

ORDINANCE NO. 12, 2002

AN ORDINANCE ESTABLISHING A FIRE PREVENTION CODE FOR THE CITY OF VALPARAISO

WHEREAS, the city has determined that it is in the best interest of the community and its citizens to update and develop a local fire prevention code; and

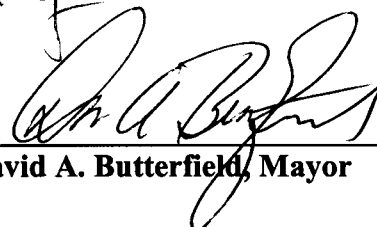
WHEREAS, that the implementation of a modern fire prevention code will provide greater safety for the residents of the City of Valparaiso,

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Valparaiso that Chapter 79 of the Municipal Code entitled Fire Prevention Code is hereby amended to read as follows:

SEE ATTACHED
EXHIBIT A

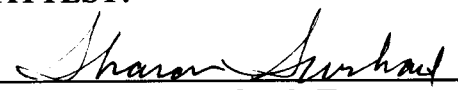
This ordinance shall be in full force and effect from and after its adoption and approval by the Mayor.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a 7-6 vote of all members present and voting this 13th day of May, 2002.



David A. Butterfield, Mayor

ATTEST:



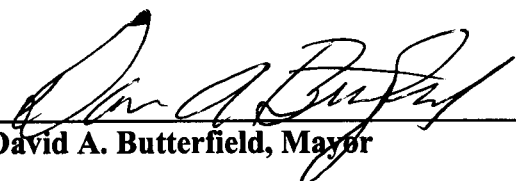
Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 13 day of MAY, 2002, at 7:25 o'clock p.m.



Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 13 day of MAY, 2002, at 7:25 o'clock p.m.



David A. Butterfield, Mayor

BLACHLY, TABOR, BOZIK & HARTMAN

DUANE W. HARTMAN
DAVID L. HOLLENBECK
THOMAS F. MACKE
RANDALL J. ZROMKOSKI
RICHARD J. RUPCICH
CRAIG R. VAN SCHOUWEN

PATRICK A. LYP
JEFFREY S. WRAGE
THAIS ANN BULGER
BRADLEY L. BANKS
PHILLIP A. NORMAN

ATTORNEYS AT LAW
SUITE 401
56 SOUTH WASHINGTON
VALPARAISO, INDIANA 46383

TELEPHONE (219) 464-1041
FACSIMILE (219) 464-0927

GLENN J. TABOR
JAMES S. BOZIK
OF COUNSEL

QUENTIN A. BLACHLY
(1934-1997)

FORT WAYNE OFFICE
4656 WEST JEFFERSON, SUITE 120
FORT WAYNE, INDIANA 46804
(219) 459-3288

April 15, 2002

The Honorable David A. Butterfield
Mayor, City of Valparaiso
CITY HALL
166 Lincolnway
Valparaiso, Indiana 46383

Re: Fire Prevention Code

Dear Mayor Butterfield:

In response to your Memo of April 1, 2002, concerning the Fire Prevention Code Ordinance, I respond as follows:

Attached please find a draft of the most recent draft, which presumably, hopefully, and finally will be the last draft.

I incorporated your request for inspection fees at Section 79.30. Please see Section 79.30 concerning the division equally between Firefighting Equipment Fund and Firefighting Training Fund. Collection costs were added.

In response to your request for fees for ambulance/EMS assistance by the Fire Department, please review Section 79.140.

An additional change was made to paragraph 79.130 in that the name of the fund has been changed to "Firefighter Training Fund."

Sincerely,

BLACHLY, TABOR, BOZIK & HARTMAN
Attorneys at Law

By:


Glenn J. Tabor

GJT:su
Enc.

pc: Tom Steindler (w/enc.)

VIA PERSONAL DELIVERY

Exhibit A

Ordinance #12, 2002

CHAPTER 79: FIRE PREVENTION CODE

Section

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FIRE PREVENTION PROVISIONS

§ 79.01 TITLE.

This chapter, and all ordinances supplementary or amendatory hereto, shall be known as the "Fire Prevention Code of the City of Valparaiso, Indiana", may be cited as such, and will be referred to herein as the "code".

§ 79.02 PURPOSE.

(A) The purpose and the intent of this code is to prescribe minimum requirements and controls to safeguard life, property or public welfare from the hazards of fire and explosion arising from the storage, handling or use of substances, materials or devices and from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises.

(B) To prescribe a course of action to be taken to gain compliance with the state and local codes, ordinances and regulations for fire prevention.

§ 79.03 APPLICABILITY.

(A) The provisions of this code and the fire safety rules of the Indiana Fire Prevention and Building Safety Commission shall apply to existing buildings and conditions.

(1) Exceptions:

(a) Existing conditions which do not constitute a distinct hazard to life or property.

(b) The transportation of any articles or substances under the jurisdiction of and in compliance with the regulations prescribed by the armed forces of the United States.

(B) Nothing in this code shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the city governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings specifically provided herein. When any provision of this code is found to be in conflict with any building, zoning, safety, health, or other applicable law, ordinance or code of the city or rules of the Fire Prevention Building Safety Commission existing on the effective date of this code or hereafter adopted, except as provided for by IN 675 IAC 12, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.

(C) The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building rules of the Indiana Fire Prevention and Building Safety Commission; and any alterations, additions or changes in buildings required by the provisions of this code which are within the scope of the said building rules shall be made in accordance herewith.

(D) Buildings built under and in full compliance with the building and fire safety laws and rules of force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of the code pertaining to any of the following matters:

(1) Fire protection of structural elements;

(2) Exits required, except as provided for existing buildings under this code; or

(3) Isolation of hazardous operations and mixed uses; provided, however, that the fire chief shall require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the fire chief shall prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the fire chief to obtain compliance with this subsection shall be governed by the provision of IC 26-8-17-10.

§ 79.04 ADOPTION.

(A) The following fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in Article 22 of Title 675 of the Indiana Administrative Code are hereby incorporated by reference into this code, and shall include later amendments to that Article as the same are published in the Indiana Register or the Indiana Administrative Code with the effective dates as fixed therein:

Article 22 – Fire Prevention Codes; Indiana Fire Code, including Appendices I-A, I-B, I-C.

(B) Copies of all above referenced fire safety rules, codes and standards shall be kept on file and open for public inspection in the office of the Valparaiso Bureau of Fire Prevention.

§ 79.05 ADMINISTRATION.

(A) A Bureau of Fire Prevention in the Fire Department of Valparaiso is hereby established, which shall be operated under the supervision of the Chief of the Fire Department. The Chief of the Fire Department shall designate The Deputy Chief of the Fire Department as Chief Inspector of the Bureau of Fire Prevention, who shall hold this office at the pleasure of the Chief of the Fire Department. The Deputy Chief of the Fire Department may

also designate such number of assistant inspectors as shall from time to time be authorized by the City Council.

(B) The Chief of the Fire Department shall keep in the office of the Bureau of Fire Prevention, a record of all fires and of all the facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. All such records shall be public.

(C) A report of the Bureau of Fire Prevention shall be made annually on or before the 31st day of January, and transmitted to the Mayor of Valparaiso; it shall contain all proceedings under this chapter, with such statistics as the Chief of the Fire Department may wish to include therein. The Chief of the Fire Department shall recommend any amendments to the chapter which, in his judgment, shall be desirable.

§ 79.06 ENFORCEMENT AUTHORITY.

(A) It shall be the duty and responsibility of the Chief of the Fire Department, Chief of the Bureau of Fire Prevention, or such Officer of the Department or designee which is an ex officio assistant to the State Fire Marshal under IC 36-8-17-5 to enforce the provisions of this code. The designated enforcement officer of this code is herein referred to as the Fire Chief.

(B) The Bureau of Fire Prevention shall be responsible for the enforcement of this code and regulations for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents.

(C) It is the intent of the Fire Department to achieve compliance by traditional means of inspection, violation notification, granting of reasonable time to comply and reinspection. A citation may be used after reasonable means to gain compliance have failed or, with proper justification, at the discretion of the Fire Chief.

(D) The personnel regularly assigned to the Bureau of Fire Prevention shall be commissioned as special police officers through the Board of Safety and have all rights, duties and authorities for the enforcement of this code, and state and local laws as they relate to their assignment. Only those members of the fire department specifically designated by the Fire Chief may issue citations.

(E) The Chief of the Valparaiso Police Department upon request of the Fire Chief shall assign such law enforcement officers as may be necessary to assist in the enforcement of this chapter.

§ 79.07 INSPECTIONS.

(A) The Fire Chief shall cause to be inspected all structures and premises except the interiors of private single-family dwellings, and multi-family dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this Code affecting fire safety pursuant to IC 36-8-17-8. Said inspections shall be performed annually, or at any other time deemed reasonable. Inspections may be performed by the Fire Chief, Division Chief of Inspection, Shift Inspector, or Deputy Chief.

(B) The Fire Chief, Division Chief of Inspection, Shift Inspector, or Deputy Chief are authorized to impose penalties for violations discovered in the course of an inspection under this section. The owner, operator, or agent must comply with the recommendations of the inspector made pursuant to this section. Whenever an inspector from any agency or department observes an apparent or actual violation of any provision of any law, ordinance or code of the city not within the inspector's authority to enforce, the inspector shall report the findings of the official having jurisdiction (i.e. Police, Building Department, Board of Health).

§ 79.08 RIGHT OF ENTRY.

(A) Whenever necessary for the purpose of enforcing the provisions of this code, or whenever the Fire Chief or authorized representative there exists in any structure or upon any premises, any condition which makes such structure or premises unsafe, the Fire Chief or authorized representative shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief by this code or state regulations.

(B) The Fire Chief or authorized representative may be required by the owner or occupant to present proper credentials as proof of his authority.

(C) If such entry is refused, the Fire Chief may apply to a Court of competent jurisdiction for an order compelling such inspection, which order such court shall have authority hereunder to grant pursuant to IC 22-14-2-4.

§ 79.09 VIOLATIONS; ORDERS TO CORRECT.

(A) Whenever the Fire Chief or his designee observes an apparent or actual violation of a provision of this code or other ordinances under the Fire Chief's jurisdiction, the Fire Chief shall prepare a written notice of violation and order describing the condition deemed unsafe and specifying a

reasonable time for the required repairs or improvements to be made to correct such violation. The written notice of violation of this code shall be served upon the owner, a duly authorized agent, land contract holder, or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such person or persons by ordinary mail or the last known post office address, delivered in person, or by delivering it to and leaving it in the possession of any person in charge of the premises or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

(B) The failure of any Code Enforcement Inspector to inspect or issue a violation notice in accordance with this section shall not constitute approval of any violation or noncompliance with this chapter.

(C) When, in the opinion of the Fire Chief, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gasses or materials, the Fire Chief may order immediate evacuation of said building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises and persons shall not enter or reenter until authorized to do so by the Fire Chief.

(D) Any person who shall refuse to leave, attempt to enter the building, or who interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this code and IC 35-44-3-8.

(E) Temporary or emergency orders issued by the Fire Chief, pursuant to IC 36-8-17-9 shall first be approved, either orally or in writing by the State Fire Marshall.

§ 79.10 ADMINISTRATIVE APPEALS.

(A) An owner or occupant who is aggrieved by a violation notice issued pursuant to § 79.09 of this code, may appeal the violation notice in writing to the Chief of the Bureau of Fire Prevention within seven calendar days of the issuance of the violation notice. The Chief of Code Enforcement shall within three working days following the receipt of the written appeal either affirm, modify or reverse

the order. The written decision shall be sent first class mail to the appellant.

(B) An owner or occupant may appeal the decision of the Chief of Code Enforcement. Such an appeal shall be made in writing to the Fire Chief no later than seven calendar days following the receipt of a decision issued pursuant to division (A) above. The Fire Chief shall within three working days following the receipt of the written appeal either affirm, modify or reverse the order. The written decision shall be sent first class mail to the appellant.

(C) An order issued pursuant to § 79.09 of this code, and the matter involving a rule of the Indiana Fire Prevention and Building Safety Commission may be appealed to the Indiana Fire Prevention and Building Safety Commission pursuant to IC 4-21.5-3-7.

§ 79.11 REMEDIES.

(A) If the owner, operator, or agent fails to correct a cited violation of the Indiana Fire Prevention Code or a section in this chapter, the violation shall be a Class A infraction and subject to an ordinance violation Citation Notice. The Citation Notice may be issued, in accordance to IC 34-28-5, by the inspection officer for each violation cited. Each day the violation remains uncorrected shall be a separate violation and subject to a citation with penalties as listed in § 79.200.

(B) If the notice of violation and order is not completed within the time specified on the violation notice, and no review of such order has been initiated pursuant to § 79.10, the Fire Chief may request the City Attorney to institute for the city the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or of any order or direction made pursuant thereto. In addition, any such action for mandatory or injunctive relief may be joined with an action to recover the civil forfeitures provided for in § 79.200.

§ 79.12 INVESTIGATIONS.

(A) The Investigation Division shall investigate all fires, environmental crimes and other fire department related incidents to determine origin, cause and circumstance which involve loss of life, serious injury, or damage to property or the environment.

(B) The personnel regularly assigned to the Investigation Division shall be commissioned as special police officers through the Board of Safety and have all rights, duties and authorities for the enforcement of this

code, and state and local laws as they relate to their assignment.

(C) The County Prosecuting Attorney and City Attorney, upon request of the Bureau of Fire Prevention, shall assist the inspectors in the investigation of any fire which, in their opinion, is of suspicious origin.

§ 79.13 REVIEW AND FINAL INSPECTION OF SITE PLANS.

(A) Except as otherwise determined by the Chief of the Fire Department, the site plans submitted to the City Planning Department in support of an application for a building permit to construct any building shall be submitted to the Fire Department for review. When any plans are submitted, the Fire Chief shall cause a review of them and determine whether any building or structure on the land to be developed is, or will by virtue of the development, become in excess of the requirements of § 79.15 for fire hydrants and fire apparatus access roads. If, on review, it is determined either that the fire protection facilities or access roads are not required or that they are adequately provided for in the plans, the Fire Chief or his designee shall endorse his approval thereon. If adequate provision for such facilities or roads is not made, the Fire Chief or his designee shall either disapprove the plans and indicate to the City Planning Department in writing wherein they are deficient or approve the plans subject to conditions.

(B) No final inspection under the municipal code as to all or any portion of the development shall be deemed completed unless and until the installation of the prescribed facilities and access ways has been completed and the final approval thereof of the Fire Department is given as provided therein. The final inspection shall be conducted solely to implement the enforcement of the provision of this section and shall in no manner be deemed an assurance on the part of the city that these facilities and access ways are or will continue to be in good working order.

§ 79.14 REVIEW OF BUILDING PLANS AND CERTIFICATE OF OCCUPANCY.

(A) Except as otherwise determined by the Fire Chief, the plans submitted to the Building Department in support of an application for a building permit to construct any building shall also be submitted to the Fire Department for review.

(B) When any plans are submitted under division (A) above, the Fire Chief shall cause a review of them and determine whether such plans conform to the rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission and the Valparaiso Fire Department Ordinance, listed in this chapter. The review

process shall not be construed as an approval of any violation of the provisions of this chapter, of other ordinances of the city, or of rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission.

(C) *Certificate of Occupancy.* A Certificate of Occupancy must be obtained from the Building Department. This certificate must be signed by both the Building Department and the Fire Department, after a final inspection of the building or structure is made. Issuance of a Certificate of Occupancy shall not be construed as an approval of any violation of the provisions of this code or of other ordinances of the city or of rules and regulations of the State of Indiana Fire Prevention and Building Safety Commission.

ON-SITE FIRE PROTECTION

§ 79.15 ON-SITE FIRE PROTECTION – PLANS & CONNECTIONS.

(A) All installation of on-site fire protection shall be in accordance to code in effect at the time of construction. A complete set of plans and specifications for fire protection systems, including fire alarm systems, automatic sprinkler systems, standpipe systems and other special types of fire extinguishing systems and appurtenances thereto shall be submitted to the Department for review. The installation shall be at the expense of the owner or developer.

§ 79.16 ON-SITE FIRE PROTECTION – WATER SUPPLY.

(A) All Class 1 buildings (as defined in 675 IAC 12-6) or portions of Class 1 buildings hereafter constructed shall be provided with a water supply capable of providing the required fire flow for fire-fighting purposes for a minimum period of two hours. The water supply shall be from a source as set forth in § 903.2 of the IFC (675 IAC 22). In setting the requirements for fire flow, the Code Enforcement Chief may use the IFC (675 IAC 222) appendix III-A as a guide.

§ 79.17 ON-SITE FIRE PROTECTION – FIRE HYDRANTS.

(A) All private fire hydrants shall be installed and maintained as set forth in the latest edition of NFPA Standard No. 24. In the determination of location and spacing of hydrants the IFC (675 IAC 22) appendix III-B shall be used as a guide. The proposed location of private fire hydrants to supply the required fire flow (IFC (675 IAC 22)) shall be approved by the Fire Department.

(B) Whenever the provisions of this section require the installation of a fire hydrant whether on public or private property, such hydrant shall meet the standards established by the City of Valparaiso City Utilities Water Maintenance Department to insure compatibility.

§ 79.18 OBSTRUCTION OF FIRE FIGHTING APPLIANCES.

No owner, occupant, manager or agent shall place or keep any post, fence, wall, trees, plants or any obstruction of any kind near any fire hydrant, fire department connection or fire protection control valve that would prevent such equipment from being immediately discernible or in any other manner to deter or hinder the fire department from gaining immediate access to said equipment.

§ 79.19 PORTABLE FIRE EXTINGUISHERS.

Portable fire extinguishers shall be installed and maintained in all occupancies, except one and two family dwellings, as set forth in the IFC (675 IAC 22-2.2-3) latest edition of N.F.P.A. Standard 10.

§ 79.20 OPERATIONS AT FIRES OR OTHER EMERGENCIES.

(A) The Fire Chief and his authorized representative, in charge at the scene of a fire or other emergency involving the protection of life and/or property or any part thereof, shall have the power and authority to direct such operations as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. In the exercise of such power, the Fire Chief may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel or thing which may impede or interfere with the operations of the fire department.

(B) The Chief or other officer of the fire department in charge at the scene of the emergency shall have the authority to place ropes, guards, barricades or other obstruction across any street alley, place or private property in the vicinity of such operation so as to prevent accidents or interference with the lawful efforts of the fire department to manage and control the situation and to handle fire apparatus.

(C) Any person who obstructs the fire department in connection with extinguishing any fire, or other emergency, or disobeys any lawful command of the Fire Chief or officer

of the fire department who may be in charge at such a scene, or any part hereof, or any police officer assisting the fire department, shall be in violation hereof and subject to the penalties provided in IC 35-44-3-8.

Statutory reference:

Obstructing a firefighter, see § 35-44-8

INSPECTIONS

§ 79.30 INSPECTION FEES.

Fire Inspections shall be performed for all new businesses and current businesses at an annual rate based on Occupancy as follows:

A Class	\$75.00	50 or more people
B Class	\$40.00	49 or less
E Class	\$60.00	Schools, Day Care
F Class	\$100.00	Manufacturing, Industry
H Class	\$125.00	Hazardous
I Class	\$100.00	Health Care Facilities
M Class	\$75.00	Mercantile
R Class	\$60.00	Residential, Apartments, Hotels
S Class	\$60.00	Storage
U Class	\$20.00	Garages, Sheds

The above fees do not reflect any fines or penalties associated with inspections found to be in violation. One half of the fees collected under this section shall be deposited in the Firefighting Equipment Fund and one half of the fees collected under the section shall be deposited in the Firefighting Training Fund. In the event of a failure to pay, the individual or entity shall be responsible for court costs and attorney fees that arise from any litigation necessary to enforce this fee provision.

FIRE LANES

§ 79.40 FIRE LANES ESTABLISHED.

(A) The owners, managers or agents of retail, commercial, industrial or public buildings, new or existing, having privately owned public parking lots and drives devoted to public use, shall be responsible to insure that fire lanes are maintained, at their own expense, and that there are no obstructions to the ingress and egress of fire department or other emergency vehicles and personnel for protection of persons and property.

(B) Fire lanes shall be of hard surface concrete or asphalt and shall be established in the driving lane closest to the building. A fire lane must be at least 20 feet in width.

(C) Signs designating the fire lanes shall read, "Fire Lane No Parking" or "No Parking Fire Lane" and shall be twelve (12) inches wide and eighteen (18) inches high. Said signs shall be no higher than seven feet off the ground and positioned at least every forty (40) feet along the curb or side of building wherein the lanes are established. Signs shall be visible upon approach from each direction. "Fire Lane No Parking" or "No Parking Fire Lane" shall be painted in yellow on the surface along the fire lane. Lettering shall be no less than twelve (12) inches in height.

§ 79.41 OBSTRUCTION OF FIRE LANES.

No vehicle or object, whether attended or unattended, other than an emergency vehicle on an emergency response or vehicle having written permission from the Fire Chief, shall park in or obstruct by any means a fire lane. Said vehicle or object shall be deemed an obstruction and in violation and shall be subject to the same penalties provided for such parking or otherwise obstructing fire lanes on public streets.

§ 79.42 CITY ENFORCEMENT OF SCHEDULE 29 FIRE LANES.

(A) The owner, manager or agent of a retail, commercial, industrial or public building, new or existing, having privately owned public parking lots and drives devoted to public use, may petition the Board of Safety to have the fire lanes at their establishment listed on Schedule 29 which is maintained by Traffic Engineering.

(B) The Schedule 29 fire lane shall be of hard surface concrete or asphalt and shall be established in the driving lane closest to the building. A fire lane must be at least 20 feet in width and shall be marked with a red line or red curb along the building side and a red line or red curb indicating the outside edge of the lane.

(C) Signs for a Schedule 29 fire lanes shall read, "Fire Lane No Parking" or "No Parking Fire Lane" and shall be twelve (12) inches high and eighteen (18) inches wide. Said signs shall be no higher than seven (7) feet off the ground and positioned at least every thirty (30) feet along the curb or side of building wherein the lanes are established. Signs shall be visible upon approach from each direction. "Fire Lane No Parking" or "No Parking, Fire Lane" shall be painted in red on the surface along the fire lane. Lettering shall be no less than twelve (12) inches in height.

§ 79.43 ENFORCEMENT OF PROVISION OF SCHEDULE 29.

(A) The Valparaiso Fire Department, Police Department of Parking Control Officers shall be charged with the duty of assisting owner/ occupants with the enforcement of the terms of § 79.41 by the issuance of a citation.

(B) Any fire fighter or police office, upon discovering any such vehicle so parked or stopped in violation of § 79.41, may remove such vehicle or cause the same to be removed to any place authorized pursuant to contract, where such vehicle shall be impounded, provided said vehicle is causing a hazard or interfering with an emergency operation.

§ 79.44 BUILDINGS WITHOUT FIRE LANES DECLARED NUISANCE; ABATEMENT; SUIT.

(A) It is declared that any building open to the public which does not have unobstructed access for fire fighting equipment constitutes a fire hazard and a public nuisance because it endangers the lives of the public.

(B) Upon recommendation of the Fire Chief, the Board of Safety may require the abatement of the nuisance by ordering the building closed to the public and evacuated, which order shall be enforced by the police department.

(C) At the request of the Board of Safety, the City Attorney may file suit in the name of the city for the abatement of the nuisance.

§ 79.45 LANES TO BE KEPT OPEN AND MARKED.

No building shall constitute a nuisance as defined in § 79.41(A) if the owner and lessee provide adequately marked fire lanes and keep them open at all times for fire fighting equipment.

§ 79.46 ENFORCEMENT

The Valparaiso Fire Department (including the Fire Chief, Battalion Chiefs, Division Chief of Inspection, and Deputy Fire Chief) and the Department of Neighborhood Code Enforcement shall be charged with the duty of enforcing the terms of §§ 79.40 -79.45.

SMOKE DETECTORS

§ 79.60 SMOKE DETECTORS.

Definitions. For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM SIGNAL. An audible signal indicating the detection of visible or invisible particles or products of combustion other than heat.

AUTHORITY HAVING JURISDICTION. The Valparaiso Fire Department and the Department of Neighborhood Code of the City of Valparaiso which have enforcement responsibility for this chapter.

DWELLING UNIT. Any building or portion thereof which contains living facilities, including provision for sleeping, eating, cooking, and sanitation.

LABELED. Equipment or materials to which has been attached a label, symbol or other identifying mark of an organization engaged in product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacture indicates compliance with appropriate standards or performance in a specified manner.

LISTED. Equipment or materials included in a list published by an organization engaged in product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing state either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

NFPA 74. Standard 74 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MC, 02269.

RENTAL AGENT / LEASING AGENT. Any person, partnership or corporation, who rents, subleases, lets or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agency who is employed for the sole purpose of selling residential units.

SLEEPING AREAS. The area or areas of the dwelling unit in which the bedrooms (or sleeping rooms) separated by other use areas, such as kitchens or living rooms, (but not bathrooms), shall be considered sleeping areas.

SHALL. Indicates a mandatory requirement.

SMOKE DETECTOR. Shall be defined as a device which senses visible or invisible particles or products of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association. The detector shall bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

§ 79.61 BASIC REQUIREMENTS.

All dwelling units within the corporate limits of the city shall be equipped with a minimum of one functional, properly located, labeled and listed, smoke detector, or its equivalent or better, as describe in National Fire Protection Association (NFPA) pamphlet 74.

§ 79.62 INSTALLATION; LOCATION.

(A) A minimum of one operating smoke detector, or its equivalent or better as described in the NFPA 74, shall be installed in each dwelling unit within the corporate limits of the city.

(B) All smoke detectors must be installed according to the manufacturer's instructions.

(C) The smoke detector shall be installed to protect the sleeping areas and shall be located outside Of the bedrooms but in the immediate vicinity of the sleeping areas, within 15 feet of the rooms used for sleeping areas.

(D) The smoke detector shall be installed on or near the ceiling, not less than six inches from any wall, or on a wall, not less than six inches nor more than 12 inches from the ceiling, and its installation shall be subject to approval by the "authority having jurisdiction." No detector shall be recessed into the ceiling.

(E) All smoke detectors shall be accessible for servicing and testing.

(F) If a smoke detector is A.C. powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of A.C. powered detectors shall conform to all electrical standards adopted by the Allen County Building Department. A smoke detector required under this section shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any county electrical standard, the county electrical standard shall take precedence.

§ 79.63 MAINTENANCE.

(A) It shall be unlawful for any person to tamper with or remove any smoke detector, except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be reinstalled or replaced so that it is operable and in place during normal sleeping hours.

(B) *Rental/leased dwelling units.* Each smoke detector should be tested in accordance with manufacturer's recommendations to ensure it is in operable

condition. It shall be the responsibility of the tenant to maintain all smoke detectors provided by the owner in good working order unless said smoke detector requires A.C. power supply, then the responsibility for maintaining the smoke detector shall be the responsibility of the owner, manager, or rental agent.

(C) *Owner-occupied dwelling living units.* Each smoke detector should be tested in accordance with manufacturer's recommendations to ensure it is in operable condition. It shall be the responsibility of the owner-occupant to maintain all smoke detectors.

§ 79.64 DUTY OF PROPERTY OWNER, MANAGER, OR RENTAL AGENT.

Every owner, or the manager or rental agent of such owner of any such dwelling unit shall be responsible for the installation of operable smoke detectors.

§ 79.65 FALSE ALARMS.

The Police and Fire Department of the city shall maintain appropriate records of all false alarms to which each Department responds. The Valparaiso Fire Department may charge a reasonable fee for personnel, equipment, and overhead expenses resulting from the false alarm(s). Such fees may be made against the owner of the property, the manufacturer, installer, or maintainer of the alarm equipment, as the Fire Chief deems appropriate.

§ 79.66 ENFORCEMENT OF PROVISIONS.

The Valparaiso Fire Department and the Department of Neighborhood Code Enforcement shall be charged with the duty of enforcing the terms of §§ 79.60-79.65.

BURNING REGULATIONS

§ 79.70 OPEN BURNING.

(A) This section shall further define Article 11 Chapter 1102 of the Fire Prevention Code as published by the Indiana Fire Prevention and Building Safety Commission.

OPEN BURNING OR OPEN FIRE. Any burning of combustible materials out of doors. Excluded is burning in a barbecue pit or grill where the base fuel for heat is charcoal products.

REFUSE. Garbage, rubbish, paper, leaves, grass, trade waste, trash, plastic or other waste products.

WOOD PRODUCTS. Untreated and unpainted lumber or natural wood other than leaves and vines.

RECREATIONAL OR CAMPFIRE. The burning of wood products other than refuse where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit. A **RECREATIONAL OR CAMPFIRE** shall have a total fuel area no greater than 36 inches in diameter and a fuel load not to exceed two feet in height.

HAZARDOUS CONDITION. A situation where the Fire Department Officer in charge determines that the fire may be capable of spreading or damaging other property or that the smoke emissions may be offensive to occupants of surrounding property.

SMOKE NUISANCE. Smoke emissions may be deemed a nuisance when a complaint is received that the smoke emissions are offensive to the complaining party.

BARBECUE PIT OR GRILL. A stationary or portable device, with either electric, gas or charcoal fuel, used for the preparation of food.

§ 79.71 BURNING PROHIBITED.

(A) No person or business shall kindle or maintain any open burning consisting of a trash fire, leaf fire, bonfire, refuse fire, or other open burning.

(1) *Exemptions.* The following types of fire may be allowed:

(a) Bonfires celebrating school pep rallies.

(b) Recreational camp fires for scouting or family cookout activities.

(c) The Chief of the Fire Department may issue written permits for bonfires at his discretion.

(2) All exemptions shall be subject to the following:

(a) A garden hose connected to a water supply, buckets, shovel, fire extinguisher or other approved fire-extinguishing equipment shall be readily available at the burn site.

(b) Permission to allow burning shall be obtained from the Fire Department at least 24 hours in advance of the permitted open burning. The permission shall be in writing and signed by the Fire Chief or his designee. A designee of the Fire Chief shall be on site at the time of the permitted fire. Notwithstanding the foregoing, persons planning on or desiring to undertake

recreational campfires for scouting or family cookout activities as set forth in § 71 (A)(1)(b) above shall not be required to obtain a burn permit for such activities.

(c) Only wood products shall be burned
– no leaves, paper or trash.

(d) A fire shall be attended by a responsible party listed on the burn permit at all times until completely extinguished.

(e) If open burning creates a smoke nuisance, or a hazardous condition exists, the open burning shall be immediately extinguished.

(f) A fire shall be located at least twenty-four (24) feet away from any structure, fence or right of way.

(B) Any person who recklessly, knowingly or intentionally kindles, or maintains any open burning consisting of a trash fire, leaf fire, bonfire, refuse fire, or other open burning that damages property of another person or spreads to property of another person may be liable for criminal mischief.

(C) Burning other than mentioned in this article may be permitted provided a variance pursuant to 326 IAC 4-1-1 has been approved and received from the Indiana Department of Environmental Management. Burning must meet the restrictions of the variance. The variance must be registered with the Fire Department and on the burn site for verification.

(D) Penalties for violations of this chapter do not preclude the Department of Environmental Management from seeking legal action for violations of 326 IAC 4-1.

(E) *Liability for fire.* Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire may not refute liability for violation of this chapter on the basis that said fire was set by vandals, accidental or an act of God.

§ 79.72 ENFORCEMENT OF PROVISIONS.

The Fire Department, Police Department and the Department of Neighborhood Code Enforcement shall be charged with the duty of enforcing the terms of § 79.71.

INDOOR TIRE STORAGE PERMIT.

§ 79.80 INDOOR TIRE STORAGE PERMIT.

(A) The provisions of this section concerning tire storage apply to all structures where an excess of 100 tires, new, used or waste, are stored inside a structure.

(B) The owner, occupant or representative of the business or structure where an excess of 100 tires are stored shall obtain an information permit issued by the Valparaiso Fire Department for the storage of tires inside a structure. The permit must be made available upon request of a Fire Department Official.

(C) The owner, occupant or representative of the business must submit the following information:

(1) Name of the business;

(2) Name, date of birth, and social security number of business owner;

(3) Address where the tires are stored;

(4) Estimated maximum number of tires stored at the site;

(5) Name, date of birth, and social security number of the person responsible for the tires;

(6) Address and phone number of person responsible for the tires; and

(7) A statement of acknowledgment, with the structure owner's signature, that the structure owner is aware that tires are being stored inside the structure.

§ 79.81 ENFORCEMENT OF PROVISIONS.

The Fire Department shall be charged with the duty of enforcing the terms of § 79.80.

TEMPORARY PROPANE TANK STORAGE

§ 79.90 TEMPORARY PROPANE TANK STORAGE PERMIT.

(A) The provisions of this section apply to all businesses where temporary propane tanks are used for the purpose of heating roofing materials at a job site.

(B) The owner, occupant or representative of the roofing business where temporary propane tanks are used for the purpose of heating roofing materials at a job site shall obtain an information permit issued by the Valparaiso Fire Department Bureau of Fire Prevention for the temporary storage of propane tanks near a structure. The permit must be made available upon request of a Fire Department Official.

(C) The owner, occupant or representative of the business must submit the following information for each job site having temporary propane storage:

(1) Name, address and phone number of the roofing company using the propane;

(2) Name and phone number of emergency contact person for the roofing company;

(3) Business name and address where propane tanks will be temporarily stored; and

(4) Estimated number of days propane will be on-site.

§ 79.91 ENFORCEMENT OF PROVISIONS.

The Fire Department shall be charged with the duty of enforcing the terms of § 79.90.

FIREWORKS & PYROTECHNICS

§ 79.100 FIREWORKS & PYROTECHNICS PERMITS.

(A) The owner, occupant, or agent of an organization, business or group that uses any type of fireworks or pyrotechnic special effects materials used in motion pictures, television, and theatrical and group entertainment productions, either indoors or outdoors, shall obtain an information permit issued by the Valparaiso Bureau of Fire Prevention seven (7) calendar days prior to the use of the pyrotechnical devices. This permit shall be in addition to any other permits required by federal or state agencies. The permit must be made available upon request of a Fire Department Official.

A fee of \$50.00 shall accompany any request for a Permit and shall be due and payable upon application therefor."

(B) The storage, use and handling of fireworks and pyrotechnics special effects shall be in accordance with IFC (675 IAC 22), Article 78 and IC 22-11-14, and current edition of NFPA standards for fireworks.

(C) The Valparaiso Fire Department Pyrotechnics Permit must be signed by the Fire Chief or his designee and contain the following information to be valid:

(1) Name, address and phone number of the pyrotechnic company doing the production or display;

(2) Name and qualifications of the pyrotechnic operator doing the production or display;

(3) Contact name, address and phone for whom the production or display is being performed;

(4) A detailed location where the display shall take place;

(5) Date and time of the display;

(6) Estimated number of pyrotechnical devices to be used and length of show; and

(7) A copy of a certificate of insurance conditioned for damages and / or injury to persons or property in the amount of not less than \$100,000 shall be attached to the permit.

§ 79.101 ENFORCEMENT OF PROVISIONS.

The Fire Department shall be charged with the duty of enforcing the terms of § 79.100.

FIRE TRUCK USE

§ 79.110 TRUCKS TO REMAIN IN CITY LIMITS; EXCEPTIONS.

Except for motor vehicles utilized for personal use by authorized personnel of the Fire Department, no fire truck, apparatus or equipment owned by the city, unless authorized by the Chief of the Fire Department, shall be taken, transported or used beyond the corporate limits of the City by any person except in cases where City property is endangered or where such service is requested by municipal officer of other cities and towns; provided, however, that where the City has contracted to provide fire protection to another political subdivision of this State or for the protection of the persons and property in such subdivision, the provisions of this section shall not apply.

FIRE PREVENTION EDUCATION

§ 79.120 SCHOOL FIRE PREVENTION.

It shall be the duty of the Chief of the Fire Department to require teachers of public, private and parochial schools and educational institutions to have one (1) fire drill each month and to keep all doors and exist unlocked during school hours.

FIREFIGHTER TRAINING SERVICES

§ 79.130 FEES.

The Valparaiso Fire Department may impose a fee for all training services offered to individuals, volunteer fire departments, or other professional departments. The fee shall be agreed upon in writing before the training program, and the proceeds shall be deposited in the Firefighting Training Fund. Such fees shall be due upon receipt of the

training. In the event of a failure to pay, the individual or entity shall be responsible for court costs and attorney fees that arise from any litigation necessary to enforce this fee provision.

AMBULANCE ASSISTANCE

§ 79.140 FEES.

The Valparaiso Fire Department may impose a fee for ambulance or other Emergency Medical Services assistance rendered at the request of the Fire Department. The fee shall be \$75.00 for Center Township residents, and \$100.00 for non-residents. One half of the fees collected under this section shall be deposited in the Firefighting Equipment Fund and one half of the fees collected under the section shall be deposited in the Firefighting Training Fund. In the event of a failure to pay, the individual or entity shall be responsible for court costs and attorney fees that arise from any litigation necessary to enforce this fee provision.

PENALTIES, SEVERABILITY, AUTHORITY

§ 79.200 PENALTIES.

(A) If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Fire Chief, or shall fail, neglect or refuse to obey any lawful order given by the Fire Chief, in connection with the provisions of this code, for each such violation, failure or refusal, such person, firm or corporation shall be liable to the city for a civil forfeiture in the sum not less than \$20.00, nor more than \$2,500.00. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense. In all cases where the same offense may be made punishable, or may be created by different clauses or sections of the ordinances of the city, the City Attorney may elect under which to proceed, but not more than one civil penalty shall be had against the same person for the same offense.

(B) There is hereby established the following citation schedule of penalties for violations of the provisions of the City of Valparaiso Fire Prevention Code. Penalties shall be paid to the Valparaiso Ordinance Violation Bureau who shall deposit the funds in the Fire Fund of the Valparaiso Fire Department. Such funds shall be expended for fire equipment and fire prevention and / or to hire personnel whose responsibilities will include the responsibility of conducting inspections. Any expenditures from that fund shall be appropriated by the City Council.

(1) If the owner, operator, or agent fails to correct a cited violation of the Indiana Fire Prevention Code as adopted in § 79.04, the penalty shall be \$50 for each violation cited. Each day such violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator, or agent after thirty (30) calendar days from the date and time shown on said notice issued, the penalty shall be \$75.

(2) If the owner, occupant, manager or other agent fails to comply with the recommendations of the inspector pursuant to an inspection authorized under § 79.07, in addition to any penalties for the specific violation resulting in the recommendation, the failure to comply with the recommendations shall be a violation of § 79.07. The first violation will result in \$50 fine. The second violation will result in a \$75.

(3) If the owner, occupant, manager or other agent obstructs a fire hydrant, fire department connection, or fire protection control valve they are in violation of § 79.18 and the penalty shall be \$50. Notice of violation shall be left with the owner, occupant, manager or other agent in charge. If the violator fails to appear in response to a notice issued after thirty (30) calendar days from the date and time shown the penalty shall be \$75.

(4) If the owner, occupant, manager or other agent fails to install or maintain portable fire extinguishers as required, they are in violation of § 79.19, and the penalty shall be \$50. Notice of violation shall be left with the owner, occupant, manager or other agent in charge. If the violator fails to appear in response to a notice issued after thirty (30) calendar days from the date and time shown the penalty shall be \$75.

(5) If the owner, operator, manager or agent of a commercial, industrial, or public building fails to establish and maintain open fire lanes, said owner, operator, manager, or agent shall be in violation of § 79.40. The penalty shall be \$50. Each day such violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in response to the notice issued after thirty (30) calendar days from the date and time shown on said notice the penalty shall be \$75.

(6) If a vehicle with or without a licensed driver is parked or obstructs a fire lane or if any other object obstructs a fire lane, in violation of § 79.41, the penalty shall be \$50. If the violator does not appear in response to a notice affixed to such vehicle within a period of thirty (30) calendar days from the date and time shown on said notice, the penalty shall be \$75.

(7) Any person, firm or corporation violating provisions of § 79.60 through § 79.64, or who shall fail to comply with an order as affirmed or modified by the authority having jurisdiction, shall be subject to a fine of \$50. Each day such violation is permitted to continue may be deemed to constitute a separate offense. The violation and penalty as described in §§ 79.60 through 79.65 shall not be subject to any other fine or penalty within this chapter.

(8) If the Fire Department is called to more than one false alarm at the same location in a twelve (12) month period, a violation of § 79.65 has occurred, and a fee will be assessed against the owner, occupant, manager or other agent of a building, or the manufacturer, installer, or maintainer of the alarm system. During any twelve month period, the first false alarm will not result in a fee. The second false alarm will result in a \$35 fee, the third false alarm will result in a \$75 fee, and the fourth false alarm will result in a \$95 fee. All subsequent violations during a twelve month period will result in a \$150 fee.

The Fire Department personnel in charge of inspections may exercise their discretion, and for good cause shown, waive the fee set forth in these paragraphs, that is, Paragraphs 79.200.

(9) Any person who maintains burning of combustible materials out of doors or open burning not permitted in § 79.70 - § 79.72 shall be in violation of § 70. The penalty shall be \$50. If the violator does not appear in response to a notice issued to them or placed in a noticeable location at the place of residence, business or burn site within a period of thirty (30) calendar days from date and time shown on said notice, the penalty shall be \$75.

(10) If the owner, operator, or representative fails to obtain a Tire Storage Permit as required in § 79.80 - § 79.81, the penalty shall be \$50 for each violation cited. Each day such violation is permitted to continue may be deemed to constitute a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator, or representative after thirty (30) calendar days from the date and time shown on said notice issued, the penalty shall be \$75.

(11) If the owner, operator, or representative fails to obtain a Temporary Propane Tank Storage Permit as required in § 79.90, the penalty shall be \$50 for each violation cited. Each day such violation is permitted to continue may be deemed a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator or representative after thirty (30) calendar days from the date and time shown on said notice issued, the penalty shall be \$75.

(12) If the owner, operator, or representative fails to obtain a Fireworks and Pyrotechnics Permit as required in § 79.100 - § 79.101, the penalty shall be \$50 for each violation cited. Each day such a violation is permitted to continue may be deemed a separate offense. If the violator fails to appear in response to a notice issued to the owner, operator, or representative after thirty (30) calendar days from the date and time shown on said notice issued, the penalty shall be \$75.

§ 79.201 SEVERABILITY.

The invalidity of any section, clause sentence of provision of this chapter shall not affect the validity of any other part of this chapter.

§ 79.202 AUTHORITY.

Nothing contained in this chapter is intended to grant any power to any local government unit, agency, department or commission, or to regulate any activity, which grant of power or regulation of activity is not authorized or permitted by state law.