



Monday, June 15, 2020
By Electronic Mail and U.S. Certified Mail

Dan Swafford, President
Town Council of the Town of Ellettsville, Indiana
Ellettsville Town Hall
1150 W. Guy McCown Drive
P.O. Box 8
Ellettsville, IN 47429
dswafford@ellettsville.in.us

Darla S. Brown
Town Attorney for the Town of Ellettsville, Indiana
Sturgeon & Brown, P.C.
120 West 7th Street, Suite 110
P.O. Box 1234
Bloomington, IN 47402-1234
dbrown@sturgeonbrown.com

Re: Order of Approval – Building Code of the Town of Ellettsville, Indiana

Dear President Swafford and Ms. Brown:

Pursuant to Indiana Code § 22-13-2-5.5, the Fire Prevention and Building Safety Commission (Commission), at its regularly scheduled meeting on Thursday, June 4, 2020, approved the following ordinance:

- Ordinance No. 2020-15 – Building Code of the Town of Ellettsville, Indiana

Pursuant to subsection (5) of Indiana Code § 22-13-2-5.5, enclosed with this letter is the Commission's order of approval, and a copy of the ordinance, endorsed by Robin E. Nicoson, Chairman of the Fire Prevention and Building Safety Commission. The Commission and its staff did not identify any conflicts between the provisions of the ordinance and the State of Indiana's building and fire safety laws (the Commission's rules). If you have any additional questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. J. Boyle", is written over a white rectangular background.

Douglas J. Boyle, Director

Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
dboyle@dhs.in.gov
(317) 650-7720

Enclosure

Cc (by electronic mail):

Robin E. Nicoson, Chairman of the Fire Prevention and Building Safety Commission
Philip A. Gordon, Legal Counsel to the Fire Prevention and Building Safety Commission
Justin K. Guedel, Indiana Department of Homeland Security Deputy General Counsel
Kevin Tolloty, Director of Planning & Development for the Town of Ellettsville, Indiana

**STATE OF INDIANA
BEFORE THE
FIRE PREVENTION AND BUILDING SAFETY COMMISSION**

ORDER OF APPROVAL

TO: Dan Swafford, President
Town Council of the Town of Ellettsville, Indiana
Ellettsville Town Hall
1150 W. Guy McCown Drive
P.O. Box 8
Ellettsville, IN 47429
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FROM: Douglas J. Boyle, Director of the Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E208
Indianapolis, IN 46204
dboyle@dhs.in.gov

DATE: Monday, June 15, 2020

RE: Order Approving Ordinance No. 2020-15 (Building Code of the Town of Ellettsville, Indiana)

Pursuant to Indiana Code § 22-13-2-5.5, the Fire Prevention and Building Safety Commission, at its Thursday, June 4, 2020 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.

Enclosure

Cc (by electronic mail):

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

Philip A. Gordon, Legal Counsel to the Fire Prevention and Building Safety Commission

Justin K. Guedel, Indiana Department of Homeland Security Deputy General Counsel

Kevin Tolloty, Director of Planning & Development for the Town of Ellettsville, Indiana



ORDINANCE NO. 2020-15

AN ORDINANCE regulating the construction, alteration, equipment, use, occupancy, and location of buildings and structures in Ellettsville, Indiana; incorporating by reference building rules, codes and standards required to be enforced under IC 36-7-2-9; providing for the issuance of permits, inspections, and penalties (fees) for violations.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

BE IT ORDAINED AND ADOPTED by the Town Council of Ellettsville, Indiana as follows:

Section 1. Chapter 150 of the Town of Ellettsville, Indiana Code of Ordinances, "Building Code," is hereby repealed in its entirety and replaced with the following provisions:

BUILDING CODE

ARTICLE I. GENERAL REQUIREMENTS

SECTION 150.01 TITLE.

This Ordinance and all material included by reference shall be known as the "Building Code of Ellettsville, Indiana."

SECTION 150.02 PURPOSE.

The purpose of this Ordinance is to protect life, public safety, health and the general welfare of the citizens of Ellettsville, Indiana, and shall be construed in such a manner as to effectuate this purpose.

SECTION 150.03 DEFINITIONS.

Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the following meanings:

1. "Building Commissioner", as used in this ordinance, refers to the officer charged with administration of the Building Department. The Planning Director shall serve as the Building Commissioner.
2. "Building Department", as used in this ordinance, refers to the sub-department of the Department of Planning charged with day-today operations overseeing the review of building

plans, building inspections, issuance of permits, and all other activities associated with the building process.

3. "Building Inspector", as used in this ordinance, includes individuals employed by the Town of Ellettsville that are authorized to represent the Building Department.
4. "Class 1 structure" has the meaning ascribed thereto in IC 22-12-1-4.
5. "Class 2 structure" has the meaning ascribed thereto in IC 22-12-1-5.
6. "Commission" has the meaning ascribed thereto in IC 22-12-1-6.
7. "Construction" has the meaning ascribed thereto in IC 22-12-1-7.
8. "Industrialized building system" has the meaning ascribed thereto in IC 22-12-1-14.
9. "Manufactured home" has the meaning ascribed thereto in IC 22-12-1-16.
10. "Mobile structure" has the meaning ascribed thereto in IC 22-12-1-17.
11. "Person" has the meaning ascribed thereto in IC 22-12-1-18.
12. "Structure" means both Class 1 and Class 2 structures, unless specifically stated otherwise.
13. "Vehicular bridge" has the meaning ascribed thereto in IC 22-12-1-26.

SECTION 150.04 SCOPE.

1. All Construction shall be accomplished in compliance with the provisions of this Ordinance.
2. Pursuant to IC 22-13-2-6, this Ordinance shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4.
3. Pursuant to IC 22-13-2-9, this Building Ordinance is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

SECTION 150.05 AUTHORITY.

The Building Commissioner, or his or her designee, is hereby authorized and directed to administer and enforce the following:

1. All of the provisions of this Ordinance.
2. Variances granted in accordance with IC 22-13-2-11.
3. Orders issued under IC 22-12-7.

SECTION 150.06 SEVERABILITY.

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

SECTION 150.07 SUPREMACY.

If any provision of this Ordinance conflicts with any building or fire safety law adopted or administered by the Commission, the Commission's laws govern.

SECTION 150.08 EFFECT OF ADOPTION ON PRIOR ORDINANCE.

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

ARTICLE II. BUILDING PERMITS

SECTION 150.09 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Department prior to commencement of Construction.

SECTION 150.10 APPLICATION FOR BUILDING PERMIT.

1. Any person required to have a building permit shall submit a complete application to the Building Department.
2. This application shall be submitted on a form prepared by the Building Department, and shall contain the following:
 - (a) Information that the Building Department determines to be necessary to locate and contact the applicant.
 - (b) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all Construction to be accomplished.
 - (c) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such Construction is to occur entirely within an existing Structure. This plot plan shall reflect the location of the Structure in relation to existing property

lines and shall show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.

(d) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Construction Design Release for the proposed Construction issued pursuant to IC 22-15-3-1.

(e) All information required pursuant to IC 22-11-21-9 for qualifying properties containing advanced structural components.

(f) Any additional information that the Building Department finds to be necessary to determine that the Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

(g) The fee established by §152.363 of Ellettsville Town Code.

3. 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.

SECTION 150.11 ISSUANCE OF BUILDING PERMIT.

The Building Department shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

All permits shall expire one (1) year from the original issue date. Any permittee holding an unexpired permit may apply for an extension of time when the permittee is unable to commence or finish work within the time required for good and satisfactory reasons. The Building Department may extend the time up to one (1) additional year for good cause.

SECTION 150.12 NOTICE OF USE OF ADVANCED STRUCTURAL COMPONENTS.

For all building permits issued covering the Construction of qualifying properties containing advanced structural components, the Building Department shall send notice as required pursuant to IC 22-11-21-10.

SECTION 150.13 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any Structure shall be issued unless such Structure was constructed in compliance with the provisions of this Ordinance. It shall be unlawful to occupy any Structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Department.

**ARTICLE III. INVESTIGATIONS AND INSPECTIONS
OF CONSTRUCTION ACTIVITIES**

SECTION 150.14 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

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

SECTION 150.15 INSPECTIONS BY FIRE DEPARTMENT.

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

ARTICLE IV. ENFORCEMENT AND PENALTIES

SECTION 150.16 WITHHOLD ISSUANCE OF PERMITS.

1. Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes (including checks returned for insufficient funds, permit fees owed pursuant to §152.363, or inspection fees owed pursuant to §152.363 to the Building Department, the Building Department may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.
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 Department is authorized to withhold the issuance of requested permit(s) until such time that the property is brought into conformance with applicable ordinances.

SECTION 150.17 PERMIT REVOCATION.

The Building Department may revoke a building permit if any of the following apply:

1. The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.
2. The application, plans or supporting documents reflect a lack of compliance with building or fire safety laws.
3. There is failure to comply with the provisions of this Ordinance.
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.

SECTION 150.18 STOP-WORK ORDER.

1. The Building Department may issue an order requiring suspension of the pertinent Construction (stop-work order) in accordance with this section.
2. The stop work order shall:
 - (a) Be in writing.
 - (b) State with specificity the Construction to which it is applicable and the reason for its issuance.
 - (c) Be posted on the property in a conspicuous place.
 - (d) If practicable, be given to:
 - (A) The person doing the Construction; and
 - (B) 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 or fire code.
 - (f) The stop-work order shall state the conditions under which Construction may be resumed.
3. The Building Department may issue a stop-work order if:
 - (a) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Ordinance or any state law pertaining to safety during Construction.
 - (b) Construction is occurring in violation of this Ordinance or in such a manner that if Construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.
 - (c) Construction for which a building permit is required is proceeding without a building permit being in force.
4. The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this Ordinance.

SECTION 150.19 CIVIL ACTION.

Pursuant to IC 36-1-6-4, the Town of Ellettsville, Indiana, may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Ordinance.

SECTION 150.20 MONETARY PENALTY.

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

SECTION 150.21 RIGHT OF APPEAL.

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

1. Appeal to an Established Local Administrative Body or Court.

Pursuant to IC 36-1-6-9, a person aggrieved by a decision of the Building Department may appeal as in other civil actions. The appellant must, by registered mail, give the Building Commissioner a thirty (30) day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. If, pursuant to IC 36-1-6-9, the Town has established by ordinance an administrative body to hear appeals of orders issued under other ordinances, then a person aggrieved by an order may petition for review with this administrative body in accordance with said ordinance.

2. Appeal to the Commission.

- (a) A person aggrieved by an order issued under this Ordinance may appeal to the Commission, in accordance with IC 22-13-2-7.
- (b) The Commission may modify or reverse any order issued by the Town of Ellettsville, Indiana that covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety or a building rule.
- (c) The Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the issuance of the order.
- (d) The Commission may review all other orders issued under this Ordinance.
- (e) The review of an order by the 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.

ARTICLE V. MINIMUM CONSTRUCTION STANDARDS

SECTION 150.22 ADOPTION OF RULES BY REFERENCE.

1. Pursuant to IC 22-13-2-3(b), the rules of the Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Ordinance:
 - (a) Article 13 – Building Codes
 - (b) Article 14 – Indiana Residential Code
 - (c) Article 16 – Indiana Plumbing Code
 - (d) Article 17 – Indiana Electrical Code
 - (e) Article 18 – Indiana Mechanical Code
 - (f) Article 19 – Indiana Energy Conservation Code
 - (g) Article 20 – Indiana Swimming Pool Code
 - (h) Article 22 – Indiana Fire Code
 - (i) Article 25 – Indiana Fuel Gas Code
 - (j) Article 28 – NFPA Standards
2. Two (2) copies of the above rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.
3. The Building Department and the Commission may grant a variance to the fire safety and building laws adopted in this Ordinance. Pursuant to IC 22- 13-2-7(b), a variance granted by the Building Department is not effective until it has been approved by the Commission.

SECTION 150.23 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

1. Pursuant to IC 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:
 - (a) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.
 - (b) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.
 - (c) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
 - (d) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(e) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1- 1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

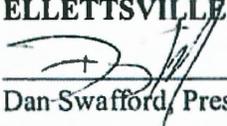
2. Two (2) copies of the above lifting device standards incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.

Section 2. This Building ordinance shall be in full force and effect from and after the date on which all of the following have occurred:

1. The Town Council of Ellettsville, Indiana has adopted this ordinance;
2. The Fire Prevention and Building Safety Commission of Indiana has approved of this ordinance as required by IC 22-13-2-5; and
3. After final publication as provided by law;
4. But not earlier than July 1, 2020.

This ordinance was adopted by the Ellettsville Town Council on the 11th day of May, 2020 at the Ellettsville Town Hall, Ellettsville, Indiana.

ELLETTSVILLE TOWN COUNCIL



Dan Swafford, President

Attest:



Sandra Hash, Ellettsville Clerk-Treasurer

Approved this 4th day of June, 2020, by the Fire Prevention and Building Safety Commission of the State of Indiana.



Chairman
Fire Prevention and Building Safety Commission of the State of Indiana