

**ORDINANCE NO. 3-2010**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, REPEALING AND REPLACING CHAPTER 154 OF THE CODE OF ORDINANCES AND**

**WHEREAS**, on May 12, 2008, the Common Council of the City of Valparaiso passed Ordinance No. 17-2008 entitled “An Ordinance Establishing the Minimum Regulations Governing the Condition and Maintenance of Property, Buildings, and Structures in the City of Valparaiso, Indiana; by Providing that Standards for Conditions Essential to Assure that the Structures are Safe, Sanitary, and Fit for Occupation and Use, through the Adoption of the 2006 International Property Maintenance Code”; and

**WHEREAS**, the Common Council of the City of Valparaiso, Indiana, is desirous of repealing and replacing Ordinance No. 17-2008 and the 2006 International Property Maintenance Code and establish new minimum requirements for the maintenance of premises and structures located within the City of Valparaiso.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, THAT CHAPTER 154 OF THE CITY OF VALPARAISO, INDIANA, CODE OF ORDINANCES IS HEREBY REPEALED AND REPLACED AS FOLLOWS:**

**SECTION 154.01 PROPERTY MAINTENANCE CODE**

There is established the City of Valparaiso Property Maintenance Code, the purpose of which is to protect the public health, safety and welfare in all existing structures and premises located within the City of Valparaiso, including both residential and nonresidential properties, by establishing minimum requirements and standards on premises, structures, equipment, sanitation, protection from the elements and fixing the responsibility of owners, operators and occupants, regulating the occupancy of existing structures and premises, and providing for administration, enforcement and penalties.

**SECTION 154.02 RESPONSIBILITY**

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, tenant or any other person having a substantial interest in any real or personal property within the city, or any agent 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.

**SECTION 154.03 DEFINITIONS:**

**DEBRIS** and **JUNK** mean and include any of the following:

- (a) paper, paper products and newspapers not being gathered for recycling and that are not more than thirty (30) days old;
- (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.

**OWNER.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the state or county as holding title to the property; or otherwise having control of the property, including guardianship of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by court.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

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

**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.

**PUBLIC NUISANCE.** A public nuisance includes the following:

(a) Those conditions that are known to the common law and the Statutes of the State 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 that has not been abandoned for more than one (1) month;
- (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;

(10) Any dead domesticated animal or parts and any dead livestock or non-domesticated animals within the public view;

(11) Trees, shrubbery, weeds, snow or other matter obstructing public ways or causing visual barriers which create vehicular traffic or pedestrian safety hazards; and

(12) Any item not originally designed or manufactured solely for outdoor use.

(13) 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.

(14) All sidewalks, driveways, parking spaces, parking lots, and exterior stairs shall be maintained in good repair and free from hazardous conditions.

(15) 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.

(16) The storage of any explosive, combustible or other material that creates a safety of health hazard.

#### **SECTION 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 chapter to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter thereon.

#### **SECTION 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:

(a) All fences and walls shall be maintained in a structurally sound and safe manner.

(b) All premises shall be free of stagnant water

(c) All accessory structures shall be maintained in a structurally sound and safe manner.

(d) All property shall be maintained in a manner that does not create or constitute a public nuisance

(e) All grass, weeds, and other vegetation shall be maintained so that the height shall not exceed six (6) inches. This provision excludes trees, shrubs, ornamental grasses,

wildflowers, and other cultivated plants. All noxious weeds shall be prohibited. Upon failure to comply with the notice of violation, any duly authorized employee of the City of Valparaiso or contractor hired by the City shall be authorized to enter upon property in violation and cut and/or destroy grass and weeds growing thereon, and the costs of such removal shall be paid by the owner.

#### **SECTION 154.09 EXTERIOR STRUCTURE:**

(a) All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, balconies, decks, 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.

(g) All foundation walls shall be maintained structurally sound and free from open cracks and breaks and shall be capable of preventing the entry of animals and other pests.

(h) All structural members shall be capable of safely supporting the loads imposed and be maintained to prevent deterioration.

(i) All overhang extensions including, but not limited to, fire escapes, canopies, signs, marquees, awnings, standpipes, and exhaust ducts shall be maintained and properly anchored. All exposed surfaces shall be protected from the elements and free of decay and rust.

(j) All chimneys, water towers, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and in good repair. All exposed surfaces shall be protected from the elements and free from decay and rust.

(k) All handrails and guards shall be securely fastened and capable of supporting imposed loads and maintained in good repair.

#### **SECTION 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 and in good repair to avoid the creation of any health hazard or a breeding ground for disease-carrying insects. All barriers, gates, and safety covers shall be maintained in good repair.

**SECTION 154.11 ENFORCEMENT, NOTICES OF VIOLATION**

It shall be the duty of the Building Commissioner, Code Enforcement Officer or their agents and designees to enforce the provisions of this Ordinance. Members of the Police Department may also enforce the provisions of this ordinance.

- (a) Enforcement may include any of the following:
  - (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; and property owner.
  - (3) Issuance of a ticket (citation) to the property owner for such a violation.
- (b) Notice of a violation shall be served:
  - (1) personally, or
  - (2) posted on property, or
  - (3) first class mail, or
  - (4) by certified mail, with return receipt required, to the last known address; or by posting the notice in a conspicuous place on the building, structure or premises on which the violation exists.

**SECTION 154.12 PENALTIES**

In addition to any and all other remedies set forth in this Ordinance or otherwise permitted by law, 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.

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.

The invalidity of any section, clause, or sentence of 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.

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 \_\_\_\_\_, 2009.

\_\_\_\_\_  
Jon Costas, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock p.m.

\_\_\_\_\_  
Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock p.m.

\_\_\_\_\_  
Jon Costas, Mayor