



## **ORDER OF APPROVAL**

**TO:** Michigan City Common Council  
c/o Amber Lapaich, City Attorney of Michigan City  
100 East Michigan Boulevard  
Michigan City, IN 46360

Kyle Kazmierczak, Fire Marshal  
Michigan City Fire Department  
2510 East Michigan Boulevard  
Michigan City, IN 46360

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

**DATE:** Friday, February 9, 2018

**RE:** Order Approving Ordinance No. 4461 (City of Michigan City, Indiana)

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Pursuant to Indiana Code § 22-13-2-5.5, the Fire Prevention and Building Safety Commission, at its Thursday, February 8, 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](mailto:jguedel@dhs.in.gov).

DJB  
encl.  
cc: File

JAN 17 2018

LEGAL AND CODE  
SERVICES

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4461

FILED

JAN 02 2018

GALE A. NEULIEB  
CITY CLERK  
CITY OF MICHIGAN CITY

**CREATING ARTICLE VI IN CHAPTER 54 OF THE MICHIGAN CITY MUNICIPAL CODE REQUIRING THE INSTALLATION OF CARBON MONOXIDE DETECTORS IN ALL NEW RESIDENTIAL CONSTRUCTION**

WHEREAS, Ordinance No. 4446 entitled *Creating Article VI in Chapter 54 of the Michigan City Municipal Code to Require the Installation of Carbon Monoxide Detectors in All New Construction* was passed by the Michigan City Common Council on October 17, 2017 and signed by the Mayor on October 18, 2017; and

WHEREAS, following the passage of said Ordinance, the Michigan City Fire Marshal and the Michigan City Building Commissioner forwarded the same to the Indiana Fire Prevention and Building Safety Commission for their review and approval as required by I.C. 22-13-2, et seq; and

WHEREAS, the Indiana Fire Prevention and Building Safety Commission rejected Ordinance No. 4446 and has recommended several amendments; and

WHEREAS, the City of Michigan City is desirous of implementing the recommendations of the Indiana Fire Prevention and Building Safety Commission and believes it to be in the best interest of the residents and citizens of Michigan City, Indiana to implement regulations pertaining to installation of carbon monoxide detectors in new residential construction.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, that Article VI entitled "Carbon Monoxide Detector(s)" is hereby created in Chapter 54 of the Michigan City Municipal Code and shall read as follows:

**ARTICLE VI. CARBON MONOXIDE DETECTOR(S)**

**Sec. 54-279. Definitions.**

- (a). "Carbon monoxide detector(s)" means a device that detects carbon monoxide, alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection, and is certified by a nationally recognized testing laboratory to conform to the latest standards of the underwriters laboratories standards.
- (b). "Operational" means working and in service.

**Sec. 54-280. Applicability.**

- (a). Carbon monoxide detector(s) required. For every Class 2 Structure for which a building permit is issued for new construction on and after the date this Ordinance is approved by the Fire Prevention and Building Safety Commission, and having a fireplace, attached garage, or fossil fuel burning appliance, carbon monoxide detector(s) shall be required. A Certificate of Occupancy shall not issue for any new construction not in compliance with this Article. This Article does not apply to an industrialized building system or mobile structure that is certified under I.C. 22-15-4.
- (b). Maintenance. It shall be unlawful for any person to tamper with or remove any carbon monoxide detector(s) or its batteries except when it is necessary for maintenance or inspection purposes. Any carbon monoxide detector removed for repair or replacement shall be re-installed or replaced so that it is in place with functioning batteries during normal sleeping hours.
- (c). Duties of Owners. Every owner of any Class 2 Structure to which this Article applies shall be responsible for the installation, maintenance, and repair of all carbon monoxide detector(s) in said structure.

CC: Fire Dept. (X2)  
Controlly (X3)  
Corporate Counsel

**Sec. 54-281. Enforcement; Penalties; and Injunctive Relief.**

- (a). Enforcement. The Planning and Inspection Department and the Fire Department of the City shall be authorized to inspect any Class 2 Structure to which this Article applies with the consent of the owner or tenant or by order of the court.
- (b). Penalties; Injunctive Relief. Whoever violates any provisions of this Article shall be fined as set forth in Sec. 50-284. Every day a violation occurs shall constitute a separate offense as prescribed in Sec. 1-7. In addition to pursuing monetary penalty as prescribed in Sec. 50-284, the City may bring an action for injunctive relief to enforce any provision of this Article.

**Sec. 54-282. Conflict with other standards.**

In the event a provision of this Article is found to be in conflict with any provisions set forth by the International Residential Code or with any rule adopted by the Fire Prevention and Building Safety Commission, the provisions of the International Residential Code or the rule adopted by the Fire Prevention and Building Safety Commission shall be deemed to prevail.

**Sec. 54-282. Administrative Review of Local Orders and Variances by the Commission.**

Any order issued under this Article by the City is subject to administrative review by the Fire Prevention and Building Safety Commission pursuant to I.C. 22-13-2-7. In addition, any variance granted by the City to this Ordinance is not effective until approved by the Commission pursuant to I.C. 22-13-2-7.

This Ordinance shall be submitted to the Fire Prevention and Building Safety Commission within thirty (30) days after adoption by the City of Michigan City, Indiana, and this Ordinance shall be effective upon approval by the Fire Prevention and Building Safety Commission as provided by I.C. 22-13-2-5, and any necessary publication.

INTRODUCED BY:

  
Pat Boy, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 16<sup>th</sup> day of January, 2018 by a vote of 9 to 0.

  
Don Przybylinski, President  
Michigan City Common Council

Approved by me, this 17<sup>th</sup> day of January, 2018.

  
Ron Meer, Mayor  
City of Michigan City, Indiana

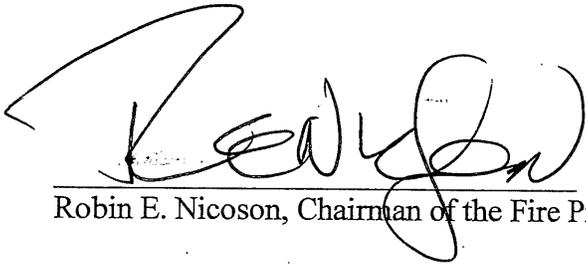
ATTEST:

  
Gale A. Neulieb, Clerk  
City of Michigan City, Indiana

Prepared by Corporation Counsel Upon Request



Approved this day, the 8th of February, 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 stylized with large, sweeping loops and a prominent initial "R".

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