

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Tony Lothridge
FROM: Fire Prevention and Building Safety Commission (Commission) Staff
DATE: March 23, 2021
RE: Preliminary Staff Review of the Fire Prevention Ordinance of the City of Decatur, IN

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 and reference the title of your ordinance which is contained in the subject line of this correspondence.

GENERAL PROVISIONS

§ 91.01 INSPECTION OF PREMISES FOR FIRE HAZARDS: ORDERS.

- (A) It shall be the duty of the Fire Chief, or person designated by the Fire Chief, to inspect, as often as may be necessary, but not less than once a year structures throughout the city, other than one- or two-family dwellings, for the purpose of ascertaining, and causing to be corrected, any conditions liable to cause fire or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard.
- (B) The Chief of the Fire Department and/or his or her assistants, designated by the Fire Chief, are authorized and directed to enter into and examine all places within the city where fire is liable to occur, and to take all necessary means to prevent danger therefrom. Such inspections shall be made at reasonable hours.
- (C) In the event that during the inspection as set out in division (B) above, the Fire Chief and/or his or her assistants discovers a condition or code violation which is deemed unsafe or dangerous, the Fire Chief or the Fire Chief's designee shall serve the owner of the premises and/or the occupant of the premises, a written **or electronic** notice of such unsafe or dangerous condition. Further notices, if any, shall be served by United States certified mail, with return receipt requested, in which he or she shall set forth the dangerous conditions, and shall further require action to remove such condition or code violation.
- (D) The Fire Chief shall state in the notice a time in which the mean prescribed by the Fire Chief shall be complied with.
- (E) **The first violation notice shall be given at the time of the inspection. The second violation notice, shall be approximately 30 days from the first notice, if not corrected. The third and final violation notice shall be approximately 15 days after the second violation notice, if not corrected.** In the event that the recipient of the notice does not take the necessary action to correct the dangerous condition or code violation as set out in the notice, the recipient shall be in violation of this section **and shall result in a citation. If a violation is not corrected due to extenuating circumstances, a committee of the Fire Chief, Fire Marshal and the Superintendent of Building and Zoning, may grant an extension.**
Penalty, see §91.99

VIOLATION CLASSIFICATIONS

Violations occurring during inspections shall be determined from one of three violations. Immediate danger to life safety, Major violation and Minor violation.

Minor violations are classified as violations that do not pose a serious hazard to life safety.

Major violations are classified as serious violations and are listed below:

IFC 1008.1.10 Panic & fire exit hardware

IFC 1003.6 Means of egress continuity

IFC 1008.1.9.3 Locks and latches

IFC 507.5.4 Obstructions
IFC 1008.1.9 Door operations
IFC 901.6.1 Standards (FD connection)
IFC 1023.1 Exit passageway
IFC 1030.3 Obstructions
IFC 315.3.2 Means of egress
IFC 313.1 General (fuel equipment storage)
IFC 315.3 Storage in buildings
IFC 1008.1.9.4 Bolts & locks
IFC 603.4 Portable unvented heaters
IFC 703.2 Opening protectives

Immediate danger to life safety violations are violations that need addressed immediately before operations can continue.

§ 91.99 Penalty

- (A) (1) Whoever violates any of the provisions of this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certification or permit issued thereunder, shall for each and every such violation and non-compliance respectively, be fined not less than \$10, nor more than \$2,500.
- (2) The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- (3) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
- (B) Whoever violates any provision of §91.11 of this chapter shall, upon conviction, be fined not more than \$100.
- (C) Whoever violates any provision of §91.12 of this chapter shall, upon conviction, be fined not less than \$10 and not more than \$100.
- (D) After the third and final notice violations shall be subject to the following citations,
- MINOR VIOLATIONS - \$25 per violation**
- MAJOR VIOLATIONS - \$250 per violation**
- IMMEDIATE DANGER TO LIFE SAFETY - \$250 after the second inspection and immediate suspension of operations until violations are remedied.**

CHAPTER 91: FIRE PREVENTION; FIREWORKS

Section

General Provisions

- 91.01 Inspection of premises for fire hazards; orders
- 91.02 Fire limits
- 91.03 Depositing combustibles within the city
- 91.04 Storage of combustible materials
- 91.05 Burning of combustible materials
- 91.06 Storing explosives
- 91.07 Flammable or combustible gas or liquids
- 91.08 False alarm of fire
- 91.09 Steam boilers
- 91.10 Conflict with other provisions
- 91.11 Fireworks
- 91.12 Rapid access key boxes; security connection caps

Fire Codes; Enforcement

- 91.25 Adoption of Fire Prevention Codes
- 91.26 Enforcement of Codes
- 91.27 Inspections
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- 91.29 Emergency lanes established

Open Burning

- 91.40 Open burning restricted; general prohibitions
- 91.41 Limited burning for special purposes
- 91.42 Emergency burning
- 91.43 Liability
- 91.44 Enforcement of open burning

- 91.99 Penalty

GENERAL PROVISIONS

§ 91.01 INSPECTION OF PREMISES FOR FIRE HAZARDS; ORDERS.

(A) It shall be the duty of the Fire Chief, or person designated by the Fire Chief, to inspect, as often as may be necessary, but not less than once a year structures throughout the city, other than one- or two-family dwellings, for the purpose of ascertaining, and causing to be corrected, any conditions liable to cause fire or any violations of the provisions or intent of any ordinance of the city affecting the fire hazard.

(B) The Chief of the Fire Department and/or his or her assistants, designated by the Fire Chief, are authorized and directed to enter into and examine all places within the city where fire is liable to occur, and to take all necessary means to prevent danger therefrom. Such inspections shall be made at reasonable hours.

(C) In the event that during the inspection as set out in division (B) above, the Fire Chief and/or his or her assistants discovers a condition or code violation which is deemed unsafe or dangerous, the Fire Chief or the Fire Chief's designee shall serve the owner of the premises and/or the occupant of the premises, a written notice of such unsafe or dangerous condition. Further notices, if any, shall be served by United States certified mail, with return receipt requested, in which he or she shall set forth the dangerous conditions, and shall further require action to remove such condition or code violation.

(D) The Fire Chief shall state in the notice a time in which the means prescribed by the Fire Chief shall be complied with.

(E) In the event that the recipient of the notice does not take the necessary action to correct the dangerous condition or code violation as set out in the notice, the recipient shall be in violation of this section.

(Prior Code, § 91.01)

§ 91.02 FIRE LIMITS.

(A) The fire limits in the city shall consist of all territory lying within the municipal city limits.

(B) No person, persons, firm, company or corporation shall erect or cause to be erected any building on any lot or parcel of ground within the territory described in division (A) above, which is not in compliance with the City Building Code.

(Prior Code, § 91.02) Penalty, see § 91.99

§ 91.03 DEPOSITING COMBUSTIBLES WITHIN THE CITY.

No person or persons shall deposit or stack any hay, straw or other combustible substance within 100 feet of any dwelling house, barn, stable, outhouse or building of any description within the limits of the city, without first having obtained permission from the Common Council.

(Prior Code, § 91.04) Penalty, see § 91.99

§ 91.04 STORAGE OF COMBUSTIBLE MATERIALS.

No person or persons shall deposit or store combustible substances or materials near a structure which produces conditions that create a nuisance or a hazard to the public health, safety or welfare.

(Prior Code, § 91.05) Penalty, see § 91.99

§ 91.05 BURNING OF COMBUSTIBLE MATERIALS.

Except as allowed in § 91.41, no person or persons shall burn combustible substances or materials near a structure which produces conditions that create a nuisance or fire hazard.

(Prior Code, § 91.06) Penalty, see § 91.99

§ 91.06 STORING EXPLOSIVES.

No person shall store explosives or explosive materials within the city limits in violation of the Indiana Fire Prevention Code, and amendments thereto.

(Prior Code, § 91.07) Penalty, see § 91.99

§ 91.07 FLAMMABLE OR COMBUSTIBLE GAS OR LIQUIDS.

(A) No person shall store flammable or combustible gas or liquids within the city limits in violation of the Indiana Fire Prevention Code, and amendments thereto.

(B) No person shall keep or store more than one barrel of gasoline at any place in the city outside of the boundary lines fixed in division (A) above.

(C) No owner of any building or other structure or of any vacant lot or tract of land lying within the city shall permit any tenant or occupant to keep or store at, in or upon such building or other structure, vacant lot, or tract of land, gasoline in greater quantities than is specified in divisions (A) and (B) above.

(D) All gasoline, whenever kept or stored in the city, shall be kept or stored in an airtight metal can or receiver, and it shall be unlawful for any person to take or draw gasoline therefrom at any time, except during daylight. The gasoline shall be kept or stored not less than 20 feet from where the owner or occupant of such real estate uses any artificial light.

(Prior Code, § 91.08) Penalty, see § 91.99

§ 91.08 FALSE ALARM OF FIRE.

No person shall willfully give or make a false alarm of fire.
(Prior Code, § 91.09) Penalty, see § 91.99

§ 91.09 STEAM BOILERS.

No person shall operate, or cause to be operated, within the corporate limits of the city a boiler, water heater and pressure vessel in violation of the Indiana Mechanical Code, and amendments thereto.
(Prior Code, § 91.10) Penalty, see § 91.99

§ 91.10 CONFLICT WITH OTHER PROVISIONS.

If any provision of this chapter prescribing construction standards conflicts with any provision of Ch. 151 of this code of ordinances, the provision of the Building Code shall control.
(Prior Code, § 91.11)

§ 91.11 FIREWORKS.

(A) The use, ignition or discharging of consumer fireworks within the corporate limits of the city is hereby prohibited, except for the following times and dates as permitted by statute:

(1) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;

(2) Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

(B) The use of all fireworks and the residue from the use thereof shall be contained or confined to the using property owner's property.

(C) This section shall be in full force and effect from and after its passage and publication required by law.

(Ord. 2007-4, passed 6-19-2007) Penalty, see § 91.99

§ 91.12 RAPID ACCESS KEY BOXES; SECURITY CONNECTION CAPS.

(A) *Covered buildings.* Building owners, whether public or private, shall provide and install at their own expense, rapid access key boxes for all newly constructed buildings not yet occupied or buildings currently under construction as well as for any existing building changing ownership or in which a new tenant will be occupying all or a portion of a building for which the following applies:

(1) The building is protected with an automatic sprinkler system equipped with a local or transmitted water flow alarm;

(2) The building is provided with any fire alarm system equipped with an outside audible/visible signaling device; or

(3) The building is provided with any fire alarm system where the alarm is transmitted to an off-site location or to the fire alarm center for the City Fire Department.

(B) *Rapid response key boxes.* Key boxes are to be provided by the building owner and shall contain the following:

(1) Keys to lock points of egress, whether in interior or exterior of such buildings;

(2) Keys to the locked mechanical rooms;

(3) Keys to the locked elevator rooms;

(4) Keys to the elevator controls;

(5) Keys to any fence or secured areas;

(6) Keys to any other areas that may be required by the Chief of the City Fire Department; and

(7) A card containing emergency contact people and phone numbers for such building.

(C) *Apartment buildings.* Key boxes for apartment buildings are not required to contain keys to individual apartment dwelling units but a key shall be provided for the common area of the apartment building.

(D) *Security caps.* When a building is protected by an automatic sprinkler system or standpipe system and the Fire Department connection is exposed to undue vandalism, then the Chief of the City Fire Department may require that a Fire Department connection security cap be installed. The Fire Department connection security cap shall be a type approved by the Chief of the City Fire Department.

(E) *Non-applicability to certain buildings.* This section shall not apply to owner occupied one- and two-family dwellings, nor those buildings that have staffed 24-hour security.

(F) *Effective date.* This section shall be in full force and effect from and after its passage and publication required by law. (Ord. 2007-6, passed 7-17-2007) Penalty, see § 91.99

FIRE CODES; ENFORCEMENT

§ 91.25 ADOPTION OF FIRE PREVENTION CODES.

(A) The following mechanical and fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in 675 I.A.C. 18 and 22 are hereby incorporated by reference in this Code, and shall include later amendments to that article as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as

fixed therein: Arts. 18 and 22 - Mechanical and Fire Prevention Codes:

(1) Indiana Mechanical Code;

(2) Indiana Flammable and Combustible Liquids and Gases Code; and

(3) Indiana Fire Prevention Code.

(B) Copies of the adopted mechanical and fire safety rules, codes and standards are on file in the offices of the City Clerk-Treasurer, the City Engineer, the Chief of the Fire Department and the Superior Court Judge.

(Prior Code, § 91.20)

§ 91.26 ENFORCEMENT OF CODES.

The Fire Prevention Code shall be enforced by the Chief of the Fire Department and/or any other officer of the Fire Department designated by the Chief of the Fire Department. It shall be unlawful for any person properly served with an order or citation under provisions of the Fire Prevention Code to fail to comply with such orders or citations.

(Prior Code, § 91.21) Penalty, see § 91.99

§ 91.27 INSPECTIONS.

Prior to any new construction, remodeling or change of occupancy of a class I or II building, a final inspection by the Fire Department may be conducted and occupancy may not occur until a certificate of occupancy has been issued by the Building Department and countersigned by the Fire Department Inspector.

(Prior Code, § 91.22)

§ 91.28 FIRE DEPARTMENT POLICY ON ENFORCEMENT.

(A) The Fire Department shall be responsible for the enforcement of laws and regulations for safeguarding, to a reasonable degree, of life and

property from hazards of fire and/or explosions and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents.

(B) It is the intent of the Fire Department to achieve compliance by traditional means of inspection, notification, granting of reasonable time to comply and reinspection. The citation shall be used only after reasonable means to gain compliance have failed or with proper justification, at the discretion of the Fire Chief or his/her designee.
(Prior Code, § 91.23)

§ 91.29 EMERGENCY LANES ESTABLISHED.

(A) Any owner of commercial property shall, in accordance with the provisions of this section, establish emergency lanes upon his, her or their property.

(B) Any new industrial or commercial structure must establish emergency lanes in accordance with Fire Department regulations. In addition, any renovation of an existing commercial or industrial structure over 50%, pursuant to the State Building Code, shall be required to the establishment of emergency lanes.

(C) The Chief of Police and Chief of the Fire Department of the city are hereby authorized and required to establish and maintain emergency lanes on private commercial property upon the request of the owner thereof.

(D) Location and marking of emergency lanes upon said commercial property shall be subject to the approval of the Chief of Police and the Chief of the Fire Department.

(E) Emergency lanes shall be approximately 15 feet in width and shall be marked with the appropriate yellow marks or lines. Signs designating the emergency lanes shall be marked "No Parking - Emergency Lane" and shall be placed at least every 50 feet along the curb or side of building wherein the lanes are established.

(F) It shall be the responsibility of the owner of the commercial property to bear the cost of the signs and marking of said emergency lanes and curbs.

(G) Police officers and/or fire officials of the city shall remove or cause the removal of any vehicle from any emergency lane established in accordance with this section. Such vehicle shall be impounded into a storage yard. The owner of said vehicle shall pay reasonable towing and storage charges before any vehicle may be released.

(H) Any person who stops, stands or parks any vehicle other than an emergency vehicle, whether attended or unattended, in any emergency lane established according to the provisions of this section, shall, upon conviction thereof, be punished as set forth in § 91.99 of this chapter.

(I) (1) Those vehicles displaying a state "Disabled" or other "Disabled" identifying insignia or by the attesting officers certain knowledge of the person in question being "Disabled" or "Handicapped", may stand in an emergency lane while loading or unloading.

(2) All areas already established and marked as "Handicapped Parking" shall remain as placed and marked, and shall not be moved or changed in any manner as to conflict with the establishing of emergency lanes, except when they cannot be complied with in accordance to division (D) above.

(Prior Code, § 91.24) Penalty, see § 91.99

OPEN BURNING

**§ 91.40 OPEN BURNING RESTRICTED;
GENERAL PROHIBITIONS.**

(A) It shall be unlawful at all times to cause, suffer or allow any open burning at any place within the city, except as permitted herein; provided, no person shall cause, suffer, allow or permit the emission into the atmosphere of any product as

allowed therein in such quantities as to cause annoyance or constitute a nuisance so as to interfere with the health or well-being of any individual in his or her home, or place of employment or recreation, or as to interfere with the normal use and enjoyment of any such place.

(B) The burning of leaves and garbage is expressly prohibited.

(C) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds or air stagnation. Penalty, see § 91.99

§ 91.41 LIMITED BURNING FOR SPECIAL PURPOSES.

Open burning which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished is allowed for the following purposes.

(A) *Open burning of wood products only.*

(1) Ceremonial fires and bonfires. A bonfire in connection with a religious ceremony, school pep rallies, scouting activities and similar purposes; and

(2) Camp fires and fires for cookouts.

(B) *Open burning of agriculture waste.*

(1) Open burning of vegetative matter grown on the premises in the course of agricultural operations, when it can be shown that such open burning is necessary and that no fire hazard will occur; provided, the person intending to dispose of vegetative matter by open burning obtains approval from the local Fire Chief or Police Department which has jurisdiction.

(2) Any burning of agricultural waste permitted under the provision of this section shall be allowed only between the hours of 10:00 a.m. and

6:00 p.m., and only at times when the actual National Weather Service recorded wind speed is greater than five mph and less than 20 mph. Such fires shall consist of vegetative matter only.

(C) *Stoves for heating and fireplaces.* Fires shall be permitted in wood stoves for heating and fireplaces if such fire does not create an air pollution problem or a fire hazard.

§ 91.42 EMERGENCY BURNING.

(A) The City Council may allow emergency burning of petroleum products, high explosives or other dangerous materials where such fires are properly controlled by a responsible person and are deemed necessary in the public interest.

(B) The City Council may allow open burning of refuse consisting of material resulting from a disaster if the City Council has declared such a disaster in the corporate limits of the city.

§ 91.43 LIABILITY.

(A) Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire shall not be excused from responsibility therefore on the basis that such fire was accidental or an act of God.

(B) The person in possession of property where open burning in violation of this subchapter and its regulations occurs, shall be prima facie liable for the violation.

§ 91.44 ENFORCEMENT OF OPEN BURNING.

The open burning provisions of this subchapter are enforceable by the law enforcement officers, within the corporate limits of the city, acting on his or her own initiative or at the request of the Fire Department or the City Council.

§ 91.99 PENALTY.

(A) (1) Whoever violates any of the provisions of this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certification or permit issued thereunder, shall for each and every such violation and non-compliance respectively, be fined not less than \$10, nor more than \$2,500.

(2) The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(3) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
(Prior Code, § 91.99)

(B) Whoever violates any provision of § 91.11 of this chapter shall, upon conviction, be fined not more than \$100.

(C) Whoever violates any provision of § 91.12 of this chapter shall, upon conviction, be fined not less than \$10 and not more than \$100.
(Ord. 1991-8, passed - -1991; Ord. 2007-4, passed 6-19-2007; Ord. 2007-6, passed 7-17-2007)