**CITY OF HUNTINGURG, INDIANA**

**ORDINANCE NO. 2016 - 17**

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 152 OF THE HUNTINGBURG MUNICIPAL CODE REGULATING THE CONSTRUCTION, ALTERATION, USE, AND OCCUPANCY OF BUILDINGS AND STRUCTURES IN HUNTINGBURG, INDIANA; INCORPORATING BY REFERENCE BUILDING RULES, CODES AND STANDARDS REQUIRED TO BE ENFORCED UNDER**

**IC 36-7-2-9; PROVIDING FOR THE ISSUANCEOF PERMITS, INSPECTIONS,**

**AND PENALTIES FOR VIOLATIONS**

WHEREAS, the City of Huntingburg has heretofore adopted Chapter 152 entitled “Building Code of the City of Huntingburg”; and

WHEREAS, the Common Council of the City of Huntingburg now determines that said Chapter 152 should be amended, updated and restated to comply with the statewide codes of building and fire safety laws of the State of Indiana.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF HUNTINGBURG, Chapter 152 of the Huntingburg Municipal Code, be and is hereby amended and restated as follows:

**CHAPTER 152**

**HUNTINGBURG BUILDING ORDINANCE**

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**GENERAL PROVISIONS**

**§ 152.01 TITLE.**

**152.01 Title.** This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the “Building Ordinance of the City of Huntingburg, Indiana.”

**§ 152.02 PURPOSE.**

**152.02  Purpose.** The purpose of this chapter is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the citizens of Huntingburg, Indiana, and shall be construed in such manner as to effectuate this purpose.

**152.03 Definitions**. Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings:

1. “Building Commissioner”, as used in this ordinance, shall mean the duly appointed Zoning Administrator and any deputy authorized to represent the Zoning Administrator. The terms “Building Commissioner” and “Zoning Administrator” may be used interchangeably herein.

 2. “Class 1 structure” has the meaning ascribed thereto in IC 22-12-1-4.

 3. “Class 2 structure” has the meaning ascribed thereto in IC 22-12-1-5.

 4. “Construction” has the meaning ascribed thereto in IC 22-12-1-7.

 5. "Industrialized building system" has the meaning ascribed thereto in IC 22-12-1-14.

 6. "Manufactured home" has the meaning ascribed thereto in IC 22-12-1-16.

 7. "Mobile structure" has the meaning ascribed thereto in IC 22-12-1-17.

 8. “Person” has the meaning ascribed thereto in IC 22-12-1-18.

9. “Structure” means both Class 1 and Class 2 structures, unless specifically stated otherwise.

 10. “Vehicular bridge” has the meaning ascribed thereto in IC 22-12-1-26.

**§ 152.03 AUTHORITY.**

**152.04  Authority.** The duly appointed Zoning Administrator of the city or the Zoning Administrator's representative is hereby authorized to administer and enforce the following:

 1. All of the provisions of this Building Ordinance.

 2. Variances granted in accordance with IC 22-13-2-11.

 3. Orders issued under IC 22-12-7.

**§ 152.04 SCOPE.**

**152.05  Scope.**

1. The provisions of this chapter shall apply to the construction, alteration, repair, use, occupancy or additions to all buildings and structures, whether for residential or non-residential purposes or accessory thereto and whether or not a local site improvement permit is required.

2. Pursuant to IC 22-13-2-6, this Building Ordinance shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this Building Ordinance and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any Construction related to an industrialized building system or mobile structure not certified under IC 22-15-4.

 3. Pursuant to IC 22-13-2-9, this Building Ordinance is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

**§ 152.05 ADOPTION OF RULES BY REFERENCE.**

**152.06 Adoption of Rules by Reference**.

1. Pursuant to IC 22-13-2-3(b), the 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, as the same are amended or supplemented from time to time, are hereby incorporated by reference in this code and shall include any later amendments to those rules:

(a) Article 13 – Building Codes

(b) Article 14 – Indiana Residential Code

(c) Article 16 – Indiana Plumbing Code

(d) Article 17 – Indiana Electrical Code

(e) Article 18 – Indiana Mechanical Code

(f) Article 19 – Indiana Energy Conservation Code

(g) Article 20 – Indiana Swimming Pool Code

(h) Article 22 – Indiana Fire Code

(i) Article 25 – Indiana Fuel Gas Code

(j) Article 28 – NFPA Standards

2. Two (2) copies of the above rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.

3. The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Ordinance. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.

**§ 152.06 COMPLIANCE WITH FIRE PREVENTION AND BUILDING SAFETY LAWS.**

**152.07 Compliance with Fire Safety and Building Laws.** Pursuant to I.C. 36-7-2-9, any construction, alteration, repair or addition to any building or structure shall be required to be in compliance with the adopted rules of the Indiana Fire Prevention and Building Safety Commission. Class I and Class II buildings and structures shall be as defined under I.C. 22-12-1-4 and I.C. 22-12-1-5.

**ADMINISTRATION; PERMITS AND THE LIKE**

**152.20  Site Improvement Permit.**

1. A local site improvement permit shall be obtained before beginning any beginning construction, alteration, repair or movement of any building or structure which will result in a new or relocated building or structure, or modified footprint or increased height in any building or structure.

      2. No site improvement permit shall be required for the following construction whenever the construction complies with all other requirements of this code.  Procurement of a site improvement permit does not include or waive any requirement to procure any other permit required by law.

(a)   Non-permanent swimming pools and detached sheds of 200 square feet or less, which pools and sheds are otherwise permitted accessory structures as defined under the zoning ordinance;

          (b)   Fences;

         (c)   Signs;

          (d)   Industrial machinery;

(e)   Mobile homes when installed in either a legally nonconforming or approved mobile home park; and

(f)   Antenna towers which are accessory to a permitted use of land, except, however, that a commercial communications tower or commercial antenna installation shall not be exempt from the requirement for a site improvement permit.

3. Work shall begin within 90 days after issuance of a site improvement permit and shall be completed within six months of issuance.

4. All work done under any permit shall be in full compliance with all other ordinances pertaining thereto and, in addition to the fees for permits as set out in this chapter, there shall be paid the fees prescribed in other ordinances.

5. Prior to issuance of a local site improvement permit, an application for the permit shall be submitted to the Building Commissioner using forms furnished by the Building Commissioner.  The application shall be signed by the property owner or their designated representative and accompanied by the following information.

(a) A site plan consisting of a plat or sketch of the property on which the improvement(s)

 is proposed, together with the following information:

(i)   Lot boundaries and dimensions;

(ii)   The location of all existing and proposed improvements, structures, driveways and streets, including their dimensions and setbacks from property lines;

(iii)   The location of all utility lines and pipes and all utility easements and drainage ways of record, whether under or above ground; and

          (iv)   The location of proposed septic or other on-site waste treatment systems.

(b)   All plans and specifications, as required by the Building Commissioner, showing the work to be done;

(c) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Construction Design Release for the Construction to be done that has been issued by the Building Law Compliance Officer pursuant to IC 22-15-3;

(d)   For all private wastewater disposal systems, a copy of the sewage disposal permit approved by and issued by the County Health Department; and

       (e)   Any other information required by the Building Commissioner.

6. Prior to issuance of a site improvement permit, the Building Commissioner shall review the application for compliance with the provisions of this chapter, and for compliance with any approvals or other conditions required to be attached to the permit.  The permit review process shall be completed and the permit issued or otherwise acted upon for purposes of final disposition within ten days of its receipt in the office of the Building Commissioner. The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

7. The Building Commissioner shall sign, date and number the permit, assess the fee and prepare all required forms that may need to be attached to the permit.  A copy of the completed application, the site improvement permit and any other required forms shall be delivered to the applicant at the time as the applicant appears to pay the fee and obtain the permit at City Hall.  A site improvement permit shall be issued only after payment to the city of Huntingburg of all fees required by this chapter and payment shall not constitute payment of any other fees required for any other purpose.

8. A local site improvement permit shall be issued upon prior payment of fees according to the following schedule.  Payment received for a site improvement permit does not include or waive any requirement to pay for any other permit required by law.

**Class 1 Structure** $500.00 each

**Class 2 Structure** - based on the size of the structure:

0 – 1,999 square feet $ 50.00

 2,000 – 2,999 square feet $100.00

 3,000 or more square feet $150.00

**INVESTIGATIONS AND INSPECTIONS**

**152.30 Workmanship.** All work as approved under the site improvement permit shall be performed in a good and workmanlike manner according to the accepted standards and practices of the construction trade.

**152.31**

* 1. **Inspections and Compliance**.
1. All Construction shall be subject to periodic inspections by the Building

Commissioner irrespective of whether a site improvement permit has been or is required to be obtained.

2. The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of this Building Ordinance or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this Building Ordinance and the rules of the Fire Prevention and Building Safety Commission.

**152.32 Inspections by Fire Department.** The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (The Fire Department has independent authority to conduct inspections and take enforcement actions under IC 36-8-17).

**152.33 Certificate of Occupancy.** It shall be unlawful to occupy any new or altered structure requiring a site improvement permit hereunder, unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. No certificate of occupancy for any structure shall be issued unless such structure is constructed in compliance with the provisions of this Building Ordinance.

**ENFORCEMENT AND PENALTIES**

**152.40 Withholding of Permits.**

1. Whenever a person which is either an applicant for a site improvement permit or an obtainer of a site improvement permit owes fees (including checks returned for insufficient funds) pursuant to this Chapter to the Building Commissioner the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

2. Whenever a person applies for a site improvement permit for a Structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permit(s) until such time that the property is brought into conformance with applicable ordinances.

**152.41 Permit Revocation.** The Building Commissioner may revoke a site improvement permit when any of the following are applicable:

1. The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.

2. The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.

3. There is failure to comply with the Building Ordinance.

4. The Structure for which the site improvement permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

**152.42 Stop-Work Order.**

1. The Building Commissioner may issue an order requiring suspension of the pertinent Construction (stop-work order) in accordance with this section.

2. The stop work order shall:

(a) Be in writing.

(b) State with specificity the Construction to which it is applicable and the reason for its issuance.

(c) Be posted on the property in a conspicuous place.

(d) If practicable, be given to:

(i) The person doing the Construction; and

(ii) To the owner of the property or the owner’s agent.

(e) The stop-work order shall state the conditions under which Construction may be resumed.

3. The Building Commissioner may issue a stop-work order if:

(a) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Building Ordinance or any state law pertaining to safety during Construction.

(b) Construction is occurring in violation of this Building Ordinance or in such a manner that if Construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.

(c) Construction for which a site improvement permit is required is proceeding without a permit being in force.

4. The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this Building Ordinance.

**152.43 Remedies.** The Building Commissioner shall in the name of the city bring actions in the Circuit or Superior Courts of the county 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 action for mandatory or injunctive relief may be enjoined with an action to recover the penalties provided for in this chapter.

(Ord. 99-08, passed 2-25-1999)

**152.44 Monetary Penalties.** Any person violating any provision of this Building Ordinance may be subject to a fine in any sum not exceeding two thousand five hundred dollars ($2,500). The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this Building Ordinance.

**§ 152.26 REMEDIES.**

**§ 152.27 RIGHT TO APPEAL.**

**152.28 1152.45 Right of Appeal**. Any person aggrieved by an order issued under this Building Ordinance shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

1. Appeal to the Fire Prevention and Building Safety Commission.

(a) A person aggrieved by an order issued under this Building Ordinance may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.

(b) The Commission may modify or reverse any order issued by the Municipality that covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety or a building rule.

(c) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the issuance of the order.

(d) The Fire Prevention and Building Safety Commission may review all other orders issued under this Building Ordinance.

(e) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

1. Appeal to an Established Local Administrative Body or Court.
2. Pursuant to I.C. 36-7-8-9, a person aggrieved by a decision of the Building

Commissioner may appeal as in other civil actions. The appellant must, by registered mail, give the Municipal Executive a fifteen (15) day written notice of his or her intention to appeal. This notice must concisely state the appellant’s grievance. If, pursuant to I.C. 36-1-6-9, the Municipality has established by ordinance an administrative body to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this municipal administrative body in accordance with said ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order.

**152.46 Severability**. Should any provision (section, clause, phrase, word, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this ordinance. To this end, the provisions of this ordinance are severable.

**152.47 Effect of Adoption on Prior Ordinances.** The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Such rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

**152.48 Effective Date.** This Ordinance shall be in full force and effect from and after the date on which both of the following have occurred:

1. The passage by the Common Council, approval by the Mayor, and publication as required by law; and
2. The Fire Prevention and Building Safety Commission of Indiana has approved this ordinance as required by I.C. 36-8-3 and I.C. 22-13-2-5.

 PASSED BY THE COMMON COUNCIL OF THE CITY OF HUNTINGBURG, INDIANA, THIS \_\_24th\_\_\_ DAY OF \_\_May\_\_, 2016, BY THE FOLLOWING VOTE:

Nay Aye Abstain Absent

 \_\_\_ \_X\_\_ Glen E. Kissling \_\_\_ \_\_\_

 \_\_\_ \_X\_\_ Jeffrey L. Bounds \_\_\_ \_\_\_

 \_\_\_ \_X\_\_ Stephen C. McPherron \_\_\_ \_\_\_

 \_\_\_ \_X\_\_ Kerry L. Blessinger \_\_\_ \_\_\_

 \_\_\_ \_X\_\_ Timothy W. Wehr \_\_\_ \_\_\_

TOTAL: 0 5 0 0

COMMON COUNCIL OF THE

 CITY OF HUNTINGBURG, INDIANA

 By: */s/ Dennis W. Spinner*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Dennis W. Spinner, Presiding Officer

ATTEST:

*/s/ Thomas A. Dippel*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Thomas A. Dippel, Clerk-Treasurer

 Presented by me, the undersigned Clerk-Treasurer of the City of Huntingburg, to the Mayor of said City for his approval on the \_25th\_ day of \_May\_\_\_, 2016.

 */s/Thomas A. Dippel*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Thomas A. Dippel, Clerk-Treasurer

 Approved by me, the undersigned Mayor of said City on the \_25th\_\_ day of \_\_May\_\_\_, 2016, at \_\_8:15\_\_ o’clock \_A\_.M.

 */s/ Dennis W. Spinner*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Dennis W. Spinner, Mayor

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