

ORDINANCE NO. 2022-1, 12-12
THE PROPERTY MAINTENANCE CODE
OF THE TOWN OF MOUNT CARMEL
(Includes entire Property Code)

An ordinance of the Town of Mount Carmel adopting the Property Maintenance Code of the Town of Mount Carmel, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the Town of Mount Carmel; providing for the issuance of permits and collection of fees therefore; repealing all other ordinances and parts of the ordinances in conflict therewith.

The Town Council of the Town of Mount Carmel does ordain as follows:

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

CHAPTER 1 – ADMINISTRATION

SECTION 101
GENERAL

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of the Town of Mount Carmel, hereinafter referred to as “this code” and hereby adopts Indiana Code Chapter 36-7-9, which establishes the Indiana Unsafe Building Law and explicitly incorporates by reference the definition of “substantial property interest” found in Indiana Code Section 36-7-9-2.

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection for the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and

occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures 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.

101.4 Severability. If a section, subsection, 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.

SECTION 102 APPLICABILITY

102.1 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern. In the event that a provision of this code differs from any rule of the Indiana Fire Prevention and Building Safety Commission, the rule of the Commission shall govern.

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 General. The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.

103.2 Appointment. The code official shall be appointed by the chief appointing authority of the jurisdiction; and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

SECTION 104 VIOLATIONS

104.1 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.

104.2 Notice of violation. The code official or Town Council shall serve a notice of violation or order in accordance with Section 105.

104.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 105 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict

liability offense. If the notice of violation is not complied with, the code official shall institute 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. Any action taken by the Town of Mount Carmel on such premises shall be charged against the real estate upon which the structure is located and shall be certified to the Franklin County Assessor and included on the next real estate tax bill as a lien upon such real estate.

104.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served in accordance with Section 105, and a reasonable amount of time for repairs or improvements has passed as stated in Section 105, notice shall be deemed a separate offense.

104.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premise, or to stop an illegal act, conduct, business or utilization of the building, structure or premise.

SECTION 105 NOTICES AND ORDERS

105.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 105.2 and 105.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 106.3.

105.2 Form. Such notice prescribed in Section 105.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing 30 days to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 104.3.

105.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or

3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

105.4 Penalties. Penalties for noncompliance with orders and notices shall be as set forth as follows:

1. \$100 fine for the first day after the reasonable time set forth in the notice provided in accordance with Section 105.2.
2. \$10 fine for each subsequent day.

105.5 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 106 UNSAFE STRUCTURES AND EQUIPMENT

106.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned per the Health Department Procedures pursuant to the provisions of this code.

106.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

106.1.2 Unlawful structures. An unlawful structure is one found in whole or in part to be occupied by more person than permitted under this code, or was erected, altered or occupied contrary to law.

106.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons

and the cost thereof shall be charged against the real estate upon which the structure is located and shall be certified to the Franklin County Assessor and included on the next real estate tax bill as a lien upon such real estate and may be collected by any other legal means.

106.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 105.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 105.2.

106.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

106.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

106.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

SECTION 107 EMERGENCY MEASURES

107.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, 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 official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code 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 Code Official.” 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.

107.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

107.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

107.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

107.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

107.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 108 DEMOLITION

108.1 General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

108.2 Notices and orders. All notices and order shall comply with Section 105.

108.3 Failure to comply. If the owner of a premise fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

108.4 Salvage 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 prices obtainable. 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.

CHAPTER 2 – DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral; the singular number includes the plural and the plural, the singular.

201.3 Terms not defined. Where terms are not defined herein, such terms shall have ordinarily accepted meanings such as the context implies.

201.4 Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit,” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

See Indiana Code 22-12 and the Rules of the Fire Prevention and Building Safety Commission at 675 IAC.

CHAPTER 3 – GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property 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 chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

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

302.2 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 104.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

302.3 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.4 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an enclosed structure.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed for such purposes.

302.5 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. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 303
SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

302.2 Enclosures. All pools must be fenced in at all times. See Indiana Swimming Pool Code at 675 IAC 20 for specific requirements.

SECTION 304
EXTERIOR STRUCTURE

304.1 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.

304.2 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 and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premise identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background.

304.4 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in 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.

304.5 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 imposed loads.

304.6 Chimney 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.

304.7 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.

304.8 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.9 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.10 Insect screens. Any screens used at any time in a door, window, or other outside opening for ventilation shall be maintained with tightly fitting screens with no rips or tears.

304.11 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Approved locking devices at all entrances to dwelling units and sleeping units shall tightly secure the door.

304.12 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.13 Guards for 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.

304.14 Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with approved devices designed to provide security for the occupants and property within.

304.14.1 Windows. Operable windows located in whole or in part within 6 feet above ground level or a walking surface below that provides access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

304.14.2 Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

SECTION 306 HANDRAILS AND GUARDRAILS

306.1 General. See the rules of the Fire Prevention and Building Safety Commission and Indiana State Statutes.

SECTION 307 RUBBISH AND GARBAGE

307.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

307.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

307.2.1 Rubbish storage facilities. The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

307.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors. Removal from the premise must be within 30 days.

307.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

307.4 Containers. The operator of every establishment that produces garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 308 EXTERMINATION

308.1 Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

308.2 Single occupant. The owner of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

308.3 Multiple occupancy. The owner of structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public and shared areas of the structure and exterior property. If infestation is caused by the failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

**SECTION 309
EFFECTIVE DATE**

This ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Section 36-5-2-10.

Approved and adopted unanimously by the Town Council of the Town of Mount Carmel, Indiana, on this 12th day of December, 2022.

Mount Carmel Town Council
Town of Mount Carmel, Indiana

Eddie Walker, President

Emily Ruffier, Vice-President

Elizabeth Lane, Member

Brent Hood, Member

Attest

Catherine Walker, Clerk Treasurer