

CITY OF CHARLESTOWN, INDIANA COMMON COUNCIL

ORDINANCE NO. 2020-_____

AN ORDINANCE ADOPTING PROPERTY MAINTENANCE CODES

WHEREAS, the Common Council has determined it is the best interest of citizens and property values to adopt a Property Maintenance Code; and;

WHEREAS, the Property Maintenance Code shall apply to all premises and shall establish certain minimum standards for safety, sanitation, and maintenance; and;

WHEREAS, the Property Maintenance Code is intended to protect, preserve, and promote the physical and mental health and well-being of the citizens of Charlestown and to eliminate blight and preserve and protect property values in the community;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN, INDIANA, THAT:

Property Maintenance Code

Section 1. Administration.

(a) General

(1) *Title.* These regulations shall be known as the Property Maintenance Code of the City of Charlestown, hereinafter referred to as "this code".

(2) *Scope.* The provisions of this code shall uniformly apply to all existing residential and nonresidential structures and all existing premises and existing or proposed improvements on existing premises and constitute minimum requirements and standards for premises, structures, sanitation, protection from the elements, safety from other hazards, and for safe and sanitary installation and maintenance of improvements; the responsibility of owners, operators and occupants for their properties; and for administration, enforcement and penalties irrespective of when or under what code or codes such buildings were originally constructed or rehabilitated, except for the rules of the Fire Prevention and Building Safety Commission.

(3) *Purpose.* This code shall be construed to secure its expressed intent, which is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned buildings, structures or improvements for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare. It is further

declared that the purpose of this code is to eliminate blight, to ensure maintenance of property, and to thereby ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures, improvements and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(4) *Severability*. If a section, subsection, sentence, clause, or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

(b) *Applicability*.

(1) *General*. The provisions of this code shall apply to all matters affecting or relating to structures and premises except as to those matters governed by the provisions of the *Indiana Building Code, Indiana Residential Code, Indiana Fire Code, Indiana Electric Code, Indiana Fuel Gas Code, Indiana Mechanical Code, Indiana Energy Code, Indiana Accessibility Code, Indiana Plumbing Code, Indiana Swimming Pool Code, 675 IAC 12*, as the same shall be amended from time to time. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. Additionally, pursuant to 675 IAC 12-4-11(a), “any building or structure lawfully in existence at the time of the adoption of any rule of the Commission for new construction may have its existing use or occupancy continued without having to be altered.”

(2) *No private cause of action*. Nothing in this code shall be deemed to create a private cause of action in favor of one party against another.

(3) *Application of other Codes*. Repairs, additions or alterations to a structure, or changes of occupancy, shall be made or accomplished in accordance with the procedures and provisions of the *Indiana Building Code, Indiana Residential Code, Indiana Fire Code, Indiana Electric Code, Indiana Mechanical Code, Indiana Fuel Gas Code, Indiana Energy Code, Indiana Accessibility Code, Indiana Plumbing Code, and/or Indiana Swimming Pool Code, 675 IAC 12*, as same may be amended from time to time.

(4) *Existing remedies*. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous or unsafe.

(5) *Workmanship*. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

(6) *Requirements not covered by code.* The authority having jurisdiction thereof shall determine requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by the Fire Prevention and Building Safety Commission and this code

(7) Any proposed improvements or maintenance thereto shall be designed, permitted, installed and maintained in accordance with the provisions of this code and the current City of Charlestown standards that govern the work associated with the installation or maintenance of such improvements that may be amended from time to time. Where, in a specific case, different sections of this and other applicable codes, or those codes of other federal, state or local government agencies that have jurisdiction over the installation or maintenance of such improvements, specify different requirements, the Fire Prevention and Building Safety Commission regulations shall govern.

(c) *Code Enforcement.*

(1) *General.* Property maintenance inspections as required by this code shall be the responsibility of the City and other such persons as shall be designated by the City, hereinafter referred to as "Code Enforcement Official".

(2) *Restriction of employees.* No official or employee connected with the enforcement of this code shall be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or improvement within the City, or the preparation of construction documents thereof, unless that person is the owner of the building.

(3) *Liability.*

a. The Code Enforcement Official, officer or employee charged with the enforcement of this code, while acting under its jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

b. Any suit instituted against any official or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any official of the City, acting in good faith and without malice, shall be

free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(d) *Duties and powers of Code Enforcement Official.*

(1) *General.* The Code Enforcement Official shall enforce the provisions of this code.

(2) *Inspections.* The Code Enforcement Official shall make all of the necessary inspections or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the City.

(3) *Right of entry.* The Code Enforcement Official, pursuant to this code, may make inspections of all buildings, structures and premises located within the City's corporate limits to determine their compliance with the provisions of this code. Such inspections shall be made between the hours of 8:00 a.m. and 8:00 p.m. on any day except Sunday. All inspections shall be subject to the following standards and conditions:

a. An inspection of an interior of a structure may take place only if a complaint has been received by the City and such complaint, in the opinion of the Code Enforcement Official, provides reasonable grounds for the belief that a violation exists, or if such inspection is undertaken as part of a regular inspection program whereby certain areas of the City are being inspected in their entirety at the direction of the Board of Public Works and Safety.

b. The Code Enforcement Official shall furnish to the owner, tenant, or occupant of the building, structure, or premises sought to be inspected, sufficient identification and information to enable the owner, tenant, or occupant to determine the purpose of the inspection, and that the person is a representative of the City.

c. The Code Enforcement Official may apply to any court of competent jurisdiction for a search warrant or other legal process for the purpose of securing entry to any premises if the owner, tenant, or occupant shall refuse to grant entry and shall request a Charlestown Police Officer to accompany him/her to the premises.

(e) *Approval of modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the Code Enforcement Official shall have the authority, upon approval of the Board of Public Works and Safety, to grant modifications for individual cases, provided the Code Enforcement Official shall first find that the practical difficulty makes the

strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements or modify the rules of the Fire Prevention and Building Safety Commission. The details of action granting modification shall be recorded and entered in the department files.

(f) *Violations.*

(1) *Unlawful acts.* It shall be unlawful for a person, firm, or corporation to be in conflict with or in violation of any of the provisions of this code.

(2) *Notice of violation.* The Code Enforcement Official shall serve a notice of violation and request for abatement in accordance with subsections (g)(3) and (4),

(3) *Prosecution of violation.* Any person failing to comply with a notice of violation and request for abatement served in accordance with subsections (g)(3) and (4) shall be deemed guilty of a violation of this code and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Enforcement Official shall cause to be instituted the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

(4) *Violation penalties.* In addition to any injunctive relief which may be sought, any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be fined on the first offense of a violation of this code, a fine of \$50. Each day that a violation continues after due notice has been served shall be deemed a separate offense subject to a daily fine of \$50 per day. The daily fines of each violation of this code may not accrue in the excess of one-thousand dollars (\$1000.00) every ninety (90) days.

(5) *Repeat offenses.* Any person who is found to have committed a separate offense of this code after having been found to commit an earlier offense no sooner than 30 days but within a two-year period shall be assessed a fine of \$100 per day. The purpose of this provision is to double the fines assessed against those persons. The daily fines of each repeated violation of this code may not accrue in excess of one-thousand dollars (\$1000.00) every ninety (90) days.

(6) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the City from instituting appropriate action to restrain, correct or abate a violation in City of Charlestown, State of Indiana, and/or County of Clark, Indiana.

(7) The City may direct the owner or responsible party to restore all improvements to the original design condition, alter the improvement to remedy the violation, or remove the improvement if determined to be in violation or represents the potential to be in violation of this code. Violations shall be remedied to the satisfaction of the City.

(8) In the event that the owner or responsible party fails to remedy the violation within the time frame stipulated in the notice, the City reserves the right to remedy the violation and collect such costs together with reasonable attorney fees, consultant fees and collection fees, including reasonable attorneys' fees, by suing the owner or responsible party in a court of competent jurisdiction or in the alternate, by certifying said costs of correction as any other special assessment upon the premises from which said remedy of said violation was made.

(g) *Notice and orders.*

(1) *Warning citation.* It is the policy of the City of Charlestown to use fair and reasonable judgment in the administration of its enforcement actions. To this end, a warning citation may be issued for a violation of this code. The warning citation shall be worded so as to sufficiently identify the premises and the nature of the violation. If the premises owner or person being cited fails to correct the violation in the time allotted by a Code Enforcement Official, then a notice of correction order shall be issued. In his or her discretion, a Code Enforcement Official shall have the right to forego issuing a warning citation and may proceed to issue a notice of correction order. The issuance of a warning citation shall not be a prerequisite to the issuance of a notice of correction order. There shall be no right of appeal from the issuance of a warning citation.

(2) *Notice to owner or to person or persons responsible.* Whenever the Code Enforcement Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, a notice of correction order ("correction order") shall be given to the owner or the person or persons responsible therefore in the manner prescribed in subsections (g)(3) and (g)(4) of this section. The City will take enforcement action only with the owner or responsible party at the time the violation is identified.

(3) *Notice of correction order.* Such notice prescribed in subsection (g)(2) of this section shall:

- a. Be in writing.
- b. Include a description of the real estate sufficient for identification.

c. Include a statement of the violation or violations and section(s) violated and why the notice is being issued and include a description of the actions necessary to correct the violation or violations.

d. Include a correction order allowing a reasonable amount of time, of at least ten days (excepting cases of emergency or safety concerns), but not more than 60 days, from the time when the correction order is served, to make the repairs and improvements required to bring the dwelling unit, structure or improvement into compliance with the provisions of this code; and

e. Include a notice containing the right to appeal the Code Enforcement Official's determination to the Board of Public Works and Safety in accordance with subsection (h) of this section.

(4) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is sent by certified return receipt mail or hand-delivered by an employee of the City. If these two means of service are attempted, but service is not successful, notice may be given by leaving a copy of the notice at the dwelling house of the person to whom the notice must be given *and* sending the notice by first class to the last known address of the person to whom the notice must be given, in accordance with the provisions of Ind. Code § 1-1-7-1.

(h) *Means of appeal.*

(1) *Appeal to Board of Public Works and Safety.* Any person aggrieved by a determination of the Code Enforcement Official to the effect that a notice of violation or order served in accordance with subsection (g) of this section is in error, or should, due to hardship, be modified or entitled to a variance from enforcement, or that a reasonable extension of time for the compliance should be granted upon the grounds of a demonstrated case of hardship and evidence of an actual undertaking to correct the violation, together with a legitimate intent to comply within a reasonable time period, may appeal to the Board of Public Works and Safety for rescission of the notice or order, or for a modification, variance, or extension of time for compliance. However, the Board of Public Works and Safety shall not consider or grant modifications or variance from any applicable rule of the Fire Prevention and Building Safety Commission.

(2) *Procedure and hearing.* A request for rescission, modification, variance, or extension of time shall be made in writing, to the City of Charlestown Clerk's Office, to be placed on the Board of Public Works and Safety agenda, within ten days of the appellant's receipt of a copy of the notice or order. The Board of Public Works and Safety shall schedule a hearing within 30 days of receipt of the request.

(3) *Open hearing.* All hearings before the Board of Public Works and Safety shall be open to the public. The appellant, the appellant's representative, the Code Enforcement Official and any persons whose interests are affected shall be given an opportunity to be heard.

(4) *Findings.* Prior to ruling on an appeal, the Board of Public Works and Safety shall make the following findings:

a. The violator was served with a notice of correction order as provided by subsections (g)(3) and (4).

b. The notice of correction order that was served stated the specific nature of the violation; the specific corrective action needed to be taken to abate the violation; and a specific time period for abatement of violation.

c. Within the time period stipulated by the notice of correction order, the violator failed to comply with the correction order by not abating the violation, and/or not bringing the offending property into compliance with City of Charlestown Property Maintenance Code.

d. Upon expiration of the date indicated for compliance in the correction order, the premises or structure was being maintained in violation of specific provisions of the City of Charlestown Property Maintenance Code and/or conditions imposed by Board of Public Works and Safety as a prerequisite to the modification of a previous compliance order.

e. Determination that a violation exists on the property.

(5) *Board decision.* At the conclusion of a hearing at which a continuance is not granted, the Board of Public Works and Safety may reverse, affirm, or modify the order, notice, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as justice would require. The Board's determination and findings of fact shall be recorded in the Board's minutes and if a notice or order is affirmed or modified, the Board of Public Works and Safety shall, in the determination on appeal, reestablish a reasonable timeline to make the repairs and improvements required to bring the dwelling unit, structure or improvement into compliance with the provisions of this code.

(6) *Court review.* Any interested party having standing, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to

correct errors of law within thirty (30) days of final action by the Charlestown Board of Public Works & Safety

(7) *Stays of enforcement.* Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the Board of Public Works and Safety rules on the appeal.

(i) *Unsafe structures.*

(1) *General.* Unsafe structures shall be regulated and enforced as provided by City of Charlestown, Indiana, Unsafe Building Regulations.

(2) *Imminent danger.* When, in the opinion of the Code Enforcement Official, there is imminent danger of failure or collapse of a building or structure which endangers life or other property, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Enforcement Official is hereby authorized and empowered to order and require the occupants to vacate the premises. The Code Enforcement Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the City of Charlestown." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(j) *Demolition.*

(1) *General.* This section shall only apply when demolition is ordered pursuant to the enforcement of subsection (i) of this section.

(2) *Salvage of materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable within thirty (30) days of demolition. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

(k) *Transfer of ownership.* No owner of any dwelling unit or structure or improvement who has received a correction order or upon whom a notice of violation has been served shall sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the correction order have been complied with, or until such owner first furnishes the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Enforcement Official and furnishes to the Code Enforcement Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such correction order or notice of violation and fully accepting the responsibility without condition for making corrections or repairs required by such correction order or notice of violation.

(l) *Nonconforming conditions.* If additional nonconforming conditions are encountered during the course of any approved alteration or repair which were not considered or known initially, the Code Enforcement Official shall have the authority to require compliance with this Code of such additional conditions. The determination of what is necessary to bring such conditions into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for in this Code. The Code Enforcement Official shall have the authority to approve construction changes in the field when conditions are encountered which make the originally approved work impractical, provided such changes in approved work can be readily determined to be in compliance with this Code and are requested by the owner or the owner's agent prior to such construction changes. Such changes shall be specifically documented by the owner or the owner's agent describing the change in work and the reasons for justification for the change and shall be filed with the permit for the project.

Section 2. Definitions.

- (a) *Scope.* Unless otherwise expressly stated, the following terms shall, for purposes of this Maintenance Code, have the meanings shown in this Section.
- (b) *Terms defined in other codes.* Where terms are not defined in this Maintenance Code and are defined in the *Indiana Building Code*, *Indiana Residential Code*, *Indiana Fire Code*, *Indiana Electric Code*, *Indiana Mechanical Code*, *Indiana Energy Code*, *Indiana Accessibility Code*, *Indiana Plumbing Code*, and/or *Indiana Swimming Pool Code* such terms shall have the meanings ascribed to them in those codes, unless a term is alternatively defined by the rules of the Fire Prevention and Building Safety Commission in which case the definition of the Fire Prevention and Building Safety Commission shall apply.
- (c) *Parts.* Whenever the words Accessory Structure, Building, Dwelling Unit, Premises, Hotel, and/or Structure are stated in this Maintenance Code, they shall be construed as though they were followed by the words “or any part thereof”
- (d) *General definitions.* For purposes of this Maintenance Code, the following definitions shall apply:

Accessory Structure. A building, structure or part of a building which is secondary or subordinate in capacity or use from the main or principal building or structure on the same premises.

Approved. Approved by the Code Enforcement Official.

Basement. That portion of a building, which is partly or completely below grade.

Building. A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels, or property. When separated by firewalls, each portion of such a building shall be considered a separate structure. See also **Structure**

Code Enforcement Official. The official who is charged with the administration and enforcement of this code, or any of his or her duly authorized representatives, including, but not limited to, the City of Charlestown Code Enforcement Officers or their designees, and authorized members of the City of Charlestown Police Department.

Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Exterior Property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Hazardous Condition. Any condition likely to cause injury to any person. It shall not mean a temporary condition caused by weather such as rain, snow or ice.

Hotel. Any building containing six or more guestrooms, intended or designed to be occupied, or which are rented or hired, for sleeping purposes by guests.

Imminent Danger. A condition which poses an immediate risk of serious or life threatening injury or death if not promptly abated or remedied.

Improvement. Existing or proposed surface or subsurface improvements including, but not limited to: public drainage systems, private drainage systems, permanent or temporary buildings/structures, drives, walks, patios, irrigation systems, fences, landscaping, vegetation, decorative items, playgrounds, air conditioning units, gutters, decks, parts of permanent or temporary structures, roof overhangs, pools, permanent or temporary erosion control measures, permanent or temporary sediment control measures, permanent or temporary storm water quality measures or best management practices or other items determined by the City to be an improvement.

Infestation. The presence within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building, or having possession of a space within a building.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the office of the Clark County, Indiana Recorder holding title to the property; or otherwise having control of the property, including the guardian 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 a court.

Person. An individual, corporation, partnership or any other group acting as a unit.

Pest. Each of the following organisms when it is detrimental or injurious to persons, domestic or wild animals, useful plants, or other useful articles or substances is declared to be a pest:

- a. Mammals, including but not limited to dogs, cats, pigs, chickens, moles, bats, wild carnivores, and wild herbivores.
- b. Birds, including but not limited to starlings, house sparrows, wild pigeons and black birds.
- c. Fishes, including but not limited to alewives, sea lampreys, gizzard shad and carp.
- d. Amphibians and reptiles, including but not limited to poisonous snakes.
- e. Aquatic and terrestrial invertebrates, including but not limited to slugs, snails and crayfish.
- f. Roots and other plant parts growing where not wanted.
- g. Viruses, other than those on or in living persons and other animals.

Plumbing. Shall mean and include all the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.

Premises. A lot, plot or parcel of land or groups of lots, plots or parcels of land, whether residential, commercial or industrial, including any structures thereon or for which improvements are to be installed and/or benefit from the existence of these improvements.

Refuse. All solid waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial solid wastes or domestic solid wastes including organic wastes or residues of animals, meat, fruit, vegetables, grains or fish; animal excreta or carcasses of animals; rubbish including wood, leaves, vegetation, tree trimmings, dead trees and shrubs, branches, sawdust, shavings, grass, paper products, straw, rags, clothing and all other combustibles; waste matter composed of soil, clay, sand, earth, gravel, fill, stones, bricks, plaster, glass, glassware, crockery, ashes, cinders, shells, metal and other non-combustibles; waste debris resulting from the construction, demolition,

repair, or alteration of structures or buildings; accumulated waste materials composed of cans, containers, tires, junk, vehicle parts or other substances which may become a nuisance.

Responsible Party. Person, agent, operator, firm, corporation or federal, state or local governmental agency having primary responsibility for maintenance of improvements located on the premises, rights-of-way or easements. Said party shall be the owner unless responsibility for such maintenance is provided in other codes, restrictive covenants or is legally established to be the responsibility of another person, agent, operator, firm, corporation or federal, state or local governmental agency.

Rodent. Any of various mammals, as a mouse, rat, or squirrel, having teeth adapted for gnawing.

Rubbish. Trash, combustible and noncombustible waste materials, including, but not limited to, the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, discarded furniture, mattresses, appliance and other household materials, and dust and other similar materials.

Storage Unit. Temporary (or portable) storage units (also known as PODS, portable on-demand storage structures) shall mean any container, shipping container, storage unit, shed-like container or other structure, or assembly of materials without a permanent foundation which is so designed, constructed or reconstructed to make it portable and capable of storage of personal property of any kind, building materials (before they are utilized for building purposes), household goods, personal items and other materials, and not for occupancy by persons.

Strict Liability Offense. An offense in which the prosecution in a legal proceeding is not required to prove mental culpability, such as negligence, knowledge, or intent, as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

Structure. Anything constructed or installed, the use of which requires a location on a parcel of land. It includes a moveable structure, which is located on land, which can be used for housing, commercial, business, and agricultural or office purposes, either temporarily or permanently. The term also includes recreational vehicles to be installed on a site for more than 180 days.

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

Unsafe Structure. A structure that is found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

Vacant Structure. A structure, which is not occupied and devoid of any indicia of occupancy.

Workmanlike. Executed in a skilled manner and in accordance with accepted practice; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Section 3. General Requirements.

Ord. No. 2020-

(a) *Scope.* The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property and the installation of improvements on the premises.

(b) *Responsibility.* The owner of the premises shall maintain the structures and exterior premises in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner/occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Code. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises, which they occupy and control.

(c) *Permit responsibility.* The owner of the premises shall be responsible for obtaining the necessary improvement permits as required by the State of Indiana, Clark County, or the City of Charlestown including but not limited to electrical, plumbing, heating and cooling, structural or life safety requirements and drainage or other improvements on the premises.

(d) *Vacant structures and land.* All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, healthful and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and safety or violate the provisions of this code.

(e) Existing improvements determined to be in violation of this code or determined to be non-conforming to the current City standards shall be remedied under the provisions of this code by the owner or responsible party.

(f) Portions of existing driveways or sidewalks within the right-of-way determined to be non-conforming to the current City standards shall be remedied under the provisions of this code by the owner or responsible party.

(g) The City reserves the right to reconstruct drives and sidewalks in the right-of-way as a part of City road or other improvement projects and to make the sole determination as to an asphalt or concrete drive apron within the right-of-way and for determining the type of access provided to the reconstructed driveway that is in the best interest of public safety.

Section 4. Exterior Property Areas.

(a) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner or occupant shall keep that part of the exterior property, which such occupant occupies or controls in a clean and sanitary condition.

(b) *Stairs.* Stairs and similar areas shall be kept in a proper state of repair and maintained free of hazardous conditions.

(c) *Weeds and rank vegetation.* Property shall be kept free from weeds and other rank vegetation. Weeds and other vegetation that are visible from streets or other right-of-ways shall be kept in a neat, orderly, and well maintained condition. Weeds and vegetation shall be

maintained in such a way as to not negatively impact neighboring properties' value and/or marketability.

(d) *Exhaust vents.* Pipes, chimneys, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(e) *Accessory structures.* All accessory structures on premises shall be in good condition and in compliance with the requirements of this chapter.

(f) *Swimming pools, spas and hot tubs.* Swimming pools, spas, and hot tubs shall be maintained in a clean and sanitary condition. Garbage, leaves, and rubbish shall not be allowed to accumulate in swimming pools, spas, and hot tubs.

(g) *Motor vehicles.* Property shall remain free of abandoned vehicles..

(h) *Temporary storage units.* Temporary storage units shall not be permitted to be stored on properties in excess of ten consecutive days and are subject to the accessory structure setback regulations applicable to the property's zoning district as outlined by the City of Charlestown Zoning regulations located in the City of Charlestown Zoning Ordinance 2016-OR-19, except that said storage units may sit in driveways for a period of less than ten (10) days. Temporary storage units shall not be permitted in public right-of-ways and shall not be located on lawns.

(i) *Defacement of property.* No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving, or graffiti without the consent of the owner. It shall be the responsibility of the owner to restore said surface to a state of maintenance and repair within fifteen (15) days.

(j) *Hazardous trees.* Trees located within the public right-of-way shall adhere to the following regulations and shall apply to all properties within the corporate limits of the City of Charlestown.

(1) Dead, dying, damaged or diseased trees shall be prohibited to exist or be maintained on any premises, which are hazardous to persons on adjacent property or to adjacent property.

(2) Tree stumps greater than 12 inches in height above ground level shall not be permitted or maintained on any premises for more than 30 days after the tree has been cut.

a. Exceptions:

i. Property covered by a valid improvement location permit;

ii. Property is one acre or greater in size;

(3) Fallen trees, removed tree limbs, or other portions of any tree shall not be permitted or maintained on the ground on any premises for more than 30 days.

(k) *Exterior use or storage of indoor furniture/appliances.* It shall be prohibited to store materials or objects exterior to a structure, which are customarily utilized or intended to be utilized by the manufacturer in the interior of a structure. These materials and objects shall include but are not limited to appliances, couches, furniture, mattresses, storage bins and boxes. Materials or objects temporarily placed for disposal or removal from property within two days shall be exempt from this section or those materials or objects being utilized in conjunction with a construction or other improvement project on the subject property.

Section 5. Exterior Structure.

(a) *General.* The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(b) *Protective treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. 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 chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(c) *Structural members.* All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

(d) *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and capable of supporting the imposed loads. Foundation walls shall be kept in such condition so as to prevent the entry of rodents and other pests. Mortar joints shall be maintained.

(e) *Exterior walls.* All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration.

(f) *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof drain discharges shall be discharged as a legal connection or a legal discharge. Inappropriate or temporary roofing coverings including but not limited to tarps shall be deemed inadequate protection and not uniform and as such shall be prohibited for a period exceeding thirty (30) consecutive days.

(g) *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(h) *Overhang extensions.* All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, stand pipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(i) *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the designed loads.

(j) *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(k) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(l) *Window, skylight and doors.* Every window, skylight and door shall be kept in sound condition, weather tight, and in good repair. All glazing materials shall be maintained free from cracks and holes. Every window, other than a fixed window, shall be easily openable and capable of being locked and held in position by window hardware. No special tools or knowledge shall be required to open a window. If it is necessary to attach boards over broken or damaged windows, such boards shall not be permitted after ten (10) consecutive days. Exterior doors, door assemblies, and hardware shall be maintained in good condition.

(m) *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water and be capable of supporting normally imposed loads.

(n) *Basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

(o) *Guards for area wells.* Guardrails or covers shall be required for area wells deeper than 30 inches and located within 10 feet of the corner of a building.

(p) *Fences.* Fences shall be maintained in good repair and condition, constructed of durable and uniform materials, and be properly treated for the elements.

Section 6. Extermination.

(a) *Infestation.* All structures shall be kept free from insect, pest, bug and rodent infestation. All structures in which insects, bugs, pests or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

(b) *Owner.* The owner of any structure shall be responsible for extermination within the structure.

(c) *Single occupant.* The occupant of a single-family dwelling or of a single-tenant nonresidential structure shall also be responsible for extermination on the premises.

(d) *Multiple occupancy.* The owner of a structure containing two or more dwelling units, a multiple occupancy, or a multiple-tenant nonresidential structure shall be responsible for extermination in all areas of the structure and exterior property.

Section 7. Garbage, Refuse, and Trash.

(a) *Accumulation of rubbish or garbage prohibited.* All exterior property and premises shall be free from any accumulation of rubbish and garbage.

(b) *Proper and timely removal of trash and debris.* The owner, tenant, resident or agent of any residential or business structure shall hold all garbage in suitable containers with tight covers that shall be removed and properly disposed of; and at no time shall be maintained in a manner as to present an extreme pungent or foul smell as to cause the adjoining property owners the loss of peaceful enjoyment of their property. All residual trash surrounding trash receptacles shall be immediately removed after being removed/picked-up by the contracted service.

(c) *Weekly removal of garbage required at private residences or dwellings.* Every person owning or controlling, whether as principal or agent, or occupying any private residence or dwelling, which by reason of said occupancy accumulates garbage shall keep such garbage in suitable containers which shall be properly disposed of at least once a week.

(d) *Rubbish collection and disposal required weekly.* Every person owning or acting as agent for any business, office, theater or other place of business, and every person owning or controlling, whether as principal or agent, or occupying any private residence or dwelling shall collect all rubbish accumulating on the premises in suitable containers and shall properly dispose of such rubbish at least weekly.

(e) *Location of refuse containers.* For residential properties, when not placed at the curbside for pick up, all refuse containers shall be maintained beyond the front yard building line.

(f) *Requirements for transportation of garbage.*

(1) If in the disposal of garbage, it becomes necessary to transport the same within the City, such garbage shall be transported only in tight, covered containers.

(2) No person shall haul on any street or alley any rubbish, ashes, earth, sand, stone, or other material liable to become scattered on the streets, except in a vehicle provided with a closed or open box well-closed on the sides so as to retain such materials. No person shall scatter any such materials from any vehicle upon any street or alley.

Sec. 8. Abandoned Vehicles Declared Public Nuisance.

(a) Because of the danger to the health from harboring vermin, the danger of personal injury to children attracted by such vehicles, danger of fire by the storage of gasoline and oil thereon, any abandoned, unlicensed, inoperable, disassembled, wrecked or junked motor vehicle on any street or public property for more than 24 hours or upon any private property for more than 48 hours, except as hereinafter provided, is declared to be a nuisance and unlawful.

(b) The Police Department is designated as the “public agency” within the meaning of Ind. Code § 9-13-2-1 and Ind. Code § 9-22-1-3 which has the responsibility for the removal, storage, and disposal of abandoned vehicles.

(c) *Abandoned Vehicle means:*

(1) A vehicle located on public property illegally, or a vehicle left on public property continuously without being moved, for more than twenty-four (24) hours;

(2) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way;

(3) A vehicle that has remained on private property without the consent of the owner, or person in control, of that property, for more than forty-eight (48) hours;

(4) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperable and left on public property;

(5) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance if the vehicle once impounded is not claimed or redeemed by the owner or his agent within 20 days of its removal; or

(6) A vehicle that is at least three (3) model years old and mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days. A vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is still considered visible.

(d) All other terms defined in Ind. Code § 9-22-1-1 *et seq.* as amended are incorporated herein by reference.

(e) This article does not apply to:

(1) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways;

(2) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment;

(3) A vehicle located on a vehicle sale lot or at a commercial vehicle servicing facility;

(4) A vehicle located upon property licensed or zoned as an automobile scrap yard;

(5) A vehicle registered and licensed under Ind. Code § 9-18-12, as an antique vehicle.

(f) *Time limits.*

It shall be unlawful for any person to store or allow to remain in the open upon any public street, public property or private property within the City, any disassembled or inoperable and unlicensed, or any junked, wrecked or abandoned motor vehicle for a period of 24 hours or more on such public street or other public property, or for a period of 48 hours or more on any private property, unless it is in connection with an automotive sales or repair enterprise, which is operated under a duly issued and exhibited store license and is located in a properly zoned area.

(g) *Public property.*

(1) Whenever the Chief of Police, his designee, the Charlestown Building Commissioner and/or the Charlestown Director of Planning and Zoning shall find such vehicle placed or stored in the open upon a public highway, alley, or thoroughfare, or other public property, within the City, he shall issue an order to the owner of such vehicle, if known, to remove such vehicle within three (3) days.

(2) Notice of such order shall be given to such owner, if known, in writing, but if such owner shall be unknown, such written notice shall be placed in plain view upon the vehicle.

(3) If such vehicle is not removed within three (3) days after such notice, the Chief of Police, his designee, the Charlestown Building Commissioner and/or the Charlestown Director of Planning and Zoning shall cause said vehicle to be removed by a junk or salvage yard or wrecker service, the cost and expense of such removal by a junk or salvage yard or by a wrecker service to be paid by the owner of the vehicle.

(4) Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the Chief of Police, his designee, the Charlestown Building Commissioner, the Charlestown Director of Planning and Zoning, or upon the order of the Judge of the Clark County Court.

(5) The form of all notices shall be issued pursuant to the provisions of Ind. Code § 9-22-1-11.

(h) *Private property.*

(1) Whenever the Chief of Police, his designee, the Charlestown Building Commissioner and/or the City of Charlestown Director of Planning and Zoning shall find such vehicle placed or stored in the open upon private property, within the City, he shall issue an order to the owner of such vehicle, if known, or the person who owns or controls the private property upon which such vehicle is placed or stored according to the procedures set forth in Ind. Code § 9-22-1-11 through 9-22-1-14.

(2) Impounded vehicles shall be released either upon payment by the owner, operator, or authorized representative of same, of the fees charged for towing and storage, or upon order of the Chief of Police, his designee, the Charlestown Building Commissioner, the Charlestown Director of Planning and Zoning or upon the order of the Judge of the Clark County Circuit Court.

(i) *Enforcement.*

(1) If such vehicle is not removed within three days after such notice, the Chief of Police, his designee and/or the City of Charlestown Building Commissioner and/or the Charlestown Director of Planning and Zoning in accordance with this ordinance shall issue a written order in violation of Section 1 (f), 1(f)(1) and Section 8 of this code, which is subject to civil penalties of this Code and enforcement shall be by the City's Counsel or his/her designee and appropriate action by the City of Charlestown Board of Public Works and Safety..

(2) The form of all notices shall be issued pursuant to the provisions of Ind. Code § 9-22-1-11.

(3) Any person who is judged to have violated the provisions of this Code is subject to a fine of up to \$500 in addition to towing and storage charges.

(4) All provisions and respective civil penalties are designed for enforcement through the Clark County Circuit Court.

(j) *Disposal and sale of abandoned vehicles.*

(1) The provisions of Ind. Code § 9-22-1-27 *et seq.*, shall govern the disposition and sale of abandoned vehicles.

(2) The market value of an abandoned vehicle or vehicle parts below which an officer of the Police Department may dispose of the vehicle or parts pursuant to Ind. Code § 9-22-1-1 *et seq.* is Five Hundred Dollars (\$500.00).

(k) *Towing and storage charges of abandoned vehicles.*

(1) An owner or lienholder who claims a vehicle impounded and declared abandoned by the Charlestown Police Department, the Charlestown Building Commissioner and/or the Charlestown Director of Planning and Zoning shall be charged a towing fee and a per day storage fee. The storage fee shall be allowed to accumulate for a maximum period of 60 days.

(l) Definition of junk and junk cars.

(1) The word **Junk** used in this Article shall mean any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or cast-off metals or materials, namely, iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics, and synthetic substances and fabrics, bottles, papers, feathers, vehicle parts or parts thereof; used tires, used appliances, furniture intended for indoor use or any other waste material or any compound or by-product of the foregoing enumerated materials; junk shall also include and mean, wrecked, abandoned or dismantled automobile or parts thereof.

(2) For the purpose of this Article, a **Junk Car** shall mean any motor vehicle which does not bear a currently valid license plate, and is not kept in a garage or building.

(m) Junk and junk cars declared nuisances.

Because of the danger of health by the harborage of vermin, pests, rodents, bugs and insects and because of the danger of the safety of children attracted by junk or junk cars, abandoned and junked motor vehicles are declared to be nuisances except in lawfully operated junk yards.

(n) Storage prohibited.

It shall be unlawful for any person to store or to allow to remain in the open upon public or private property within the City, any disassembled and/or non-operative and unlicensed, or junked, wrecked or abandoned motor vehicle for a period of 24 hours or more on public property, or a period of 48 hours or more on private property unless it is in connection with an automobile sale or repair business.

Sec. 9. Vehicles-General.

(a) Definitions:

RV - Means a vehicle designed primarily for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle, including travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.

Trailer – Means any vehicle which can be utilized in the transportation or moving of various items and which can be towed, pushed or pulled by other means. This shall include but is not limited to trailers utilized for the moving and/or storage of boats, ATV's, wood, garbage.

Mobile Business Vehicles (MBV). – Means any vehicle that is utilized on site as a place of doing business, has a primary use other than transportation to and from a business or job related facility. The vehicle is considered mobile as long as it can be self motorized, pushed, pulled and/or towed in such a manner as to be capable of mobility. For the purpose of this ordinance, Mobile Food Vehicles are excluded from this definition. (See definition of a Mobile Food Vehicle).

Mobile Food Vehicle – Means any vehicle which sole purpose is that of temporarily locating upon a public street, right-of-way and/or public property for the sale/resale of food items.

(b) On-Street Parking.

Parking upon a public street, right-of-way or public property not designated for such by an RV, Trailer, and/or MBV shall be strictly prohibited. *(Any RV, Trailer, and/or MBV which is properly attached to a registered automotive vehicle which is designed and intended for towing shall be excluded from this requirement; also,* Parking upon a public street, right-of-way and/or public property is permitted for an MFV as long as the owner/operator of such MFV has permission (written or verbal) from the municipality and/or property owner to locate the MFV on said property, public street and/or right-of-way.

(c) Vehicle Parking Surface

All vehicles as defined by the Indiana Bureau of Motor Vehicles & Department of Transportation must be parked on a hard pan surface such as asphalt, concrete, gravel or any surface approved by the City of Charlestown Office of Planning and Zoning or the Charlestown Building Commissioner. Parking of any type of vehicle(s) on more than twenty-five (25%) of any single property and/or inclusive of adjoined property ownership shall be prohibited.

(d) Occupancy.

Permanent or temporary occupancy of an RV, Trailer and/or Mobile Business Vehicles located upon public or private property which is secondary to the primary structure located on the property as designated by the City of Charlestown and/or Clark County Clerks Office is strictly prohibited. MFVs may only be occupied for the use for which they are intended.

(e) Utility Services.

The improper attachment of electrical, water or sewer service by means of extension cords, sewage disposal tanks (stationary and mobile) or garden hose, which as designated by the City of Charlestown Code Enforcement Officer or his designee as a hazardous condition shall be prohibited and shall be subject to immediate removal.

Sec. 10. Severability.

The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be

declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Sec. 11. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law, and upon being approved by the Indiana Fire Prevention and Building & Safety Commission pursuant to Ind. § 22-13-2-5 and § 22-13-2-5.5

	In Favor	Opposed	Abstained
Brian Hester			
	In Favor	Opposed	Abstained
Bo Bertram			
	In Favor	Opposed	Abstained
Ruthie Jackson			
	In Favor	Opposed	Abstained
B. J. Steele			
	In Favor	Opposed	Abstained
J. T. Cox			

THIS ORDINANCE WAS APPROVED upon this date:_____.

Treva Hodges, Mayor

ATTEST:

Date

Donna Coomer
City Clerk-Treasurer

Ord. No. 2020-