or any other officer acting for and on behalf of the building director, this shall be construed to give the officer the discretion of determining whether the rules and standards established by this chapter have been complied with. Any aggrieved party may request the unsafe building hearing authority to review the action of the building director.

(G) Definition of unsafe building amended. The definition of an unsafe building contained in IC 36-7-9-4 is supplemented to provide minimum standards for building condition or maintenance in the city by adding the following definitions: Any building or structure which has any or all 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.

- (1) 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.
- (2) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half (1) times the working stress or stresses allowed for new buildings or similar structure, purpose, or location.
- (3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof 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.
- (4) Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (5) 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 into place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.
- (6) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- (7) 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.
- (8) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (9) 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 base.
- (10) Whenever the building or structure, exclusive of foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or covering.
- (11) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated as to become an

attractive nuisance to children; or freely accessible to persons for the purpose of committing unlawful acts.

- (12) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirements or prohibition applicable to the building or structure provided by the building regulations of the city, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings.
- (13) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinance has in any nonsupporting part, member, or portion less than 50 percent or in any supporting part, member, or portion less than 66 percent of the strength, fire-resistant qualities or characteristics, or weather-resistant qualities or characteristics required by law in the case of a newly constructed building or like area, height, and occupancy in the same location.
- (14) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air, or sanitation facilities, or otherwise, is determined by the building director to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
- (15) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of fire-resistant construction, faulty electric wiring, gas connections, or heating apparatus, or other cause is determined by the building director to be a fire hazard.
- (16) 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.

(H) Standards. All work for the reconstruction, alteration, repair, or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the rules and regulations pertaining to construction, plumbing, electrical, mechanical, and one- and two-family dwellings, promulgated by the state administrative building council, shall be considered standard acceptable practice for all matters covered by this section by the building director of the city.

(I) Building director. In any instance where the word "director" is used in the provisions of the Indiana Code as adopted herein the same shall be construed to apply to the building director for the city.

(J) Unsafe building fund. An unsafe building fund is established, currently known as the Clearance Fund Account 96 of Community Development. This is in accordance with the provisions of IC 36-7-9-14 and pursuant to the provisions contained therein, any balance remaining at the end of the fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(K) Contractors. In any instance where the words "contractor" or "contractor licensed and qualified under law" are used in IC 36-7-9-11, IC 36-7-9-12 or any other sections of the statute, as adopted herein, requirements are modified in that any contractor approved by the building director may perform any work that is required in complying with the orders of the building director.

(L) Violation; penalty. No person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done contrary to or in violation of the provisions of this section or any order by the building director. Any person violating the provisions of this section or the provisions of the Indiana Code as adopted herein

shall commit a separate violation for each day that such violation continues and shall be subject to a penalty of not more than \$2,500.00 for each violation, subject to execution as by law provided. (Ord. No. 962-82, 1-10-83; Ord. No. 29-84, 6-11-84; Ord. No. 10-85, 4-1-85; Ord. No. 17-87, 8-3-87; Ord. No. 36-90, 9-10-90; Ord. No. 42-91, 12-9-91)

Secs. 152.16—152.24. Reserved.

DIVISION 4. VIOLATIONS AND ENFORCEMENT

Sec. 152.25. Violations.

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure, other than fences, in the city or cause or permit the same to be done, contrary to or in violation of the provisions of this Code. (Ord. No. 26-85, 7-1-85)

Sec. 152.26. Right of appeal.

All persons shall have the right to appeal any order of the Building Commissioner first through the Delaware-Muncie Metropolitan Board of Zoning Appeals, and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of IC 22-13-2-7 and IC 4-21.5-3-7. (Ord. No. 26-85, 7-1-85; Ord. No. 16-88, 5-9-88)

Sec. 152.27. Legal proceedings.

The building director shall in the name of the city bring actions in the Circuit or Superior Courts of Delaware County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the building director, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code. (Ord. No. 26-85, 7-1-85)

Secs. 152.28, 152.29. Reserved.

DIVISION 5. PERMITS

Sec. 152.30. Permit required.

A permit shall be obtained before beginning construction, alteration, or repair of any building or structure, using forms furnished by the building director. All permits shall be issued by the building director, and all fees provided for herein shall be paid to the city. (Ord. No. 26-85, 7-1-85)

Cross reference—Penalty, § 152.99.9.

Sec. 152.31. Application for permits.

No permits shall be issued for the foregoing purposes, unless the application for such permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. All plans for building construction under the authority of the State Fire Prevention and Building Safety Commission must also be filed with the Commission. No local permits shall be issued hereunder until a copy of a release for construction from the State Building Commissioner is received by the local Building Commissioner. (Ord. No. 26-85, 7-1-85)

Cross reference—Penalty, § 152.99.9.

Sec. 152.32. Compliance with other regulations.

All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in the ordinances. (Ord. No. 26-85, 7-1-85)

Cross reference—Penalty, § 152.99.9.

Sec. 152.33. Review of application.

Prior to the issuance of any building permit hereunder, the building director, or his duly authorized representative, shall:

- (A) Review all building permit applications to determine full compliance with the provisions of this Code.
- (B) Review all building permit applications for new construction or substantial im-