



Ordinance #2019-__
Brownsburg, Indiana
_____, 2019

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BROWNSBURG,
HENDRICKS COUNTY, INDIANA AMENDING TITLE XV: LAND USAGE, CHAPTER
150 BUILDING REGULATIONS, SECTIONS 150.35 THROUGH 150.41 & SECTION
150.75 OF THE TOWN CODE OF ORDINANCES**

WHEREAS, The Town Council (the “Council”) of the Town of Brownsburg, Henricks County, Indiana (the “Town”) has previously established certain regulations relating to Building Code under Sections 150.35 through 150.41 (the “Building Code”) and Building Rules under Section 150.75 of the Town Code (the “Building Rules”);

WHEREAS, based on the recommendations received from the Town’s Department of Development Services (the “Development Services Department”), the Council desires to amend the Town Code by eliminating current Sections 150.35 through 150.41 and 150.75 to be replaced by new sections 150.35 through 150.41 as set forth on Exhibit “A” attached hereto and incorporated herein by reference (the “Amended Building Code and Rules”); and

WHEREAS, the Amended Building Code and Rules set forth the terms and conditions for the issuance of permits, inspections, and penalties for violations relating to building rules, codes and standards.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BROWNSBURG, INDIANA AS FOLLOWS:

Section I. The above recitals are incorporated herein by reference as though set forth fully herein below.

Section II. Title XV, Chapter 150, Sections 150.35 through 150.41 and Section 150.75 are hereby amended and replaced in their entirety by the Amended Building Code and Rules previously referenced above and attached as Exhibit “A”.

Section III. To the extent conflicting with or in opposition with any other ordinance of the Town, this Ordinance shall supersede and be controlling.

Section IV. Should any section, paragraph, sentence, clause, or any other portions 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 originally intended by the Council in adopting this Ordinance pursuant to the recommendation received Development Services Department. To this end the provisions of this Ordinance are severable.

Section V. If any provision of this Ordinance conflicts with any building or fire safety law adopted or administered by the Fire Prevention and Building Safety Commission of Indiana (the “Commission”), the Commission’s laws govern.

Section VI. The expressed or implied repeal of amendment by this Ordinance or 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.

Section VII. This Ordinance is hereby passed by the Council for the Town this _____ day of _____, 2019 and shall be in full force and effect from and after the date on which the following occur:

- i. This Ordinance #2019-__ is formally adopted by the Council.
- ii. This Ordinance #2019-__ is approved by the Commission as required pursuant to the provisions set forth under IC 22-13-2-5.
- iii. Any and all other requirements as may be provided for under Indiana law have been satisfied in full.

BROWNSBURG TOWN COUNCIL

Brian Jessen, Council President
Town of Brownsburg

ATTEST:

Ann Hathaway, Clerk-Treasurer

This Ordinance #2019-__ is hereby formally approved by the Fire Prevention and Building Safety Commission of the State of Indiana, this __ day of _____, 2019.

FIRE PREVENTION AND BUILDING SAFETY
COMMISSION OF THE STATE OF INDIANA

Robert Nicoson, Chairman
Indiana Fire Prevention and Building Safety Commission

EXHIBIT “A”
THE AMENDED BUILDING CODE AND BUILDING RULES
NEW SECTIONS 150.35 – 150.41

(Eliminating & Replacing Current Sections 150.35 – 150.41 & 150.75)

SECTION 150.35 GENERAL REQUIREMENTS

(A) Definitions. Unless otherwise clearly indicated by its context, the words and terms as defined below shall have the specified meanings as follows:

1. “Building Commissioner” and or “Enforcement Authority” as used throughout Chapter 150 of the Town Code, is the designated authorized employee of the Town of Brownsburg’s Development Services Department charged with the administration of and enforcement of all sections under Chapter 150 of the Town Code as well as all related provisions of Indiana Code adopted herein by reference including, but not limited to, all variances granted in accordance with IC 22-13-2-11 and all orders issued pursuant to IC 22-12-7 *et seq.*
2. “Class 1 structure” has the meaning as set out in IC 22-12-1 *et seq.*
3. “Class 2 structure” has the meaning as set out in IC 22-12-1 *et seq.*
4. “Construction” has the meaning set out in IC 22-12-1 *et seq.*
5. “Fire Prevention and Building Safety Commission” and/or “Commission” has the meeting set out in IC 22-12-2 *et seq.*
6. “Industrialized building system” has the meaning as set out in IC 22-12-1 *et seq.*
7. “Manufactured home” has the meaning as set out in IC 22-12-1 *et seq.*
8. “Mobile structure” has the meaning as set out in IC 22-12-1 *et seq.*
9. “Person” has the meaning as set out in IC 22-12-1 *et seq.*
10. “Structure” means both Class 1 and Class 2 structures, unless specifically stated otherwise in Rules of the Fire Presentation and Building Safety Commission.
11. “Vehicular bridge” has the meaning as set out in in IC 22-12-1 *et seq.*

(B) Scope.

1. All Construction shall be accomplished in compliance with the provisions of Sections 150.35 – 150.41 of the Town Code.
2. Pursuant to IC 22-13-2-6, Sections 150.35 – 150.41 shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4 *et seq.*; however, Sections 150.35 – 150.41 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 *et seq.*
3. Pursuant to IC 22-13-2-9, Sections 150.35 – 150.41 are not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

(C) Workmanship.

All construction, alterations, or repairs of any building/structure shall be accomplished in a good and workmanlike manner in accordance with all related acceptable standards and practices in the

affiliated profession and/or trade(s).

SECTION 150.36 BUILDING PERMITS

(A) Building Permit Required.

Construction is prohibited, unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of Construction. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, improve, convert, use, occupy, or maintain any building or structure, in violation of Sections 150.35 – 150.41 of the Town Code.

(B) Application for Building Permit.

1. Any person required to obtain a building permit shall submit a complete application to the Building Commissioner.
2. Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.
3. This application shall be submitted on a form(s) prescribed by the Building Commissioner, and shall contain the following:
 - a. Information that the Building Commissioner determines necessary to locate and contact the applicant.
 - b. A site plans, certified by an Indiana Registered Land Surveyor drawn to scale; provided, however, such certified site plan shall not be required in the instance where all such construction is to occur entirely within an existing structure, or as determined by the Building Commissioner, certified site plan may not be required.
 - (i) Site plan shall include the location of the structure in relation to property lines, easement, street(s) right-of-way, curbs and sidewalks.
 - c. Plan(s) and specification required to be submitted for the issuance of local building permits shall be drawn to scale or scales suitable to illustrate the work using accepted professional practices. Drawing scale or scales must be noted on each sheet.
4. One set of complete plans and specification shall be submitted in electronic format to the Building Commissioner.
5. When required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the Construction to be accomplished has been issued by the State Building Commissioner pursuant to IC 22-15-3 *et seq.*
6. All information required pursuant to IC 22-11-21-9 for qualifying properties containing advanced structural components.
7. As determined by the Building Commissioner, additional information necessary to determine that Construction will conform to all applicable rules of Fire Prevention and Building Safety Commission and will not violate any other applicable ordinances or laws.
8. Any and all fees established by the Town and/or the Development Services Department shall be paid prior to the issuance of local building permit.

(C) Use of Advanced Structural Components.

For all building permits issued covering the Construction of qualifying properties containing advanced structural components, the Building Commissioner shall send notice as required

pursuant to IC 22-11-21-10.

(D) Local Plan Review.

1. The Building Commissioner, or his designee, may perform a local plan review on submitted plans and specification as set out in IC 22-15-3.3 *et seq.*
2. In accordance with IC 22-15-3.3-5, local plan review does not supersede or otherwise impact any laws or rules concerning a plan review conducted by the State of Indiana.

(E) Issuance of Building Permit.

The Building Commissioner shall issue a building permit to a person in accordance with subsection (B) of this Section 150.36 referenced above, after the person has submitted a complete application, and required information indicating the proposed construction will conform to all applicable building and fire safety laws and will not violate any other applicable provisions of the Town Code, local ordinances or laws and pays all required fees.

(F) Changes to Plans and/or Specifications after Building Permit Issued.

No change shall be made to any plans and/or specifications, after the issuance of the building permit, except when revised plans and/or specifications have been submitted to the Development Services Department. If a construction design was issued by the State Building Commissioner an addendum application including revised plans and/or specifications shall be submitted to the Indiana Department of Homeland Security, Division of Fire and Building Safety, Plan Review Section.

(G) Permit Period of Validity.

1. All permit(s) issued under Sections 150.35 – 150.41 shall be null and void if the work and/or the Construction covered by said permit(s) is not started within one (1) year from date of issuance.
2. As long as work and/or the Construction covered by said permit(s) continue to progress towards completion, the work covered by said permit(s) is valid until work under said permit(s) is completed.
3. If the work and/or the Construction covered by said permit(s) was started and subsequently work covered by said permit(s) is ceased, suspended or abandoned for a period of 180 consecutive days, said permit(s) is suspended, until an application for re-instatement, of said permit(s) has been submitted to the Building Commissioner and any required fees paid for said re-instatement.

(H) Certificate of Completion and Compliance.

1. CLASS 2 STRUCTURE - CERTIFICATE OF COMPLETION AND COMPLIANCE.
Upon completion of Construction the applicant for said permits (building, electrical, mechanical, plumbing, etc.) shall within ten (10) days submit the Certificate of Completion and Compliance on a form prescribed by the Building Commissioner.
2. CLASS 1 STRUCTURE WITHOUT ARCHITECT OR ENGINEER - CERTIFICATE OF COMPLETION AND COMPLIANCE.
Upon completion of Construction the applicant for said permits (building, electrical, mechanical, plumbing, etc.) shall within ten (10) days submit the Certificate of Completion

and Compliance on a form prescribed by the Building Commissioner.

3. **CLASS 1 STRUCTURE WITH ARCHITECT OR ENGINEER CERTIFICATE OF COMPLETION AND COMPLIANCE.**

Upon completion of Construction, but not less than ten (10) days, the design professional (architect or engineer) responsible for review and monitoring during construction shall execute and submit to the Building Commissioner the architect's or engineer's Certificate of Completion and Compliance.

(I) Certificate of Occupancy.

1. No certificate of occupancy shall be issued unless such Structure was constructed in compliance with the provisions of this Ordinance and the rules of the Fire Prevention and Building Safety Commission.
2. It shall be unlawful to occupy any Structure unless a certificate of occupancy has been issued by the Building Commissioner.

SECTION 150.37 INVESTIGATION & INSPECTION OF CONSTRUCTION ACTIVITY

(A) General Authority to Make Inspections and Investigations.

1. In accordance with IC 36-7-2-3 the Building Commissioner, or designee, upon presentation of Town issued credentials, may inspect any structure or other improvements at any reasonable time.
2. All Construction shall be subject to periodic inspections by the Building Commissioner, or designee, irrespective of whether a building permit has been or is required to be obtained.
3. The Building Commissioner or designee, upon presentation of proper credentials, may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of Sections 150.35 – 150.41 of the Town Code or the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure.
4. 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 complies with building standards and procedures and ascertaining whether the construction has been accomplished in a manner consistent with Sections 150.35 – 150.41 of the Town Code and the rules of the Fire Prevention and Building Safety Commission.
5. In accordance with IC 36-7-2-9.5, if the Building Commissioner, or designee, determines the construction, building or improvements violates any applicable law, rule, order, or interpretation of the Fire Prevention and Building Safety Commission, the Building Commissioner shall provide to the building (electric, mechanical, plumbing, etc.) permit applicant the following:
 - a. Identify the specific feature in violation (non-compliance); and,
 - b. Specify the applicable law, rule, order or interpretation by identifying the applicable building or fire code edition (year of adoption), chapter, and section.

(B) Notification for Inspection.

The building permit applicant shall notify the Development Services Department five (5) days in advance, excluding weekends and official Town holidays as published by the Town, of any

inspection required by Sections 150.35 – 150.41 of the Town Code.

(C) Minimum Inspections.

1. The following minimum inspection shall be required; however, additional inspection may be required based on the complexity of the construction project:
 - a. Footer, prior to placement of concrete;
 - b. Foundation, including placement of anchor bolts (or alternate anchor method), including insulation;
 - c. Underslab rough-in, including insulation, plumbing, electrical, mechanicals, gas piping, any components underslab, prior to the placement of the concrete slab;
 - d. Framing, including, but limited to rough-in of electrical, plumbing, mechanical, gas piping, insulation, fire sprinkler piping, fire alarm components, any component enclosed within walls, prior to placement of wall covering(s);
 - e. Fire stop system, such as: through penetrations, membrane penetrations;
 - f. Fire-resistant rated construction such as fire walls, fire barrier, fire partitions, etc.
 - g. Final inspection including electrical, plumbing, mechanical, gas piping, insulation, fire sprinkler, fire alarm components, fire-resistant construction, all accessible components.

(D) Inspection by the Brownsburg Fire Territory.

1. The Building Commissioner and the Brownsburg Fire Territory shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws.
2. The Brownsburg Fire Territory has independent authority to conduct inspections and take enforcement actions under IC 36-8-17.

SECTION 150.38 ENFORCEMENT AND PENALTIES

(A) Withhold Issuance of Permit(s).

1. Whenever fees are owed (including checks returned for insufficient funds, permit fees or inspection fees) pursuant to the Development Services Department's fee schedule adopted by the Brownsburg Town Council, the Building Commissioner may withhold the issuance of subsequently requested permits until all fees owed have been paid.
2. Whenever a person applies for a building 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.

(B) Permit Revocation.

The Building Commissioner may revoke a building permit for any of following:

1. The application(s) plans or supporting documents contain a false statement or misrepresentation as to a material fact.
2. The application(s) plans or supporting documents reflect a lack of compliance with building rules, standards and procedures.
3. Failure to comply with the Sections 150.35 – 150.41 of the Town Code.

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

(C) Stop Work Order.

The Building Commissioner may issue an order requiring suspension of pertinent construction in accordance with the following:

1. 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. Identify the specific law, order, or interpretation upon which the finding of noncompliance is based, specifying the edition, chapter and section of any applicable building and fire code, including Indiana Code and local Ordinances.
 - f. The stop-work order shall state the conditions under which Construction may be resumed.
2. 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 the Town Code or any state law pertaining to safety during Construction.
 - b. Construction is occurring in violation of Sections 150.35 – 150.41 or in such a manner that if Construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation.
 - c. Construction for which a building permit is required is proceeding without a building permit.
3. The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in the Town Code or any law, standard, ordinance adopted by the Brownsburg Town Council.

(D) Civil Action.

Pursuant to IC 36-1-6-4, the Town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of Sections 150.35 – 150.41 of the Town Code.

(E) Monetary Penalty.

1. Any person violating any provision of Sections 150.35 – 150.41 of the Town Code commits a Class C Infraction and may be subject to fines not exceeding two thousand five hundred dollars (\$2,500) per Infraction.
2. For each day an Infraction occurs constitutes a separation Infraction.
3. The assessment of monetary penalties shall in no way limit the other penalties provided elsewhere in Sections 150.35 – 150.41 of the Town Code.

(F) Right of Appeals.

1. Any person aggrieved by an order issued under Sections 150.35 – 150.41 of the Town Code shall have the right to petition for review of any order issued by the Building Commissioner.
2. A person may file a petition using the following procedures:
 - a. Appeal to the Fire Prevention and Building Safety Commission.
 - i. A person aggrieved by an order issued under Sections 150.35 – 150.41 of the Town Code may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.
 - ii. The Fire Prevention and Building Safety Commission may modify or reverse any order issued by the Building Commissioner, which covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety or a building rule.
 - iii. The Fire Prevention and Building Safety Commission shall 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.
 - A copy of said petition filed with the Fire Prevention and Building Safety Commission shall be provided to the Building Commissioner by electronic mail, with read receipt acknowledgement.
 - iv. The Fire Prevention and Building Safety Commission may review all other orders issued under this Ordinance.
 - A copy of said petition filed with the Fire Prevention and Building Safety Commission shall be provided to the Building Commissioner by electronic mail, with read receipt acknowledgement.
 - v. 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.

SECTION 150.39 MINIMUM CONSTRUCTION STANDARDS

(A) 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 (IAC) are hereby incorporated by reference in this ordinance and shall include any later amendments to those rules, as follows:
 - Article 13 – Building Codes
 - Article 14 – Indiana Residential Code
 - Article 16 – Indiana Plumbing Code
 - Article 17 – Indiana Electrical Code
 - Article 18 – Indiana Mechanical Code
 - Article 19 – Indiana Energy Conservation Code
 - Article 20 – Indiana Swimming Pool Code
 - Article 22 – Indiana Fire Code
 - Article 25 – Indiana Fuel Gas Code
 - Article 28 – NFPA Standards

2. As set out in IC 36-1-5-4, two (2) copies of the above rules incorporated by reference shall be on file in the office of the Clerk-Treasurer for public inspection.

(B) Lifting Devices Located within a Private Residence (Class 2 Structure).

1. As set out in the definition of a “Regulated Lifting Device” in IC 22-12-1, lifting devices, such as elevators and wheelchair lifts, located within a private residence (Class 2 Structure) are not regulated lifting devices.
2. As set out in IC 22-13-2, the Town of Brownsburg may regulate lifting devices in a private dwelling (Class 2 Structure) once an ordinance is approved by the Fire Prevention and Building Safety Commission. The currently published standards by the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, New York, 10016 applicable to lifting devices located within a private residence (Class 2 Structure) are incorporated by reference:
 - a. Safety Code for Elevators and Escalators – ASME A 17.1
 - i. Part 5.3 - Private Residence Elevators
 - ii. Part 5.4 - Private Residence Inclined Elevators.
 - b. Safety Standard for Platform and Stairway Chair Lifts – ASME A18.1:
 - i. Section 5 - Private Residence Vertical Platform Lifts
 - ii. Section 6 – Private Residence Inclined Platform Lifts
 - iii. Section 7 – Private Inclined Stairway Lifts
3. As set out in IC 36-1-5-4, two (2) copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk-Treasurer for public inspection.