

ORDINANCE NO. 38, 2005
(as amended)
AN ORDINANCE ADDING CHAPTER 154
TO TITLE XV (LAND USAGE) OF THE VALPARAISO
CITY MUNICIPAL CODE TO BE TITLED
PROPERTY MAINTENANCE ORDINANCE

WHEREAS, the Common Council of the City of Valparaiso, Indiana, has found that the existence of public nuisances with the City threatens the public health, safety and welfare by creating a safety hazard; creating an uncontrolled breeding ground for disease; creating an appearance of City apathy regarding the condition of private property, thus discouraging economic development and offending neighboring property owners; creating the prospect for generation of noxious odors; creating a sanctuary for rodents, vermin and insects whose increased population would threaten the City and its residents; creating a fire hazard; and in many other manners threatening the public health, safety and welfare.

WHEREAS, the Common Council intends to create an effective remedy against landowners who encourage or permit the existence of public nuisances upon their land located within the City.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Valparaiso, Indiana, that Chapter 154 titled Property Maintenance Ordinance be added to Title XV Land Usage of the Municipal Code of the City of Valparaiso as follows:

154.01 PURPOSE: The purpose of this Ordinance is to establish minimum requirements and standards for the maintenance of premises and structures in order to promote and protect the public health, safety and welfare of the residents of the City of Valparaiso.

154.02 RESPONSIBILITY: ~~The owner of the property shall maintain property, including structures, in compliance with these requirements. A person shall not occupy as owner occupant or permit another person to occupy premises that do not comply with the requirements of this Ordinance.~~ It shall be unlawful, for any person, owner, occupant, company, corporation, tenant, or any other person having a substantial interest in any real or personal property within the city, or any agent thereof, to erect, construct, cause, permit, keep, or maintain within the corporate limits of the city anything that is a public nuisance. Any person, owner, occupant, company, corporation, tenent or any other person having a substantial interest in any real or personal property within the city, or any agant thereof, maintaining any nuisance as described herein is declared to be responsible for the nuisance. Public nuisances are prohibited on private property, as well as on public property, and on public ways.

154.03 DEFINITIONS: Debris and junk shall include but not be limited to:

- (A) paper, paper products and newspapers not being gathered for recycling;
- (B) empty, or partially empty, plastic or glass bottles and/or metal cans or empty receptacles of any and all types not being gathered for recycling;
- (C) bed springs and/or mattress(es);
- (D) rubber tires, rubber tubes, metal wheels, hubcaps or wheel covers;
- (E) building materials, including but not limited to: cinder blocks, bricks, lumber, plywood, plumbing and piping material and parts, siding, roofing and forms when no construction is in process upon the real estate;
- (F) sinks, refrigerators, washing machines, dishwashers, clothes dryers, home appliances or other metal machinery, home exercise equipment, computers or any other home electronics equipment or household items no longer being used for the purpose which they were manufactured; and
- (G) any waste or scrap materials, including motor vehicles parts or parts of other manufactured items.

154.04 STOCK AND RACE VEHICLES: Any vehicle kept primarily for purposes of competing in stock car, racing event, demolition derby or other related automotive sport.

154.05 JUNK MOTORS VEHICLES: Any motor vehicle that meets any one of the following qualifications:

- (A) Does not carry a current valid registration and/or license plates.
- (B) Is partially dismantled or inoperable.

154.06 PUBLIC NUISANCE: A public nuisance includes the following:

- (A) Those conditions that are known to the common law and the Statutes Of Indiana as public nuisances.
- (B) Any real or personal property that is infected with contagious disease or is likely to cause an immediate health hazard.
- (C) Any condition or use of premises or buildings exteriors which is detrimental to the property of others, or which causes or tends to cause substantial diminution in the value of property in the neighborhood in which such premises are located, including but not limited to keeping, permitting or allowing any material, including but not limited to the following:
 - (1) debris and junk;
 - (2) junk motor vehicles;
 - (3) any stock or race vehicle unless the vehicle is garaged and kept from public view at all times.
 - (4) any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;
 - (5) demolition remains stored for more than thirty (30) calendar days;
 - (6) open excavations, uncovered or improperly covered holes, whether lined or unlined, and dirt piles on any open or unfenced property within the City, unless the property in an active construction site;

 - (7) automobile parts; disassembled automobiles and automobiles without engines; plumbing and piping materials and parts; scrap metal; unseaworthy or dilapidated boats; dilapidated, deteriorated or inoperable jet skis, snowmobiles, motorcycles, bicycles, trailers or toys, any of which are not kept completely enclosed in a building;
 - (8) structures defaced with paint or wording;
 - (9) any waste water, filth, offal, garbage, rubbish, animal waste or human excrement which is deposited, allowed, or caused to be upon any public or private property;
 - (9) any dead domesticated animal or parts and any dead livestock or non-domesticated animals within the public view;
 - (10) trees, shrubbery, weeds, snow or other matter obstructing public ways or causing visual barriers which create vehicular traffic or pedestrian safety hazards; and
 - (11) any item not originally designed or manufactured solely for outdoor use.
 - (12) parking a motor vehicle on a front yard not designed and approved for parking. The front yard shall be defined as the area of private property that is located between the public right-of-way and the front line of the primary structure on that property. Parking of any motor vehicle within this area shall be prohibited.
- (D) The placing or accumulating on or within any real or personal property, or permitting the same, of any matter which attracts or may attract rodents, insects or domestic or wild animals in such a manner as to create a health hazard or an unsanitary or dangerous condition.
- (E) The storage of any explosive, combustible or other material that creates a safety of health hazard.

154.07 NEGLECTED PREMISES VISABLE TO THE PUBLIC: It shall be the duty of every person owning or controlling a house or other building or premises, including vacant lots visible from any public place or private premises, to maintain such

premises in a reasonably clean and orderly manner. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter thereon.

154.08 DUTY OF MAINTAINING PRIVATE PROPERTY: No person owning, leasing, occupying or having charge on any premises shall maintain or keep any nuisance thereon, nor shall any person keep or maintain such premises in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises is located. All property located in the City shall be maintained within the following minimum standards:

Property:

- (1) All fences and walls shall be maintained in a structurally sound manner to protect the public safety.
- (2) All grass and weeds and other vegetation shall be maintained so that the height shall not exceed six inches (6"). This provision excludes trees, shrubs, ornamental grasses, wildflowers and other cultivated plants.
 - (a) All premises shall be free of any stagnant water.
 - (b) All outbuildings and accessory structures shall be maintained in a structurally sound manner to protect the public safety.
 - (c) All property shall be maintained in a manner so that it does not create or constitute a public nuisance.

154.09 EXTERIOR OF STRUCTURES:

- (A) All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches and trim shall be maintained in good repair. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and/or chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints shall be maintained weather resistant and watertight.
- (B) All porches, decks, balconies, exterior stairways, and all appurtenances attached thereto, shall be maintained in a structurally sound manner, capable of supporting the imposed load and free from hazardous conditions.
- (C) Exterior walls of buildings shall be maintained free from holes, breaks, loose or rotting materials, and shall be maintained weatherproof and properly surface coated as needed to prevent deterioration.
- (D) Roofs of buildings shall be maintained so that they are structurally sound and in a safe condition and have no defects that might admit rain and cause dampness in the interior portions of the building. All portions, additions and sections of a roof, including but not limited to the fascia, eave, soffit, sheathing, rafter tail, barge rafter, vent screening, gutter, down spout, roofjack, lead and metal flashing, shall be complete with all trim strips, moldings, brackets, braces and supports attached or fastened in accordance with common building practices.
- (E) Windows of buildings shall be fully supplied and maintained with glass windowpanes or a substitute approved by the Building Commissioner, without open cracks or holes. Screens, if provided, shall be securely fastened to the window.
- (F) Exterior doors of buildings shall be maintained so that they fit reasonably well within their frames so as to substantially prevent rain and wind from entering a building. Additionally, exterior doors shall be provided with proper hardware and maintained in proper working condition.

154.10 SWIMMING POOLS AND SPAS: All swimming pools, hot tubs, spas or any other water-filled area shall be maintained in a sanitary condition to avoid the creation of any health hazard or a breeding ground for disease-carrying insects.

154.11 ENFORCEMENT, NOTICES OF VIOLATION: It shall be the duty of the Building Commissioner, Code Enforcement Officer or their agents to enforce the provisions of this Ordinance. Members of the Police Department may also enforce the provisions of this ordinance.

(A) Enforcement may include:

- (1) issuance of a written notice to the person responsible for the violation, indicating the nature of the violation, ordering the action necessary to correct, and specifying a reasonable amount of time for the correction of the violation or the performance of any other act required; *or*
- (2) issuance of a written warning to the person responsible for such a violation; ~~or~~ *and the property owner.*
- (3) issuance of a ticket (citation) to the ~~person responsible~~ *property owner* for such a violation.

(B) Notice of a violation shall be served:

- (1) personally, *or*
- (2) by certified mail, with return receipt required, to the last known address; ~~or and if the certified letter is returned unclaimed,~~ by posting the notice in a conspicuous place on the building, structure or premises on which the violation exists.

154.12 PENALTIES: In addition to any and all other remedies set forth in this ordinance, the Building Commissioner/Code Enforcement Officer may, for any violation of this ordinance, levy a fine against the violator of Fifty Dollars (\$50.00) for each occurrence, each day being a separate occurrence. The violator shall pay the levied fine through the Local Violations Bureau. In addition, any person violating this ordinance shall pay and be responsible for all attorney fees incurred by the City in enforcing the provisions of this Ordinance. *Extraordinary or multiple violations by the same person may result in an assessment of an additional fine not to exceed \$2,500 per occurrence and pursued through legal court proceedings.*

154.13 CONFLICTING ORDINANCES: Any Ordinance or provision of any Ordinance of the City of Valparaiso or the Municipal Code of the City of Valparaiso in conflict with the provisions of this Ordinance is hereby repealed.

154.14 SEVERABILITY: The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.

154.15 EFFECTIVE DATE: This Ordinance shall be in full force and effect after its passage and approval by the Mayor of the City of Valparaiso and publication as required by law.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a _____ vote of all members present and voting this _____ day of _____, 2005.

Jon Costas, Mayor

ATTEST:

Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this _____ day of _____, 2005, at _____ o'clock p.m.

Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of
_____, 2005, at _____ o'clock p.m.

Jon Costas, Mayor