

ORDINANCE 2017- 11

AN ORDINANCE regulating the construction, alteration, equipment, use, occupancy, and location of buildings and structures in the City of Austin, Indiana (“Municipality”); 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 for violations.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

BE IT ORDAINED by the City of Austin, Indiana as follows:

ARTICLE I. GENERAL REQUIREMENTS

SECTION 1. TITLE. This ordinance and all material included herein by reference shall be known as the “Building Code of Austin, Indiana.”

SECTION 2. PURPOSE. The purpose of this ordinance is to protect the life, public safety, health and general welfare of the citizens of Austin, Indiana, and shall be construed in such a manner as to effectuate this purpose.

SECTION 3. DEFINITIONS. Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings.

1. “Building Commissioner”, as used in this ordinance, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.
2. “Class 1 structure” has the meaning ascribed thereto in IC 22-12-1-4.
3. “Class 2 structure” has the meaning ascribed thereto in IC 22-12-1-5.
4. “Construction” has the meaning ascribed thereto in IC 22-12-1-7.
5. “Industrialized building system” has the meaning ascribed thereto in IC 22-12-1-14.
6. “Manufactured home” has the meaning ascribed thereto in IC 22-12-1-16.

7. "Mobile structure" has the meaning ascribed thereto in IC 22-12-1-17.
8. "Person" has the meaning ascribed thereto in IC 22-12-1-18.
9. "Structure" means both Class 1 and Class 2 structures, unless specifically stated otherwise.
10. "Vehicular bridge" has the meaning ascribed thereto in IC 22-12-1-26.

SECTION 4. SCOPE.

1. All Construction shall be accomplished in compliance with the provisions of this Building Ordinance.
2. Pursuant to IC 22-13-2-6, this Building Ordinance shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this Building Ordinance 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.
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 5. AUTHORITY. The Building Commissioner is hereby authorized and directed to administer and enforce the following:

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

SECTION 6. 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 7. 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 8. BUILDING PERMIT REQUIRED. Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of Construction.

SECTION 9. APPLICATION FOR BUILDING PERMIT.

1. Any person required to have a building permit shall submit a complete application to the Building Commissioner.
2. This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:
 - a. Information that the Building Commissioner 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 Construction to be done that has been issued by the Building Law Compliance Officer pursuant to IC 22-15-3.
 - e. Any additional information that the Building Commissioner 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.
 - f. The fee established by the City.
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 10. ISSUANCE OF BUILDING PERMIT. The Building Commissioner 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.

SECTION 11. 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 Building Ordinance. It shall be unlawful to occupy any Structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

ARTICLE III. INVESTIGATIONS AND INSPECTIONS

OF CONSTRUCTION ACTIVITIES

SECTION 12. GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

1. All Construction shall be 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 may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of this Building 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 13. INSPECTIONS BY FIRE DEPARTMENT. The Building Commissioner 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 14. 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 fees (including checks returned for insufficient funds, permit fees, or inspection fees) to the Building Commissioner, the Building Commissioner 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 Commissioner is authorized to withhold the issuance of requested permit(s) until such time that the property is brought into conformance with applicable ordinances.

SECTION 15. PERMIT REVOCATION. The Building Commissioner may revoke a building permit when any of the following are applicable:

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 standards and procedures.
3. There is failure to comply with the Building 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 16. STOP-WORK ORDER.

1. The Building Commissioner 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:
 - i. The person doing the Construction; and
 - ii. To the owner of the property or the owner's agent.
 - e. The stop-work order shall state the conditions under which Construction may be resumed.
3. 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 this Building Ordinance or any state law pertaining to safety during Construction.
 - b. Construction is occurring in violation of this Building 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 Building Ordinance.

SECTION 17. CIVIL ACTION. Pursuant to IC 36-1-6-4, the City may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Building Ordinance.

SECTION 18. MONETARY PENALTY. Any person violating any provision of this Building 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 Building Ordinance.

SECTION 19. RIGHT OF APPEAL. Any person aggrieved by an order issued under this Building Ordinance shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

1. Appeal to the Fire Prevention and Building Safety Commission.
 - a. A person aggrieved by an order issued under this Building Ordinance may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.
 - b. The Commission may modify or reverse any order issued by the Municipality 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 Fire Prevention and Building Safety 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 Fire Prevention and Building Safety Commission may review all other orders issued under this Building Ordinance.

- e. 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.
2. Appeal to an Established Local Administrative Body or Court. Pursuant to IC 36-7-8-9, 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 Municipality Executive a fifteen (15) 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 Municipality has established by ordinance to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this administrative body in accordance with said ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order.

ARTICLE V. MINIMUM CONSTRUCTION STANDARDS

SECTION 20. 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 are hereby incorporated by reference in this code and shall include any later amendments to those rules.
 - 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 Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Ordinance. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.

SECTION 21. 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.

ARTICLE VI. USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS

SECTION 22. USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS

- 1. This article applies only to new construction of a Class 1 structure and a Class 2 structure.
- 2. (a) As used in this article, “engineered lumber roof trusses and/or floor joists” refers to a structural assembly that:
 - (a) is fabricated from:
 - i. wood;

- ii. light gauge metal;
 - iii. other component materials; or
 - iv. any combination of materials described in clauses (i) through (iii);
- (b) has less mass cross sectional area than sawn lumber members that would be used in an equivalent application;
- (c) is assembled from combustible or noncombustible materials, or both; and
- (d) is not a vertical member and supports a roof or floor, or both.
- (b) The term does not include a structural assembly that provides a minimum of one (1) hour fire resistance when tested in accordance with ASTM Standard E119.
- (c) As used in this article, “owner” means a person having control or custody of any structure to which this article applies.
3. (a) A structure that contains engineered lumber roof trusses and/or floor joists must have a placard affixed to the structure that meets the requirements of this article.
- (b) The placard shall use red coding and lettering that identifies both of the following:
- i. The types of engineered lumber roof trusses and floor joists used in the structure, including truss or engineered lumber.
 - ii. The location of engineered lumber roof trusses and/or floor joists used in the structure including floor joists or truss roof systems.
- (c) The placard may not be:
- i. smaller than three and one-half (3 1/2) inches by four and one-half (4 1/2) inches; and
 - ii. larger than five (5) inches by five and one-half (5 1/2) inches.
4. (a) The placard must be permanently affixed:

- i. below the structure's electrical meter, if the structure has electrical service; or
 - ii. on the left side of the front entrance four (4) to six (6) feet above the ground, if the structure does not have electrical service.
5. (a) An applicant for a building permit must indicate on the application:
 - i. the types of engineered lumber roof trusses and/or floor joists used in the structure; and
 - ii. the location of the engineered lumber roof trusses and/or floor joists used in the structure.

(b) The application form for a building permit must include a place on the form for providing the information under subsection (a).
6. (a) An applicant for a building permit shall not be issued a building permit unless the individual at the time of the application is issued a placard by the Building Commissioner.

(b) A fee, not to exceed five dollars (\$5.00), shall be charged for each placard issued.
7. The Building Commissioner shall not:
 - (a) approve a structure on final inspection; or
 - (b) issue a certificate of occupancy for a structure;

unless a placard is affixed to the structure that meets the requirements of this article.
8. (a) Not later than ten (10) business days after issuing a building permit, the Building Commissioner shall send written notification to the local fire department and the 911 telephone call center that has jurisdiction in the area where the structure is located. The notification shall be sent by certified mail, return receipt requested.

- (b) The notification must include the following information:
- i. The street address of the property.
 - ii. The name of the municipality and county in which the structure is located.
 - iii. The types of engineered lumber roof trusses and/or floor joists used in the structure.
 - iv. The location of the engineered lumber roof trusses and/or floor joists by area within the structure.
9. Upon receiving a copy of the notification under section 8 of this article, the chief of the fire department or the chief's designee shall:
- (a) post the information in a conspicuous place for all emergency personnel;
 - (b) provide the information to any fire department providing mutual aid; and
 - (c) for Class 1 structures only, add the structure to the inspection file for follow up on a timely basis for inspection.
10. Upon receiving a notification under section 7 of this article, the 911 telephone call center shall maintain the information on each property, by the address of the property, that uses engineered lumber roof trusses and/or floor joists. When dispatching to the listed address, the dispatcher shall notify the responding units of the information.
11. An owner of a structure shall ensure that the placard remains affixed to the structure during the life of the structure.
12. (a) If:
- i. the Building Commissioner provides written notice to an owner that the owner has failed to install or maintain a placard on the structure in

violation of this article; and the owner fails to correct the violation not later than ten (10) business days after receiving the written notice; the owner is liable for a civil penalty of not more than one hundred dollars (\$100) per day during the period beginning ten (10) business days after the owner receives written notice of the violation from the unit and until the date the violation is corrected. A penalty imposed under this ordinance may not exceed three thousand dollars (\$3,000) per structure per year.

ARTICLE VII. EFFECTIVE DATE

SECTION 23. EFFECTIVE DATE. This Building Ordinance shall be in full force and effect from and after the date on which both of the following have occurred:

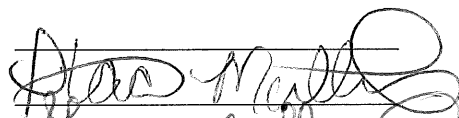

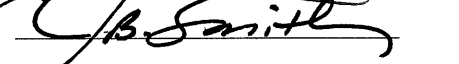
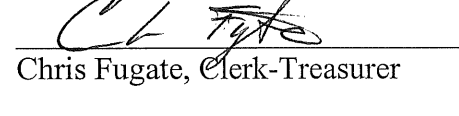

1. The City Council has adopted this ordinance.
2. The Fire Prevention and Building Safety Commission of Indiana has approved of this ordinance as required by IC 36-7-8-3 and IC 22-13-2-5.

PASSED AND ADOPTED by the Common Council of the City of Austin, Indiana on the 13th day of November, 2017 by a vote of 4 to 0.

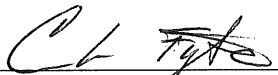
COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA

YEA

NAY

	Brandon White	_____
	Staci Mullins	_____
	Greg Goodin	_____
	Johnnie White	_____
	Joe Smith	_____

Attest:


Chris Fugate, Clerk-Treasurer

Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 13th day of November, 2017 at 7 : 04 p.m.

Chris Fugate
Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), this 13th day of November, 2017 at 7 : 05 p.m.

Dillo Bush
Dillo Bush, Mayor

Attest:

Chris Fugate
Chris Fugate, Clerk-Treasurer

Approved this _____ day of _____, 2017, by the Fire Prevention and Building Safety Commission of the State of Indiana.

Chairman
Fire Prevention and Building Safety Commission



Houston,
Thompson
and Lewis, PC
ATTORNEYS AT LAW

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VIA CERTIFIED MAIL

Legal and Code Services Section
Indiana Department of Homeland Security
Indiana Government Center South
302 West Washington Street, Room W246
Indianapolis, IN 46204

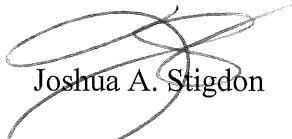
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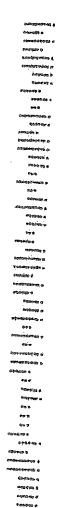
To Whom It May Concern:

I am writing to you as the City Attorney for Austin, Indiana (the "City"). On November 13, 2017, the City passed the model building code and I am now submitting it to you for approval in accordance with I.C. 22-13-2-5. Please contact with me any questions.

Thank you,


Joshua A. Stigdon
Enc.

REGISTERED MAIL



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HOUSTON, THOMPSON and LEWIS, PC

ATTORNEYS AT LAW

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Legal & Code Services Section
Indiana Depart. of Homeland Security
Indiana Government Center South
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