

ORDINANCE NO. 1988-7

Be It Ordained by the Board of Trustees of the Town of Millersburg:

Section 1 PURPOSE:

The purpose of this ordinance is to provide for the safety, health and public welfare of the citizens and residents of the Town through structural strength and stability, means of egress, adequate sanitation, plumbing, lighting and ventilation, conservation of energy in buildings, and protection of life and property from fire and hazard incident to the design, construction and alteration of buildings in the Town.

In the administration of this ordinance and any other ordinances incident to it, the office of the Building Commissioner shall coordinate its activities with the Plan Commission at all times to prevent unnecessary overlapping, duplication and waste in the administrative processes. "Building Commissioner" as used in this section refers to the County Building Commissioner, who is designated to administer this ordinance on behalf of the Town.

Section 2 STRUCTURES:

Construction and remodeling of single-family and multi-family residences, buildings to which the public has access, and accessory buildings and all other structures including tanks, signs, transmission towers, water towers and gas tanks above or below ground, shall conform with this section and all ordinances adopted for those purposes by the Board.

Section 3 STATE CODES:

The following rules, regulations and codes are hereby incorporated by reference in this section as the rules and regulations governing the construction and alterations of buildings and structures in the County. Two (2) copies of these items are

on file in the offices of the County Auditor and the Clerk-Treasurer of the Town and are available for public inspection.

(a) Construction Rules and Regulations, Volume I, 1980 Edition of the State of Indiana, (660 IAC 1.1) (3 IR 2148) which identifies, amends and incorporates therein the Uniform Building Code, 1979 Edition, and the Uniform Building Code Standards, 1979 Edition.

(b) Indiana Plumbing Rules and Regulations, 1981 Edition, Volume III, (660 IAC 1-9), 4 IR 2398) which identifies, amends and incorporates therein the Uniform Plumbing Code, 1979 Edition.

(c) Indiana Mechanical Rules and Regulations, 1981 Edition, Volume IV, (660 IAC 1-8) (4 IR 1828) which identifies, amends and incorporates therein the Uniform Mechanical Code, 1979 Edition.

(d) One and Two Family Dwelling Code of Indiana, 1981 Edition, (660 IAC 3-1 (4 IR 916) which identifies, amends and incorporates therein the One and Two Family Dwelling Code, 1979 Edition.

(e) Indiana Energy Conservation Rules and Regulations for New Building Construction, Volume V, 1979 Edition, (660 IAC 4) (1980 Supp.) published under that title.

(f) Swimming Pool Code, (660 IAC 5) (1979) published as the Indiana Swimming Pool Code, 1978 Edition.

(g) Indiana Electric Rules, 1984 Edition, (660 IAC 1-7) (7 IR 1716) which identifies, amends and incorporates therein the National Electrical Code, 1984 Edition.

(h) Indiana Standard for the Permanent Installation of Manufactured Homes, (660 IAC 3-2), adopted July 13, 1983.

Section 4 OTHER CODES:

For those areas of regulation not specifically covered by and not in conflict with the State codes adopted in subsection (c) of this section, the 1975 edition of the Building Officials and Code Administrators International, Inc. (commonly known as BOCA) Basic Building Code, as the same may from time to time be amended, is hereby re-adopted for use and enforcement in the Town.

Section 5 ADMINISTRATION:

The Board of Trustees hereby designates the Building Commissioner of Elkhart County as the Building Commissioner of the Town of Millersburg.

The Building Commissioner shall administer all Town ordinances or codes governing the construction, repair, alteration or extension of building, heating, ventilation, air conditioning, electrical and plumbing construction, except when other persons or bodies are given the specific authority to enforce them.

Section 6 ENFORCEMENT:

The Building Commissioner shall enforce all Town ordinances or codes adopted by the Town for the regulation of construction, repair, alteration or extension of building, heating, ventilation, air conditioning, electrical and plumbing construction.

(a) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this section, the Building Commissioner or his or her authorized representative may enter any building or premises at all reasonable times to inspect them or to perform any duty imposed upon the Building Commissioner by this section. If that building or premises is occupied, he or she shall first present proper credentials and demand entry. If that building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge

or control of the building or premises and demand entry. If entry is refused, the Building Commissioner or his or her authorized representative shall have recourse to every remedy provided by law to secure entry.

"Authorized Representative" shall include the officers named in Section 7 of this ordinance.

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as provided in this section, to promptly permit entry in the building or premises by the Building Commissioner or his or her authorized representative for the purpose of inspection and examination pursuant to this section.

(b) Stop Order. Whenever any building work is being done contrary to the provisions of this section, the Building Commissioner may order the work stopped by written notice served on any persons engaged in or causing that work to be done, and all those persons shall immediately stop that work until authorized by the Building Commissioner to proceed with the work. As an additional part of the notice, the Building Commissioner shall post the stop work order in a prominent place on the building or project and shall serve a copy of the notice of the order to stop work by regular United States mail on the person requesting the permit.

Section 7 **EMPLOYMENT:**

For the purpose of carrying out the provisions of this ordinance, the Building Commissioner may use the additional personnel provided by the County Building Department as the County may permit, including personnel supplied to the County pursuant to contractual arrangements made by the County.

Section 8 PERMITS:

A Building permit is a license to perform construction in accordance with all requirements of this section.

No person shall construct, extend or alter any building before submitting a written application to the office of the Building Commissioner. No permit is required for any outside or inside painting if the building is altered or extended.

No person shall extend, repair or alter any building or portion of a building, fireplaces or chimneys of any existing buliding, plumbing, electrical work, heating work, ventilation work or air conditioning work before the application to do so is approved by the Building Commissioner and a permit is issued by him or her for the proposed work. Normal maintenance or repairs which do not affect electric, plumbing, heating, ventilation, air conditioning or structural stability are specifically exempted from this portion of the section.

Before issuing any permit, the Building Commissioner may require the applicant to file a set of detailed plans and specifications, a copy of which may be retained in the office of the Building Commissioner. No building permit shall be issued until all necessary sanitation, sewer, and septic tank permits are issued by the County Board of Health.

Any changes from those approved plans or specifications shall be made only after a revised copy of them has been submitted to and approved by the Building Commissioner.

Building permits shall be valid for three (3) years after the date of issuance and shall be null and void if the construction, alteration or extension has not begun during that period.

All applications for new building permits issued by the Building Department shall state the Code Number assigned by the County Auditor to that parcel of real estate.

Building permits may be issued to owners of land adjacent to subdivision streets which have not been opened or constructed in accordance with Specifications.

Section 9 FEES:

The Building Fee Schedule as adopted by County Ordinance and as amended from time to time is hereby adopted as the Building Fees for the Town of Millersburg.

Section 10 APPEALS:

Appeal procedures are provided in the specified codes which are enumerated in subsection (c) of this section. Where an appeal process is not specifically provided as in subsection (c), any decision of the Building Commissioner made in enforcement of this section may be appealed to the Board of Trustees by any person claiming to be adversely affected by that decision, and shall be processed under all laws, rules and regulations applicable to that Board.

In addition, any person, partnership, association or corporation aggrieved by a decision of the Board of Trustees as a result of appealing to that Board shall have the right of appeal as in other civil actions if they give fifteen (15) days written notice of intent to do so to the Board by certified United States mail. The notice shall concisely state the grievance. It is specifically provided that failure to appeal to the Board and exhaust other remedies shall work as a bar to the right to appeal the decision of the Building Commissioner to the State courts.

Any appeal to the Board must be taken no later than eleven (11) days following the posting of the stop work order.

Section 11 PENALTY PROVISIONS:

Beginning eleven (11) days after the stop work order is posted, including the day of posting as one of the eleven (11) days, any person who violates any provision of this section and not having begun the appeal process shall be deemed guilty of an ordinance violation and, upon conviction, may be fined not less than Ten Dollars (\$10.00) and no more than Fifty Dollars (\$50.00) for that day and for each day thereafter that the violation remains unabated. If the Board of Trustees or any other body to whom an appeal is processed finds on appeal that the ruling of the Building Commissioner is correct, the penalties set out in this subsection accrue immediately irrespective of the number of days since the posting of the stop work order. Unless the Board or any other body determines that the stop work order was improperly posted, the order shall remain in full force and effect.

The Building Department may institute suit for injunction in the County Circuit Court to restrain an individual from violating the provisions of this section or any rules and regulations established pursuant to the terms of this section. The Building Department may also institute a suit for mandatory injunction directing an individual to remove a structure erected in violation of the provisions of this section.

Adopted this 3rd day of October, 1988

Board of Trustees

Diane M. Mahler

Bobby R. Story

Max Hunt

ATTEST:

Sigal M. Bortner
Clerk-Treasurer