

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Wednesday, December 23, 2020
By Electronic Mail

Jesse Sensenig
Owner and Petitioner
Goshen Brewing Company
315 W. Washington Street
Goshen, IN 46526-3732
jesse@goshenbrewing.com

Andrew M. Hicks
Attorney for the Petitioner
Warrick and Boyn, LLP
861 Parkway Avenue
Elkhart, IN 46516
ahicks@warrickandboyn.com

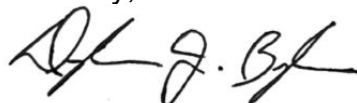
Re: Petition for Administrative Review – IDHS Notice of Violations Inspection No. 4EE3-F8C8 – Goshen Brewing Company

Dear Mr. Sensenig and Mr. Hicks:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your electronically-filed petition for administrative review of Indiana Department of Homeland Security (IDHS) Notice of Violations Inspection No. 4EE3-F8C8 – Goshen Brewing Company, submitted on Wednesday, December 23, 2020. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petition for administrative review is hereby granted by the Commission.

Your petition will now be forwarded to the Indiana Office on Administrative Law Proceedings (OALP) to be assigned to the Commission's administrative law judge. OALP or the judge will contact you directly to make arrangements for further proceedings. Should you have any questions, you may contact the Indiana Department of Homeland Security's deputy general counsel assigned to this matter, Justin Guedel, at jguedel@dhs.in.gov or (317) 234-9515.

Sincerely,



Douglas J. Boyle, Director
Indiana Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
Indiana Government Center South, Room E-208

302 W. Washington Street
Indianapolis, IN 46204
dboyle@dhs.in.gov

Enclosure

cc: Justin K. Guedel, IDHS Deputy General Counsel – representing the Respondent
(by electronic mail)
Bryston Sprecher, Administrative Assistant of the Indiana Fire Prevention and
Building Safety Commission (by electronic mail)

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Wednesday, December 23, 2020 11:21:43 AM
Attachments: [68379161_AE2034717C.pdf](#)

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



Formstack Submission For: [petition for review](#)

Submitted at 12/23/20 11:20 AM

Individual Name:	Jesse Sensenig
Business Name :	Goshen Brewing Company
Phone Number:	(843) 469-0314
Email Address:	jesse@goshenbrewing.com
Mailing Address:	315 W Washington St Goshen, IN 46526-3732
Are you represented by an attorney?:	Yes
Attorney Name:	Andrew Hicks
Firm:	Warrick and Boyn
Phone	5742947491

Number:	
Email Address:	ahicks@warrickandboyn.com
Mailing Address:	861 Parkway Ave Elkhart, IN 46516
Order Number:	4
Facility Device Boiler ID:	
Date Order Received:	Dec 09, 2020
How did you receive the Order? :	Hand Delivery
Entity Issuing Order:	Local Fire Department
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	Yes
Explain:	Fire Marshall came
Explain:	
Have you been aggrieved or adversely affected by	Yes

the order?:

Explain:

We are using extension cords to power 1500 W space heaters in dome/igloos that we are using to make up for lost seating due to COVID. They have emergency shut-off if tipped over and will utilize power strips for all of them and they are sitting away from anything that will burn and only small groups in the plastic igloos with easy access to get out. There would be no situation where someone wouldn't be able to get out in less than 30 seconds. We are simply trying to make it through and we absolutely need to have this source of income through March.

Explain:

If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :

What law?:

I request review of the entire order described above:

Yes

If you are not requesting review of the entire order, what is the scope of your request?:

I request a stay of effectiveness:

Yes

What is the basis of your challenge? :

We are using extension cords to power 1500 W space heaters in dome/igloos that we are using to make up for lost seating due to COVID. They have emergency shut-off sensors if tipped over and we utilize power strips for all of them. They are sitting 3 feet away from anything that will burn . We have staff always interacting while in use and always unplug and take them indoors to store each night. Only small groups use the plastic igloos and they have very easy access to get out. There would be no situation where someone wouldn't be able to get out in less than 30 seconds. We are simply trying to make it through and we absolutely need to have this source of income through March. We always work to comply and make a safe environment throughout the year, but feel in this situation that this is going to greatly impact us negatively without any risk of harming our customers.

What is your desired outcome? :

We would like to be able to continue to use these heaters temporarily as described above throughout March and into April 2021. Specifically being able to plug them in using an outdoor extension cord. We appreciate your consideration.

Additional information in support of my request:

Also, I don't know what a stay of effectiveness means.

Additional Attachments:

Additional Attachments:

Additional Attachments:

Report of Inspection

Indiana Department of Homeland Security
302 W. Washington Street, Room E208 Indianapolis, IN 46204
Phone: 317-232-2222

State Number	Inspection Number
AE2034717C	4EE3-F8C8

Visit us at: <http://www.in.gov/dhs>

Date	12/09/2020 11:39AM	Type	Initial
Results	Notice of Violations		
Location		Owner	
Name	GOSHEN BREWING CO	Name	n/a
Street	315 W WASHINGTON ST	Street	622 S Third St
City	GOSHEN	City	Goshen
Zip	46526	Zip	46526
		Contact	JESSE SENSENIG - (843) 469-0314
Inspector		Item	
Name	Chad Sharp	State Number	AE2034717C
Email	CSharp@dhs.IN.gov	Type	n/a
Phone	(317) 273-3864	CDRs	

Notice Of Violations

#	Code	Description	Order	Correct By	Fee
1	IC 22-14-3-5	Operation without permit or special event endorsement; infraction Sec. 5. (a) This section applies to the following: (1) Each person who has control over the performance of an amusement or entertainment described in IC 22-12-1-23. (2) Each person who has control over a regulated place of entertainment. (b) A person described in subsection (a) commits a Class C infraction if: (1) a regulated place of amusement or entertainment is used for an amusement or entertainment described in IC 22-12-1-23; and (2) no regulated place of amusement or entertainment permit or special event endorsement issued under this chapter covers the conditions at the regulated place of amusement or entertainment that affect fire and explosion safety.	Apply for and obtain 2020 AE PERMIT.	01/09/2021	n/a
2	Sec. 6.1.3.4 2010 Edition NFPA 10 675 IAC 28-1-2	Portable fire extinguishers other than wheeled extinguishers shall be installed using any of the following means: (1) Securely on a hanger intended for the extinguisher (2) In the bracket supplied by the extinguisher manufacturer (3) In a listed bracket approved for such purpose (4) In cabinets or wall recesses	Maintain portable fire extinguishers to be installed using a method listed.	01/09/2021	n/a

3	Sec. 605.10.4 2014 Edition IFC 675 IAC 22-2.5	Portable, electric space heaters shall not be operated within 3 feet (914 mm) of any combustibile materials. Portable, electric space heaters shall be operated only in locations for which they are listed.	Maintain portable space heaters to be three feet from combustibile material.	01/09/2021	n/a
4	Sec. 605.10.2 2014 Edition IFC 675 IAC 22-2.5	Portable, electric space heaters shall be plugged directly into an approved receptacle.	Maintain all portable electric space heaters to be plugged directly into a permanent outlet.	01/09/2021	n/a
5	Sec. 605.3 2014 Edition IFC 675 IAC 22-2.5	A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1,981 mm) in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches (762 mm), the working space shall be not less than the width of the equipment. No storage of any materials shall be located within the designated working space. Exceptions: 1. Where other dimensions are required or allowed by NFPA 70. 2. Access openings into attic or underfloor areas, which provide a minimum clear opening of 20 inches (509 mm) by 40 inches (1,016 mm).	Maintain proper working space around all electrical service equipment.	01/09/2021	n/a

If you are receiving this document, property that you own or have control over, has been, or was attempted to be, inspected by the Indiana Department of Homeland Security (Department). Depending on the outcome of this inspection, one of five different **RESULTS** was notated. See the first page for the **RESULT** of this inspection. The following describes what each **RESULT** means:

1. INSPECTION NOT POSSIBLE

This report is to notify you that the Department attempted to perform an inspection of your property, but was unable to for some reason. If you have not already spoken with your inspector regarding this, please contact him or her immediately.

2. NO VIOLATIONS FOUND

This report is to notify you that the Department performed an inspection of your property, and no violations were found to exist. However, please be aware that obtaining a **RESULT** of "no violations found" does not mean that no violations exist on your property or may be found during a later inspection.

3. EMERGENCY OR TEMPORARY ORDER

This report is to notify you that the Department has determined that conduct or a condition of property:

1. presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
2. is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license and the license has not been issued; or
3. will conceal a violation of law.

This order must immediately be complied with, up to and until such time that: (1) it expires; (2) an order is issued by an administrative law judge voiding, terminating, modifying, or staying its effectiveness; or (3) the Department terminates its effectiveness. If you desire administrative review of this order, you must submit your request by one of the methods provided for in the **administrative review** section mentioned below.

4. NOTICE OF VIOLATIONS

This report is to notify you that violations are believed to exist on your property. However, if you enter into a corrective plan and correct these violations by the correction date provided in this report, no enforcement actions or sanctions will commence. If you fail to enter into a corrective plan, the Department will move forward with enforcement of this order and the

imposition of sanctions.

If you would like to enter into a corrective plan, you must notify your inspector, in writing, within five (5) days of receiving this report.

Terms of corrective plan:

1. I agree to correct the violations contained on this report by the date provided.
2. I understand my failure to correct these violations by the correction date will result in the enforcement of this report and sanctions, including, but not limited to, a fine of \$250 per day per violation.
3. I understand no extensions of time are permitted unless they are granted in writing by the Department.
4. I understand that entering into this corrective plan is not an admission that a violation has occurred.
5. I agree to protect the safety and property of other persons as outlined by the Department while corrections are underway.
6. I agree to notify the Department, by the compliance date, that all violations have been corrected, and I am aware that my failure to do so may result in sanctions being ordered.
7. I understand that in order for the Department to determine compliance, an additional inspection may be performed and the Department must notify me of the determination of my compliance within thirty (30) days following the earlier of: (a) the correction date contained in this report; or (b) the date the Department is provided notice that the violations have been corrected.

If you do not enter into a corrective plan or receive a determination modifying or reversing this report, the requirements of this report are effective fifteen (15) days after service and must be complied with until such time that: (1) this order is overturned on review; (2) an administrative law judge issues a stay of enforcement; or (3) the Department consents to the request for a stay in writing. To request an **informal review** or **administrative review** of this report, you must comply with the information provided below.

5. SANCTIONS

This report is to notify you that sanctions are being imposed due to violation(s) of the law. For information on how to request an **informal review** or **administrative review**, see below.

INFORMAL REVIEW

To request an informal review of your order by the **Department**, complete the informal review form located at <https://www.in.gov/dhs/4149.htm>. Following receipt of this form, the **Department** will review your request and may modify or reverse the report, and will attempt to respond to your request within five (5) business days, however, a request for an informal review does not extend the deadline for filing a petition for administrative review which must be filed to initiate formal administrative proceedings under IC 4-21.5.

ADMINISTRATIVE REVIEW

If you desire administrative review of this order by the **Fire Prevention and Building Safety Commission**, you must comply with the requirements of Indiana Code § 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of these violations. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You must submit your petition by one of the following methods:

U.S. MAIL OR PERSONAL SERVICE

Indiana Department of Homeland Security
Fire Prevention and Building Safety Commission
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204

ONLINE

By completing the form at
<https://www.in.gov/dhs/4148.htm>

If your petition qualifies for review, it will be assigned to an administrative law judge who will initiate proceedings under IC 4-21.5. For additional information about the administrative review process and other options that may be available to you, visit the following link <https://www.in.gov/dhs/appeals.htm>.