



ORDER OF APPROVAL

TO: Ryan W. Shambaugh, Division Chief
City of Auburn Fire Department

FROM: Douglas J. Boyle, Director of the Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security

DATE: Friday, January 5, 2018

RE: Order Approving Ordinance No. 2017-03 (Fire Prevention Code of the City of Auburn, Indiana)

Pursuant to Indiana Code § 22-13-2-5.5, the Fire Prevention and Building Safety Commission, at its Wednesday, January 3, 2018 meeting, **APPROVED** the above listed ordinance. Enclosed is the original copy of the ordinance, endorsed by the Chairman of the Fire Prevention and Building Safety Commission.

EFFECTIVE DATE

Pursuant to Indiana Code § 4-21.5-3-5, this order is effective fifteen (15) days after it is served, unless a petition for review and a petition for stay of effectiveness of this order has been filed.

APPEAL RIGHTS

This order may be appealed in accordance with Indiana Code § 4-21.5-3-7. To qualify for administrative review of this order, you must submit, by U.S. Mail or personal service, a Petition for Review in writing that complies with all of the following requirements:

1. The Petition for Review must state facts demonstrating that you are:
 - a. a person to whom the order is specifically directed;
 - b. aggrieved or adversely affected by the order; or
 - c. entitled to review under any law.

2. The Petition for Review must be filed with the chairperson or secretary of the ultimate authority for the agency issuing the order. If filed by U.S. mail, as opposed to personal service, please address the mailing as follows:

Indiana Department of Homeland Security
Fire Prevention and Building Safety Commission
c/o Secretary
302 W. Washington Street, Rm. E-208
Indianapolis, IN 46204

3. The Petition for Review must be filed within fifteen (15) days after you are given notice of this order. Timeliness is computed by the methods described in Indiana Code § 4-21.5-3-2. Generally, the following rules apply, but review I.C. § 4-21.5-3-2 to ensure timeliness for your specific situation.
 - a. If you are served by United States mail, you will have three (3) additional days to petition for review – extending the period to eighteen (18) days – this time period will be calculated from the date the order was deposited in the United States mail.
 - b. In calculating timeliness, the first day is **not** included, but the last day is.
 - c. If the deadline falls on a: (1) Saturday; (2) Sunday; (3) legal holiday under a state statute; or (4) other day that our office is closed, the deadline will be extended until the first day that does not fall on a: (1) Saturday; (2) Sunday; (3) legal holiday under a state statute; or (4) other day that our office is closed.
 - d. The Petition for Review is deemed filed on the date of the postmark on the envelope containing the Petition for Review or the date the Petition for Review is personally delivered to the above address, whichever occurs first.

Please be advised, if a petition for review is granted any person may obtain notices of prehearing conferences, preliminary hearings, hearings, stays, and any orders disposing of the proceedings by sending a request to receive such notices to the address listed in 2, above.

If you comply with these three requirements, your Petition for Review will be granted and will be assigned to an administrative law judge for review. If a Petition for Review is not timely filed, then this order will become final and you must comply with its requirements.

You may also request an opportunity to informally discuss this matter. However, a request to informally discuss, or actual informal discussion, does not extend the deadline for filing your Petition for Review and, consequently, any request should be made promptly, preferably by telephone, upon receipt of the Order. If you have any questions regarding this order, please contact our Legal Department by phone at (317) 234-9515 or by email at jguedel@dhs.in.gov.

DJB
encl.
cc: File



Clerk-Treasurer's Office

PO Box 506 Auburn, Indiana 46706 | 260 925 6450 phone | 260 920 3341 fax | clerktreasurer@ci.auburn.in.us | www.ci.auburn.in.us

Patricia M. Miller
Clerk-Treasurer

CERTIFICATE

I, Patricia M. Miller, the duly elected and acting Clerk-Treasurer of the Municipal City of Auburn, DeKalb County, State of Indiana, do hereby certify that attached thereto is an exact true copy of Ordinance No. 2017-03 passed by the City of Auburn Common Council on the 1st day of May, 2017, and that the same is spread of record in the Ordinance & Resolution Book of the City of Auburn.

Patricia M. Miller, Clerk-Treasurer
City of Auburn, Indiana



Original Received 1/23/17
Amended Received 4/5/17
Amended Received 4/20/17

1ST READING 2/7/2017
2ND READING 2/21/2017 TABLED
PASSED 5/1/2017

ORDINANCE NO. 2017-03

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 154:
FIRE PREVENTION CODE**

SUMMARY

This ordinance amends and restates Chapter 154: Fire Prevention Code as follows:

1. Section 154.05 to replace the Bureau of Fire Prevention with the Division of Fire Prevention.
2. Section 154.06 of the Code is amended to add in language setting forth, among other things that:

Fire and Life Safety inspections shall be conducted by the Fire Marshal in existing Class 1 structures per Indiana Code Section 36-8-17-8. Upon the discovery of a violation of the Indiana Building Code, Indiana Fire Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Code, or any other Fire Safety Code of the jurisdiction, a re-inspection may be necessary to confirm compliance with a Notice of Violation or an order issued by the Fire Chief and /or Fire Marshal. A fee for re-inspections may be charged as indicated below:

First re-inspection: (Approx. 30 days)	No charge
Second re-inspection: (Approx. 15 days)	No charge
Third re-inspection: (Approx. 5 days)	\$100.00
All subsequent re-inspections: (Approx. 5 days)	\$250.00

The fees assessed by this Fire Prevention Ordinance are in addition to those fines or fees that may be levied by the State of Indiana and any other jurisdiction.

All payments are due within thirty (30) days from the date of the assessment of the fee. Violators who fail to make payment prior to the payment due date shall be assessed an additional twenty-five dollar (\$25.00) late fee for each outstanding fee and shall be subject to litigation for failure to pay an Ordinance violation fee.

3. Section 154.06 shall now be labeled as the Inspections and Penalties Section.

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4. Section 154.11 changes are made to establish the International Fire Code and Indiana updates as they relate to storage of certain liquids within the City of Auburn Fire Territory.
5. Section 154.14 changes made to establish a provision that prohibits, within the City of Auburn, Indiana, any individual resident from operating a detached device or structure for the purpose of burning and/or providing heat or other energy to a residential structure and/or garage or outbuilding within the City of Auburn, Indiana.
6. Section 154.14 of the Fire Prevention Code regarding Outside Burning is amended to set forth the provisions regarding outside burning, recreational bonfires, campfires and/or similar activities.
7. Section 154.19 shall be removed, because the penalties are now incorporated into Section 154.06.
8. Section 154.99 is retitled to Smoke Detector - Penalty.
9. Chapter 154 of the Fire Prevention Code, which includes Sections 154.01 through 154.99 shall be restated upon its passage in accordance with this ordinance.
10. The full ordinance is available at the City of Auburn City Hall and retained by the Office of the Clerk-Treasurer at 210 East Ninth Street Auburn, Indiana. The full ordinance is also available on the City of Auburn web-site at www.ci.auburn.in.us in the Common Council section of the site and shall upon passage be codified in Chapter 154: Fire Prevention Code of the Auburn City Code located at www.ci.auburn.in.us. This summary of the Ordinance shall be published in a newspaper of daily circulation, providing notice of the passage and codification of said ordinance in the Auburn City Code and giving notice of the location of the full version of said document.
11. A full copy of said ordinance in written form shall be retained by the Office of the Clerk-Treasurer and be available for inspection during regular business hours.

_____ Recorder's Office	<input checked="" type="checkbox"/>	Publish Public Hearing
_____ Auditor's Office		
_____ Clerk's Office	<input checked="" type="checkbox"/>	Publish Summary O/R after adoption
<input checked="" type="checkbox"/> Clerk-Treasurer	<input checked="" type="checkbox"/>	Web-Site
	<input checked="" type="checkbox"/>	City Code (web based)

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ORDINANCE NO. 2017-03

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 154:
FIRE PREVENTION CODE**

WHEREAS, the Fire Prevention Code sets forth the provisions related to fire prevention in the City of Auburn, Indiana as part of the Auburn Fire Territory; and

WHEREAS, the City of Auburn, Indiana, also serves Union Township as part of the Auburn Fire Territory; and

WHEREAS, it is the intent of the Code to prescribe maintenance and operation regulations that are consistent with nationally recognized good practice for fire prevention and other related matters; and

WHEREAS, this Ordinance updates and modifies certain provisions associated with Chapter 154; and

WHEREAS, the Code prescribes certain rules, regulations, and enforcement authority for fire prevention; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF AUBURN,
INDIANA as follows:**

Section 1. The Fire Prevention Code shall be amended to set forth in Section 154.02 reference to the International Fire Code in generic terms.

Section 2. Section 154.04 shall be modified to state that "All rules of the Indiana Fire Prevention and Building Safety Commission as set out in Articles 13, 18, 22, 25, and Title 675 of Indiana Administrative Code are hereby incorporated in this Fire Prevention Code and shall include later amendments to that article as the same are published in the

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Indiana Register on the Indiana Administrative Code with effective dates as fixed therein.”

Section 3. Section 154.04 there shall be added a subparagraph F to state: “In addition, portable fire extinguishers shall be installed in the following locations:

- 1.) In new and existing Group A, B, E, F, H, I M, R-1, R-2, R-4 and S occupancies.

Section 4. Section 154.05 shall be amended to replace “Bureau” with “Division”.

Section 5. 154.06 shall now be labeled as the Inspections and Penalties section.

Section 5. Section 154.06 of the Code is amended to add in language setting forth, among other things that:

Fire and Life Safety inspections shall be conducted by the Fire Marshal in existing Class 1 structures per Indiana Code Section 36-8-17-8. Upon the discovery of a violation of the Indiana Building Code, Indiana Fire Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Code, or any other Fire Safety Code of the jurisdiction, a re-inspection may be necessary to confirm compliance with a Notice of Violation or an order issued by the Fire Chief and /or Fire Marshal. A fee for re-inspections may be charged as indicated below:

First re-inspection: (Approx. 30 days)	No charge
Second re-inspection: (Approx. 15 days)	No charge
Third re-inspection:	\$100.00

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(Approx. 5 days)

All subsequent re-inspections: \$250.00

(Approx. 5 days)

The fees assessed by this Fire Prevention Ordinance are in addition to those fines or fees that may be levied by the State of Indiana and any other jurisdiction.

All payments are due within thirty (30) days from the date of the assessment of the fee.

Violators who fail to make payment prior to the payment due date shall be assessed an additional twenty-five dollar (\$25.00) late fee for each outstanding fee and shall be subject to litigation for failure to pay an Ordinance violation fee.

Section 5. Section 154.14 shall read as follows:

154.14 OUTSIDE BURNING.

Within the City limits of Auburn there shall be no outdoor burning allowed for the purposes of disposing of the following:

- a. trash, garbage, rubbish;
- b. yard waste;
- c. tree limbs, brush, sticks, grass;
- d. construction materials;
- e. debris; and
- f. any other waste product that can be disposed of through recycling, regular trash removal, compost, and / or regional landfill deposit.

All ceremonial, recreational bonfires, and campfires or similar activities require the following guidelines:

City Attorney

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- Recreational fires must be 15 feet away from any structure.
- Recreational fires shall not exceed 4 feet in diameter.
- Fire ring or pit shall be constructed of concrete, brick, stone, or other non-combustible material.
- The bottom of the ring or pit may be sand or earth.
- Recreational fire shall be attended at all times.
- Only "clean" wood or charcoal may be burned.
- The fire shall be extinguished at the end of the activity.
- Fire extinguishing equipment such as buckets, shovels or garden hoses shall be readily available for use at recreational fires.
- No burning shall be conducted during unfavorable weather conditions such as high winds, high humidity, dry conditions, high temperature, etc.
- All fires shall be extinguished if they create hazard, nuisance, pollution problem or threat to public health or property.
- All fires shall comply with all other state and local regulations and ordinances.

It shall be prohibited within the City of Auburn, Indiana for any individual or resident to operate a detached device or standalone structure for the purpose of burning and / or providing heat or other energy to a residential structure and/or garage or outbuilding within the City of Auburn, Indiana.

Section 6. The fines set forth in Section 154.19 are hereby vacated and referenced now in Section 154.06.

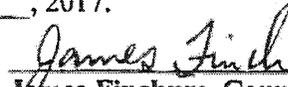
1st Reading 2/7/2017
2nd Reading 2/21/2017 TABLED
Passed _____

Section 7.

Said Ordinance shall be restated and codified as set forth in Exhibit "A" attached hereto and made a part hereof and the original ordinance shall be retained by the Clerk-Treasurer of the City of Auburn, Indiana in original format for inspection and also placed on the City of Auburn, Indiana website located at www.ci.auburn.in.us. The codified version shall be incorporated into Chapter 154 Fire Prevention Code, which is restated herein. Further the Ordinance shall be maintained by the Auburn Fire Department for reference purposes and/or dissemination to the public, as needed.

BE IT FURTHER ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUBURN, INDIANA that this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and the Common Council of the City of Auburn, Indiana, and appropriate publication of the summary setting forth the modifications with a statutorily accepted newspaper with circulation in DeKalb County, Indiana. Said ordinance shall be available for inspection and available to the public in hard copy form with the office of the Clerk-Treasurer and shall be maintained on the City of Auburn web-site at www.ci.auburn.in.us. Said ordinance shall be available to the public during regular business hours at the Office of the Clerk-Treasurer at 910 E 9th Street, Auburn, Indiana 46706.

PASSED AND ADOPTED by the Common Council of the City of Auburn, Indiana, this 1 day of May, 2017.


James Finchum, Councilmember

ATTEST:


Patricia Miller, Clerk-Treasurer

City Attorney

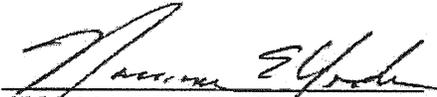
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2nd Reading 2/21/2017 Tabled
Passed _____

Presented by me to the Mayor of the City of Auburn, Indiana, this 1 day of May, 2017.


PATRICIA MILLER, Clerk-Treasurer

APPROVED AND SIGNED by me this 1 day of May, 2017.


NORMAN E. YODER, Mayor

VOTING:

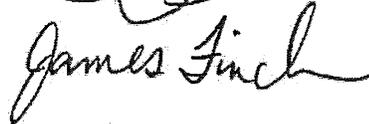
AYE

NAY

Dennis (Matthew) K. Kruse II



James Finchum



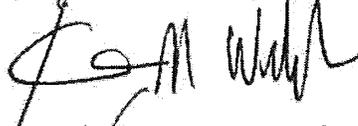
Wayne Madden



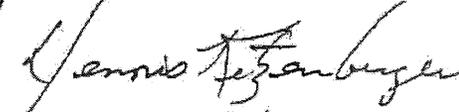
Michael Watson



Kevin Webb



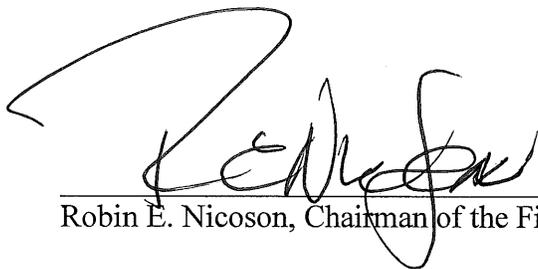
Dennis Ketzenberger



Michael Walter



Approved this day, the 3rd of January, 2018, by the Fire Prevention and Building Safety Commission of the State of Indiana.

A handwritten signature in black ink, appearing to read "Robin E. Nicoson". The signature is written in a cursive style with a large, sweeping initial "R".

Robin E. Nicoson, Chairman of the Fire Prevention and Building Safety Commission

AUBURN – FIRE PREVENTION CODE

CHAPTER 154: FIRE PREVENTION CODE; SMOKE DETECTORS

General Provisions

- 154.01 Title
- 154.02 Purpose
- 154.03 Scope
- 154.04 Adoption of fire prevention codes by reference
- 154.05 Enforcement authority
- 154.06 Inspections and Penalties
- 154.07 Right of entry
- 154.08 Investigation of fires
- 154.09 Fire records and fire reports
- 154.10 Violations and orders of correction
- 154.11 Establishment of limits of districts in which storage of flammable or combustible liquids in outside, above-ground tanks is prohibited
- 154.12 Establishment of limits of districts in which storage of liquefied petroleum gases is restricted
- 154.13 Establishment of limits of districts in which storage of explosives and blasting agents is prohibited
- 154.14 Outside burning
- 154.15 Fire hydrants
- 154.16 Certificate of occupancy
- 154.17 Right of appeal
- 154.18 Remedies

Smoke Detectors

- 154.30 Definitions
 - 154.31 Basic requirements
 - 154.32 Installation; location
 - 154.33 Maintenance
 - 154.34 Duty of property owner, manager, or rental agent
 - 154.35 Enforcement
-
- 154.99 Smoke Detector - Penalty

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154.01 TITLE.

This ordinance and all ordinances supplemental or amendatory hereto, shall be known as the "Fire Prevention Code of the City of Auburn, Indiana", may be cited as such, and will be referred to herein as 'this Code.' To the extent allowable by law this code shall apply to all areas within the legal jurisdiction of the Auburn Fire Department.

154.02 PURPOSE.

The intent of this code is to prescribe maintenance and operation regulations consistent with nationally recognized good practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

154.03 SCOPE.

- A. The provisions of this code shall apply to existing conditions as well as to conditions arising after the adoption thereof. Buildings, Systems, Uses, Special Occupancy Uses, Special Processes, Special Equipment, and Special Subjects legally in existence at the adoption of this code shall be permitted to continue so long as they are maintained in a condition that is equivalent to the quality and fire resistive characteristics that existed when the building was constructed, altered, added to or repaired.

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- B. Nothing in this code shall be interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the City of Auburn, DeKalb County, Indiana, governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of buildings specifically provided herein. When any provision of this code is found to be in conflict with any building, zoning, safety, health or other applicable law, ordinance or code of the City of Auburn, DeKalb County, Indiana, existing on the effective date of this code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.
- C. The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the International Fire Code, with Indiana amendments, and building rules of the State of Indiana Fire and Building Services Department and any alterations, additions or changes in buildings required by the provisions of this code which are within the scope of the said building rules, shall be made in accordance therewith.
- D. Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and

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Passed 5/1/2017

used for such use as originally permitted, shall be exempt from the requirements of this code pertaining to any of the following matters:

1. Fire protection of structural elements.
2. Exits required, except as provided for existing buildings under this code.
3. Isolation of hazardous operations and mixed uses:
provided however, that the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems, etc.) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, to obtain compliance with this subsection shall be governed by the provisions of IC 36-8-17-10.

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Passed 5/1/2017

154.04 ADOPTION OF FIRE PREVENTION CODES BY REFERENCE.

- A. The following rules and standards are rules of the Indiana Fire and Building Services Department and City of Auburn, DeKalb County, Indiana, and shall be used in the enforcement of this code for the purpose of fire prevention:
1. All rules of the Indiana Fire Prevention and Building Safety Commission as set out in Articles 13, 18, 22, 25, and Title 675 of Indiana Administrative Code are hereby incorporated in this Fire Prevention Code and shall include later amendments to that article as the same are published in the Indiana Register on the Indiana Administrative Code with effective dates as fixed therein.
 2. Those certain documents, being standards, and fire codes, published by the National Fire Protection Association (NFPA), are hereby adopted by reference, and as amended annually, and made a part of this rule.
- B. Within the standards adopted in this section the term "authority having jurisdiction" shall mean the Fire Department, Fire Chief and/or Fire Marshal and/or Building, Planning and Development Department of the City of Auburn, DeKalb County, Indiana. Wherever reference is made to NFPA 101, Life Safety Code, within

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the standards adopted in this section, such reference is deleted and a reference is made to the Building Code, City of Auburn, DeKalb County, Indiana, and the Indiana Building Code (675 IAC 13-2.4-1) and shall be substituted therefore.

- C. The American Petroleum Institute (API), Bulletin, 1220 L. Street Northwest Washington D.C., 20005, and as listed in this section is hereby adopted by reference subject to the listed deletion and made a part of this rule.
- D. Recommended Practice for Abandonment or Removal of Used Underground Storage Tanks, API Bulletin. The following standards shall be used with regard to underground storage tanks: When the tank is to be removed from the premises, the contaminated water and soil shall be removed and disposed of in accordance with Indiana Department of Environmental Management (IDEM) regulations.
- E. Copies of adopted fire safety rules, regulations, codes, and standards are on file as required by law, in the offices of the Fire Marshal, City of Auburn Fire Department, DeKalb County, Indiana, and the Clerk-Treasurer of the City of Auburn, DeKalb County, Indiana.
- F. In addition, portable fire extinguishers shall be installed in the following locations:

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- 1.) In new and existing Group A, B, E, F, H, I M, R-1, R-2, R-4 and
S occupancies.

154.05 ENFORCEMENT AUTHORITY.

- A. This code shall be enforced by the Division of Fire Prevention in the Auburn Fire Department of the City of Auburn, DeKalb County, Indiana, which is hereby reestablished, and which shall be operated under the direct supervision of the City of Auburn Fire Chief and/or Fire Marshal, DeKalb County, Indiana.
- B. The Fire Chief and/or Fire Marshal of the City of Auburn Fire Department DeKalb County, Indiana, may detail such members of the City of Auburn Fire Department, DeKalb County, Indiana, as inspectors as shall from time to time be necessary.
- C. It shall be the duty and responsibility of the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or such officer or authorized designee, who is an ex-officio assistant to the State of Indiana Fire Marshal under IC 36-8-17-5 (a), to enforce the provisions of this code.
- D. Only the Fire Chief and/or Fire Marshal may issue monetary citation tickets, after reasonable means to gain compliance have failed and/or with proper justifications.
- E. It is the intent of the Auburn Fire Department to achieve compliance by traditional means of inspection, violation notification, granting reasonable time to comply and re-inspection. A monetary fine

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citation ticket may be issued only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the Fire Marshal and/or Fire Chief. Citations shall be used only where a specific section of the appropriate code or ordinance has occurred and documentation establishing prior efforts to gain compliance is in evidence.

EXCEPTION: Citations may be issued for violations which present imminent life hazards including, but not limited to exits locked or blocked by obstructions, failure to maintain fire protection life safety systems, improper storage and use of flammable and combustible liquids, failure to obey lawful orders of the Fire Chief and/or Fire Marshal.

154.06 INSPECTIONS AND PENALTIES.

Class 1 Structures Inspection:

The inspection of Class 1 Structures shall be completed by the Fire Marshal of the City of Auburn Fire Department. At the time the inspection occurs, the Fire Marshal will evaluate the premises for violation of the applicable rules of the Indiana Fire Prevention and Building Safety Commission, this Ordinance and other documents as adopted by the IFPBSC. At the completion of the inspection, the Fire Marshal will review the results with the occupant and leave a copy of the inspection report with the occupant. If violations are found, a correction will occur thereafter to determine if the violation(s) has / have been corrected, if the previously cited violations are found to be corrected, no other action shall be

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necessary. If violations are found to still exist after this first re-inspection, then a copy of the inspection report will be let with the occupant and the results reviewed with the occupant, the occupant shall then forward to the owner. A second re-inspection will occur approximately 15 days after to determine if the violation (s) has or have been corrected. If the previously cited violations are corrected at this re-inspection, then no further action shall be required. If previously cited violations are found a fee as per this ordinance shall be assessed and a third re-inspection will occur approximately five (5) days after to determine if the violations have been corrected. If previously cited violations are still not corrected, a fee shall be assessed for each re-inspection and those re-inspections will occur every 5 days until the violations are corrected. If at any time the Fire Marshal completes an inspection and finds an immediate fire or life safety hazard, the violation shall be corrected immediately. In the event the violation cannot be corrected immediately, a FIRE/LIFE Safety ORDER will be issued and the violation must be corrected by the date on the ORDER. Failure to correct the violation by the date on the ORDER will result in a fee and may cause further legal action to be taken against the violator. Please note that fees of this ordinance are in addition to those fees/fines that may be levied by the State of Indiana or other entities over the City of Auburn, Indiana.

1. Fire and Life Safety inspections shall be conducted by the Fire Marshal in existing Class 1 structures per Indiana Code Section 36-8-17-8.

Upon the discovery of a violation of the Indiana Building Code, Indiana Fire Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire

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Prevention Code, or any other Fire Safety Code of the jurisdiction, a re-inspection may be necessary to confirm compliance with a Notice of Violation or an order issued by the Fire Chief and /or Fire Marshal. A fee for re-inspections may be charged as indicated below:

- | | |
|---|-----------|
| a. First re-inspection:
(Approx. 30 days) | No charge |
| b. Second re-inspection:
(Approx. 15 days) | No charge |
| c. Third re-inspection:
(Approx. 5 days) | \$100.00 |
| d. All subsequent re-inspections:
(Approx. 5 days) | \$250.00 |

- The fees assessed by this Fire Prevention Ordinance are in addition to those fines or fees that may be levied by the State of Indiana and any other jurisdiction.
- All payments are due within thirty (30) days from the date of the assessment of the fee. Violators who fail to make payment prior to the payment due date shall be assessed an additional twenty-five dollars (\$25.00) late fee for each outstanding fee and shall be subject to litigation for failure to pay an Ordinance violation fee.

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154.07 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this code, or whenever the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, has reasonable cause to believe that there exists in any structure or upon any premises, any condition which makes such structure or premises unsafe, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, by this code; provided that if such structure or premises be occupied, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, shall first present proper identification credentials and request entry. If such entry is refused the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall have recourse to every remedy provided by law to secure entry.

154.08 INVESTIGATION OF FIRES.

The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall investigate, or cause to be investigated, every fire or explosion occurring within the City of Auburn, DeKalb County, Indiana, and any fire protection contractual areas; which involves the loss of life or serious injury, or causes destruction or damage to property of which they are made aware. Such investigation shall be initiated immediately upon the occurrence of

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such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the origin of such fire or explosion, take means to prevent access by any person or persons to such buildings, structures, or premises until such evidence has been properly processed.

154.09 FIRE RECORDS AND FIRE REPORTS.

- A. The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall keep a record of all fires and facts concerning the same, including investigation findings and statistics and information as to the cause, origin, and the extent of such fires and the damage caused thereby.
- B. The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall submit a report of each fire occurring within the City of Auburn, DeKalb County, Indiana, and any fire protection contractual areas, to the Office of the State Fire Marshal State of Indiana, in accordance with IC 36-8-17-7, and in such form as prescribed by that office.

154.10 VIOLATIONS AND ORDERS OF CORRECTION.

- A. Whenever the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, observes an apparent or actual violation of a provision of this code

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or other ordinances, under the Fire Chief's or Fire Marshal's jurisdiction, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, shall prepare a written notice of violation and order describing the condition or conditions deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct such violations. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violations shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

- B. If the notice of violation and order is not complied with, within the time specified by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, and if no review of such order has been initiated under IC 36-8-17-10, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana shall request the legal counsel of the City of Auburn to

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institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the buildings or structures in violation of the provisions of this code, or of any order or direction made pursuant thereto.

- C. When the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana determines there is actual and potential danger to the occupants or those in the proximity of any buildings, structures, or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, may issue an emergency order for the immediate evacuation of said buildings, structures, or premises. All of the occupants so notified shall immediately leave the buildings, structures, or premises and persons shall not enter or re-enter until authorized to do so by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana. Any person who shall refuse to leave, or interferes with the operations of the fire department or the evacuation of other occupants, or continues any operation after having been given an evacuation order; except such work as that

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person is directed to perform to remove a violation or unsafe condition; shall be deemed in violation of this code.

154.11 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE, ABOVE GROUND TANKS IS TO BE PROHIBITED.

- A. The limits referred to in Chapter 34 under the International Fire Code, with Indiana updates, in which the storage of Class 1 and Class 2 liquids in aboveground tanks, outside of buildings is prohibited, are hereby established as follows: Zoning Districts R-1, R-2, R-3; except by permit C-1, C-2 as defined by Auburn City Code.
- B. The limits referred to in Chapter 34, 35 and 36, in which new bulk plants for flammable and combustible liquids are prohibited, are hereby established as follows: Zoning Districts R-1, R- 2, R-3; except by permit, C-1, C-2, I-1 and I-2 as defined by Auburn City Code.

154.12 ESTABLISHMENT OF LIMITS IN WHICH STORAGE OF LIQUEFIED PETROLEUM GASES IS RESTRICTED.

Liquefied petroleum gas is restricted, and hereby band as follows: Zoning Districts R-1, R-2, R-3; except by permit C-1, C-2, as defined by Auburn City Code.

154.13 ESTABLISHED OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

Storage of explosives and blasting agents are prohibited, as follows:

Zoning Districts R -1, R -2, R -3, C-1, C-2, I-1, I-2, OS and MH, as defined by Auburn City Code.

154.14 OUTSIDE BURNING.

Within the City limits of Auburn there shall be no outdoor burning allowed for the purposes of disposing of the following:

- a. trash, garbage, rubbish;
- b. yard waste;
- c. tree limbs, brush, sticks, grass;
- d. construction materials;
- e. debris; and
- f. any other waste product that can be disposed of through recycling, regular trash removal, compost, and / or regional landfill deposit.

All ceremonial, recreational bonfires, and campfires or similar activities requires the following guidelines:

- Recreational fires must be 15 feet away from any structure.
- Recreational fires shall not exceed 4 feet in diameter.
- Fire ring or pit shall be constructed of concrete, brick, stone, or other non-combustible material.
- The bottom of the ring or pit may be sand or earth.
- Recreational fire shall be attended at all times.
- Only "clean" wood or charcoal may be burned.
- The fire shall be extinguished at the end of the activity.
- Fire extinguishing equipment such as buckets, shovels or garden hoses shall be readily available for use at recreational fires.
- No burning shall be conducted during unfavorable weather conditions such as high winds, high humidity, dry conditions, high temperature, etc.
- All fires shall be extinguished if they create hazard, nuisance, pollution problem or threat to public health or property
- All fires shall comply with all other state and local regulations and ordinances.

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It shall be prohibited within the City of Auburn, Indiana for any individual or resident to operate a detached device or standalone structure for the purpose of burning and/or providing heat or other energy to a residential structure and/or garage or outbuilding within the City of Auburn, Indiana.

154.15 FIRE HYDRANTS.

Within the City limits of Auburn there shall be a minimum of ten (10) feet of unobstructed access to the hose ports of each fire hydrant.

154.16 CERTIFICATE OF OCCUPANCY.

All Certificates of Occupancy issued by the City of Auburn Building Commissioner, DeKalb County, Indiana, with the exception of One (1) and Two (2) Family dwellings, shall contain the signatures of the Fire Chief and the Fire Marshal, City of Auburn Fire Department DeKalb County, Indiana.

154.17 RIGHT TO APPEAL.

All persons shall have the right to appeal the decision of the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, first through the Board of Public Works and Safety of the City of Auburn, and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 4-21.5-3 as applicable.

154.18 REMEDIES.

The attorney for the City of Auburn, DeKalb County, Indiana, upon receipt of a written notice from the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, that after having issued a lawful notice and order to abate a violation or violations of this code, and after a reasonable time for compliance has expired, shall bring action in the Circuit or Superior Courts of DeKalb County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made, by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this ordinance.

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SMOKE DETECTORS

154.30 DEFINITIONS

For the purposes of this subchapter, the following definitions shall apply:

ALARM SIGNAL

An audible signal indicating the detection of visible or invisible particles or products of combustion other than heat.

AUTHORITY HAVING JURISDICTION

The City Fire Department shall have enforcement responsibility for this subchapter.

FAMILY LIVING UNIT

That structure, area, room, or combination of rooms in which a family (or individual) lives. This is meant to cover living areas only and not common usage areas in multi-family buildings such as corridors, lobbies, basements, or the like.

LABELED

Equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the authority having jurisdiction.

LISTED

Equipment or materials included in a list published by an organization acceptable to the authority having jurisdiction and which product meets appropriate standards or has been tested and found suitable for use in a specified manner.

NFPA72

Standard 72 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MD 02269.

RENTAL AGENT

Any person, partnership or corporation, who rents, subleases, lets or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agent who is employed for the sole purpose of selling residential units.

SHALL

Indicates a mandatory requirement.

SLEEPING AREAS

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The area or areas of the family living unit in which the bedrooms (or sleeping rooms) separated by other use areas, such as kitchens or living rooms (but not bathrooms), shall be considered sleeping areas.

SMOKE DETECTOR

A device which detects visible or invisible particles or products of combustion other than heat, as approved by Underwriter's Laboratories, Inc. or Factory Mutual. The smoke detector shall be equipped with a test button, and it shall produce an alarm signal upon detection of any visible or invisible particles or products of combustion. It may be either battery powered with a minimum 9-volt or it may be powered by a 110-volt alternating current.

154.31 BASIC REQUIREMENTS

All family living units within the corporate limits of the city shall be equipped with a minimum of one functional, properly located, labeled and listed, smoke detector, or its equivalent or better, as described in the NFPA72.

154.32 INSTALLATION; LOCATION

- A) A minimum of one smoke detector, or its equivalent or better as described in the NFPA72, shall be installed in each family living unit within the corporate limits of the city.
- B) All smoke detectors must be installed according to the manufacturer's instructions and subject to the approval of the authority having jurisdiction.
- C) The smoke detector shall be installed to protect the sleeping areas and shall be located outside of the bedrooms but in the immediate vicinity of the sleeping areas, within 15 feet of all rooms used for sleeping areas.
- D) The smoke detector shall be installed on or near the ceiling, not less than six inches from any wall, or on a wall not less than six inches nor more than 12 inches from the ceiling, and its installation shall be subject to approval by the authority having jurisdiction. No detector shall be recessed into the ceiling.
- E) All smoke detectors shall be accessible for servicing and testing.
- F) If a smoke detector is A.C. powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of A.C powered detectors shall conform to all electrical standards adopted by the city. A smoke detector required under this subchapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any county electrical standard, the county electrical standard shall take precedence.

154.33 MAINTENANCE

It shall be unlawful for any person to tamper with or remove any smoke detector, except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be re-installed or replaced so that it is operable and in place during normal sleeping hours.

A) Rented residential dwelling units

Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six-month intervals in every individual residential dwelling unit, and maintained as necessary, to ensure it is in operable condition. At any change of tenancy, smoke detectors shall be tested and be in operable condition before the unit is re-occupied.

B) Owner-occupied dwelling units

Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six-month intervals, and maintained as necessary, to ensure it is in operable condition.

154.34 DUTY OF PROPERTY OWNER, MANAGER, OR RENTAL AGENT

Every owner, or the manager or rental agent of such owner of any such residential dwelling unit shall be responsible for the installation of all smoke detectors. It is the responsibility of the tenant to maintain all such smoke detectors provided by the owner in good working order until said tenant vacates the premises unless said smoke detector requires an AC power supply, then the responsibility for maintaining such smoke detector shall be the responsibility of the owner, manager or rental agent of the property.

154.35 ENFORCEMENT

The City Fire Department and/or the City Fire Marshal shall be responsible for monitoring compliance with the terms of this subchapter. They shall have the authority to levy a fine not to exceed \$25 for each violation per day and for petitioning the Board of Public Works and Safety for fines in excess of \$25 for each violation.

154.99 SMOKE DETECTOR - PENALTY

- A) 1) If any person, firm, or corporation shall violate any of the provisions of 154.01 through 154.16, or shall do any act prohibited therein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Fire Chief, Fire Marshal and/or Auburn Fire Department, or shall fail, neglect or refuse to obey any lawful order given by the Fire Chief, Fire Marshal and/or Auburn Fire Department in connection with the provisions of said sections, for each such

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violation, failure, or refusal, that person, firm, or corporation shall be fined a forfeiture pursuant to the Indiana Fire Prevention Code.

- 2) Each day of such unlawful activity as is prohibited by division (A)(1) of this section shall constitute a separate offense.
 - 3) Each such citation shall be appealable to the Board of Works and Safety prior to any other appeal allowed by law. Such appeal shall be requested in writing within 10 days of the citation. The Board of Public Works and Safety, after hearing, may affirm, modify or dismiss the citation.
- B) Any person, firm or corporation violating any provisions of 154.30 through 154.35 or who shall fail to comply with an order as affirmed or modified by the authority having jurisdiction shall be subject to fines as follows:
- 1) A fine imposed by the City Fire Department for a violation shall not exceed \$25 for each violation per day.
 - 2) The City Fire Department can petition the Board of Public Works and Safety for imposition of fines in excess of \$25 for each violation per day but not to exceed \$100 for each violation per day.
 - 3) The Board of Public Works and Safety will conduct a hearing on any petition filed for fines in excess of \$25 for each violation.
 - a) Said hearing shall be conducted no less than 20 days after notification of the petition to the offending party.
 - b) The hearing shall set forth the allegations and provide the offender with an opportunity to be heard, present evidence and cross-examine witnesses.
 - c) The decision of the Board of Public Works and Safety shall be final.
 - d) The city shall have authority, through the Clerk-Treasurer, to collect assessed fines through the use of liens on the real estate of the offender.

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