Ordinance Review and Approval

The following information is to provide guidance to cities, towns, and counties that would like to adopt an ordinance containing fire safety laws or building laws. Below you will find information on:

1. The Statutory Authority for Commission Review and Approval of Ordinances
2. How to Obtain a Pre-Adoption Review of Your Ordinance
3. The Pre-Adoption Review Process
4. How to Request Approval of Adopted Ordinances
5. Consideration of Ordinances by the Commission
6. Ordinance Templates

1. The Statutory Authority for Commission Review and Approval of Ordinances

Pursuant to Indiana Code § 22-13-2-2, the Fire Prevention and Building Safety Commission (the "Commission") is tasked with adopting a statewide code of fire safety and building laws. When the Commission adopts these laws, they take precedence over any ordinance or other regulation adopted by a political subdivision that covers the same subject matter as the Commission's fire safety rules or buildings rules. *See* IC 22-13-2-3. However, cities, towns, and counties may adopt ordinances that include more stringent or more detailed requirements that do not conflict with the Commission's rules, but these rules are not effective until approved by the Commission. *Id.* To ensure that the fire safety laws and building laws adopted in these ordinances do not conflict with the Commission's rules, the Commission is tasked, pursuant to Indiana Code § 22-13-2-5, with carrying out a program to review the fire safety laws and building laws adopted in the ordinances and other regulations of political subdivisions. These statutes provide the Commission's statutory authority to review and approve local ordinances containing fire safety laws and building laws.

The following information is meant to help guide cities, towns, and counties through the Commission's program of review.

2. How to Obtain a Pre-Adoption Review of Your Ordinance

Prior to adopting an ordinance that contains a fire safety law or building law, the Commission recommends submission of a draft ordinance to Commission staff for a pre-adoption review. Drafts of ordinances can be submitted to the Director of the Commission, Douglas Boyle, at this email address: doboyle@dhs.in.gov. Please be advised, however, that your submission should be a final version of the ordinance, and it is strongly recommended that your draft ordinance has been reviewed by your local counsel for conflicts and defects, prior to submission. Within a reasonable amount of time following submission of your draft ordinance, Commission staff will provide a review of the draft ordinance noting any defects or conflicts. The time needed for Commission staff to provide a proper view may vary depending on the quality, complexity, and length of your ordinance.

3. The Pre-Adoption Review Process

The first thing that must be determined when reviewing an ordinance is whether the ordinance contains fire safety laws (as defined in IC 22-12-1-13) or building laws (as defined in IC 22-12-1-

3). If your ordinance does not contain either, then Commission approval is not required. If your ordinance contains fire safety laws or building laws, staff will review your ordinance for conflicts (as defined in 675 IAC 12-10-2(2)) and defects. Following completion of this review, Commission staff will notify you of their findings. Although Commission staff does not have the power to approve or deny approval of ordinances, only the Commission does, it is strongly recommended that the recommendations made by Commission staff be implemented in your ordinance, before it is adopted by your local governmental body. Failure to implement the recommendations may result your ordinance being denied, delaying implementation of your ordinance.

4. How to Request Approval of Adopted Ordinances

All ordinances containing fire safety laws or building laws must be submitted to the Commission for review within thirty (30) days following adoption. Submissions must be made to the Director of the Commission, Douglas Boyle, at the following email address: doboyle@dhs.in.gov. Please be aware that only adopted ordinances may be considered by the Commission. Once an adopted ordinance is received by the Commission, it will be placed on the agenda, for consideration, for the first Commission meeting that is scheduled later than five (5) working days after receipt.

5. Consideration of Ordinances by the Commission

Once placed on the Commission's agenda for consideration, the Commission may: (1) table your ordinance to permit additional time to review the language; (2) deny approval of your ordinance for defects or conflicts; or (3) approve your ordinance. If a decision to deny or approve your ordinance is not made by the fourth meeting that your ordinance is on the Commission's agenda, it will be deemed approved. If your ordinance is denied, you are free to amend the language of your ordinance to remedy any defects that exist and resubmit a new ordinance for consideration. Remember, an ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or building law is not effective until it is approved by the Commission.

6. Ordinance Templates

The following ordinance templates have been prepared by the Commission and Commission staff and are recommended to be utilized when drafting an ordinance. The use of these templates will expedite review of your ordinance and assist in avoiding potential conflicts and defects.

- List of templates.