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COMMISSION  
STAFF

ORDINANCE NO. 2019-12-01

AN ORDINANCE regulating the construction, alteration, equipment, use, occupancy, location of buildings and structures, and land usage in the Town of Atlanta, 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All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.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 the Town of Atlanta, 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 Atlanta, Indiana".

### SECTION 2. PURPOSE.

The purpose of this Ordinance is to protect life, public safety, health and the general welfare of the citizens of the Town of Atlanta, 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; however, the provisions of this 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, 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 the applicable provisions of an applicable zoning ordinance or other ordinances relating to land use.
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 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(s), 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 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 full, partial, or temporary 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 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 2. 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 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 fees owed pursuant to the applicable provisions of an applicable zoning ordinance or other ordinances relating to land use, or inspection fees owed pursuant to the applicable provisions of an applicable zoning ordinance or other ordinances relating to land use) 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 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 3. 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. 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 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 be 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 Town of Atlanta 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.**

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 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 using either, or both, of the following procedures:

1. Appeal to an Established Local Administrative Body or Court.

If, pursuant to IC 36-1-6-9 or IC 36-7-4-9 et seq, the Town has established by ordinance to hear appeals of orders issued under ordinances or has created a Board of Zoning Appeals, 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.

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 Atlanta 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 22 – Indiana Fire Code
  - b. Article 28 – NFPA Standards
2. Pursuant to IC 22-13-2-3(c), the Town of Atlanta hereby also incorporates into this Ordinance the following codes by reference:
  - a. International Building Code 2015
  - b. International Residential Code 2015
  - c. International Existing Building Code 2015
  - d. International Energy Conservation Code 2015
  - e. International Plumbing Code 2015
  - f. International Fuel Gas Code 2015
  - g. International Mechanical Code 2015
  - h. International Swimming Pool and Spa Code 2015
  - i. International Fire Code 2015
  - j. National Electrical Code 2017
3. 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.
4. The Building Commissioner 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 Building Commissioner is not effective until it has been approved by the Commission.

## **SECTION 2. 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.

## **SECTION 3. ADOPTION OF ORDINANCES AND ZONING CODES BY REFERENCE.**

1. Pursuant to IC 36-7-4-100 et seq, the following ordinances adopted by the Town of Atlanta pertaining to zoning and other matters relating to land uses are hereby incorporated by reference to this code, and shall include any latter amendments to those rules:
  - a. The Town of Atlanta master plan and comprehensive plan.
  - b. The Town of Atlanta Zoning Ordinance, including the various zoning classifications depicted withing the ordinance, as well as on the Zoning maps of the Zoning Jurisdictional Area.
  - c. The Town of Atlanta Subdivision Control Ordinance.
  - d. The Town of Atlanta Improvement of Location Permit Ordinance.
  - e. The Town of Atlanta Mobile Home Parking Ordinance.
  - f. The Town of Atlanta Tourist Camps' Ordinance.
  - g. The Town of Atlanta Mobile Home Parks' Ordinance.
  - h. The Town of Atlanta Building Commissioner's Ordinance.



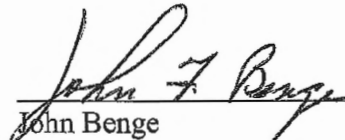
- i. The Town of Atlanta Ordinance which sets forth the schedule of fees, charges, and expenses for the Jurisdictional area of the Atlanta Plan Commission.
2. In the event a violation of any one of the aforementioned ordinances listed in this, Article V, Section 3 imposes a greater or more comprehensive penalty than set forth in Article IV, Section 4, and/or Article IV, Section 5 of this Ordinance, then the Penalty Section contained in an Ordinance covered under Article V, Section 3 hereof shall be applicable to the violation.
3. Two (2) copies of the Ordinances listed hereinabove under Article V, Section 3 and which are incorporated herein 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.

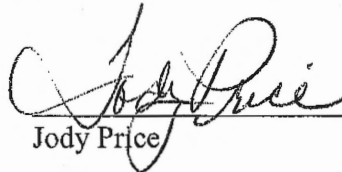
#### ARTICLE VI. EFFECTIVE DATE

**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:

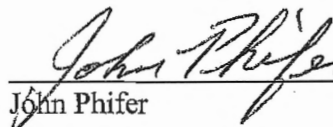
1. The Town Council has adopted this ordinance.
2. The Fire Prevention and Building Safety Commission of Indiana has approved of this ordinance as required by IC 22-13-2-5.

Approved this 10<sup>TH</sup> day of DECEMBER, 2019, by the Town Council of the Town of Atlanta, Hamilton County, Indiana.

  
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John Bengé

  
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Jody Price

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Pam Van Hook

  
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John Phifer

Attest: Jennifer Farley  
Jennifer Farley, Clerk Treasurer

Murry Dixon II  
Murry Dixon II

Approved this 10 day of December, 2019, by the Fire  
Prevention and Building Safety Commission of the State of Indiana.

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Chairman  
Fire Prevention and Building Safety Commission of the State of Indiana