

# INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

**TO:** Alex Intermill  
**FROM:** Fire Prevention and Building Safety Commission (Commission) Staff  
**DATE:** Friday, August 27, 2021  
**RE:** Commission Review of Ordinance Amending Ch. 150 – Town of Fortville, Indiana

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The above referenced ordinance has been received by the Commission and has been assigned to staff for preliminary review. Staff will review your ordinance for any **duplication, conflict, or overlap** with the fire safety and buildings laws of the state and will provide the results of their review upon completion. Staff may request additional information or clarification of provisions in the ordinance.

Please note, the results of this preliminary staff review are not binding upon the Commission, and additional defects may be found at a later date, which may result in the denial of your ordinance. For this reason, it is strongly recommended that ordinances **follow the Commission's approved templates**. Ordinances that do not follow the templates are likely to duplicate, conflict, and overlap with the fire safety and building laws of the state and take longer to review. If the templates are not followed, **do not repeat language** in your ordinance that is **already required by law** in the Commission's rules (which includes language in the model codes adopted within the Commission's rules) or Indiana Code.

To obtain copies of the Commission's ordinance templates, follow these instructions:

1. Visit the Commission's webpage at this link: <http://www.in.gov/dhs/2375.htm>.
2. Scroll down to the "Ordinance Review" section and click the box to expand its content.
3. Within the expanded contents, there is a section titled "Ordinance Templates" that contains links to the Commission's ordinance templates. Click on the template that you wish to adopt.

Please be advised, **property maintenance codes are very likely to conflict** with the Commission's rules and must be narrowly tailored. The Commission's rules generally allow construction to comply with the codes in effect at the time of construction without needing to be modified to comply with current rules, such as those contained in property maintenance codes.

If after reading this notice you would like to revise your ordinance before it is reviewed, or if you have any questions regarding this process, please email [buildingcommisison@dhs.in.gov](mailto:buildingcommisison@dhs.in.gov) and reference the title of your ordinance which is contained in the subject line of this correspondence.

**ORDINANCE NO. 2021-\_\_\_\_\_**

**AMENDMENT AND RESTATEMENT OF TITLE XV CHAPTER 150 OF THE  
TOWN OF FORTVILLE CODE OF ORDINANCES**

**AN ORDINANCE REGULATING THE CONSTRUCTION,  
ALTERATION, EQUIPMENT, USE, OCCUPANCY, AND LOCATION  
OF BUILDINGS AND STRUCTURES IN THE TOWN OF FORTVILLE,  
INDIANA; INCORPORATING BY REFERENCE BUILDING RULES,  
CODES AND STANDARDS REQUIRED TO BE ENFORCED UNDER  
INDIANA CODE § 36-7-2-9; PROVIDING FOR THE ISSUANCE OF  
PERMITS, INSPECTIONS, AND PENALTIES (FEES) FOR  
VIOLATIONS**

**RECITALS**

A. Pursuant to Indiana law, the Town Council of the Town of Fortville (“Council” and “Town,” respectively) previously adopted certain provisions building regulations in the Town, which are codified in Title XV, Chapter 150 of the Town’s Code of Ordinances (“Code”).

B. The Council desires to amend and restate the building regulations to incorporate the State of Indiana’s building rules, codes and standards.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Council as follows:

SECTION 1. Title XV, Chapter 150 of the Code shall be amended and restated in its entirety as follows:

**ARTICLE I. GENERAL REQUIREMENTS**

**SECTION 150.01. TITLE.**

This Ordinance and all material included by reference shall be known as the “Building Code of Fortville, 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 the Town of Fortville, 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. “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 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 Planning & Building Director, 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 Planning & Building Director 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 Planning & Building Director.
2. This application shall be submitted on a form prepared by the Planning & Building Director, and shall contain the following:
  - (a) Information that the Planning & Building Director 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 Planning & Building Director 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 Fortville Town Council.
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 Planning & Building Director may require that such an employee or agent provide written authority to apply for a permit.

### **SECTION 150.11. ISSUANCE OF BUILDING PERMIT.**

The Planning & Building Director 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 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 Planning & Building Director 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 Planning & Building Director.

### **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 Planning & Building Director irrespective of whether a building permit has been, or is required to be, obtained.
2. The Planning & Building Director 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 Planning & Building Director 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 36-817).

### **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 the Town money (including checks returned for insufficient funds, permit fees, or inspection fees owed pursuant to the Town Code), the Planning & Building Director 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 Planning & Building Director 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 Planning & Building Director 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 Planning & Building Director 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 Planning & Building Director 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 Fortville 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 Planning & Building Director. Such a person may file a petition using either, or both, of the following procedures:

1. Appeal to the Fortville Board of Zoning Appeals.

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 Fortville 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 Planning & Building Director 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 Planning & Building Director 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 36-1-54.

**ARTICLE VI. EFFECTIVE DATE**

**SECTION 150.24. 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 Fortville Town Council 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.



SECTION 2. Any Chapter, Section or Subsection of the Code that is not specifically amended or restated herein remains in full force and effect.

SECTION 3. If any provision in this Ordinance is declared invalid, the remaining provisions of the Ordinance shall remain in full force and effect.

SECTION 4. Any ordinances or provisions thereof that are inconsistent with this Ordinance are hereby superseded.

[Signature Page Follows]

Introduced and filed on the \_\_\_\_ day of \_\_\_\_\_, 2021.

Duly ordained and passed this \_\_\_\_ day of \_\_\_\_\_, 2021 by the Town Council of the Town of Fortville, Hancock County, Indiana, having been passed by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

**TOWN OF FORTVILLE, INDIANA, BY ITS TOWN COUNCIL**

Voting Affirmative:

Voting Opposed:

\_\_\_\_\_  
Frederick Fentz, President

\_\_\_\_\_  
Frederick Fentz, President

\_\_\_\_\_  
Robert Holland

\_\_\_\_\_  
Robert Holland

\_\_\_\_\_  
Becky Davis

\_\_\_\_\_  
Becky Davis

\_\_\_\_\_  
Tonya Davis

\_\_\_\_\_  
Tonya Davis

\_\_\_\_\_  
Elizabeth Wyatt

\_\_\_\_\_  
Elizabeth Wyatt

ATTEST:

\_\_\_\_\_  
Melissa Glazier  
Clerk-Treasurer

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021, 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