

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Shelly Wakefield, Representative for the Town of Clarksville
FROM: Fire Prevention and Building Safety Commission (Commission) Staff
DATE: Monday, December 13, 2021
RE: Commission Review of Ordinance No. 2019-G-15 – Building Code Ordinance of the Town of Clarksville, Indiana

The above referenced ordinance has been received and will be placed on the Commission's meeting agenda of its next scheduled meeting on **Tuesday, January 4, 2022**, 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/boards-and-commissions/fire-prevention-and-building-safety-commission/>

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.

STATE OF INDIANA

BEFORE THE CLARKSVILLE TOWN COUNCIL

ORDINANCE NO. 2019-G-15

AN ORDINANCE REPEALING AND REPLACING A PORTION OF CHAPTER 150 (BUILDING REGULATIONS) OF THE CLARKSVILLE MUNICIPAL CODE

WHEREAS, this Town Council desires to adopt an ordinance (i) regulating the construction, alteration, equipment, use, occupancy, and location of buildings and structures in the Town of Clarksville, Indiana, (ii) incorporating by reference the building rules, codes, and standards required to be enforced under IC 36-7-2-9, and (iii) providing for the issuance of permits, inspections, and penalties for violations; and,

WHEREAS, all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Clarksville, Indiana, that Sections 150.001 through 150.041, Sections 150.070 through 150.112, and Sections 150.150 through 150.157 of Chapter 150 of the Clarksville Municipal Code are repealed and replaced in their entirety to read as follows:

**ARTICLE I
GENERAL REQUIREMENTS**

Section 1. Title.

This Ordinance and all material included herein by reference shall be known as the Building Code Ordinance for the Town of Clarksville, Indiana (hereinafter referred to as this "Ordinance").

Section 2. Purpose.

The purpose of this Ordinance is to protect the life, public safety, health and general welfare of the citizens of Clarksville, 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 specified meanings.

- A. "Building Commissioner", as used in this Ordinance, who is employed by the Town of Clarksville Building Department and who is the designated authority charged with the administration and enforcement of this Ordinance.
- B. "Class 1 structure" has the meaning as set out in IC 22-12-1.
- C. "Class 2 structure" has the meaning as set out in IC 22-12-1.
- D. "Construction" has the meaning as set out in IC 22-12-1.
- E. "Fire Prevention and Building Safety Commission" has the meeting set out in IC 22-12-2.
- F. "Industrialized building system" has the meaning as set out in IC 22-12-1.
- G. "Manufactured home" has the meaning as set out in IC 22-12-1.
- H. "Mobile structure" has the meaning as set out in IC 22-12-1.
- I. "Person" has the meaning as set out in IC 22-12-1.
- J. "Structure" means both Class 1 and Class 2 structures, unless specifically stated otherwise in Rules of the Fire Presentation and Building Safety Commission.
- K. "Vehicular bridge" has the meaning as set out in in IC 22-12-1.

Section 4. Scope.

- A. All Construction shall be accomplished in compliance with the provisions of this Ordinance.
- B. 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.
- C. Pursuant to IC 22-13-2-9, this Ordinance is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

Section 5. Authority.

The Building Commissioner, or designee of the Clarksville Building Department is hereby authorized and directed to administer and enforce the following:

- A. All provisions of this Ordinance.
- B. Variances granted in accordance with IC 22-13-2-11.
- C. 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 Ordinances.

The expressed or implied repeal of 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.

Section 9. Workmanship.

All construction, alterations, or repairs of any building/structure shall be accomplished in a good and workmanlike manner in accordance with acceptable standards and practices in the trades.

**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.

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, improve, convert, use, occupy, or maintain any building or structure, in violation of this ordinance.

Section 2. Application for Building Permit.

- A. Any person required to obtain a building permit shall submit a complete application to the Building Commissioner.
- B. 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.
- C. This application shall be submitted on a form(s) prescribed by the Building Commissioner, and shall contain the following:
 - (1.) Information that the Building Commissioner determines necessary to locate and contact the applicant.
 - (2.) A site plan, certified by an Indiana Registered Land Surveyor drawn to scale; provided, however, such certified site plan shall not be required in the instance where all such construction is to occur entirely within an existing structure, or as determined by the Building Commissioner, certified site plan may not be required.

- (a.) Site plan shall include the location of the structure in relation to property lines, easement, street(s) right-of-way, curbs and sidewalks.
- (3.) Plan and specification required to be submitted for the issuance of local building permits shall be drawn to scale or scales suitable to illustrate the work using accepted professional practices. Drawing scale or scales must be noted on each sheet.
- D. One set of complete plans and specification shall be submitted in electronic format to the Building Commissioner.
- E. When required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Design Release for the Construction to be accomplished has been issued by the State Building Commissioner pursuant to IC 22-15-3.
- F. All information required pursuant to IC 22-11-21-9 for qualifying properties containing advanced structural components.
- G. As determined by the Building Commissioner, additional information necessary to determine that Construction will conform to all applicable rules of Fire Prevention and Building Safety Commission and will not violate any other applicable ordinances or laws.
- H. Fees established by local ordinance shall be paid prior to the issuance of local building permit.

Section 3. 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 4. Local Plan Review.

- A. The Building Commissioner, or his designee, may perform a local plan review on submit plans and specification as set out in IC 22-15-3.3.
- B. In accordance with IC 22-15-3.3-5, local plan review does not supersede or otherwise impact any laws or rules concerning a plan review conducted by the State of Indiana.

Section 5. Issuance of Building Permit.

The Building Commissioner shall issue a building permit to a person in accordance with Article II, Section 2, after the person has submitted a complete application, and required information indicating the proposed Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws and pays all required fees.

Section 6. Changes to Plans and/or Specifications after Building Permit Issued.

No change shall be made to any plans and/or specifications, after the issuance of the building permit, except when revised plans and/or specifications have been submitted to the Clarksville Building Department.

If a construction design was issued by the State Building Commissioner an addendum application including revised plans and/or specifications shall be submitted to the Indiana Department of Homeland Security, Plan Review Section.

Section 7. Permit Period of Validity.

- A. If work covered by said permit(s) is not started within one (1) year from date of issuance, the permit(s) is null and void.
- B. As long as work covered by said permit(s) continue to progress towards completion, the work covered by said permit(s) is valid until work under said permit(s) is completed.
- C. If work covered by said permit(s) was started and subsequently work covered by said permit(s) is ceased, suspended or abandoned for a period of 180 consecutive days, said permit(s) is suspended, until an application for re-instatement, of said permit(s) has been submitted to the Clarksville Building Commissioner and any required fees paid for said re-instatement.

Section 8. Certificate of Completion and Compliance.

- A. CLASS 2 STRUCTURE - CERTIFICATE OF COMPLETION AND COMPLIANCE
Upon completion of construction the applicant for said permits (building, electrical, mechanical, plumbing, etc.) shall within five (5) days submit the Certificate of Completion and Compliance on a form prescribed by the Clarksville Building Commissioner.
- B. CLASS 1 STRUCTURE WITHOUT ARCHITECT OR ENGINEER - CERTIFICATE OF COMPLETION AND COMPLIANCE
Upon completion of construction the applicant for said permits (building, electrical, mechanical, plumbing, etc.) shall within five (5) days submit the Certificate of Completion and Compliance on a form prescribed by the Clarksville Building Commissioner.
- C. CLASS 1 STRUCTURE WITH ARCHITECT OR ENGINEER CERTIFICATE OF COMPLETION AND COMPLIANCE.
Upon completion of construction, but not less than five (5) days, the design professional (architect or engineer) responsible for review and monitoring during construction shall execute and submit to the Clarksville Building Commissioner the architect's or engineer's Certificate of Completion and Compliance.

Section 9. Certificate of Occupancy.

- A. No certificate of occupancy shall be issued unless such Structure was constructed in compliance with the provisions of this Ordinance and the rules of the Fire Prevention and Building Safety Commission.
- B. It shall be unlawful to occupy any Structure unless a certificate of occupancy has been issued by the Clarksville Building Commissioner.

ARTICLE III
INVESTIGATION AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

Section 1. General Authority to Make Inspections and Investigations.

- A. In accordance with IC 36-7-2-3 the Town of Clarksville Building Commissioner, or designee, upon presentation of Town issued credentials, may inspect any structure or other improvements at any reasonable time.
- B. All Construction shall be subject to periodic inspections by the Clarksville Building Commissioner irrespective of whether a building permit has been or is required to be obtained.
- C. The Building Commissioner or designee, upon presentation of proper credentials, may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of this Ordinance or the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure.
- D. 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 complies building standards and procedures and ascertaining whether the construction has been accomplished in a manner consistent with this Ordinance and the rules of the Fire Prevention and Building Safety Commission.
- E. In accordance with IC 36-7-2-9.5, if the Clarksville Building Commission, or designee, determines the construction, building or improvements violates any applicable law, rule, order, or interpretation of the Fire Prevention and Building Safety Commission, the Building Commissioner shall provide to the building (electric, mechanical, plumbing, etc.) permit applicant the following:
 - (1.) Identify the specific feature in violation (non-compliance); and,
 - (2.) Specify the applicable law, rule, order or interpretation by identifying the applicable building or fire code edition (year of adoption), chapter, and section.

Section 2. Inspection by Fire Department.

- A. The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws.
- B. 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. Withholding Issuance of Permit(s).

- A. Whenever fees are owed (including checks returned for insufficient funds, permit fees or inspection fees) pursuant to the Building Department's Fee schedule adopted by the Clarksville Town Council the Building Commissioner may withhold the issuance of subsequently requested permits until all fees owed have been paid.
- B. 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 for any of following:

- A. The application(s) plans or supporting documents contain a false statement or misrepresentation as to a material fact.
- B. The application(s) plans or supporting documents reflect a lack of compliance with building rules, standards and procedures.
- C. Failure to comply with the Ordinance.
- D. 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.

The Building Commissioner may issue an order requiring suspension of pertinent construction in accordance with the following:

- A. The stop work order shall:
 - (1.) Be in writing.
 - (2.) State with specificity the Construction to which it is applicable and the reason for its issuance.
 - (3.) Be posted on the property in a conspicuous place.
 - (4.) If practicable, be given to:
 - (a.) The person doing the Construction; and
 - (b.) To the owner of the property or the owner's agent.
 - (5.) 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 and fire code, including Indiana Code and local ordinance.

- (6.) The stop-work order shall state the conditions under which Construction may be resumed.
- B. The Building Commissioner may issue a stop-work order if:
 - (1.) 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.
 - (2.) 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.
 - (3.) Construction for which a building permit is required is proceeding without a building permit.
- C. The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this Ordinance or any law, standard, ordinance adopted by the Clarksville Town Council.

Section 4. Civil Action.

Pursuant to IC 36-1-6-4, the town 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 violating any provision of this Ordinance commits a Class C Infraction and may be subject to fines not exceeding two thousand five hundred dollars (\$2,500) per Infraction.
- B. For each day an Infraction occurs constitutes a separation Infraction.
- C. The assessment of monetary penalties shall in no way limit the other penalties provided elsewhere in this Ordinance.

Section 6. Right of Appeals.

- A. Any person aggrieved by an order issued under this Ordinance shall have the right to petition for review of any order issued by the Clarksville Building Commissioner.
- B. A person may file a petition using the following procedures:
 - (1.) Appeal to the Fire Prevention and Building Safety Commission.
 - (a.) A person aggrieved by an order issued under this Ordinance may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.
 - (b.) The Fire Prevention and Building Safety Commission may modify or reverse any order issued by the Clarksville Building Commissioner, which 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 Fire Prevention and Building Safety Commission shall 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.
 - (i.) A copy of said petition filed with the Fire Prevention and Building Safety Commission shall be provided to the Clarksville Building Commissioner by electronic mail, with read receipt acknowledgement.
- (d.) The Fire Prevention and Building Safety Commission may review all other orders issued under this Ordinance.
 - (i.) A copy of said petition filed with the Fire Prevention and Building Safety Commission shall be provided to the Clarksville Building Commissioner by electronic mail, with read receipt acknowledgement.
- (e.) The review of an order by the Fire Prevention and Building Safety 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.

- A. Pursuant to IC 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code (IAC) are hereby incorporated by reference in this ordinance and shall include any later amendments to those rules, as follows:
 - Article 13 – Building Codes
 - Article 14 – Indiana Residential Code
 - Article 16 – Indiana Plumbing Code
 - Article 17 – Indiana Electrical Code
 - Article 18 – Indiana Mechanical Code
 - Article 19 – Indiana Energy Conservation Code
 - Article 20 – Indiana Swimming Pool Code
 - Article 22 – Indiana Fire Code
 - Article 25 – Indiana Fuel Gas Code
 - Article 28 – NFPA Standards
- B. As set out in IC 36-1-5-4, two (2) copies of the above rules incorporated by reference shall be on file in the office of the clerk for the legislative body for public inspection.

Section 2. Lifting Devices Located within a Private Residence (Class 2 Structure).

- A. As set out in the definition of a “Regulated Lifting Device in IC 22-12-1-), lifting devices, such as elevators and wheelchair lifts, located within a private residence (Class 2 Structure) are not regulated lifting devices.

- B. As set out in IC 22-13-2 the Town of Clarksville may regulate lifting devices in a private dwelling (Class 2 Structure) once an ordinance is approved by the Fire Prevention and Building Safety Commission. The currently published standards by the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, New York, 10016-applicable to lifting devices located within a private residence (Class 2 Structure) are incorporated by reference:
- (1.) Safety Code for Elevators and Escalators – ASME A 17.1
 - (a.) Part 5.3, Private Residence Elevators
 - (b.) Part 5.4 Private Residence Inclined Elevators.
 - (2.) Safety Standard for Platform and Stairway Chair Lifts – ASME A18.1:
 - (a.) Section 5 - Private Residence Vertical Platform Lifts
 - (b.) Section 6 – Private Residence Inclined Platform Lifts
 - (c.) Section 7 – Private Inclined Stairway Lifts
- C. As set out in IC 36-1-5-4, 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.

**ARTICLE VI
EFFECTIVE DATE**

This Ordinance shall be in full force and effect following its adoption by a majority of the membership of this Town Council and publication in accordance with IC 5-3-1-2.

SO ORDAINED by majority vote of the entire membership of the Clarksville Town Council at a duly noticed and convened public meeting held on the 6th day of August, 2019.

CLARKSVILLE TOWN COUNCIL

By: 
Paul Fetter, Town Council President

Attested by:


Robert P. Leuthart, Clerk-Treasurer