



MICHAEL R. PENCE, Governor
STATE OF INDIANA

INDIANA DEPARTMENT OF HOMELAND SECURITY
302 West Washington Street
Indianapolis, IN 46204

November 22, 2016

Jeff Carrigan
Mancino's Pizza & Grinders
4116 West Bethel Ave
Muncie, IN 47304

Re: Petition for Review – Mancino's Pizza and Grinders

Dear Mr. Carrigan,

The Fire Prevention and Building Safety Commission is in receipt of your Petition for Review of the recent Muncie Fire Department Inspection Order. The Petition for Review will be discussed at the next regularly scheduled meeting of the Fire Prevention and Building Safety Commission – currently scheduled to begin at 9:00AM on December 6, 2016. The Commission will make a determination as to whether the petition was timely filed.

Sincerely,

Beth Sutor
Secretary
Fire Prevention and Building Safety Commission



An Equal Opportunity Employer

Sutor, Beth

From: Mancinos Muncie <mancinosmuncie@comcast.net>
Sent: Thursday, November 17, 2016 6:16 AM
To: Sutor, Beth; mancinosmuncie@comcast.net
Subject: Mancino's fire door appeal
Attachments: appeal letter.jpg; letter.jpg; violation.jpg; fire door.jpg

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Beth,

Talks for talking yesterday. Again I'm sorry that you haven't received any paper work but here is an email with four things. My letter that I mailed had the first three things in it. Since I'm sending you this email I thought I would attach a picture of the fire door in question.

1. My appeal letter I wrote
2. Architect's letter
3. The violation
4. The fire door that was installed and passed by the city.

~~If you have any questions please call me at (765) 287-1300. Again sorry you haven't received anything and thank you for working with me.~~

Have a great day,

Jeff Carrigan

Mancino's Pizza and Grinders

Muncie, IN

MANCINO'S

PIZZA & GRINDERS

October 13, 2016

4116 West Bethel Ave 765-287-1300

Department of Homeland Security,

The date of my violation was October 6, 2016. I expanded my current restaurant into the space next to me to open a small ice cream shop. At the time when I was getting things ready for this project, I had a worker from the city building commissioner's office come out to tell me what I would need to start this project. He told me to fill out their paperwork, have an architecture draw up plans for the cut in the wall with a fire door, and pay fees for the permits to start the work. At this time there was NEVER anything mentioned about submitting anything to the state. So I went forward with the procedures and paid an architect to draw up plans that I submitted to the city with their paperwork and paid fees and permits.

Then on the day of inspection to get my certificate to operate, the Lt. inspector, Brad Riddle, told me the project should have been sent to state for approval. Enclosed is a copy of the letter my architect then wrote to the building commissioner, who after reviewing and looking into some things, felt everything was done right. He issued a certificate to operate. That is when the Brad returned to issue me this violation that I feel isn't right due to the fact that the building commissioner decided everything met the required steps to satisfy this project and he issued me the certificate to operate.

Now that we are open, it is hard for me to understand how one department sees things as done right and finished, where as another department is asking me to spend another \$1,000 to submit plans to the state to do exactly what we have already completed.

Please see attached appeal. I need to know if this project needs submitted to the state or not. Please advise.

Sincerely,

Jeff Carrigan

Mancino's Pizza and Grinders



Architects America

Aug. 15, 2015

City Of Muncie -- Division of Permits
300 N. High St.
Muncie, In.
765-747-4862

Re: ROLL-UP Door -- State Design Release or Not
Mancinos Pizza & Grinders
4116 W. Bethel Av.
Muncie, In.

Mancinos installed a new roll-up door between the Restaurant and a new Ice Cream Shop.

Does this new opening require a State Design Release?

The Indiana Administrative Code does not require a State Design Release (675 IAC 12-6-4) for the following.

1. Opening in an exterior load bearing wall up to 6 ft. wide.
2. Installation of a nonload bearing interior walls not exceeding 100 lineal feet

This new opening is 5 feet wide in a nonload bearing wall. This opening does not meet the two exemptions from design release above, but if the State does not require a design release for these two exemptions, than this opening should not require a State Design Release.

This new opening between to two existing spaces does not change the occupancy use. The existing restaurant is an occupancy "A2" and the location of the new ice cream shop was an occupancy "B" and still is. The new ice cream shop seat less than 50, see IBC section 303.1.1.

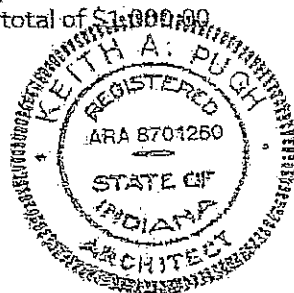
This new opening does not change the Life Safety of these two spaces, life safety is the most important item for this project. This new 5'x7' roll-up door is fire rated, so each spaces are still consider (fire area) individual spaces.

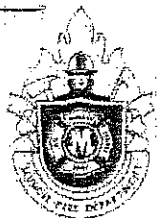
Note: If Mancinos have to send this opening for design release it will cost -- State Fees=\$150 & Architectural Fee= \$850 for a total of ~~\$1,000.00~~

Keith A. Pugh, RA
Architects America

Keith A. Pugh

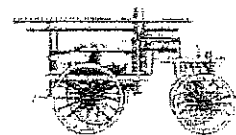
8736 West 200S
Farmland, Indiana 47340
PH: 765-468-6912





Muncie Fire Department

FIRE PREVENTION BUREAU



300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

Mancino's Pizza & Grinders
4116 W Bethel
Muncie, IN 47304

An inspection of your facility on Thursday October 6, 2016 revealed the violation(s) listed below.

ORDER TO COMPLY: Since these conditions are contrary to law, you must correct them upon receipt of this notice. An inspection to determine compliance with this Notice will be conducted on or after: **Monday November 7, 2016**

Failure to remedy the violation(s) within the time period set forth above will result in the initiation of legal proceedings to restrain, correct or abate the violation(s). Such proceedings will require your appearance in court for a hearing on the matter. If a violation is found at that time, a fine of up to \$1000 will be imposed. The imposition of a penalty for a violation shall not excuse the violation nor permit it to continue. Each day a violation exists is considered a separate violation.

Violation Code	Article	Division	Page	Count
675 IAC 12-6-4 Exemptions from design release Sec. 4. (a) Design releases are necessary for construction on all Class 1 structures, except the following: (1) Class 1 structures that will never be occupied or otherwise used in any part by the public and that will not normally be occupied or otherwise used in any part by a person who is acting as an employee of another, of the following types: (A) Oil derricks. (B) Pipelines, including related physical support structures. (C) Tanks for storage of products, other than flammable or combustible liquids or gases, that are factory fabricated and assembled. (D) Electrical power cable transmission towers and substations. (E) Structures used for communication purposes, except for: (i) satellite dishes exceeding ten (10) feet in diameter; and (ii) antennas exceeding thirty (30) feet in length; when mounted on the roof of a Class 1 structure. (F) Structures appurtenant to: (i) industrial plants; (ii) power generating plants; (iii) gas plants; (iv) bulk storage facilities; and (v) shipping terminals;	675 IAC 12	GAR	25	1



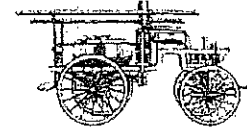
208

NO ALCOHOL
ALLIANCE
BEYOND THE
BARRIERS



Muncie Fire Department

FIRE PREVENTION BUREAU



300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

Mancino's Pizza & Grinders
4116 W Bethel
Muncie, IN 47304

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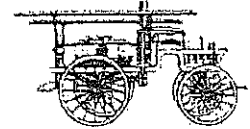
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Sec. 4. (a) Design releases are necessary for construction on all Class 1 structures, except the following:				
(1) Class 1 structures that will never be occupied or otherwise used in any part by the public and that will not normally be occupied or otherwise used in any part by a person who is acting as an employee of another, of the following types:				
(A) Oil derricks.				
(B) Pipelines, including related physical support structures.				
(C) Tanks for storage of products, other than flammable or combustible liquids or gases, that are factory fabricated and assembled.				
(D) Electrical power cable transmission towers and substations.				
(E) Structures used for communication purposes, except for:				
(i) satellite dishes exceeding ten (10) feet in diameter; and				
(ii) antennas exceeding thirty (30) feet in length;				
when mounted on the roof of a Class 1 structure.				
(F) Structures appurtenant to:				
(i) industrial plants;				
(ii) power generating plants;				
(iii) gas plants;				
(iv) bulk storage facilities; and				
(v) shipping terminals;				



Muncie Fire Department

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300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

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where the functions of the structures are primarily the support of related equipment.

(G) Structures of:

- (i) sewage;
- (ii) water;
- (iii) gas; and
- (iv) electric;

utilities.

(H) Signs, except those mounted on the roof of a Class 1 structure, that exceed one hundred (100) square feet of surface area.

(2) Temporary structures.

(3) Class 1 structures either:

(A) owned by the federal government; or

(B) located on land over which exclusive jurisdiction has been ceded to the federal government. (See 40 U.S.C. 255 and IC 4-21.5.)

(4) One (1) story detached accessory Class 1 structures in Group B, F, R, S, U, or M Occupancy classifications that:

(A) do not exceed five hundred (500) square feet; and

(B) are used as:

~~(i) equipment shelters;~~

(ii) tool and storage sheds (not used for the storage or handling of hazardous materials);

(iii) freezers;

(iv) coolers; or

(v) other similar uses.

(5) One (1) story attached additions to Class 1 structures in Group B, F, R, S, U, or M Occupancy classifications that:

(A) do not:

(i) exceed three hundred (300) square feet; and

(ii) impose an excessive structural load onto the existing structure; and

(B) are used as:

(i) equipment shelters;

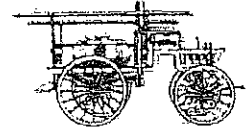
(ii) tool and storage sheds (not used for the storage or handling of hazardous materials);

(iii) freezers;



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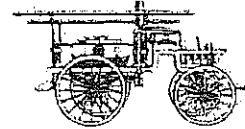
Mancino's Pizza & Grinders
4116 W Bethel
Muncie, IN 47304

- (iv) coolers; or
- (v) other similar uses.
- (6) One (1) story detached Class 1 structures that:
 - (A) do not exceed five hundred (500) square feet in floor area;
 - (B) have at least one (1) unenclosed side; and
 - (C) are used for personnel shelters, such as:
 - (i) bus stops;
 - (ii) picnic shelters; and
 - (iii) gazebos.
- (7) One (1) story detached Class 1 structures that:
 - (A) do not exceed two hundred (200) square feet in floor area; and
 - (B) are used as guard houses or retail sales outlets, such as:
 - (i) kiosks;
 - (ii) drive-up facilities; and
 - (iii) roadside fruit and vegetable stands.
- (8) Fences, except for those enclosing:
 - (A) public swimming pools; or
 - (B) liquified petroleum gas storage facilities.
- (9) Retaining or enclosure walls, except for those surrounding flammable or ~~combustible liquids or gases storage facilities.~~
- (10) Installation or replacement of tanks and dispensing equipment for flammable and combustible liquids or gases if the scope of the work is limited to the following:
 - (A) Liquid petroleum gas (LPG) storage facilities having a total capacity of not more than four thousand (4,000) gallons and no single tank having a capacity of more than two thousand (2,000) gallons measured as gallons of water.
 - (B) Storage tanks for Class I, II, IIIA, or IIIB liquids:
 - (i) having a capacity of six hundred sixty (660) gallons or less;
 - (ii) that are portable; and
 - (iii) that are for temporary use only.
- (11) Structures to be used primarily for the display of agricultural products and not used for assembly purposes where the structures are located within a political subdivision qualified under 675 IAC 12-10-9.
- (12) Structures to be built in accordance with the requirements applicable to



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Mancino's Pizza & Grinders
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their eventual use as Class 2 structures that will initially be used as models or offices for the sale of Class 2 structures where the initial use does not cause any of the building systems to become noncompliant with current rules of the commission for that use. "Systems" are architectural, structural, electrical, plumbing, mechanical (HVAC), fire alarm, and fire suppression.

(b) Design releases are necessary for the remodeling or altering of all Class 1 structures, except work limited to one (1) or more of the following:

(1) Any of the buildings or structures the new construction of which is exempted by subsection (a).

(2) Plumbing work as follows:

(A) Replacement of piping, valves, or fixtures, provided that the replacement does not involve relocation of fixtures.

(B) Installation of plumbing fixtures, provided that the drainage fixture unit count does not exceed five (5).

(C) Replacement of water heaters with a similar type and capacity in the same location.

(D) Installation of water heaters with a capacity of one hundred (100) gallons or less.

(3) Electrical work as follows:

~~(A) Replacement in the same location of electrical equipment or devices of a similar type and rating, including an increase in current capacity in nonhazardous areas where there is no change in voltage or phases.~~

(B) Portable or temporary equipment and devices energized by means of cord and plug.

(C) Temporary installation of wiring and devices.

(D) Installation of branch circuits not exceeding the capacity of the electrical distribution system within the existing building.

(E) Low-energy power, control, and signal circuits of Classes II and III as defined in the Indiana Electrical Code except circuits for fire detection or fire alarm systems.

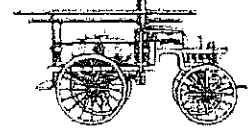
(F) Electrical wiring, apparatus, or equipment installed by a public or private utility in the exercise of its function as a serving utility:

(i) for the generation, transmission, distribution, or metering of electrical



Muncie Fire Department

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300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

Mancino's Pizza & Grinders
4116 W Bethel
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energy; or

(ii) in the operation of signals or the transmission of intelligence.

(G) Except for fire detection or fire alarm systems, electrical wiring, devices, appliances, apparatus, or equipment:

(i) operating at less than twenty-five (25) volts; and

(ii) not capable of supplying more than fifty (50) watts of energy.

(4) Mechanical work as follows:

(A) Installation of any portable heating, ventilating, and air conditioning appliance or equipment.

(B) Replacement of mechanical appliances and equipment with a similar type and rating in the same location.

(C) Installation of any of the following:

(i) A heating system having an output not in excess of four hundred thousand (400,000) British thermal units per hour.

(ii) A cooling system having an output not greater than fifteen (15) tons (one hundred eighty thousand (180,000) British thermal units per hour).

(iii) A combination of the two (2) having an air-handling capacity not in excess of nine thousand (9,000) cubic feet per minute.

(D) Installation of heating or cooling equipment to be used for commercial processing work or activities where comfort of personnel is not of primary concern.

(5) Miscellaneous work as follows:

(A) Painting, papering, and replacement of coverings on:

(i) walls;

(ii) ceilings;

(iii) roofs; or

(iv) floors;

and similar finish work, including replacement or reglazing of glass.

(B) Cases, counters, and partitions not over six (6) feet in height.

(C) Penetrations of nonfire-rated exterior walls where the width of the opening:

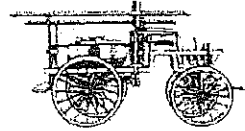
(i) does not exceed six (6) feet; and

(ii) is not for a required exit.



Muncie Fire Department

FIRE PREVENTION BUREAU



300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

Mancino's Pizza & Grinders
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(D) Installation of one (1) or more nonload-bearing partitions not to exceed a total of one hundred (100) lineal feet in length provided it is not part of a corridor or a partition that is required to be of fire-resistive construction.

(6) Fire sprinkler systems as follows:

(A) Replacement of components of existing wet fire sprinkler systems of light hazard or ordinary hazard classification as defined in 675 IAC 13, including:

(i) replacement of sprinkler heads;

(ii) replacement of equipment; or

(iii) replacement of piping to restore a system to its original condition and configuration.

(B) Alteration of existing light hazard or ordinary hazard fire sprinkler systems, including:

(i) the addition or alteration of up to an aggregate of twenty (20) sprinkler heads in a wet pipe system for light or ordinary hazard design;

(ii) conversion of a dry type system to a wet or antifreeze type system not exceeding ten (10) sprinkler heads; or

(iii) conversion of a wet or antifreeze type system not exceeding ten (10) sprinkler heads to a dry type system.

~~(c) All additions or alterations permitted by this subdivision [sic.] shall be~~
documented by the installer and kept on file with the maintenance and testing records required by 675 IAC 22 and 675 IAC 28, specifically the applicable editions of NFPA 13 and NFPA 25.

(d) The design release requirements including filing of plans and specifications shall apply for any work otherwise exempted by subsection (b) when a part of, supplemental to, or an accessory of a construction project that otherwise requires a design release.

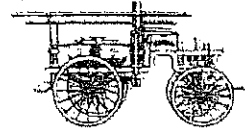
(e) Construction work on a Class I structure exempted from the design release requirements under this section is not exempt from compliance with other rules of the commission.

Footnote: Construction Design Release is required from the State (IDHS) for the already completed construction involving the new opening and roll-up fire door in the interior wall separating existing "A-2" restaurant from adjoining vacant "B"



Muncie Fire Department

FIRE PREVENTION BUREAU



300 N High Street, Muncie, Indiana 47305 Telephone (765) 747-4876

Mancino's Pizza & Grinders
4116 W Bethel
Muncie, IN 47304

tenant space.

NOTES COMMENTS

0 . 0

This inspection report involves recent construction only.

Three attached pages given with report;

- 1) Architect's letter. (Keith Pugh / Architects America)
 - 2) Letter sent to the State concerning the requirement for release. (sent by myself)
 - 3) Reply/response from the Assistant Director of Plan Review. (Dave Moses / Indiana Department of Homeland Security)
-

RIDDLE, BRAD
Inspector

X

Occupant/Owner



Architects America

Aug. 15, 2015

City Of Muncie – Division of Permits
300 N. High St.
Muncie, In.
765-747-4862

Re: ROLL-UP Door – State Design Release or Not
Mancinos Pizza & Grinders
4116 W. Bethel Av.
Muncie, In.

Mancinos installed a new roll-up door between the Restaurant and a new Ice Cream Shop.

Does this new opening require a State Design Release?

The Indiana Administrative Code does not require a State Design Release (675 IAC 12-6-4) for the following.

1. Opening in an exterior load bearing wall up to 6 ft. wide.
2. Installation of a nonload bearing interior walls not exceeding 100 lineal feet

This new opening is 5 feet wide in a nonload bearing wall. This opening does not meet the two exemptions from design release above, but if the State does not require a design release for these two exemptions, than this opening should not require a State Design Release.

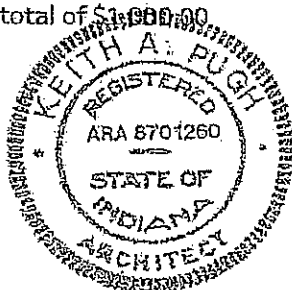
This new opening between to two existing spaces does not change the occupancy use. The existing restaurant is an occupancy "A2" and the location of the new ice cream shop was an occupancy "B" and still is. The new ice cream shop seat less than 50, see IBC section 303.1.1 .

This new opening does not change the Life Safety of these two spaces, life safety is the most important item for this project. This new 5'x7' roll-up door is fire rated, so each spaces are still consider (fire area) individual spaces.

Note: If Mancinos have to send this opening for design release it will cost – State Fees=\$150 & Architectural Fee= \$850 for a total of \$1,000.00

Keith A. Pugh, RA
Architects America

8736 West 200S
Farmland, Indiana 47340
PH: 765-468-6912



Re: Mancino's Pizza & Grinders
4116 W Bethel Ave.
Muncie, IN 47303

Mr. Moses,

This matter is concerning the above mentioned existing restaurant and the requirement for a CDR. The A-2 restaurant and bar is approximately 5,000sq.ft. in a 9,300sq.ft. strip mall building (153'x61'). The restaurant is expanding into an adjacent vacant B occupancy next to them. After consulting a design professional (Keith Pugh), they installed a new roll-up fire door in the wall adjoining these two occupancies.

After informing owner that a CDR was required from the state, I received a call from Keith Pugh. Keith said that a CDR was not required to put an opening in a non-load bearing wall (???). I replied to Keith that installing a fire door and the expansion/addition to an A-2 restaurant was not an exemption from the design release that I was aware of. Keith stated that he would do a more detailed plan for this project and submit application for the CDR.

Yesterday we (Muncie Fire Department) received the attached letter from Architects America. The two exemptions in the letter are either partial or different from exemptions actually in 675 IAC 12-6-4.

Is a Construction Design Release required for this project? Please give an explanation in your reply.

Thank You,

Brad Riddle / Lt. Inspector
Muncie Fire Department
300 N High St.
Muncie, IN 47305
Cell: (765) 702-0387
Office: (765) 747-4876

Email: briddle@cityofmuncie.com

Subject: FW:

From: "Moses, Dave" <dmoses@dhs.IN.gov>

To: "donotreply@cityofmuncie.com" <donotreply@cityofmuncie.com>

Cc: "Burgess, Craig" <CBurgess@dhs.IN.gov>, "briddle@cityofmuncie.com" <briddle@cityofmuncie.com>

Wed, 24 Aug 2016 15:28:07 +0000

Brad, the proposed work per attached will require filing with the State for design release requirement per the General Administrative Rules 675 IAC 12-6-4 Exemptions from design release requirement.

675 IAC 12-6-4 Exemptions from design release requirement

Sec. 4. (b) Design releases are necessary for the remodeling or altering of all Class 1 structures, except work limited to one (1) or more of the following:

(5) Miscellaneous work as follows:

(D) Installation of one (1) or more nonload-bearing partitions not to exceed a total of one hundred (100) lineal feet in length provided it is not part of a corridor or a partition that is required to be of fire-resistive construction.

Thanks

Dave Moses CPE, CBI

Assistant Director of Plan Review

Indiana Department of Homeland Security

Division of Fire and Building Safety

317-232-1426

As of December 1st, 2014, the 2014 Indiana Building, Fire, Mechanical and Fuel Gas codes will be in effect. These will consist of the 2012 model codes with Indiana amendments. 675 IAC 12-4-7 (a) states in part: "Construction projects shall be done in compliance with the applicable rules of the commission in effect on the date the plans were filed with the division". Therefore, all plans received in the Plan Review Office on or after December 1st will be reviewed in accordance with the provisions of the 2014 codes.

Need help understanding the plan review process? Go to www.in.gov/dhs/3864.htm

The State will not accept any outdated versions of a energy compliance report. Please insure that

APPEAL RIGHTS

Please be advised that if you desire administrative review of this Order, you must file a written petition for review with the:

Fire Prevention and Building Safety Commission
302 West Washington Street, Rm. W246
Indianapolis, IN 46204

You must identify the violations for which you seek review no later than 18 calendar days from the date of this Order unless such date is a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours, in which case the deadline would be the first calendar day thereafter that is not a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's office is closed during regular business hours. If you do so, your petition for review will be granted and an administrative proceeding will be conducted by an administrative law judge appointed by the Fire Prevention and Building Safety Commission. If you do not file a petition for review, this Order will be FINAL and you MUST comply with its requirements.

Please be further advised that you may request an opportunity to informally discuss this Order prior to filing a petition for review. Such informal discussion, or a request therefore, does not extend the deadline for filing a petition for review and, therefore, any request for an informal discussion should be made promptly, preferably by telephone (317 232-2222), upon receipt of this Order.
