

## **REGULAR MEETING – March 4, 2008**

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday evening, March 4, 2008, at the hour of 6:30 p.m., local time, in the Common Council Chambers, located in the lower level of the City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana.

The meeting was called to order at 6:30 p.m. by Council President Ron Meer.

Roll call was authorized and the following were noted present and/or absent:

**PRESENT:** COUNCIL MEMBERS Patricia Boy, Marc Espar, Phillip Jankowski, Robert McKee, Ron Meer, Willie Milsap, Richard Murphy, Joe Doyle, and Angie Starks. (9).

**ABSENT:** None (0).

**A QUORUM WAS NOTED PRESENT.**

### **APPROVAL of MINUTES**

President Meer inquired whether there were any corrections, deletions, or additions to the minutes of the Executive Session or Regular Meeting of February 19, 2008. Councilwoman Boy made a correction to the Regular Meeting minutes on page (3) three (**Note: the Clerk's office will amend the corrections**). President Meer asked if there were any other corrections, deletions, or additions to the minutes of the Executive Session or Regular Meeting minutes and hearing none, the minutes were approved as printed.

### **REPORTS of STANDING COMMITTEES**

Councilman Espar stated that Sam Johns asked him to convey his thanks to the Council for their support regarding his re-appointment to the Port Authority Board.

### **REPORTS OF SPECIAL OR SELECT COMMITTEES**

Councilman Murphy reported on the special marketing committee meeting he attended.

Councilwoman Boy reported on the Code Review Committee meeting held on February 15, 2008.

Councilman Doyle announced the Coho Club will be organizing a fishing tournament this year as part of the Summer Festival.

### **REPORTS of OTHER CITY OFFICERS and DEPARTMENTS**

John Jones, Director of Emergency Management did a presentation for the City Council regarding Severe Weather Preparedness Week (March 2-8, 2008). Mr. Jones advised the Council that LaPorte County has been included in the Presidential Disaster Declaration and will receive state and federal assistance for people that have flood/water damages.

Mr. Jones introduced Susan Peterson, FEMA, Community Relation Specialist; she explained the procedures for filing claims regarding damages. Ms. Peterson reported on the canvassing being done in LaPorte County regarding claims and damages received to date.

Discussion followed among Councilmen Espar, Mckee, Milsap, Susan Peterson and Mr. Jones.

### **PETITIONS**

There were no petitions.

### **COMMUNICATIONS**

There were no communications

### **RESOLUTIONS**

There were no Resolutions

### **ORDINANCES**

Council President Meer and Councilman Milsap withdrew the following Ordinance; **AN ORDINANCE IMPROVING AND STANDARDIZING RULES AND TERMS APPLICABLE TO EMPLOYEES TRANSFERRING BETWEEN JOBS WITH DEPARTMENTS AND AGENCIES OF THE CITY OF MICHIGAN CITY**, Introduced by Ron Meer and Willie Milsap.

President Meer requested the Council's chair person of both Sanitation/Water Board and Port Authority Board to request information regarding each department's procedures on transfers within the City.

Councilman Espar requested unanimous consent to waive the requirements to have the 3<sup>rd</sup> reading be verbatim, but rather being, by title only.

The Clerk read on third reading by title only, **AN ORDINANCE PROHIBITING THE POSSESSION OF DEADLY WEAPONS BY INDIVIDUALS IN ANY BUILDING NOW OR HEREAFTER OWNED, LEASED, OPERATED, OCCUPIED, MANAGED, OR CONTROLLED BY THE CITY OF MICHIGAN CITY, INDIANA**, as Sponsored by Marc Espar and Co-Sponsored by Willie Milsap.

There were comments by Councilmen Espar, McKee, Doyle, Councilwoman Boy, Mayor Oberlie, and John Jones, Emergency Management.

Councilman Espar addressed the Council with a closing statement in regards to why they should support this Ordinance.

Joan Chumley, 832 Pine Street stated her concerns.

President Meer asked if there were any other comments or questions by the Council or public and there being none, the Ordinance failed by the following Vote: **AYES: COUNCIL MEMBERS Espar and Milsap (2). NAYS: COUNCIL MEMBERS Boy, Doyle, Jankowski, McKee, Meer, Murphy, Starks (7).**

The Clerk read on third reading by title only, there being no objections,

**ORDINANCE NO. 4020**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE  
CITY OF MICHIGAN CITY, INDIANA  
REGULATING SMOKE DETECTORS FOR RENTAL PROPERTIES**

WHEREAS, the Common Council has determined that the regulation of smoke detectors in rental properties is necessary to protect the health, safety and general welfare of the citizens of the City of Michigan City;

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA that the Common Council hereby adopts the following:

Section 1. Definitions.

A As used in this article, the following terms shall have the meanings ascribed to them in this section. Words in the singular shall include the plural and words in the plural shall include the singular. References in the masculine gender shall include the feminine and the neuter and the present tense shall include the future.

Common Area shall mean the area shared by tenants in a multiple dwelling rental property or the public areas of any rental property.

**Dwelling shall mean a building or structure which is wholly or partially used or intended to be used as a residence for one or more persons or family, but does not include recreational vehicles.**

Dwelling Unit shall mean a room or group of rooms located within a dwelling and forming a complete and independent habitable unit for a person or a family, which includes facilities to be used for living, sleeping, eating, cooking and sanitation.

Hotel means every building or structure kept, used or maintained as, and advertised or held out to the public to be, an inn, hotel, motel, family hotel, apartment hotel, lodging house, dormitory, or place where sleeping or rooming accommodations are furnished for hire or are used or maintained for the accommodation of guests, lodgers or roomers.

Multiple dwelling means any dwelling containing more than two dwelling units.

Occupant shall mean any person living, sleeping, cooking or having actual possession of a dwelling unit, other than a guest, or using the property as a legal address for any purpose; or any person having actual possession of any building or structure other than a dwelling unit or rooming unit.

Owner means any person who, alone or jointly or severally with others:

- A. Has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- B. Has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this article, and of the rules and regulations adopted pursuant to this article, to the same extent as if he were the owner.

Person means any natural person, entity, business, firm, association, partnership, limited partnership, sole proprietorship, corporation or any group acting as a unit.

Rental Property shall mean any real property containing a rental unit or units.

Rental Unit shall mean any single unit of a rooming house, dwelling, apartment or other similar building, excluding hotels which are held for lease or rent.

Rooming Unit shall mean a room or rooms forming a single, separate habitable unit to be used for living, or for living and sleeping; but not for cooking and eating purposes.

Rooming house means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Smoke Detector shall mean a device which detects particles or products of combustion other than heat and emits a loud warning sound or alarm and is approved by Underwriters Laboratories, Inc. or Factory Mutual. The smoke detector device shall be equipped with a test button. The smoke detector device may be either battery powered with a minimum nine volt or if powered by a 110 volt alternating current, it shall require battery back-up.

Tenant shall mean any person living, sleeping, cooking or having actual possession of a rental dwelling unit, other than a guest, or using the property as a legal address for any purpose; or any person having actual possession of any building or structure other than a dwelling unit or rooming unit.

## Section 2. Smoke Detectors Required - Location and Installation

- A. All residential rental dwelling units shall be equipped with smoke detectors.
- B. **Smoke detectors shall be installed in all locations specified under Indiana Code 22-11-18 and the Michigan City Building Code and according to manufacturer's specifications.**
- C. 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 and must be battery backed up. The installation of A.C. powered detectors shall conform to all other electrical standards adopted by the city. A smoke detector required under this chapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any city electrical standard, the city electrical standard shall take precedence.

## Section 3. Maintenance

It shall be unlawful for any person to tamper with or remove any smoke detector or its batteries except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be re-installed or replaced so that it is in place with functioning batteries during normal sleeping hours. At every change of tenant in every rental dwelling unit, smoke detectors shall be tested to see that they are in operable condition.

#### Section 4. Duties of Owners and Occupants

Every owner of any rental dwelling unit shall be responsible for the installation, maintenance and repair of all smoke detectors excluding the batteries of such smoke detectors, as herein provided, and the installation, repair and maintenance of all smoke detectors in common areas. Every tenant of any rental dwelling unit shall be responsible for the maintenance of the batteries of such smoke detectors in the unit the tenant occupies. This requirement applies to smoke detectors required by any state or federal law as well as by this chapter, unless excused by other applicable state or federal law.

#### Section 5. Enforcement

**The Inspection Department and the Fire Department of the city shall be authorized at any time to inspect any rental dwelling unit in order to enforce the terms of this ordinance with the consent of the tenant of a leased dwelling unit, with the consent of the owner of a vacant dwelling unit or by order of the Court. Further, the Fire Department may require certification as they deem necessary and appropriate in order to enforce the terms of this ordinance. Inspections may be made more frequently than annually as the respective departments deem necessary.**

#### Section 6. Registration

- A. The owner of real property in the City of Michigan City, which real property is used as residential rental dwelling units or contains a rental dwelling unit or rental dwelling units, shall be required to register all such properties on an annual basis, by January 31 of each year. Initial registration is required within 45 days of the effective date of this ordinance. Registration is required within 30 days of becoming an owner of the real property to be used as residential rental property or rental dwelling units. The registration forms shall be available at any Fire Department within the City of Michigan City or at [www.emichigancity.com/Fire Department](http://www.emichigancity.com/Fire%20Department).
- B. The registration form for residential rental dwelling units is attached as Appendix A and shall include the following information:
1. The street address and unit identification name of the rental dwelling unit;
  2. The date of registration;
  3. The name, street address and telephone number of the owner or a person designated by the owner as the authorized agent for receiving notice of code violations and for receiving service of process, in any court proceeding on behalf of such owner. For the purposes of this section, a post office box does not suffice as an address; and
  4. Any changes to the registration form are the sole responsibility of the owner.
- C. All municipal, state or federally owned and operated rental dwelling shall be registered in accordance with the provisions of this Ordinance. However, municipal, state or federally owned and operated units with substantially similar smoke detector requirements shall be deemed to be in compliance with the inspection provisions of this ordinance based upon their rules and regulations.
- D. Registration records. The Fire Department shall maintain the rental property smoke detector registration records. These records shall consist of the registration information contained in the registration form which is attached to this ordinance as Appendix A. Such information and forms required by this section may be shared with other Michigan City Departments for legitimate law enforcement purposes and to enforce this chapter.

#### Section 7. Injunctive Relief

In addition to pursuing in the Circuit Court or any Superior Court in the County of La Porte the penalty provisions of this chapter, the Chief of the Fire Department or the Chief of the Fire Marshal=s Office thereof may also bring an action in the name of the City in the Circuit Court or any of the Superior Courts for mandatory or prohibitory injunctive relief to enforce the provisions of this subchapter, including the securing of compliance with any other order of the Chief of the Fire Department or Fire Marshal=s Office, and any such action for injunctive relief may have joined with it an action to recover the applicable penalties in this chapter.

Section 8. Penalty

Whoever violates any provision of this chapter shall be fined not more than \$2,500. Every day a violation occurs shall constitute a separate offense as prescribed under Section 1-7 of the Michigan City Code.

Introduced by: Joseph Doyle  
Patricia Boy  
Robert McKee

Councilman Doyle moved to adopt the Ordinance, seconded by Council Members McKee and Boy.

Discussion ensued among Council Members Murphy, McKee, Boy, and Doyle.

Jane Cooley, 10055 W. 100 N., Eric Fragman, Boyd Circle, and Joan Chumley, 832 Pine Street stated their concerns.

President Meer asked if there were any other questions or comments regarding this Ordinance and hearing none, the motion carried and the Ordinance was adopted as follows: **AYES: COUNCIL Doyle, Espar, Jankowski, McKee, Milsap, and Boy (6).**  
**NAYS: COUNCIL MEMBERS Meer, Murphy, and Starks (3).**

**UNFINISHED BUSINESS**

There was no Unfinished Business.

**NEW BUSINESS**

Councilman Doyle advised that there will be a Code Review Committee meeting on Wednesday, March 12, 2008 at 5:00 p.m. in the City Hall Council Chamber. Mr. Doyle stated that this is to review recommitment of the ordinance dealing with the establishment and salary of the EEO Officer position and the ordinance dealing with the additional appropriation.

**COMMENTS FROM THE COUNCIL**

Councilman Joe Doyle invited everyone to attend the recognition of former Councilwoman Evelyn Baker this Sunday, March 9, 2008 at the Senior Center for her 32 years of service on the Council and 20 some years on the Summer Festival Committee.

Councilman Murphy commented on an Economic Development conference he attended.

Councilman Espar wished Councilwoman Angie Starks a Happy Birthday.

Council President Meer reminded Councilman Jankowski that he is the chair-person for the Sanitation/Water Board Committee and that he should begin the process of looking into their current procedures and policies within City transfers. Mr. Meer addressed Councilman Espar regarding the Port Authority.

President Meer stated his position regarding his vote on the Smoke Detector Ordinance.

**COMMENTS FROM THE PUBLIC**

Joan Chumley, 832 Pine Street, questioned the funding of the summer intern job.

**ADJOURNMENT**

On motion by Councilman Milsap, supported by the majority of the Council, and there being no further business to transact, President Meer declared the meeting **ADJOURNED** (approximately 7:45 p.m.).

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Thomas F. Fedder, City Clerk