

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Eric Wise
FROM: Fire Prevention and Building Safety Commission (Commission) Staff
DATE: March 5, 2021
RE: Commission Review of Ordinance No. 2021-3

The above referenced ordinance has been received and will be placed on the Commission's **April 6, 2021** meeting agenda for review and consideration.

Ordinances containing fire safety or building laws are not effective until approved by an order of the Commission. The Commission has up to four meetings to make a determination on an ordinance. If an order of approval or denial is not issued by the fourth meeting, the ordinance is automatically approved and effective without an order of the Commission.

The Commission may afford an opportunity for public testimony on the ordinance. Therefore, attendance at the Commission's meeting is encouraged, but not required. To find out when and where the Commission meetings will take place, please visit the Commission's webpage at this link: <https://www.in.gov/dhs/2375.htm>. To obtain a copy of the Commission's agenda for any meeting, visit the Commission's webpage and select the "Meeting Materials" link.

A staff review of your ordinance may be completed prior to a decision being made by the Commission. Any staff reviews that are completed will be provided to you as soon as possible, to allow potential issues to be addressed prior to the Commission meeting. Copies of any staff review will also be delivered to the Commission for consideration.

If the Commission does not make a determination at the meeting, you will be notified and your ordinance will be placed on the agenda for the next meeting until such time as a determination is made or the ordinance is deemed approved.

Following a determination of the Commission, an order will be issued in accordance with IC 4-21.5. If for any reason the Commission issues an order of denial of your ordinance, you may adopt a new ordinance, which addresses the Commission's concerns, and resubmit it for approval.

ORDINANCE NO. 2021-3

AN ORDINANCE regulating the construction, alteration, equipment, use, occupancy, and location of buildings and structures in Harrison County, 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 by County of Harrison, Indiana as follows:

ARTICLE I. GENERAL REQUIREMENTS

SECTION 1. TITLE.

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

SECTION 2. PURPOSE.

The purpose of this Ordinance is to protect life, public safety, health and the general welfare of the citizens of Harrison County, 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 following meanings:

1. "Class 1 structure" has the meaning ascribed thereto in IC 22-12-1-4.
2. "Class 2 structure" has the meaning ascribed thereto in IC 22-12-1-5.
3. "Commission" has the meaning ascribed thereto in IC 22-12-1-6.
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 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 5. 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 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. 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 8. 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 1. 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 2. 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 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 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.
- (g) The fee established by ordinance for the type of structure/improvement proposed.

SECTION 3. 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 standards of this ordinance and will not violate any other known applicable ordinances or laws including Article 9 "ORDINANCES FOR FLOOD HAZARD AREAS FOR HARRISON COUNTY INDIANA(ord. 2014-19)" of the Harrison County Zoning Ordinance.

SECTION 4. NOTICE OF USE OF ADVANCED STRUCTURAL COMPONENTS.

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

SECTION 5. 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 certificate of occupancy has been issued by the Building Commissioner.

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

**SECTION 1. 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 may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of this Ordinance 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.

ARTICLE IV. ENFORCEMENT AND PENALTIES

SECTION 1. 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 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 2. PERMIT REVOCATION.

The Building Commissioner 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 this ordinance.
3. 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 3. STOP-WORK ORDER(notice of violation).

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) 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 code.
 - (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 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 4. CIVIL ACTION.

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

SECTION 5. MONETARY PENALTY.

- (a) Any person who violates any provision of this Code shall be deemed to have committed a code violation and, upon conviction, shall be fined not more than one-hundred dollars (\$100.00) for the first violation, and not more than two-hundred dollars (\$200.00) for the second and each subsequent violation. Each code violation is a separate and distinct offense. Each day a violation continues after the issuance of a stop work order specified in Section 3, constitutes a separate violation.

(b) Any person in violation of this Code shall be liable to the county for any expenses and costs. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this Ordinance.

SECTION 6. 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 Commissioner. Such a person may file a petition either or both of the following procedures:

1. A person aggrieved by a decision of the county department of buildings may appeal as in other civil actions. The appellant must, by registered mail, give the county executive a fifteen (15) day written notice of the appellant's intention to appeal. The notice must concisely state the appellant's grievance.
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 Building Commissioner 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 1. ADOPTION OF RULES BY REFERENCE.

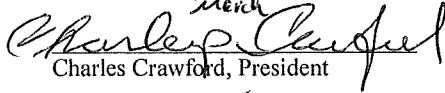
1. Pursuant to IC 22-13-2-3(b), the rules of the Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Ordinance:
 - (a) Article 13 – Building Codes
 - (b) Article 14 – Indiana Residential Code
 - (c) Article 16 – 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
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. Any references to Indiana Codes shall include any subsequent amendments and or replacement reference numbers should a section be appealed and replaced by the State legislature.

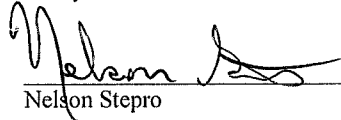
ARTICLE VI. EFFECTIVE DATE

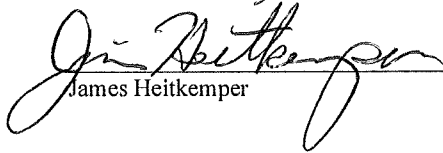
EFFECTIVE DATE. This Building Ordinance shall be in full force and effect from and after the date on which both of the following have occurred:

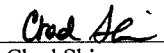
1. The Harrison County Board of Commissioners has adopted this ordinance.
2. The Fire Prevention and Building Safety Commission of Indiana has approved of this ordinance as required by IC 22-13-2-5.

This ordinance is hereby approved by the Harrison County Board of Commissioners on this 1st day of ~~February~~ ^{March} 2021.


Charles Crawford, President


Nelson Stepro


James Heitkemper

Attest: 
Chad Shireman, Auditor

Approved this _____ day of _____, 20____, 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