

**DRAFT ORDINANCE**

**(AS AMENDED BY ORDINANCE SEC. 14-121)**

Draft

7/19/14

Document still evolving

**NEIGHBORHOOD PRESERVATION/RENTAL REGISTRATION ORDINANCE**

BE IT ORDAINED by the Common Council of the City of Warsaw, Indiana, that:

**Sec.14-121 General definitions and requirements**

**Section 1. Title**

This ordinance shall be known as the "Neighborhood Preservation/Rental Registration Ordinance" of the City of Warsaw, Indiana.

**Section 2. Definitions**

The following definitions shall apply in the interpretation and enforcement of this ordinance. Words in the singular shall include the plural, and words in the plural shall include the singular.

- 2.1 Dwelling - A building which is wholly or partly used or intended to be used as a residence, but not including a tent, trailer or other structure which is designed to be transportable and is used for less than thirty (30) days.
- 2.2 Dwelling Unit - A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, bathing and cooking.
- 2.3 Habitable Room - A room or enclosed floor space used or intended to be used for living, sleeping, or cooking purposes, excluding bathrooms, laundries, pantries, foyers, hallways, closets, and storage spaces.
- 2.4 Hotel - A building or structure kept, used, maintained, advertised or held out to the public to be an inn, motel, lodge, lodging house, dormitory, or place where sleep or rooming accommodations are furnished for hire or are used or maintained for the accommodation of guests or lodgers.
- 2.5 Inspection Certificate - A certificate issued by the Building Department which documents that a rental unit has passed inspection and the owner is permitted to rent or lease the unit.
- 2.6 Inspection Officers - Shall mean the following persons, working separately or together, who shall enforce the provisions of this ordinance:
  - A. Building Commissioner, Code Compliance Officer or other designated officer.
  - B. Fire Inspector, Fire Chief or other designated officer.

C. County Health Officer.

- 2.7 Occupant - Any person, living, sleeping, cooking, or having actual possession of a dwelling unit or rooming unit; or any person having actual possession of any building or structure other than a dwelling unit or rooming unit.
- 2.8 Owner - Any person who, alone or jointly or severally with others:
- A. Shall have legal title to any dwelling, dwelling unit, or any other building or structure, whether or not they occupy the same; or
  - B. Shall have charge, care or control of any dwelling, dwelling unit, or any other building or structure, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this ordinance, to the same extent as if he or she were the owner; or
  - C. Shall be the purchaser under a recorded land contract of any dwelling, dwelling unit, or any other building or structure, whether or not they occupy the same.
- 2.9 Person - Any entity, including any individual, firm, corporation, association or partnership.
- 2.10 Plumbing - Shall include any of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, bathtubs, showers, installed clothes-washing machines, catch basins, building drains, sewer drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.
- 2.11 Registration Fee - The amount paid to the Building Department when registering a rental unit with the city.
- 2.12 Registration Receipt - The receipt issued by the Building Department which documents that a dwelling unit has been registered and the owner has paid the appropriate registration fee.
- 2.13 Rental Unit - A single unit of a hotel, rooming house, dwelling, apartment, or other similar building which is held for lease or rent.
- 2.14 Rooming House - A dwelling, or that part of a dwelling containing one (1) or more rooming units, in which space is let by the owner or the owner's representative to persons who are not husband, wife, son, daughter, mother, father, sister, or brother of the owner or the owner's representative.
- 2.15 Rooming Unit - A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.
- 2.16 Solid Waste - All solid and semisolid wastes, including garbage, litter, trash, refuse and rubbish.

- 2.17 Substantial Property Interest - Any right in real estate susceptible of being affected in a substantial way by actions authorized by this ordinance, including a fee interest, life estate interest, future interest, present possessory interest, or equitable interest of a contract purchaser.
- 2.18 Supplied - Shall mean paid for, furnished, or provided by or under the control of the owner or the owner's representative.
- 2.19 Unsafe Building - A building or structure, or any part of a building or structure, that is:
- A. In an impaired structural condition that makes it unsafe to a person or property;
  - B. A fire hazard;
  - C. A hazard to the public health;
  - D. A public nuisance;
  - E. Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
  - F. Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance.
- 2.20 Unsafe Premises - The tract of real estate on which an unsafe building is located.
- 2.21 Inspector of Rental Units - A registered architect or professional engineer.
- 2.22 Rental Unit Community - One (1) or more parcels of contiguous real property upon which are located one (1) or more structures containing rental units, if:
- 1. The combined total of all rental units in all of the structures is five (5) or more rental units; and
  - 2. The rental units are not occupied solely by the owner or the owners'sfamily.

### Section 3. Minimum Standards for All Structures

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

- 3.1 Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
- 3.2 Every foundation, floor, wall, ceiling, and roof shall be reasonably weather tight and rodent proof; shall be capable of affording privacy; and shall be kept in good repair.

- 3.3 The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the building. Roof drains, gutters, and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a hazard on the premises or adjacent property.
- 3.4 Every window, exterior door, and basement hatchway shall be reasonably weather tight and rodent proof, and shall be kept in sound working condition and good repair. All glazing materials shall be maintained free from cracks and holes.
- 3.5 Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair. Metal fire escapes shall be maintained in a rust free condition.
- 3.6 Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- 3.7 All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted.
- 3.8 All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- 3.9 All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts, and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- 3.10 Any pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
- 3.11 All additions or improvements to any building or structure must be made in accordance with the City of Warsaw Municipal Code.
- 3.12 All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon or within any structure located thereon.
- 3.13 All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- 3.14 Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged or to collapse and thereby injure persons or damage property.



- 3.15 The building or structure shall not be manifestly unsafe for the purpose for which it is being used.
- 3.16 The building or structure shall not be in such a condition that it is likely to partially or completely collapse due to:
- A. Dilapidation, deterioration, or decay;
  - B. Faulty construction;
  - C. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; or
  - D. The deterioration, decay or inadequacy of its foundation.
- 3.17 Exterior walls or other vertical structural members shall not list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- 3.18 The building or structure, exclusive of the foundation, shall not show thirty-three percent (33%) or more damage or deterioration of its supporting member or members or fifty percent (50%) damage or deterioration of its non-supporting members, enclosings, or outside walls or coverings.
- 3.19 The building shall not be so damaged by fire, earthquake, flood or any other cause that the structural strength and stability is materially less than it was before the catastrophe, and is less than the minimum requirements for new buildings of similar structure, purpose or location.
- 3.20 The building or structure shall not be so damaged by fire, wind, earthquake or flood that it has become so dilapidated and deteriorated as it becomes freely accessible to persons.
- 3.21 The building or structure shall not, because of obsolescence, dilapidated condition, deterioration, damage, lack of sufficient fire resistive construction, electrical wiring, gas connection, or heating apparatus, become a fire hazard.
- 3.22 A portion of the building or structure shall not remain on the real estate more than three (3) months after demolition or destruction.

#### Section 4. Minimum Standards for Basic Equipment and Facilities

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

- 4.1 Every dwelling unit shall contain a sink in good working condition and properly connected to a water system and sewer system, if available; if no sewer is available, to a septic tank system approved by the Kosciusko County Health Department.

- 4.2 Every dwelling unit, except as otherwise permitted under subsection 4.4, shall contain a room which affords privacy to a person within said room, and which is equipped with a flush toilet and a bathroom sink in good working condition, properly connected to a water and sewer system if available; if no sewer is available, to a septic system approved by the Kosciusko County Health Department.
- 4.3 Every dwelling unit, except as otherwise permitted under subsection 4.4, shall contain within a room which affords privacy to a person within said room, a bathtub or a shower in good working condition and properly connected to a water and sewer system if available; if no sewer is available, to a septic tank system approved by the Kosciusko County Health Department.
- 4.4 The occupants of a dwelling containing not more than two (2) dwelling units may share a single flush toilet, a single bathroom sink, and a single bathtub or shower if:
- A. Neither of the two (2) dwelling units contains more than two (2) rooms; provided, that for the purposes of this subsection, a kitchenette or an efficiency kitchen with less than sixty (60) square feet floor area shall not be counted as a room; and
  - B. The habitable area of each of the dwelling units shall equal not more than two hundred fifty (250) square feet of floor area; and
  - C. Such toilet, bathroom sink and bathtub or shower shall be in good working condition and properly connected to water and sewer systems if available; if no sewer is available, to a septic tank system approved by the Kosciusko County Health Department.
- 4.5 Every kitchen sink, bathroom sink, and bathtub or shower required under the provisions of subsections 4.1, 4.2, 4.3, and 4.4 of this ordinance shall be properly connected with both hot and cold water lines when used for rental or lease occupancy.
- 4.6 Every dwelling when used for rental or lease occupancy shall have supplied water-heating facilities which are properly installed, maintained in a safe and good working condition, properly connected with the hot water lines required under the provisions of subsection 4.5, and are capable of heating water to such temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, bathroom sink, bathtub or shower at a temperature of not less than 100° F. Such supplied water heating facilities shall be capable of meeting the requirements of this subsection when the dwelling unit heating facilities required under the provisions of subsection 5.8 are not in operation.
- 4.7 Every dwelling unit shall be supplied with adequate solid waste disposal facilities and storage containers as required by the city's Solid Waste Ordinance 66-1 thru 66-30 as may be amended from time to time.
- 4.8 The owner or occupant of every house or business place in the city shall place the number assigned to his/her lot or part lot by the city building commissioner in a conspicuous place on the side or above the front door of such house or building. Such number shall consist of figures not less than three inches in height and so made or marked as to be distinctly and easily read. Apartments are marked in the

same manner with letters, A-B-C-D, etc. Trailer lots shall be marked, not the trailer, using numbers.

## Section 5. Minimum Standards for Light, Ventilation, Egress and Heating

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

- 5.1 Any window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.
- 5.2 Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent (8%) of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three feet (3') from the window and extend to a level above that of the ceiling of the room, such a window shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen percent (15%) of the total floor area of such room.
- 5.3 Every habitable room shall have at least one (1) window or skylight which can be easily opened, or such other device as will adequately ventilate the room. The total of operable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size or minimum skylight-type window size, as required in subsection 5.2, except where there is supplied some other device affording adequate ventilation and approved by the Building Inspector.
- 5.4 Every bathroom and toilet room shall comply with the light and ventilation requirements for habitable rooms contained in subsections 5.2 and 5.3, except that no window or skylight shall be required in adequately ventilated bathrooms and toilet rooms equipped with a ventilation system with is approved by the Building Inspector.
- 5.5 During that portion of each year from May 1<sup>st</sup> through October 31<sup>st</sup> for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied screens; and every window or other device opening to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens unless the entire dwelling unit is adequately air conditioned.
- 5.6 Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents and/or insects shall be supplied with a screen or such other device as will effectively prevent their entrance, unless entire the entire dwelling unit is adequately air conditioned.
- 5.7 Every dwelling unit shall have at least one (1) safe, unobstructed means of egress leading to a safe and open space at ground level; and every bedroom shall have at least one (1) operable egress window or exterior door. The sill height of an egress window shall not be higher than forty-four inches (44") above the floor. The minimum

opening area for an egress window shall be five and seven-tenths (5.7) square feet, except the minimum opening area for an egress window on the first-floor shall be five (5) square feet. The minimum clear opening height of all egress windows shall be twenty-two inches (22").

- 5.8 Every dwelling shall have heating facilities which are properly installed, maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and rooms in every dwelling unit located therein to a temperature of at least 65° F, and whenever the outside winter conditions are at least 0° F.
- 5.9 Every public hall and stairway in every dwelling containing three (3) or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than three (3) dwelling units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed or full-time lighting, or be controlled by timer or motion sensing device.

#### Section 6. Safe and Sanitary Maintenance

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

- 6.1 The exterior doors, including any exterior basement entrance, and every exterior window shall be supplied with a lock. The owner must supply locks and the owner and occupant shall have the right to the keys for entry to the leased space.
- 6.2 Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.
- 6.3 Every toilet room floor and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- 6.4 No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance to be removed from, shut off from, or discontinued from any occupied dwelling let or occupied by him or her, except for such temporary interruption as may be necessary when actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the Building Commissioner. Provided, however, that this subsection is not intended to require an owner to continue to serve utilities or heat to a premises occupied by a tenant who has not paid his or her rent or utilities.

#### Section 7. Minimum Space, Use and Location Requirements

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

- 7.1 Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof, and at least one hundred (100) additional square feet of floor space to be calculated on the basis of total habitable room area.
- 7.2 A habitable room, other than a kitchen, shall not be less than seven (7) feet in any plan dimension. Kitchens shall have a clear passageway of not less than three (3) feet between counter fronts and appliances or counter fronts and walls.
- 7.3 At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- 7.4 In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by an occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.
- 7.5 No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet room, if said arrangements are deemed to be unsafe.
- 7.6 No basement space shall be used as a habitable room or dwelling unit unless:
  - A. The floor and walls are impervious to leakage of underground and surface run-off water and are insulated against dampness;
  - B. The total window area in each room is equal to at least the minimum window area sizes as required in subsection 5.2;
  - C. Such required minimum window area is located entirely above the grade of the ground adjoining such window area; and
  - D. The total operable window area in each room is equal to at least the minimum as required under subsection 5.3, except where there is supplied some other device affording ventilation which is approved by the Building Inspector.

## Section 8. Responsibilities of Owners and Occupants

- 8.1 Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- 8.2 Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls.



- 8.3 Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition, and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- 8.4 Every occupant of a dwelling or dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling of two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.
- 8.5 Every occupant of a dwelling or dwelling unit shall dispose of all his or her solid waste, appliances, furniture and bulky items in a sanitary manner. This provision does not relieve the owner of the responsibility to maintain his or her property in a clean and sanitary condition.
- 8.6 Every occupant of a dwelling or dwelling unit shall dispose of all his or her solid waste which might provide food for rodents in a clean and sanitary manner by placing it in solid waste disposal facilities or solid waste storage containers required by section 66.31 of the Solid Waste Ordinance. It shall be the responsibility and duty of the owner of any building containing more than one (1) dwelling unit to supply the required solid waste disposal facilities and solid waste containers as provided in section 66.32 of the Solid Waste Ordinance. In all other cases, it shall be the responsibility of the occupant to furnish such facilities or containers.

## Section 9. Smoke Detectors

All leased or rental dwelling units, including hotels and any other buildings of mixed occupancy having any residential units, shall be equipped with approved smoke detectors.

- 9.1 A leased or rental dwelling unit is defined as any building that contains living quarters for one (1) or more occupants, and shall include hotels, and any other buildings of mixed occupancy and shall hereinafter be referred to as leased or rental units.
- 9.2 Every owner, manager or agent of any rental unit shall install, in every dwelling unit or rooming unit, not less than one (1) approved smoke detector on the ceiling, per manufacturer's installation instructions, and within fifteen (15) feet of all rooms used for sleeping purposes.



- 9.3 Every owner, manager, or agent of any rental unit shall install not less than one (1) approved smoke detector, per manufacturer's installation instructions on the uppermost ceiling of all interior stairwells.
- 9.4 All approved smoke detectors required in this ordinance shall be an ionization or photoelectric type, either battery powered or 110 volt AC, and shall comply with all the requirements of the National Fire Protection Association Chapter (NFPA) 72. Smoke detectors shall bear the label of nationally recognized standards testing laboratory that indicates that the smoke detectors have been tested and listed under the requirements of NFPA 72.
- 9.5 The provisions of this section shall not be required in buildings which contain an approved automatic sprinkler system throughout.
- 9.6 At every change of tenant in a rental unit, it shall be the responsibility of the owner, manager or agent to test and ascertain that the approved smoke detectors are in operable condition. It is the tenants' responsibility to replace batteries, as needed, while they occupy the unit, and report to the owner, manager, or agent any repairs needed by any smoke detectors.
- 9.7 It shall be unlawful for any person, except in the case of fire or for the purpose of repair or maintenance, to remove or tamper with fire extinguishers, fire escapes, fire hoses, nozzles, or other fire control or fire extinguishing equipment, including smoke detector systems, in or about any building or other premises in the City of Warsaw.

#### Section 10. Minimum Standards for Commercial Properties

No person having a substantial property interest in any building that is used for commercial or industrial purposes shall allow the building to fail to comply with the following requirements:

- 10.1 Any door, aisle, passageway or other means of exit must be a sufficient width or size to provide a safe and adequate means of exit in the case of fire or panic.
- 10.2 The walking surface of any aisle, passageway, stairway or other means of exit shall not be so warped, worn, loose, torn or otherwise unsafe to prevent a safe and adequate means of exit in the case of fire or panic.
- 10.3 The stress in any materials, or member, or any portion thereof, shall not be more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose or location.

#### Section 11. Application for Registration Receipt

- 11.1 No owner of real estate within the City of Warsaw shall permit the real estate to be leased for any purpose that includes any person using the premises as their living quarters until a registration receipt covering each rental unit in the building has been obtained.

- 11.2 A registration receipt shall be obtained by applying for the receipt at the City of Warsaw Building Department and by paying a biennial registration fee for each rental dwelling unit or an annual registration fee for each hotel or rooming house. The initial registration fee shall be submitted at the time application is made. At the time application is made, the owner of the real estate shall supply the Building Department with the name of the owner, address of the owner, street address of the property being registered, the nature of the rental building or unit, the use to which the property shall be put, and any other information which the Building Department may require to aid the Building Department in carrying out the purpose of this ordinance.
- 11.3 After application for a registration receipt has been submitted to the Building Department, a Building Inspector shall conduct an inspection of each rental unit to ascertain that the facility conforms to all requirements of this ordinance, any other applicable ordinance, and all applicable laws of the State of Indiana. The owner or the owner's representative shall be entitled to seventy-two (72) hours written notice from the Building Inspector prior to conducting the inspection. In the event that the owner, or the tenant if occupied, refuses to allow the Building Inspector to conduct the inspection, the Building Commissioner shall apply for a warrant to make the inspection in accordance with Indiana Code 36-7-9-16.
- 11.4 After an inspection which shows that the rental unit conforms to all applicable ordinances and statutes, the Building Department shall issue to the owner of every registered rental unit an inspection certificate.
- 11.5 Each registration receipt shall be valid for a period of two (2) years, except those registration receipts for a hotel or rooming house which receipts shall be valid for only one (1) year. Each registration receipt shall be renewed by its expiration date by submitting the registration fee to the Building Department. In the event that the registration fee is not paid within thirty (30) days after its expiration date, a late fee will be assessed and the renewal will be backdated to its prior expiration date. Any registration receipt issued shall be valid for the biennial or annual period, as applicable, commencing on the anniversary date of the original expiration date and not as of the date of payment. Payment of the registration fee shall not be considered a defense to any action filed by the City of Warsaw to enforce the provisions of this ordinance if such action was filed prior to payment of the registration fee.
- 11.6 The registration receipt applies to the rental unit and not to the owner of the property. However, within thirty (30) days of the sale of the equitable or legal title to any property registered under this ordinance, any person acquiring equitable or legal title shall notify the Building Department of their name and address. No new registration fee shall be due until the expiration date of the current registration receipt.
- 11.7 Each owner of a rental unit warrants at each change of tenant that the rental unit meets the registration and inspection requirements set forth in this ordinance. This warrant is implied in the very act of renting the unit and liability for it may not be removed by any act or agreement, either written or verbal, of either the owner or the prospective tenant.

## Section 12. Inspection

- 12.1 The Building Inspectors are authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units, any other building or structure, and premises located within the City of Warsaw in order that they may perform their duties of safeguarding the health and safety of the occupants and the general public.
- A. The Building Inspectors are authorized to enter, examine and survey, at all reasonable times, all rental units. The owner or the owner's representative, and/or occupant of every rental unit shall give the Building Inspector free access to such rental unit and its premises at all reasonable times for the purpose of such inspection, examination and survey, provided, however, that such Building Inspector has, prior to entry thereof, positively identified himself or herself as a person authorized pursuant to this ordinance to enter upon said premises. At the time of each inspection, all pets must be controlled so that the Building Inspector can move about the dwelling and surrounding property without interruption.
  - B. The owner or the owner's representative shall be entitled to seventy-two (72) hours written notice from the Building Inspector prior to conducting the inspection, examination or survey. The owner or the owner's representative shall be responsible for notifying the occupant of the rental unit of the inspection when he or she receives notice of the intent to inspect from the Building Inspector.
  - C. This provision shall not be construed to limit or restrain the right of the Building Inspector to make an inspection of any other building or premises pursuant to any of the provisions of Indiana Code 36-7-9-1 et al.
- 12.2 Every rental unit operated and maintained in the city shall be inspected by the Building Commissioner or his designee at least one (1) time every four (4) years. The inspection shall be made to ascertain that the facility conforms to all requirements of this ordinance, any other ordinance of the city, and all statutes of the State of Indiana regarding such facilities.
- 12.3 Every occupant of a rental unit shall give the owner thereof or the owner's representative access to any part of such dwelling or rental unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance.
- 12.4 The Building Department shall issue to the owner of every registered and inspected rental unit an inspection certificate as proof that the unit passed inspection. The inspection certificate shall be valid until the next inspection.
- 12.5 At each change of occupancy, every owner or the owner's representative shall provide the occupant with a copy of the inspection certificate. The copy shall become part of warranty of habitability of the premises provided for in subsection 12.7. In the case of hotel or rooming house, the inspection certificate shall be posted in a conspicuous place within the facility.
- 12.6 If a Building Inspector finds that a dwelling, dwelling unit, rooming house, rooming unit, or any other building or structure fails to comply with any standard set forth in this ordinance, any other ordinance of the City of Warsaw, or any statute of the State

of Indiana, he or she shall give notice of the alleged violation to the owner of the dwelling, dwelling unit, rooming house, rooming unit, or any other building or structure. The notice shall be in writing and shall reasonably describe the violation found. The notice shall further specify the date by which the violation must be corrected. The notice shall be served upon the owner or the owner's representative, and the occupant of the dwelling, dwelling unit, rooming house, rooming unit, or any other building or structure. Service will be deemed sufficient if made in accordance with Indiana Code 36-7-9-25.

- 12.7 A building that the Inspector finds to be unsafe shall be repaired so that it meets acceptable standards within fifteen (15) days of the notice described in subsection 13.6. Any other violations shall be repaired within thirty (30) days of the notice of a violation. If the violations cited are not corrected, a re-inspection fee shall be levied against the person (either owner or occupant) responsible for correcting the violation cited. Re-inspection may continue until the violations are corrected. The re-inspection fee may be waived if the Building Commissioner finds that substantial progress has been made with regards to each separate violation noted or that the failure to correct the violation is not within the control of the person responsible for correcting the violation cited.
- 12.8 If a dwelling, dwelling unit, rooming house, rooming unit, or any other building or structure is cited for violations of this ordinance, no new violations shall be cited at the time of the re-inspection for the original violation unless such new violations make the property unsafe.
- 12.9 Upon notification that an occupied rental unit has not obtained the necessary registration receipt, the Building Department may inspect such premises upon twenty-four (24) hour notification to the owner of the property, for the purpose of determining if any inspection certificate is required. If access cannot be obtained, the Building Commissioner may obtain an inspection warrant pursuant to the provisions of Indiana Code 36-7-9-16.
- 12.10 Nothing in the preceding subsection should be construed to require an investigation by the Building Department or any city employee prior to the city filing a complaint against the owner of real estate who fails to obtain a required registration receipt.

### Section 13. Enforcement

- 13.1 If a cited violation is not corrected within the designated time, and the Building Commissioner finds that the building is unsafe within the meaning of Indiana Code 36-7-9-4, the Building Commissioner may issue an order requiring any of the following:
  - A. Vacating of an unsafe building.
  - B. Sealing an unsafe building against intrusion by unauthorized persons.
  - C. Extermination of vermin in and about the unsafe premises.
  - D. Removal of trash, debris or fire hazardous material in and about the unsafe premises.

- E. Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use prescribed by a statute or this ordinance.
  - F. Removal of part of an unsafe building.
  - G. Removal of an unsafe building.
  - H. Requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
    - 1. Sealing against intrusion by unauthorized persons and the effects of weather;
    - 2. Exterior improvements to make the building compatible in appearance with other buildings in the area; and
    - 3. Continuing maintenance and upkeep of the building and premises.
- 13.2 The order supercedes any permit relating to the building or land use, whether that permit is obtained before or after the order is issued.
- 13.3 The order issued pursuant to subsection 14.1 shall contain the following:
- A. The name of the person to whom the order is issued;
  - B. The legal description or address of the unsafe premises that is the subject of the order;
  - C. The action that the order requires;
  - D. 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;
  - E. 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 that hearing with or without counsel, present evidence, cross-examine opposing witnesses, and present arguments;
  - F. If a hearing is not required, a statement that an order under this section becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, a life estate interest or an equitable interest of a contract purchaser in an unsafe premises, and the request is delivered to the Building Department before the end of the ten (10) day period;
  - G. A statement briefly indicating what action can be taken by the Building Commissioner if the order is not complied with;



- H. A statement indicating the obligation created by Indiana Code 36-7-9-27 relating to the notification of subsequent interest holders and the Building Commissioner; and
  - I. The name, address and telephone number of the Building Commissioner.
- 13.4 The order must allow a sufficient time, of at least ten (10) days from the time when the notice of the order is given, to accomplish the required action.
  - 13.5 A hearing before the City of Warsaw Hearing Officer must be held relative to each order of the Building Commissioner, except for an order issued under subsections 14.1(B), 14.1(C) and 14.1(D). A hearing shall be conducted before the City of Warsaw Hearing Officer for all other orders of the Building Commissioner under this section.
  - 13.6 The hearings shall be held on a monthly or bi-monthly basis (as needed) no earlier than ten (10) days after notice of the order is given. The Building Commissioner shall grant a continuance of the scheduled hearing if requested in writing by a person holding a substantial property interest in the affected real estate, if such request is received not later than five (5) days after the notice is given. Such continuance shall be for a period of not more than fourteen (14) days past the original date of the hearing.
  - 13.7 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 City Hearing Officer may grant the request. However, as a condition for allowing the additional period, the City Hearing Officer 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.
  - 13.8 Notice to the owner and all other holders of a substantial property interest shall be deemed sufficient if the notice is given pursuant to the provisions of Indiana Code 36-7-9-25.
  - 13.9 The City Hearing Officer, after having given notice of the time and place of a public hearing by publication in accordance with Indiana Code 5-3-1, shall adopt a schedule setting forth the maximum amount of performance bonds applicable to the various types of ordered action. The City Hearing Officer shall use this schedule to fix the amount of the performance bond required under the previous subsection.
  - 13.10 At the conclusion of any hearing before the City Hearing Officer, the hearing authority may make findings and take action to affirm the Building Commissioner's order, rescind the Building Commissioner's order, or modify the Building Commissioner's order. However, unless the person to whom the order was issued or counsel for the person to whom the order was issued is present at the hearing, the Hearing Officer may not modify the order so that it is more stringent than the Building Commissioner's original order.
  - 13.11 The findings made and action taken by the City Hearing Officer shall be in writing and shall be available to the public upon request. However, neither the Building Commissioner nor the City Hearing Officer is required to give any person notice of the findings and action other than those persons having a substantial property interest.



- 13.12 If the Building Commissioner finds it necessary to take emergency action concerning an unsafe premises in order to protect life, public safety or property, he or she may take that action without issuing an order or giving notice to any person having a substantial property interest. However, this emergency action must be limited to removing any immediate danger. Such action shall be taken only when it is not feasible to give notice and hold hearings as provided by subsection 14.3. Any person to whom such emergency action is directed shall comply therewith but shall be afforded a hearing before the City of Warsaw Hearing Officer as soon as possible.
- 13.13 The City of Warsaw may recover the costs incurred by taking emergency action, by filing a civil action in the Circuit or Superior Court of Kosciusko County against persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the Building Commissioner found it necessary to take the emergency action.
- 13.14 Any person required to vacate an unsafe premises under the emergency action of this section may challenge the emergency action to vacate in the Circuit or Superior Courts of Kosciusko County by challenging the Building Commissioner's determination that there is an immediate danger to life or safety of any person. The Building Commissioner shall have the burden of proving that an emergency action is necessary to prevent immediate danger to the life and safety of any person occupying or using nearby property.
- 13.15 If a cited violation is not corrected within the designated time period and the Building Commissioner finds that the building is unsafe within the meaning of Indiana Code 36-7-9-4, the City of Warsaw may file a complaint with the Kosciusko Superior Courts, or Kosciusko Circuit Court to assess any fine provided by this ordinance, to seek an injunction as provided by Indiana Code 36-7-9-18, or any sanction allowed by Indiana Code 36-7-9-1 through Indiana Code 36-7-9-28 inclusive.
- 13.16 If a cited violation is not corrected within the designated time period and the Building Commissioner does not find that the building is unsafe within the meaning of Indiana Code 36-7-9-4, the City of Warsaw may file a complaint with Kosciusko Superior Courts or the Kosciusko Circuit Court to assess any fine provided by this ordinance.
- 13.17 Any rental unit for which the Building Department has issued an order finding the building or premises to be unsafe shall be so designated and placarded by the Inspection Officer.
- 13.18 No rental unit which is placarded as unsafe shall again be used for human habitation until the written approval is secured from the Building Department, City Hearing Officer, or a court of law. The Building Commissioner shall remove the placard whenever the defect or defects upon which the finding that the building is unsafe have been eliminated.
- 13.19 No person shall deface or remove any notification of the Building Commissioner that any rental unit has been declared unsafe for human habitation.
- 13.20 The order of the City Hearing Officer expires two (2) years after the notice of the order is given unless one or more of the following events occur within that two (2) year period:

- A. A complaint requesting judicial review is filed by any party having a substantial property interest.
- B. A contract for action required by the order is let at public bid.
- C. A civil action concerning the property is filed either by the city or any person having a substantial property interest.

13.21 This ordinance specifically adopts the provisions of the Indiana Unsafe Building Law which are included in Indiana Code 36-7-9-1 through 36-7-9-28 inclusive.

#### Section 14. Exemptions

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14.1 Except as provided in subsection (d), a political subdivision may not inspect a rental unit or impose a fee pertaining the inspection of a rental unit, if the rental unit satisfies all of the following:

1. The rental unit is:
  - (A) Managed by: or
  - (B) Part of a rental unit community that is managed by a professional real estate manager.
2. During the previous twelve (12) months, the rental unit has been inspected or is part of a rental community that has been inspected by either of the following:
  - (A) By or for:
    - (i) The United States Department of Housing and Urban Development, the Indiana Housing and Community Development Authority, or another federal or state agency; or
    - (ii) A financial institution or insurance company authorized to do business in Indiana.
  - (B) By an inspector who:
    - (i) Is a registered architect;
    - (ii) Is a professional engineer
    - (iii) Satisfies qualifications for an inspector of rental units prescribed by the political subdivision.
3. The inspector may not be an employee of the owner or landlord.  
 A written inspection report of the inspection under subdivision (2) has been issued to the owner or landlord of the rental unit or rental unit community (as applicable) that verifies that the rental unit or rental unit community is safe and habitable with respect to:
  - (A) Electrical supply and electrical systems;
  - (B) Plumbing and plumbing systems;
  - (C) Water supply, including hot water;
  - (D) Heating, ventilation, and air conditioning equipment and systems;
  - (E) Bathroom and toilet facilities;
  - (F) Doors, windows, stairways, and hallways;
  - (G) Functioning smoke detectors; and
  - (H) The structure in which a rental unit is located.

A political subdivision may not add to the requirements of this subdivision.

4. The inspection report issued under subdivision (3) is delivered to the political subdivision on or before the due date set by the political subdivision.
  - (d) This subsection applies to all rental units, including a rental unit that meets the requirements for an exemption under subsection (c). A political subdivision may inspect a rental unit, if the political subdivision:
    - (1) has reason to believe; or
    - (2) receives a complaint;that the rental unit does not comply with the applicable code requirements. However, in the case of a rental unit that meets the requirements for an exemption under subsection (c), the political subdivision may not impose a fee pertaining to the inspection of the rental unit. If the inspection of a rental unit reveals a violation of the applicable code requirements, the owner of the rental may be subject to a penalty as provided in IC 36-1-20-6.
  - (e) This subsection applies only to a rental unit that meets the requirements for an exemption under subsection (c). If the inspection report for the rental unit or rental unit community is prepared by or for the United States Department of Housing and Urban Development, the inspection report is valid for purposes of maintaining the exemption under subsection (c) until:
    - (1) the date specified in the inspection report; or
    - (2) thirty-six (36) months after the date of the inspection report; whichever is earlier.

## Section 15. Penalties

- 15.1 Any person who commits any of the following acts is subject to a fine not to exceed a total of Five Thousand Dollars (\$5,000.00). Each day that a violation of this order continues shall constitute a separate offense.
  - A. A person who fails to obtain a registration receipt as required by this ordinance;
  - B. A person who fails to correct a violation cited in accordance with this ordinance, whether or not such violation makes the premises an unsafe premises, or whether the violation is a violation of this ordinance, another ordinance of the City of Warsaw or a statute of the State of Indiana;
  - C. A person who removes or defaces the notification of the Building Commissioner that a rental unit has been determined to be unsafe.
- 15.2 Any building or premises which is unsafe within the meaning of Indiana Code 36-7-9-4 shall be subject to any other sanction provided in Indiana Code 36-7-9-1 through Indiana Code 36-7-9-28 inclusive.

- 15.3 A person failing to comply with an order of the City Hearing Officer<sup>7</sup> issued pursuant to this ordinance in connection with an unsafe building or premises will be subjected to any other sanction provided in Indiana Code 36-7-9-1 through Indiana Code 36-7-9-28 inclusive.

#### Section 16. Miscellaneous Provisions

- 16.1 Notice of orders, notice of statements of public bid are to be let, and notices of claims for payment must be given by:
- A. Sending a copy of the order or statement by registered or certified mail to the residence, place of business or employment of the person to be notified, with return receipt requested;
  - B. Delivering a copy of the order or statement personally to the person to be notified; or
  - C. Leaving a copy of the order or statement at the dwelling or usual place of abode by the person to be notified.

In the event that service is not obtained by foregoing methods, the alternate means of service described in Indiana Code 36-7-9-25 may be used.

#### Section 17. Severability

The provisions of this ordinance are severable, and the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

#### Section 18. Other Ordinances

- 18.1 All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of such inconsistency or conflict.

#### Section 19. Effective Date

This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

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Ordinance no. XX-XXX was duly passed and adopted on XX/XX/XX