

**City of Charlestown, Indiana Common Council**

**Amendment Ordinance No. 2020-OR-05**

**An Ordinance Amending the Property Maintenance Codes**

WHEREAS, the Common Council has determined that it is necessary to adopt a Property Maintenance Code to protect the health, safety and general welfare of the citizens of Charlestown, Indiana;

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

WHEREAS, the City of Charlestown, Indiana is hereby authorized to perform inspections, issue notices, collect fees and penalties, hold hearings, and is authorized to perform all actions necessary for the administration and enforcement of the Property Maintenance Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN, INDIANA, ESTABLISHES THE PROPERTY MAINTENANCE CODE:

**Article I. General Requirements**

**Section 1 – Title**

This ordinance and all material included by reference shall be known as the Property Maintenance Code for the City of Charlestown, Indiana as follows:

**Section 2 – Purpose**

The purpose of this ordinance is to protect the life, public safety, health, and general welfare of the citizens of Charlestown, Indiana and shall be construed in such a manner as to affect this purpose.

**Section 3 – Scope**

This code applies all existing building, accessory buildings, and their property.

**Section 4. – Authority**

The Building Commissioner for the City of Charlestown, Indiana or their designee is hereby authorized to enforce this ordinance.

**Section 5. – Severability**

Should any provision (section, clause, phrase, word, or any other portion) of this Ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining

provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this ordinance. To this end, the provisions of this Ordinance are severable.

## **Article II. Definitions.**

For purposes of the Maintenance Code, the following definitions shall apply:

***Abandoned Vehicle.*** As defined in IC 9-13-2.

***Building Commissioner.*** Means the Building Commissioner for the City of Charlestown, Indiana.

***City.*** As used in this code means the City of Charlestown, Indiana.

***Extermination.*** The control and elimination of insects, rodents, vermin, 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.*** All putrescible animal solid, vegetable solid, and semi-solid wastes from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

***Infestation.*** The presence within a building of insects, bugs, rodents, vermin, bed bugs or other pests.

***Owner.*** Any person having a legal or equitable interest in the property.

***Person.*** An individual, firm, corporation, partnership, association, or limited liability corporation/company.

***Pest.*** As defined in IC 16-41-33.

***Property.*** Means real property, of a lot, plot, parcel of land, or groups of lots,

***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 residue of animals, meat, fruit, vegetables, grains or fish; animal 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.

***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, appliances and other household materials, dust and other similar materials.

***Tenant.*** a person who holds or possesses lands for a period of time, tenements, or personally of another, usually for rent.

### **Article III. Safe and Sanitary.**

Property within the City of Charlestown shall be maintained in a clean, safe, and sanitary condition free of all debris, trash, rubbish, and garbage.

### **Article IV. Driveway Aprons and Curb Cuts.**

#### ***(A) City Right-of-Way Improvement Projects.***

- (1) The City as part of city right-of-way improvement projects may construct or re-construct a driveway apron.
- (2) The type of materials may be asphalt or concrete drive apron within the right-of-way and the determination of materials is based upon the requirements of the right-of-way improvement project.

#### ***(B) Owner(s) Responsibility***

- (1) Owner(s) of property with a driveway apron located within the city's right-of-way are responsible for the maintenance of drive aprons, up to and including replacement of drive apron, to those specifications as established by the City.
- (2) Prior to repairs to the drive apron within the City's right-of-way, the owner shall receive approval from the Board of Public Works and Safety.

#### ***(C) Written Notice.***

- (1) Owner(s) who fail to maintain the drive apron located within the City's right-of-way; the owner shall be notified in writing of the required maintenance needed to return the drive apron to the specifications of the City.

- (2) Written notice shall be provided to the owner(s) of record by Certified Mail, Return Receipt Required, to the last know mailing address on file in the Clark County Treasurer's Office.

*(D) Expenses Incurred.*

- (1) Owner(s) who fail to comply with written notices of required maintenance shall be responsible for costs and expenses incurred by the City associated with making the required maintenance repairs to the City's specification.
- (2) The City shall provide the owner(s) written documentation of the expenses incurred allowing the owner to remit payment to the City within fifteen (15) days of the date stated in the written notice of the expense.
- (3) If the Owner(s) fail to remit payment to the City by the date stated in the written notice, the City may proceed with seeking payment of expenses through a court of competent jurisdiction seeking to attach expenses for collection through property taxes.

**Article V. Sidewalks**

*(A). City Right-of-Way Improvement Projects.*

The City as a part of a City project to improve the City's right-of-way may construct or reconstruct sidewalks.

*(B). Owners Responsibility*

- (1). Owners of property with sidewalks located within the City of Charlestown right-of-way are responsibility for the maintenance of sidewalks, up to and including replacement of sidewalks to those specifications as established by the City for public sidewalks.
- (2). Sidewalks shall not be obstructed with construction materials, barrels, kegs, signs, wares, agricultural implements, merchandise, or other materials.

*Exceptions.* This section shall not prohibit loading and unloading merchandise or other articles required to be carried or transported over and across any sidewalk.

- (3). Owner(s) and/or occupant(s) shall not permit water from tanks, pipes, condensate drain and/or other containers to convey water to flow in such manner that will be discharged on the sidewalk.

*Exception:* Sprinkling of a lawn.

*(C). Written Notice.*

- (1). If the Owner(s) fail to maintain the sidewalk within the city's right-of-way, the owner shall be notified in writing of the required maintenance needed to return the sidewalk to the specifications of the City.
- (2). Written notice shall be provided to the owner(s) of record by Certified Mail, Return Receipt Required, to the last known mailing address on file in the Clark County Treasurer's Office.

*(D). Expenses Incurred.*

- (1). If the Owner(s) fail to comply with written notices of required maintenance, Owner(s) shall be responsible for costs and expenses incurred by the City associated with making the required maintenance repairs to the City's specification.
- (2). The City shall provide the owner(s) written documentation of the expenses incurred allowing the owner to remit payment to the City within fifteen (15) days of the date stated in the written notice of the expense.
- (3). Owner(s) who fail to remit payment to the City by the date stated in the written notice, the City may proceed with seeking payment of expenses through a court of competent jurisdiction seeking to attach expenses for collection through property taxes.

**Article VI     Trees and Shrubs**

*(A). Owner's Responsibility.*

The City is not responsible for maintaining tree(s) or shrub(s) owned by property owner(s), nor any other tree(s) or shrub(s) which might be near or on the City's right-of-way or located in a yard adjacent to the street, alley or the City's right-of-way.

*(B). City's Maintenance of street(s), alley(s) or City's right-of-way.*

- (1). Any tree(s) or shrub(s) which interferes or prevents the city's maintenance of a street(s), alley(s) or the City's right-of-way shall be removed or trimmed by the property(s) owner to provide access for the City to perform maintenance.
- (2). If the City is unable to perform maintenance of the City's street(s), alley(s) or City's right-of-way, the property owner(s) shall be provided written notice stating tree(s) or shrub(s) interfering or preventing the city from maintaining street(s), alley(s), or the City's right-of-way with thirty (30) days of notice.

- (3). Failure to remove or trim stated tree(s) or shrub(s) by the date stated in the written notice, the city may proceed with trimming or removing specific tree(s) or shrub(s).

*(C.) Tree(s) or Shrub(s) blocking or interfering with viewing clearance at corners.*

- (1). Owner(s) of tree(s) or shrub(s) which block or interfere with viewing clearance at corners of intersections at street(s) or alley(s) shall be notified in writing stating tree(s) or shrub(s) blocking or interfering with viewing clearance at corners of intersections to be removed or trimmed within fifteen (15) days of notice.
- (2). If the Owner(s) fail to remove or trim said specific tree(s) or shrubs(s) by the date stated in the written notice, the City may proceed with trimming or removing the specified tree(s) or shrub(s).

*(D). Dead or diseased tree removal.*

- (1). To determine if tree(s) or shrub(s) are dead or diseased, the City may employ an Arborist to make the determination if said tree(s) or shrub(s) are dead and/or diseased which constitutes a hazard to the city's street(s), alley(s), or City's right-of-way.
- (2). The City shall provide written notice to the Owner(s) in writing and provide a copy of the Arborist report determining that the specific tree(s) or shrub(s) are dead and/or diseased constitutes a hazard to the City's street(s), alley(s) or City's right-of-way to remove within fifteen (15) days of notice.
- (3.) If the Owner(s) fail to remove dead and/or diseased tree(s) or shrub(s) identified in the Arborist report by the date stated in the written notice, the City may proceed with removal of dead or diseased tree(s) or shrub(s).

*(E). Fallen tree(s) or shrub(s) and debris*

- (1). Owner(s) who are in receipt of written notice from the City shall remove all debris from the property within thirty (30) days from the date work began to comply with the City's written notice.
- (2). Owner(s) of property who are not in receipt of written Notice for Compliance, and have felled tree(s) or shrub(s) from natural occurrences or undertaken by owner(s) and/or occupant initiative shall have all debris removed from the property within thirty (30) days of natural occurrences or owner(s)/occupant initiative began.

*(F). Stump Removal.*

Tree(s) or shrub(s) removed in response to written notice shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

*(G). Expenses Incurred.*

- (1). Owner(s) who fail to comply with written notices for removal and/or trimming of tree(s) or shrub(s) shall be responsible for costs and expenses incurred by the City associated with removal, trimming, disposal, and clean-up.
- (2). The City shall provide the Owner(s) written documentation of the expenses incurred allowing the Owner(s) to remit payment to the City within fifteen (15) days of the date stated in the written notice.
- (3). If the Owner(s) fail to remit payment to the City by the date stated in the written notice, the City may proceed with seeking payment of expenses through a court of competent jurisdiction seeking to attach expenses for collection through property taxes.

*(H). Written Notice.*

Written notice shall be provided to the owner(s) of record by Certified Mail, Return Receipt Required, to the last know mailing address on file in the Clark County Treasurer's Office.

**Article VII     Enforcement and Inspections**

*(A). Inspections.*

The Building Commission or their designee shall make inspections for the enforcement of this code.

*(B). Right of Entry*

- (1). All inspections of property shall be made from the City's public right-of-way.
  - (2). If the inspection cannot be accomplished from the City's public right-of-way:
    - (a) The Owner(s) of the property may grant permission in writing to the Building Commission to enter said property to perform necessary inspection(s).
- Or
- (b) The Building Commissioner may apply to a court of competent jurisdiction for a probable cause search warrant stipulating the purpose of the inspection.

- (3). If the Building Commissioner receives a complaint reference the possibility of infestation of bugs, insects, vermin, rodents or bed bugs the Building Commissioner shall forward all pertinent information, such as Owner(s)/Occupant(s) name, address of the property and contact information to the Clark County Health Department.

*(C). Appeal of written notice.*

- (1). Owner(s) in receipt written notice from the Building Commissioner may appeal in writing to the City of Charlestown, Indiana Board of Public Works and Safety stating the purpose for the appeal of the written notice.
- (2). The Charlestown, Indiana Board of Public Works and Safety shall schedule said appeal for the next scheduled meeting of the Board of Public Works and Safety.
- (3). The Owner(s) shall appear at the schedule Board of Public Works and Safety and state their appeal to the written notice.

*(D). Board of Public Works and Safety Decision*

- (1). The Board of Public Works and Safety may:
  - (a) Uphold the written notice;

Or;

  - (b) Modify the written notice.
- (2). The decision of the Board of Public Works and Safety shall be provided in writing to the owner(s) and made a part of the minutes stating the Board of Public Works and Safety determination.
- (3). The Board of Public Works and Safety determination shall be mailed to the owner(s) by Certified Mail, Return Receipt required to the last known mailing address on file in the Clark County Treasurer's Office.
- (4). If the Owner(s) do not agree with the Board of Public Works and Safety the Owner(s) may seek judicial review in the Clark County Indiana Circuit Court of the Board of Public Works and Safety determination no later than thirty (30) days after receipt of the Board of Public Works and Safety determination.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN, INDIANA this ordinance shall be in full force and effect the and after it passage and signatures by the Common Council of the City of Charlestown, Indiana, and as provided by law, and upon any further requirements under Indiana Law.



DULY ORDERED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN,  
INDIANA this \_\_\_\_\_ day of \_\_\_\_\_ 2020

COMMON COUNCIL, CITY OF CHARLESTOWN, INDIANA.

_____ Bo Bertram	_____ In Favor	_____ Opposed	_____ Abstained
---------------------	-------------------	------------------	--------------------

_____ Brian Hester	_____ In Favor	_____ Opposed	_____ Abstained
-----------------------	-------------------	------------------	--------------------

_____ Ruthie Jackson	_____ In Favor	_____ Opposed	_____ Abstained
-------------------------	-------------------	------------------	--------------------

_____ B. J. Steele	_____ In Favor	_____ Opposed	_____ Abstained
-----------------------	-------------------	------------------	--------------------

_____ J. T. Cox	_____ In Favor	_____ Opposed	_____ Abstained
--------------------	-------------------	------------------	--------------------

This Ordinance was Approved upon this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Treva Hodges, Mayor

**ATTEST:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Donna Coomer, Clerk-Treasurer