

ORDINANCE NO. 2013-127

**ORDINANCE TO AMEND
DELAWARE COUNTY CODE
TITLE 4, CHAPTER 1**

ORIGINAL

WHEREAS, in accordance with state statutes, the Board of Commissioners has established by ordinance a county department of building, as a part of the Delaware-Muncie Metropolitan Plan Commission, which includes a building commissioner/inspector; and

WHEREAS, said ordinance adopted by the Board of Commissioners may include, by state law, reasonable fees for permits, registration, renewal, examination and reexamination; and

WHEREAS, the original Building Code Ordinance, established in 1981, is in need of updating for current code citations and consistency with other building and permitting ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners as follows:

Section 1. That the existing Title 4, Chapter 1 of the Delaware County Code be deleted in its entirety and replaced with a new Title 4, Chapter 1 as follows:

CHAPTER 1

BUILDING CODE ORDINANCE

4-1-1. Purpose.

The purpose of this code is to provide minimum standards for the protection of life, limb, health, environment, public safety and welfare, and for the conservation of energy, of the citizens of Delaware County Indiana.

4-1-2. Authority.

The Building Commissioner of the county is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in the building regulations it is provided that anything must be done to the approval of or subject to the direction of the building commissioner, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance has been satisfied; and no such provision shall be construed as giving any officer discretionary powers to enforce ordinance provisions in an arbitrary or discriminatory manner.

4 - 1 - 3. Scope.

The provisions of this code apply to the construction, alteration, occupancy and additions to all buildings and structures, prior to the issuance of an occupancy permit, other than fences and farm service buildings as defined in IC, 36-7-8-3, in the county.

4-1-4. Adoption of Regulations by Reference.

The following rules, regulations and codes are hereby adopted by reference as the rules and regulations governing the construction and alterations of buildings and structures in the county:

1. 2008 Indiana Building Code (675 IAC 13-2.5) which identifies, amends and incorporates therein the International Building Code, 2006 Edition, first printing, as published by The International Code Council, Inc.
2. Indiana Electrical Code, 2009 Edition (675 IAC 17-1.8), which identifies, amends and incorporates therein the National Electrical Code, 2008 Edition, first printing, published by the National Fire Protection Agency.
3. 2012 Indiana Plumbing Code (675 IAC 16-1.4), which identifies, amends and incorporates therein the International Plumbing Code, 2006 Edition, second printing, as published by The International Code Council, Inc.
4. Indiana Mechanical Code, 2008 Edition (675 IAC 18-1.5), which identifies, amends and incorporates therein the International Mechanical Code, 2008 Edition, first printing, as published by The International Code Council, Inc.
5. 2005 Indiana Residential Code (675 IAC 14-4.3), which identifies, amends and incorporates therein the 2003 International Residential Code for One and Two Family Dwellings, fifth printing, and chapter 43 of the 2006 International Residential Code for One and Two Family Dwellings, first printing, published by The International Code Council, Inc.
6. Indiana Fuel Gas Code, 2008 Edition (675 IAC 25-2), which identifies, amends and incorporates therein the International Fuel Gas Code, 2006 Edition, first printing, published by The International Code Council, Inc.
7. Indiana Fire Code, 2008 Edition (675 IAC 22-2.4), which identifies, amends and incorporates therein the International Fire Code, 2006 Edition, first printing, published by The International Code Council, Inc.
8. 2010 Indiana Energy Conservation Code (675 IAC 19-4), which identifies, amends and incorporates therein the Energy Standard for Buildings Except Low-Rise Residential Buildings, I-P Edition, ANSI/ASHRAE 90.1, 2007 Edition, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.
9. Indiana Swimming Pool, Spa and Water Attraction Code, third edition, (675 IAC 20-1) Department of Homeland Security, Code Services Section, Indiana Government

Center South, 302 West Washington Street, Room W246, Indianapolis, Indiana 46204.

Copies of this code and rules, regulations and codes adopted herein by reference are on file as required by law in the office of the county building commissioner.

4-1-5. Application for Permits.

No building permit shall be issued for any of the foregoing purposes, unless the application for such permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. All plans for building construction under the authority of the Administrative Building Council of the State of Indiana must also be filed with said council. No local permit shall be issued hereunder until a copy of a Release for Construction from the state building commissioner is received by the building commissioner. Permits shall also be obtained from the applicable State and local permitting authorities dealing with development activities such as, but not limited to, building construction, electrical service, plumbing, heating and air conditioning, storm water quality and quantity, erosion control, floodplains, wetlands, sewers and other sanitary facilities, and wells and water supply. All applicable permits shall be obtained prior to beginning any construction and/or land alteration activities.

4-1-6. Requirement.

A building permit shall be obtained from the building commissioner prior to the commencement of any construction, alteration or structural alteration of any building or structure;

1. For the construction of a new building, addition to an existing building, alteration or structural alteration if the total cost of all labor and material thereof exceeds fifteen hundred dollars (\$1,500.00), or
2. For the construction, alteration or structural alteration of any building or structure, which includes any heating, ventilation, air conditioning, electrical or plumbing work thereon, if the total cost of all labor and material thereof exceeds five hundred dollars (\$500.00).

4-1-7. Compliance with Related Ordinances.

All work done under any permit issued hereunder shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in such ordinances.

4-1-8. Fees.

The fees for a building permit are as set forth in chapter 2 of this ordinance which may be amended periodically.

4-1-9. Review of Application.

Prior to the issuance of any building permit hereunder, the building commissioner shall:

1. Review all building permit applications to determine full compliance with the provisions of this ordinance.
2. Review all building permit applications for new construction or substantial improvements to determine whether sufficient sanitary and water facilities are available or if a private system must be provided according to the rules and approval of the Delaware County Board of Health.
3. Review building permit applications for compliance with the Delaware County Floodplain Management Ordinance and rules of the Indiana Department of Natural Resources.
4. Review building permit applications to determine whether the proper zoning classification has been established and whether all setback requirements are followed as required by the Delaware County Comprehensive Zoning Ordinance.

4-1-10. Inspections.

After the issuance of any building permit hereunder, the building commissioner shall make, or shall cause to be made, such inspections of the work being done under such permit as are necessary to insure full compliance with the provisions of this ordinance and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of re-inspection fees as prescribed in this code.

4-1-11. Entry.

Upon presentation of proper credentials, the building commissioner or his/her duly authorized representatives may enter at reasonable times any building, structure or premises, subsequent to the application for a building permit and prior to the issuance of a certificate of occupancy, situated in the county to perform any duty imposed upon him/her by this code.

4-1-12. Stop Work Order.

Whenever any work is being done contrary to the provisions of this code, the building commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the building commissioner to proceed with the work.

4-1-13. Certificate of Occupancy.

No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this ordinance shall be issued by the building commissioner or his/her duly authorized representatives, unless such building or structure was erected, altered or structurally altered in compliance with the provisions of this ordinance.

4-1-14. Standards.

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workman like manner according to accepted standards and practices in the trade.

4-1-15. Violations.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, structurally alter, use or occupy any building or structure, other than fences, in the county or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

4-1-16. Right of Appeal.

Any person aggrieved by an order issued under this Building Ordinance shall have the right to petition for review any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures applicable to the order.

1. Appeals regarding the interpretation of building code laws.
 - A. Pursuant to IC 22-13-2-7, a person aggrieved by an order issued under this ordinance may appeal to the Fire Prevention and Building Safety Commission of the Indiana Department of Homeland Security.
2. Appeals regarding procedural matters such as but not limited to the issuing of permits, fines, or Contractor Registrations.
 - A. Pursuant to IC 36-7-8-9, a person aggrieved by a decision of the Building Commissioner may appeal as in other civil actions. The appellant must, by registered mail, give the County Commissioners a (15) day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. The County Commissioners designate the Delaware-Muncie Metropolitan Board of Zoning Appeals as the hearing authority.

4-1-17. Remedies.

The Building Commissioner shall, in the name of the County Board of Commissioners, bring actions in the circuit or superior courts of Delaware County, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the building commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this ordinance.

4-1-18. Penalties.

If any person, firm or corporation shall violate any of the provisions of this ordinance, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined within the time prescribed by the building commissioner, or shall fail, neglect or refuse to obey and lawful order given by the building commissioner in connection with the

provisions of this ordinance, for each such violation, failure or refusal, such person, firm or corporation shall be fined in the sum of fifty dollars (\$50.00) for the first day said fine is imposed, and the same sum on each succeeding day, as long as said violation continues, not to exceed a total sum of fifteen hundred dollars (\$1,500.00). Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

4-1-19. Repealer.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

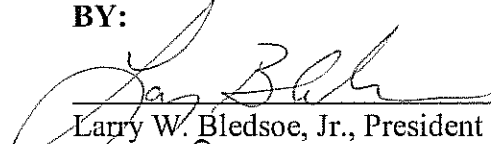
4-1-20. Severability Clause.

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

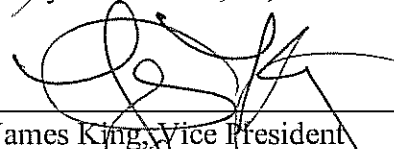
Section 2. That this ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners.

Section 3. That the Ordinance is adopted this 2 day of December, 2013.

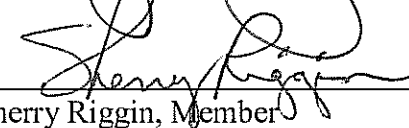
**BOARD OF COMMISSIONERS
DELAWARE COUNTY, INDIANA
BY:**



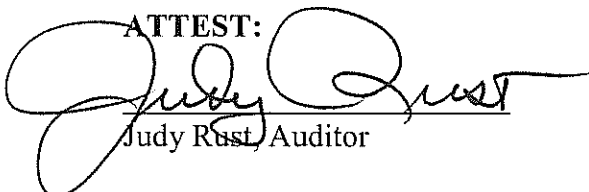
Larry W. Bledsoe, Jr., President



James King, Vice President



Sherry Riggan, Member

ATTEST:


Judy Rust, Auditor

Title 4, Chapter 1, Building Code Ordinance

Summary of Revisions

- Updated references to state building codes that were revised;
- added references to new county ordinances;
- removed fees for signs that are controlled in the zoning ordinance;
- removed building permit fees and moved them to chapter 2 Permit Fees;
- Right of Appeals regarding decisions of the Building Commissioner was changed to specify the Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) to act as the hearing authority for the County Commissioners.