

## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. MANUFACTURED HOUSING  
REGULATIONS**
- 151. BUILDING STANDARDS**
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## **CHAPTER 150: MANUFACTURED HOUSING REGULATIONS**

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### **§ 150.01 TITLE.**

This chapter shall be known and may be cited and referred to as the "Milton, Indiana, Manufactured Housing Regulations."

(1981 Code, § 3.201) (Ord. 8-1982, passed 6-7-1982)

### **§ 150.02 INTENT.**

It is the intent of this chapter to encourage provision of alternative modest-income housing in general residential areas by permitting the use of certain manufactured homes, as defined in § 150.03, within the corporate limits of the town, subject to the requirements set forth herein to assure acceptable similarity in exterior appearance between the manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the neighborhood.

(1981 Code, § 3.202) (Ord. 8-1982, passed 6-7-1982)

**§ 150.03 DEFINITIONS.**

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

**ACTS OF 1971, PUB. L. NO. 360.** Enabling legislation requiring the Indiana Administrative Building Council to adopt rules and regulations for the construction, repair, or maintenance of factory-constructed one- or two-family residential dwellings.

**ACTS OF 1981, PUB. L. NO. 312.** Legislation requiring a community to allow certain manufactured homes constructed after 1-1-1981, and that exceed 950 square feet of space, to be installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

**EXPANDO ROOM.** An expandable manufactured housing unit.

**HEALTH OFFICER.** The County Health Officer, or his or her authorized representative.

**LICENSE, STATE.** A license issued by the State Board of Health permitting the operation of a mobile home park and certifying that the park has complied with all requirements as set forth by the State Board of Health.

**MANUFACTURED HOME.** A dwelling unit fabricated on or after 6-15-1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 *et seq.*, or Acts of 1971, Pub. L. No. 360, as promulgated by the Indiana Administrative Building Council.

**MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODE.** Title IV of the Housing and Community Development Act of 1974 (42 U.S.C. §§ 5401 *et seq.*), as amended (previously known as the Federal Mobile Home Construction and Safety Act of 1974), rules and regulations adopted thereunder, which include H.U.D.-approved information supplied by the home manufacturer, and regulations and interpretations of the Code by the Indiana Administrative Building Council.

**MOBILE HOME.** A transportable structure built prior to 6-15-1976, the effective date for the Federal Mobile Home Construction and Safety Act of 1974 (42 U.S.C. §§ 5401 *et seq.*), larger than 320 square feet, and designed to be used as a year-round residential dwelling.

**MOBILE HOME PARK.** Any lot or part thereof which is used or offered as a location for five or more mobile homes shall comply with all applicable rules and regulations of the State Board of Health and shall be licensed by the State Board of Health.

**NONCONFORMING USE.** The use of a lot or part thereof for a use not in conformance with the requirements of this chapter or other chapters more or less restrictive.

**ONE- AND TWO-FAMILY DWELLING CODE, INDIANA.** The mandatory state-wide building code adopted by the Indiana Administrative Building Council for one- and two-family residential dwellings.

**SPECIAL ACTIVITY.** A temporary use of public or private property for demonstration, exhibition, entertainment, or similar purposes which occurs infrequently.  
(1981 Code, § 3.203) (Ord. 8-1982, passed 6-7-1982; Ord. 1995-6, passed 10-2-1995)

#### **§ 150.04 PERMITTED PLACEMENT.**

(A) *Generally.* The establishment, location, and use of manufactured homes as scattered-site residences shall be permitted in any district permitting installation of a dwelling unit, subject to requirements and limitations applying generally to the residential use in the district, if any, and provided the homes shall meet the following requirements and limitations.

(B) *Specifically.*

(1) The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building and occupancy permits, and other certifications required by the code.

(2) The home shall be larger than 950 square feet of occupied space and shall be at least 23 feet in uniform width for the entire length of the home. The length shall consist of the manufactured home and may not include expando rooms, pop-outs, or slide-out extensions.

(3) The home shall be attached and anchored to a permanent foundation in conformance with the regulations in the Indiana One- and Two-Family Dwelling Code and with manufacturer's installation specifications.

(4) The home shall be covered with an exterior material customarily used on site-built residential dwellings, and the material shall extend over the top of the foundation.

(5) The home shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake, asphalt, or tile, which shall be installed onto a surface appropriately pitched for the materials used.

(6) The home shall have been designed and built in a factory (and the mobile home) must bear a seal certifying that it was built in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 *et seq.*, and the home must have been manufactured after 1-1-1981.

(7) Any mobile home placed upon a lot within the town shall have a minimum five-foot setback distance from the boundary line of the property upon which the mobile home is located. (1981 Code, § 3.204) (Ord. 8-1982, passed 6-7-1982; Ord. 1995-6, passed 10-2-1995) Penalty, see § 10.99

#### **§ 150.05 PROHIBITED PLACEMENT; EXCEPTIONS.**

(A) *Generally.* No person shall place or use a mobile home or manufactured home not meeting the requirements of I.C. 36-7-4-1106, or amendments to that statute, except within a state-licensed mobile home park which complies with all applicable rules and regulations of the Indiana State Board of Health; provided, that mobile homes used in conjunction with construction projects and other similar special-type uses may be located at the site of the construction project or special activity until the completion thereof, subject to the following.

(B) *Specifically.*

(1) The placement of the mobile home shall be subject to the duration of the building permit issued for the project and extensions thereof.

(2) The mobile home shall be removed within 30 days of completion of the project. Emergency or temporary stopping or parking of a mobile home shall be permitted on any street, alley, or highway for not longer than four hours, subject to any other regulations, prohibitions, or limitations imposed by the traffic and parking regulations or laws for the street, alley, or highway. (1981 Code, § 3.205) (Ord. 8-1982, passed 6-7-1982; Ord. 1995-6, passed 10-2-1995) Penalty, see § 10.99

#### **§ 150.06 STRUCTURAL ALTERATION.**

Due to its integral design, any structural alteration or modification of a manufactured home or mobile home, after it is placed on the site, must be approved by the Town Building Commissioner. (1981 Code, § 3.206) (Ord. 8-1982, passed 6-7-1982) Penalty, see § 10.99

#### **§ 150.07 MOBILE HOME PARKS.**

All mobile home parks shall comply with all requirements of the State Board of Health and the Wayne County Department of Health, and shall comply with the specifications for development of those parks, as set forth in § 150.08. (1981 Code, § 3.207) (Ord. 8-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 150.08 MOBILE HOME PARKS; SPECIFICATIONS.**

(A) *Generally.* Mobile home parks shall be designed and maintained in accordance with the following minimum requirements.

(B) *Specifically.*

(1) *Park area.* The minimum park area shall be two acres.

(2) *Mobile home unit space area.* The minimum area of a mobile home unit space within the mobile home park shall be 3,000 square feet.

(3) *Mobile home unit space width.* The minimum width of a mobile home unit space within the mobile home park shall be 40 feet.

(4) *Access.* Each mobile home park shall abut upon a public street and each mobile home unit space shall have direct access to a private, hard-surface drive.

(5) *Distance from property lines.* The minimum distance between each mobile home and the exterior property lines of the park shall not be less than 25 feet.

(6) *Distance between mobile home and interior streets.* The distance between each mobile home and the abutting interior street shall not be less than five feet.

(7) *Distance between mobile homes.* The minimum distance between neighboring mobile homes shall be not less than 20 feet.

(8) *Foundations.* Each mobile home space shall be provided with one of the following foundations for adequate support of the mobile home:

(a) A concrete slab of not less than four inches thickness covering the entire area under the mobile home;

(b) A flexible pavement of not less than two inches thickness covering the entire area under the mobile home; or

(c) A crushed stone or gravel base course of not less than four inches thickness covering the entire area under the mobile home.

(1981 Code, § 3.208) (Ord. 8-1982, passed 6-7-1982) Penalty, see § 10.99

### **§ 150.09 APPLICATIONS FOR PERMIT TO CONSTRUCT.**

(A) An application to permit the installation of a mobile home shall be submitted to the Building Commissioner and the application shall comply with all provisions of the building code, and shall be acted upon by the Building Commissioner as with any on-site building of a home.

(B) Any permit issued for the installation of a manufactured mobile home shall be effective for a period of six months. The permit may be extended for justifiable cause as shown to the Building Commissioner.

(1981 Code, § 3.209) (Ord. 8-1982, passed 6-7-1982; Ord. 1995-6, passed 10-2-1995)

### **§ 150.10 EXISTING USES.**

(A) *Continuance.* Nothing herein shall cause the termination of any nonconforming use or the vacation of any property currently being used for any prohibited or nonconforming use as set forth herein; provided, that the nonconforming use was legally existing at the time of adoption of this chapter.

(B) *Enlargement of existing facilities.* No mobile home park shall be extended or enlarged unless the existing park is made to comply with all requirements for new construction for such an establishment. (1981 Code, § 3.210) (Ord. 8-1982, passed 6-7-1982) Penalty, see § 10.99

### **§ 150.11 VIOLATIONS; REMEDIES.**

Any mobile home or manufactured home located or placed on any land or premises used in violation of any provision of this chapter or the requirements thereof is hereby declared to be a common nuisance and, as such, may be abated in the manner as nuisances are now or may hereafter be abated under existing law.

(1981 Code, § 3.212) (Ord. 8-1982, passed 6-7-1982) Penalty, see § 10.99



## CHAPTER 151: BUILDING STANDARDS

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***GENERAL PROVISIONS*****§ 151.01 TITLE.**

This subchapter, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Town of Milton, Indiana," may be cited as such, and will be referred to herein as "this subchapter."  
(1981 Code, § 3.301) (Ord. 1-1988, passed 8-22-1988)

**§ 151.02 PURPOSE.**

The purpose of this subchapter is to provide minimum standards for the protection of life, health, environment, public safety, and welfare, and for the conservation of energy in the design and construction of buildings and structures.  
(1981 Code, § 3.302) (Ord. 1-1988, passed 8-22-1988)

**§ 151.03 AUTHORITY.**

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this subchapter. Whenever in the building regulations it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the town, this shall be construed to give the officer only the discretion of determining whether the

rules and standards established by ordinance have been complied with. No such provision shall be construed as giving any officer discretionary powers as to what the regulations, codes, or standards shall be, or power to require conditions not prescribed by ordinances, or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(1981 Code, § 3.303) (Ord. 1-1988, passed 8-22-1988)

**§ 151.04 SCOPE.**

The provisions of this subchapter apply to the construction, alteration, repair, use, occupancy, maintenance, and additions to all buildings and structures, other than fences, in the town.

(1981 Code, § 3.304) (Ord. 1-1988, passed 8-22-1988)

**§ 151.05 ADOPTION OF REGULATIONS BY REFERENCE.**

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission, as set out in the following Articles of Title 675 of the Indiana Administrative Code, are hereby incorporated by reference in this subchapter and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13, Building Codes:

- (a) Fire and Building Safety Standards;
- (b) Indiana Building Code;
- (c) Indiana Building Code Standards; and
- (d) Indiana Handicapped Accessibility Code.

(2) Article 14, One- and Two-Family Dwelling Code:

- (a) Council of American Building Officials One- and Two-Family Dwelling Code;
- (b) C.A.B.O. One- and Two-Family Dwelling Code Amendments; and
- (c) Standard for Permanent Installation of Manufactured Homes.

(3) Article 16, Plumbing Code: Indiana Plumbing Code;

(4) Article 17, Electrical Codes:

- (a) Indiana Electrical Code; and

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- (b) Safety Code for Health-Care Facilities.
- (5) Article 18, Mechanical Code: Indiana Mechanical Code;
- (6) Article 19, Energy Conservation Codes:
  - (a) Indiana Energy Conservation Code; and
  - (b) Modifications to the Model Energy Code.
- (7) Article 20, Swimming Pool Code: Indiana Swimming Pool Code.

(B) Copies of this subchapter and rules, codes, and standards adopted herein by reference are on file, as required by law, in the office of the Town Clerk-Treasurer.  
(1981 Code, § 3.305) (Ord. 1-1988, passed 8-22-1988)

**§ 151.06 APPLICATION FOR PERMITS.**

No building permit shall be issued for the foregoing purposes, unless the application for a 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. In addition, a copy of a design release from the Indiana Department of Fire and Building Services shall be provided to the Building Commissioner before issuance of a permit for construction covered by the design release.  
(1981 Code, § 3.306) (Ord. 1-1988, passed 8-22-1988)

**§ 151.07 PERMIT REQUIRED.**

A permit shall be obtained before beginning construction, alteration, or repair of any building or structure, the cost of which exceeds \$1,500, using forms furnished by the Building Commissioner. All permits shall be issued by the Building Commissioner, and all fees provided for herein shall be paid to the Town Clerk-Treasurer.  
(1981 Code, § 3.307) (Ord. 1-1988, passed 8-22-1988; Ord. 1993-3, passed 7-12-1993) Penalty, see § 10.99

**§ 151.08 OTHER ORDINANCES.**

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 those ordinances.  
(1981 Code, § 3.308) (Ord. 1-1988, passed 8-22-1988) Penalty, see § 10.99

**§ 151.09 FEES AND REQUIRED INSPECTION.**

(A) Permits required by § 151.07 shall be issued upon prior payment of inspection fees according to the following schedule:

<i>Type of Construction</i>	<i>Required Inspections</i>	<i>Single Inspection Fee</i>	<i>Permit Fee</i>
1- or 2-family dwelling, detached	4	\$15	\$60
Accessory buildings (residential use)	1	\$15	\$15
Additions/alterations (all occupancies)	2	\$15	\$30
Apartments, hotels, motels, each unit	3	\$15	\$45
Business, commercial, public	6	\$15	\$90
Educational, institutional, religious	6	\$15	\$90
Industrial, warehouse, bulk storage	4	\$15	\$60
Mobile homes, temporary structures	1	\$15	\$15

(B) The minimum permit fee for any permit shall be \$15. For unusually large or complex buildings or structures, the Building Commissioner shall have the power to increase the number of required inspections by 50%. The Building Commissioner shall in all cases designate the stage of construction when each required inspection must be requested by the permit holder. No concrete shall be placed for foundations without prior inspection. No electrical, mechanical, plumbing, or thermal insulation work shall be covered without prior inspection. Where additional inspections are required due to failure of the permit holder to have work ready for inspection at a designated stage of construction, the Building Commissioner shall have the power to assess a reinspection fee of \$15 for each additional inspection. Reinspection fees shall be paid to the Town Clerk-Treasurer prior to the issuance of a certificate of occupancy. The Building Commissioner shall submit an annual report to the legislative body, which shall include an analysis of inspections performed, permit fees collected, cost of inspection operations, and recommendations for adjustment of required inspections and single inspection fees as necessary. (1981 Code, § 3.309) (Ord. 1-1988, passed 8-22-1988) Penalty, see § 10.99

**§ 151.10 REVIEW OF APPLICATION.**

Prior to the issuance of any building permit hereunder, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this subchapter;

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;

(C) Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair:

- (1) Uses construction materials and utility equipment that are resistant to flood damage; and
- (2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction, including prefabricated and mobile homes:

- (1) Is protected against flood damage;
  - (2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure; and
  - (3) Uses construction methods and practices that will minimize flood damage.
- (1981 Code, § 3.310) (Ord. 1-1988, passed 8-22-1988)

#### **§ 151.11 INSPECTIONS.**

After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to be made, the inspections of the work being done under the permit as are necessary to ensure full compliance with the provisions of this subchapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this subchapter. The Fire Chief, or his or her designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection, and alarm systems and shall provide reports of the inspection to the Building Commissioner.

(1981 Code, § 3.311) (Ord. 1-1988, passed 8-22-1988)

#### **§ 151.12 ENTRY.**

Upon presentation of proper credentials, the Building Commissioner, or his or her duly authorized representatives, may enter at reasonable times any building, structure, or premises in the town to perform any duty imposed upon him or her by this subchapter.

(1981 Code, § 3.312) (Ord. 1-1988, passed 8-22-1988)

**§ 151.13 STOP ORDER.**

Whenever any work is being done contrary to the provisions of this subchapter, the Building Commissioner may order the work stopped by notice, in writing, served on any persons engaged in the doing or causing the work to be done, and any such persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(1981 Code, § 3.313) (Ord. 1-1988, passed 8-22-1988) Penalty, see § 10.99

**§ 151.14 CERTIFICATE OF OCCUPANCY.**

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

(1981 Code, § 3.314) (Ord. 1-1988, passed 8-22-1988)

**§ 151.15 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.

(1981 Code, § 3.315) (Ord. 1-1988, passed 8-22-1988)

**§ 151.16 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 town, or cause or permit the same to be done, contrary to or in violation of the provisions of this subchapter.

(1981 Code, § 3.316) (Ord. 1-1988, passed 8-22-1988) Penalty, see § 10.99

**§ 151.17 RIGHT OF APPEAL.**

All persons shall have the right to appeal the Building Commissioner's decision first through the Town Council, and then to the Indiana Fire Prevention and Building Safety Commission, in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7, as applicable.

(1981 Code, § 3.317) (Ord. 1-1988, passed 8-22-1988)

**§ 151.18 REMEDIES.**

The Building Commissioner shall, in the name of the town, bring actions in the Circuit or Superior Courts of Wayne County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this subchapter.

(1981 Code, § 3.318) (Ord. 1-1988, passed 8-22-1988)

***ENFORCEMENT OF BUILDING STANDARDS*****§ 151.30 DEFINITIONS.**

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

***DEPARTMENT.*** The Department of Buildings of the town.

***ENFORCEMENT AUTHORITY.*** The Building Commissioner, who is the chief administrative officer of the Department of Buildings.

***HEARING AUTHORITY.*** The Town Council.

***SUBSTANTIAL PROPERTY INTEREST.*** Any right in real property that may be affected in a substantial way by actions authorized by this subchapter, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

(1981 Code, § 3.401) (Ord. 7-1982, passed 6-7-1982)

**§ 151.31 UNSAFE BUILDING AND UNSAFE PREMISES DESCRIBED.**

(A) For purposes of this subchapter, a building or structure, or any part of a building or structure, that is in an impaired structural condition that makes it unsafe to a person or property; a fire hazard; a hazard to the public health; a public nuisance; or dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance, is considered an ***UNSAFE BUILDING***.

(B) For purposes of this subchapter, an unsafe building and the tract of real property on which the unsafe building is located are considered ***UNSAFE PREMISES***.

(1981 Code, § 3.402) (Ord. 7-1982, passed 6-7-1982)



**§ 151.32 ORDER; NOTICE.**

(A) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) Vacating of an unsafe building;
- (2) Sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) Extermination of vermin in and about the unsafe premises;
- (4) Repair of an unsafe building to bring it into compliance with standards for building condition or maintenance prescribed by law;
- (5) Removal of part of an unsafe building; and
- (6) Removal of an unsafe building.

(B) Notice of the order must be given under § 151.44. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(C) The order must contain:

- (1) The name of the person to whom the order is issued;
- (2) The legal description or address of the unsafe premises that are 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 the person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;
- (6) If a hearing is not required, a statement that an order under division (A)(2) of this section becomes final ten days after notice is given, unless a hearing is requested, in writing, by a person holding a fee interest or life estate interest in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten-day period;

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

(8) A statement indicating the obligation created by § 151.46 relating to notification of subsequent interest holders and the enforcement authority; and

(9) The name, address, and telephone number of the enforcement authority.

(D) The order must allow a sufficient time, of at least ten days from the time when notice of the order is given, to accomplish the required action. If the order allows more than 30 days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within 30 days.

(E) The order expires two years from the day the notice of the order is given, unless one or more of the following events occurs within that two-year period.

(1) A complaint requesting judicial review is filed under this subchapter.

(2) A contract for action required by the order is let at public bid under § 151.40.

(3) A civil action is filed under § 151.43.

(1981 Code, § 3.403) (Ord. 7-1982, passed 6-7-1982)

### **§ 151.33 MODIFICATION OR RESCISSION OF PREVIOUSLY-ISSUED ORDER; NOTIFICATION TO PERSONS AFFECTED; SERVICE BY PUBLICATION.**

(A) The enforcement authority may issue an order that modifies or rescinds the order previously issued.

(B) All persons who have been issued an order must be notified of its rescission under § 151.44, by means of a written statement, including:

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

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

(3) The substance of the order being rescinded;

(4) A statement that the order is being rescinded; and

(5) The name, address, and telephone number of the enforcement authority.

(C) If service of the order being modified or rescinded was by publication, it is sufficient to serve the statement of modification or rescission by publication, unless the enforcement authority has received information, in writing, that enables it to make service under § 151.44 by a method other than publication. If service of a statement of rescission is by publication, the publication must include the items listed in division (B) of this section.

(1981 Code, § 3.404) (Ord. 7-1982, passed 6-7-1982)

### **§ 151.34 HEARING.**

(A) A hearing must be held relative to each order of the enforcement authority, except for an order issued under § 151.32(A)(2). An order issued under § 151.32(A)(2) becomes final ten days after notice is given, unless a hearing is requested before the ten-day period ends by a person holding a fee interest or life estate interest in the unsafe premises. The hearing shall be conducted by the hearing authority.

(B) The hearing shall be held on a business day no earlier than ten days after notice of the order is given. The hearing authority may, however, take action at the hearing or before the hearing if a written request is received by the enforcement authority not later than five days after notice is given, to continue the hearing to a business day not later than 14 days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five days before the continued hearing date, in the manner prescribed by § 151.44. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information, in writing, that enables it to make service under § 151.44 by a method other than publication.

(C) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(D) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) Affirm the order;

(2) Rescind the order; or

(3) Modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(E) 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 hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority 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.

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

(G) The record of the findings made and action taken at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(1981 Code, § 3.405) (Ord. 7-1982, passed 6-7-1982)

#### **§ 151.35 REVIEW BY CIRCUIT OR SUPERIOR COURT.**

(A) An action taken under § 151.34(D) is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

- (1) Any person who has a substantial property interest in the unsafe premises; or
- (2) Any person to whom that order was issued.

(B) A person requesting judicial review under this section must file a verified complaint including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten days after the date when the action was taken.

(C) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

(1981 Code, § 3.406) (Ord. 7-1982, passed 6-7-1982)

#### **§ 151.36 EMERGENCY ACTION WITHOUT ORDER OR NOTICE AUTHORIZED; LIMITATIONS ON ACTION; COSTS.**

(A) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(B) The Department, acting through the enforcement authority, may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against the persons who held a fee interest or life estate interest in the unsafe premises at the time the enforcement authority found it necessary to take emergency action. The Department is not liable for the costs of this civil action.

(1981 Code, § 3.407) (Ord. 7-1982, passed 6-7-1982)

**§ 151.37 ORDER TO SEAL UNSAFE BUILDING PERFORMED BY CONTRACTOR.**

(A) The enforcement authority may cause the action required by an order to seal an unsafe building under § 151.32(A)(2) to be performed by a contractor if:

(1) The order has been served, in the manner prescribed by § 151.44, on each person having a fee interest or life estate interest in the unsafe premises that are the subject of the order;

(2) The order has not been complied with;

(3) A hearing was not requested under § 151.32(C)(6), or, if a hearing was requested, the order was affirmed at the hearing; and

(4) The order is not being reviewed under § 151.35.

(B) The enforcement authority may cause the action required by an order, other than an order under § 151.32(A)(2), to be performed if:

(1) An order has been issued to each person having a substantial property interest in the unsafe premises;

(2) Service of an order, in the manner prescribed by § 151.44, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;

(3) The order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order currently subject to an order requiring the accomplishment of substantially identical action;

(4) The order, as affirmed or modified at the hearing, has not been complied with; and

(5) The order is not being reviewed under § 151.35.

(C) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that the enforcement authority intends to perform the work by publication, unless the authority has received information, in writing, that enables it to make service under § 151.44 by a method other than publication.  
(1981 Code, § 3.408) (Ord. 7-1982, passed 6-7-1982)

**§ 151.38 MANNERS AUTHORIZED FOR PERFORMANCE OF WORK UNDER ORDER OF ENFORCEMENT AUTHORITY; BIDS; NOTIFICATION TO PERSONS HAVING SUBSTANTIAL PROPERTY INTEREST; SERVICE BY PUBLICATION.**

(A) The work required by an order of the enforcement authority may be performed in the following manners.

(1) If the work is being performed under an order other than an order under § 151.32(A)(2), and if the cost of this work is estimated to be less than \$5,000, the Department, acting through its enforcement authority or other agent, may perform the work by means of its workers and equipment owned or leased by it. Notice that this work is to be performed must be given to all persons with a substantial property interest, in the manner prescribed in division (C) of this section, at least ten days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest or life estate interest in the unsafe premises.

(2) If the work is being performed under an order other than order under § 151.32(A)(2) and if the estimated cost of this work is \$5,000 or more, work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by § 151.39 is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order to seal an unsafe building under § 151.32(A)(2), the work may be performed by a contractor who has been awarded a base bid contract to seal unsafe buildings for the enforcement authority, or by the Department, acting through its enforcement authority or other governmental agency and using its own workers and equipment owned or leased by it. The unsafe building may be sealed without further notice to the persons holding a fee interest or life estate interest, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by § 151.39.

(B) Bids may be solicited and accepted for work on more than one property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by § 151.39(A)(1).

(C) All persons who have a substantial property interest in the unsafe premises and are subject to an order other than an order under § 151.32(A)(2) must be notified about the public bid in the manner prescribed by § 151.44, by means of a written statement including:

- (1) The name of the person to whom the order was issued;
- (2) A legal description or address of the unsafe premises that are the subject of the order;
- (3) A statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) A description of work to be accomplished;
- (5) A statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest or life estate interest in the unsafe premises;
- (6) The time of the bid opening;
- (7) The place of the bid opening; and
- (8) The name, address, and telephone number of the enforcement authority.

(D) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by division (C) of this section, except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(E) Notice of the statement that public bids are to be let must be given, at least ten days before the date of the public bid, to all persons who have a substantial property interest in the property and are subject to an order other than an order under § 151.32(A)(2).

(F) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information, in writing, that enables it to make service under § 151.44 by a method other than publication.

(1981 Code, § 3.409) (Ord. 7-1982, passed 6-7-1982)

**§ 151.39 JOINT AND SEVERAL LIABILITY FOR COSTS OF PERSONS HOLDING FEE INTEREST OR LIFE ESTATE INTEREST; DETERMINATION OF AVERAGE PROCESSING EXPENSE; NOTICE.**

(A) When action required by an order is performed by the enforcement authority or by a contractor acting under § 151.38, each person who held a fee interest or life estate interest in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under § 151.38; and

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this subchapter so that the action required by an order may be performed by a contractor under § 151.38. In calculating the amount of the average processing expense, the following costs may be considered:

(a) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises;

(b) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with § 151.44;

(c) Salaries for employees; and

(d) The cost of supplies, equipment, and office space.

(B) The Town Council shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the Council. In determining the average processing expense, the Council may fix the amount at a full dollar amount that is an even multiple of ten.

(1981 Code, § 3.410) (Ord. 7-1982, passed 6-7-1982)



**§ 151.40 SUIT FOR COSTS.**

(A) If all or any part of the costs listed in § 151.39 remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than 15 days after the completion of work, and if the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) The name and last known address of each person who held a fee interest or life estate interest in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) The legal description or address of the unsafe premises that were the subject of work;

(3) The nature of the work that was accomplished;

(4) The amount of the unpaid bid price of the work that was accomplished; and

(5) The amount of the unpaid average processing expense.

(B) The record must be in a form approved by the State Board of Accounts.

(C) The enforcement authority, or its head, shall swear to the accuracy of the record before the Clerk of the Circuit Court and deposit the record in the Clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by § 151.44.

(D) If, within 30 days after the notice required by division (C) of this section, a person named in the record files with the Clerk of the Circuit Court a written petition objecting to the claim for payment and requesting a hearing, the Clerk shall enter the cause on the docket of the Circuit or Superior Court as a civil action, and a hearing shall be held on the question in the manner prescribed by I.C. 36-7-9-8.

(E) If no petition is filed under division (D) of this section, the Clerk of the Circuit Court shall enter the cause on the docket of the Court and the Court shall enter a judgment for the amounts stated in the record.

(F) A judgment under divisions (D) or (E) of this section is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named. The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the Court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(G) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

(1981 Code, § 3.411) (Ord. 7-1982, passed 6-7-1982)

#### **§ 151.41 ESTABLISHMENT OF UNSAFE BUILDING FUND.**

(A) The enforcement authority shall establish in its operating budget a fund designated as the Unsafe Building Fund. Any balance remaining at the end of a fiscal year shall be carried over in the Fund for the following year and does not revert to the General Fund.

(B) Money for the Unsafe Building Fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the Fund:

(1) Money received as payment for or settlement of obligations or judgments established under §§ 151.36 through 151.40 and 151.43;

(2) Money received from bonds posted under § 151.34; and

(3) Money received in satisfaction of receivers' notes or certificates that were purchased with money from the Unsafe Building Fund.

(C) Money in the Unsafe Building Fund may be used for the expenses incurred in carrying out the purposes of this subchapter, including:

(1) The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in the unsafe premises;

(2) The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the Department;

(3) The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) The cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by § 151.44;

(5) The bid price of work by a contractor under §§ 151.37 or 151.43;

(6) The cost of emergency action under § 151.36; and

(7) The cost of notes or receivers' certificates issued under I.C. 36-7-9-20.

(D) Payment of money from the Unsafe Building Fund must be made in accordance with applicable law.

(1981 Code, § 3.412) (Ord. 7-1982, passed 6-7-1982)

**§ 151.42 ISSUANCE OF INSPECTION WARRANTS.**

(A) If the owners or those in possession of a building refuse inspection, the enforcement authority may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building. The court shall issue the warrant, subject to the following conditions.

(1) The person seeking the warrant must establish that the building to be searched or inspected is to be searched or inspected as part of a legally-authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.

(2) An affidavit establishing one of the grounds described in division (A)(1) of this section must be signed under oath or affirmation by the affiant.

(3) The court must examine the affiant under oath or affirmation to verify the accuracy of the affidavit.

(B) The warrant is valid only if it:

(1) Is signed by the judge of the court and bears the date and hour of its issuance above that signature, with a notation that the warrant is valid for only 48 hours after its issuance;

(2) Describes (either directly or by reference to the affidavit) the building where the search or inspection is to occur so that the executor of the warrant and the owner or the possessor of the building can reasonably determine what property the warrant authorizes an inspection of;

(3) Indicates the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal; and

(4) Is attached to the affidavit required to be made in order to obtain the warrant.

(C) A warrant issued under this section is valid for only 48 hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within 72 hours. (1981 Code, § 3.413) (Ord. 7-1982, passed 6-7-1982)

**§ 151.43 ENFORCEMENT THROUGH CIVIL ACTION AUTHORIZED.**

The Department, acting through its enforcement authority, may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The Department is not liable for the costs of such an action.

(1981 Code, § 3.414) (Ord. 7-1982, passed 6-7-1982)

**§ 151.44 REQUIREMENTS FOR PROPER NOTICE; SERVICE BY PUBLICATION; FILING OF AFFIDAVIT OF SERVICE; DETERMINATION OF DATE OF SERVICE; CIRCUMSTANCES ABROGATING NEED FOR SERVICE; IMPLIED CONSENT TO ACTION UPON FAILURE TO RECORD INTEREST.**

(A) Notice of orders, notice of statements of rescission, notice of continued hearings, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) Sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) Delivering a copy of the order or statement personally to the person to be notified; or

(3) Leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified.

(B) If, after a reasonable effort, service is not obtained by a means described in division (A) of this section, service may be made by publishing a notice of the order or statement in accordance with I.C. 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by divisions § 151.32(C)(1), (C)(2), (C)(4) through (C)(7), and (C)(9), and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority.

(C) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he or she has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(D) The date when notice of the order or statement is considered given is as follows.

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his or her dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(E) Notice of orders, notice of statement of rescission, notice of continued hearings, and notice of a statement that public bids are to be let need not be given to a person holding a property interest in an unsafe premises if:

(1) No instrument reflecting the property interest held by the person is recorded in the recorder's office of the county where the unsafe premises is located;

(2) The order or statement was recorded in accordance with of this subchapter; and

(3) The enforcement authority has received neither written information nor actual notice of the identity of the person who holds a property interest in the unsafe premises.

(F) A person who fails to record an instrument reflecting an interest in his or her unsafe premises is considered to consent to action taken under this subchapter relative to which notice would otherwise be given.

(1981 Code, § 3.415) (Ord. 7-1982, passed 6-7-1982)

**§ 151.45 RECORDING OF ORDERS AND STATEMENTS; NO FEE FOR RECORDING; EFFECT OF ORDER UPON INTEREST IN PREMISES; INTEREST IN PREMISES UNDER ORDER TAKEN SUBJECT TO TERMS OF STATEMENT OF PUBLIC BIDS.**

(A) The enforcement authority shall record, in the office of the County Recorder, orders issued under §§ 151.32 or 151.33(A), statements of rescission issued under § 151.33(B), statements that public bids are to be let under § 151.38, and records of action taken by the hearing authority under § 151.34. The recorder may not charge a fee for recording these items.

(B) A person who takes an interest in unsafe premises that are the subject of an order takes that interest, whether or not a hearing has been held, subject to the terms of the order and in such a manner that all of the requirements of §§ 151.37, 151.38, and 151.43 relating to the issuance of orders, service of orders, and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing and in such a manner that all of the requirements of §§ 151.37, 151.38, and 151.43 relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(C) A person who takes an interest in unsafe premises that are the subject of a statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by § 151.38 is considered given to the person.  
(1981 Code, § 3.416) (Ord. 7-1982, passed 6-7-1982)

**§ 151.46 NONCOMPLIANCE WITH ORDER FOLLOWING NOTICE; LIABILITY FOR FAILURE TO GIVE NOTICE AS TO JUDGMENT AGAINST GOVERNMENTAL ENTITY.**

(A) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) Must, within five days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(a) The full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

(b) The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(B) If a judgment is obtained against the Department, enforcement authority, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in premises in an action taken by the entity under this subchapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

(1981 Code, § 3.417) (Ord. 7-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 151.47 VIOLATIONS.**

(A) A person commits a class C infraction in violation of I.C. 36-7-9 when he or she:

(1) Remains in, uses, or enters a building in violation of an order made under this subchapter;

(2) Knowingly interferes with or delays the carrying out of an order made under this subchapter;

(3) Knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this subchapter; or

(4) Fails to comply with § 151.46.

(B) Each day that the violation continues constitutes a separate offense.  
(1981 Code, § 3.418) (Ord. 7-1982, passed 6-7-1982) Penalty, see § 10.99

**§ 151.48 ADOPTION OF UNIFORM BUILDING CODE.**

(A) The town does hereby adopt and incorporate the Uniform Building Code for the limited and exclusive purposes of:

(1) Determining the condition of homes and to establish a criteria to determine when homes are a nuisance and constitute a hazard to public safety for the purposes of condemnation under §§ 151.31 through 151.47; and

(2) Establishing rules and criteria for the repair and upgrading of homes once they have been determined to be a nuisance and hazard to public safety and welfare.

(B) The Uniform Building Code shall not apply to new construction, remodeling, renovation, or improvement of one- or two-family dwellings.  
(Ord. 1993-3, passed 7-12-1993)





## **CHAPTER 152: FLOOD PLAIN MANAGEMENT**

### **Section**

#### **152.01 Adoption by reference**

#### **§ 152.01 ADOPTION BY REFERENCE.**

The town's flood plain management regulations are hereby adopted by reference and incorporated herein as if set out in full.

