

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SALEM,
INDIANA, ESTABLISHING THE MINIMUM STANDARDS FOR PROPERTY
MAINTENANCE WITHIN THE CITY LIMITS OF SALEM INDIANA,**

TITLE XIII: GENERAL OFFENSES

130. GENERAL OFFENSES

131. PROPERTY MAINTENANCE

Section:

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§ 131.01 Property Maintenance Code

The City of Salem has now enacted a Property Maintenance Code that applies to residential and non-residential structures and exterior premises in order to protect, preserve, and promote physical and mental health and the social well-being of the people of Salem; to prevent and control the incident of communicable diseases; to reduce environmental hazards to health; to protect safety; promote the general welfare; to eliminate blight; and ensure the proper and safe maintenance of properties.

§ 131.02 Property Maintenance Violations

If the Office of Building and Safety (the "Code Enforcement Agency") or the Building Inspector (the "Code Enforcement Official") determines that a property maintenance code violation exists on your property, the property owner/tenant/responsible tenant/occupant will receive either a written warning citation or an official citation. The citation will provide a statement of the violation and the actions needed to be taken to correct the violation.

Unless it is an emergency condition where safety is impacted, the property owner/tenant/responsible party/occupant will be provided at least ten (10) days to correct the violation. It will also provide a method to appeal the citation to the Board of Public Works and Safety. If the property owner/tenant/responsible party/occupant does not timely abate the violation or successfully appeal it to the Board of Public Works and Safety, they shall incur a fine of \$50 per day for first time violations, and \$100 per day for repeat violations.

§ 131.03 Administration

(a) General

(1) *Title.* These regulations shall be known as the Property Maintenance Code of the City of Salem, 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 Unsafe Buildings (Section § 155) and any other Fire Prevention and Building Safety Codes or Ordinances.

(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.

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

(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*, 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 rules of the Fire Prevention and Building Safety Commission or 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 Salem 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 shall govern.

§ 131.04 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". The Code Enforcement Agency shall be the Office of Building and Safety, reviewed by the City Board of Public Works and Safety. The Code Enforcement official shall be the City Building Inspector, subject to review of the Mayor and the City Board of Public Works and Safety.

(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, except to the extent that said connection results from the official's or employee's Ownership of or tenancy in said Building or Improvement.

(3) Liability.

(1) 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.

(2) 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.

(3) Duties and powers of Code Enforcement Official.

- i. *General.* The Code Enforcement Official shall enforce the provisions of this code.
- ii. *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.
- iii. *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:
 1. 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.

(4) The Code Enforcement Official shall furnish to the Owner, Tenant, Responsible Party, or Occupant of the Building, Structure, or Premises sought to be inspected, sufficient identification and information to enable the Owner, Tenant, Responsible Party, or Occupant to determine the purpose of the inspection, and that the Person is a representative of the City.

(5) 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, Responsible Party, or Occupant shall refuse to grant entry and shall request a Salem Police Officer to accompany him/her to the Premises.

(6) *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.

§ 131.04 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.* Whenever the Code Enforcement Official determines that a violation of this Property Maintenance Code exists, a Notice of Violation and request for abatement shall be served upon the Owner and/or Occupant and/or Responsible Party, including, but not limited to, any Tenant, in accordance with subsections below.
- (3) *Prosecution of violation.* Any Person failing to comply with a notice of violation and request for abatement served in accordance with these subsections 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. The City will take enforcement action only with Persons who are Owners and/or Occupants and/or Responsible Parties at the time the violation is identified.
- (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. Daily fines shall continue to accumulate until

the total of said fines reaches the small claims jurisdictional limit of the Washington Circuit and Superior Courts, Magistrate Division, and/or compliance with this Property Maintenance Code is achieved.

- (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. Daily fines shall continue to accumulate until the total of said fines reaches the small claims jurisdictional limit of the Washington Circuit and Superior Courts, and/or compliance with this Property Maintenance Code is achieved. The purpose of this provision is to double the fines assessed against those Persons.
- (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 accordance with these sections
- (7) The City may direct the Owner or Occupant 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 Occupant 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 Occupant 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.

§ 131.05 Notice & Orders

- (1) *Warning citation.* It is the policy of the City of Salem 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 Occupant or Responsible Party or Other 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 Occupants or to other 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 Occupant or other 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, Occupant, or Responsible Party at the time the violation is identified.

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

- a. Be in writing;
- b. Include a description of the real estate sufficient for identification;
 - i. 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;
 - ii. 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
 - iii. 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) Emergency or Safety Concerns. When a Code Enforcement Official finds that a condition existing on a property qualifies as an Imminent Danger and/or an Emergency or Safety Concern as defined in these sections below, the Code Enforcement shall include on the Notice of Correction Order a statement indicating such a finding and allowing a period of time of not less than twenty-four (24) hours to abate the Nuisance.

(5) Method of service. Notice shall be deemed to be properly served if a copy is sent by certain return receipt mail, hand delivered by an employee of the City, or leaving a copy of the Notice at the location of the property in a conspicuous location and mailing a copy of the Notice by first class mail to the last known address of the Person to whom Notice must be given.

(6) Duplicate Notice to Property Maintenance Company. When a Code Enforcement Official has reason to believe that there is a property maintenance or servicing company monitoring a given property on behalf of the Owner, a bank holding mortgage rights to the property, or a corporate Operator, the Code Enforcement Official may provide duplicate Notice to said property maintenance or servicing company. Provision of additional Notice under this subsection shall not eliminate

any Notice requirement for the Owner or Responsible Party of the property and shall not render the property maintenance or servicing company liable for failure to abate unless otherwise provided in this Code.

(7) *Means of appeal.*

a. *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.

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

c. *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 Person whose interests are affected shall be given an opportunity to be heard.

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

i. The violator was served with a notice of correction order as provided by subsection (g) above.

ii. 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.

iii. 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 Salem Property Maintenance Code.

iv. 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 Salem 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.

v. Determination that a violation exists on the property.

e. *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.

f. *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.

g. *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.

(8) Unsafe Structures.

a. *General.* Unsafe Structures shall be regulated and enforced as provided by Salem Ordinances, Unsafe Building Regulations.

b. *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 Salem." 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.

(9) Demolition.

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

b. *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.

(10) *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.

§ 131.06 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 Property 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.

CODE ENFORCEMENT OFFICIAL. Any 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 Salem City Code Enforcement Officers or their designees, and authorized members of the Salem Police, Fire, Community Development Services, or Stormwater Departments.

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.

EMERGENCY OR SAFETY CONCERN. The presence of a condition, regardless of cause, which poses an immediate risk of injury or death if not promptly abated or remedied. This includes, but is not limited to, the presence of obstructions in rights-of-way, sidewalks, or streets; unsecured attractive Nuisances such as Abandoned Vehicles or appliances; and other extremely Hazardous Conditions.

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; or by poisonspraying, 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 of insects, rats, vermin, or other Pests within or contiguous to a Structure or Premises.

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 or property.

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 Washington County 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. An injurious or destructive insect, animal, rodent, reptile, or invasive species of plant which poses a substantial risk to human, domestic animal, or native plant species health and welfare.

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 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. In some cases, more than one Person, agent, Operator, firm, corporation, or federal, state, or local governmental agency may be concurrently classified as a Responsible Party. For violations existing on property for which more than one Responsible Party exists, any liability imposed shall be joint and several between all Responsible Parties.

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 designed, constructed, or reconstructed for Occupancy by Persons.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal 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.

TRASH. Discarded matter, waste, or refuse.

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.

WASTE. Household building debris, construction and demolition waste, household

garbage, appliances, furniture, tires, plastics, cardboard, and hazardous waste -- including household hazardous waste (HHW) such as used oil, weed killer, or swimming pool chemicals -- that is corrosive, toxic, ignitable, and/or reactive. Waste may also include abandoned vehicles or potentially dangerous chemicals and paraphernalia from illegal drug labs (e.g., meth labs).

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.

DUMPSTER. A large metal bin for Trash, Refuse, and/or Rubbish designed to be hoisted onto a specially equipped truck for emptying or hauling away. This term shall not include standard size Trashcans designed for use on residential properties.

§ 131.07 General Requirements

(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, Washington County, or the City of Salem 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, negatively impact neighboring properties' value and/or marketability, 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.

§ 131.08 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 in accordance with Salem City Code and

(d) Additionally, 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.

(e) *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.

(f) *Accessory Structures.* All Accessory Structures on Premises shall be in good condition and in compliance with the requirements of this chapter.

(g) *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.

(h) *Motor Vehicles.* Property shall remain free of abandoned vehicles and junk vehicles as stated in the Salem City Code.

(i) *Temporary Storage Units.* Storage Units shall be permitted on non-residential lots provided that they are in compliance with the Accessory Structure setback regulations contained in the Salem zoning regulations. Storage Units shall not be permitted on residential properties in excess of thirty (30) consecutive days. Temporary Storage Units on residential properties shall not be permitted in public rights-of-way or on public streets and shall not be located on lawns. Temporary Storage Units on corner lots shall not interfere with line of sight. The term "temporary Storage Unit" shall include any non-permanent Structure or container that is used to store or house personal property or debris, including, but not limited to, storage pods and roll-off boxes. Property Owners may apply to the Board of Public Works and Safety for a waiver from the requirements of this subsection which it may grant in its sole discretion based upon its analysis of the public interest.

(l) *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.* Salem City Code shall regulate trees or parts of trees located within the public right-of-way. The following regulations shall apply to all properties

within the corporate limits of the City of Salem.

(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.

(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.

(4) The regulations set forth in these subsections shall not apply to property covered by a valid Improvement location permit or properties one acre or greater in size.

(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 shall be exempt from this subsection.

(l) Any violations of the following sections of the Salem Zoning Code, found at Salem City Code may be cited as a violation of the Property Maintenance Code

- (1) Swimming Pool Fences
- (2) Paved Surface Requirements
- (3) Off-Street Parking Lots in or Abutting Residential Districts or Uses
- (4) Visibility at Street Intersections
- (5) Storage of travel trailer or RV
- (6) Storage of equipment or materials

(m) *Restrictions on Yard and Garage Sales.* All yard sales, patio sales, and garage sales of more than three (3) days within any calendar month are prohibited. The Owner or Occupant of any real property shall not allow any yard sale, patio sale or garage sale to be held on his property in violation of this subsection. No Person shall conduct such a sale so as to violate this subsection.

(n) Any violation of the Salem City Code relating to Nuisances may also be cited as a violation of the Property Maintenance Code.

(o) § 131.08 Exterior Property Areas.

(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 in accordance with Salem City Code Sections. 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.

(q) Any violation of the Salem City Code relating to Nuisances may also be cited as a violation of the Property Maintenance Code. Swimming pool fences shall also comply with the applicable requirements.

§ 131.09 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 one- 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 nonresidential Structure shall be responsible for

Extermination in all areas of the Structure and Exterior Property.

§ 131.10 Garbage, Refuse, and Trash.

(a) *Accumulation of Rubbish or Waste or Garbage Prohibited.* All Exterior Property and Premises shall be free from any accumulation of Rubbish and Garbage.

(b) *Business Establishments Required to Have Garbage Removal.* The Owner or agent of any business, Hotel, multi-family housing facility (with more than four (4) units), office or other place of business that by reason of said business accumulates Garbage shall hold such Garbage in suitable containers with tight covers that shall be removed and properly disposed of from said place of business at least three (3) times each week in the months of May, June, July, August, September, and October and at least two (2) times per week during the remaining months of each year.

(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 pickup, 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, alley, sidewalk, or drainage easement 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.

(g) *Dumpster Placement and Use.*

(1) Every dumpster shall be kept in sound condition, weather tight, and in good repair, and shall not be in such a condition as to constitute a Nuisance.

(2) All dumpsters located on residential properties, properties having a classification as a residential use under the Salem Zoning Code, or on commercial properties adjacent to residential properties shall meet the following requirements:

a. All dumpsters shall be placed in a dedicated location behind the front building line unless being emptied or actively used in conjunction with a construction or other Improvement project on the subject property. When the property at issue is a corner

property, dumpsters shall not be located in front of the building line on any side of the property facing a public street.

b. All dumpsters shall be placed on a hard surface of a uniform nature that encompasses the entire length and width of the dumpster and shall not be parked on grass or surface composed of other plant material.

c. A fence or other acceptable screen or barrier shall be erected around the entirety of the dumpster such that the dumpster is not visible from the street, and said fence or screen shall remain closed except as necessary for emptying of the dumpster.

(3) Dumpsters located on residential properties, properties having a classification as a residential use under the Salem Zoning Code, or on commercial properties adjacent to residential properties shall only be emptied between the hours of 7:00 a.m. and 9:00 p.m.

(4) Property Owners or Responsible Parties engaging or hiring commercial trash collection services other than those contracted by the City pursuant to Salem City Code and shall ensure that the commercial trash service is properly licensed under Salem City Code and shall further ensure that the commercial trash collection service abides by regulations regarding dates and times for trash pickup as set forth in the Salem City Code and this subsection.

§ 131.11 Maintenance of Commercial and Agricultural Properties

(1) All commercial or non-residential properties shall comply with the provisions of this Article in the same manner as residential properties unless an individual provision specifically states otherwise.

(2) For commercial, industrial, or other non-residential property uses adjacent to residential properties, or a property owned or occupied by a school, daycare, governmental body, or house of worship, appropriate fencing, screens, or barriers shall be erected and maintained to ensure that the use does not present a safety hazard to surrounding properties.

(3) For commercial or non-residential properties, "Responsible Party" as defined in this Article shall include any Person operating on the Premises, regardless as to whether said Person is the recorded Owner of the Premises.

(b) *Maintenance of Agricultural Properties.*

(1) *Definition of Agricultural Property.* For purposes of this Article, **AGRICULTURAL PROPERTIES** shall be defined as any portion of a parcel or lot on which agricultural activities are conducted, including but not limited to the production of crops, livestock, poultry, or horticultural products. Portions of parcels or lots used for residential purposes shall not be considered Agricultural Properties, even if a portion of a larger parcel or lot that would be properly classified as an Agricultural Property.

(2) *Application of Limitations on Weeds and Rank Vegetation.*

a. Crops grown on Agricultural Property, including hay and pasture, shall be exempt this Article and shall not be considered Weeds and Rank Vegetation.

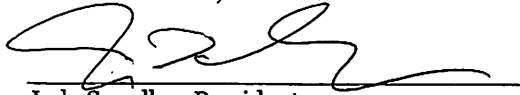
b. A Code Enforcement Official may not require that exempt crops be reduced in height or location except as necessary to maintain safe lines of sight for the use of public

streets and rights-of-way. A Code Enforcement Official must provide the Owner or Responsible Party of Agricultural Property a warning before issuing a Notice of Correction Order based upon the height and/or location of crops.

(3) Any portion of a parcel or lot that is used for residential purposes, even if located on a property zoned Agricultural under the Salem Zoning Code found in the Salem City Code, shall be required to comply with all relevant provisions of this Property Maintenance Code in the same manner as exclusively residential properties.

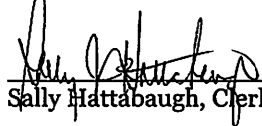
Passed and adopted this 9th day of MAY, 2022 by the Common Council of the City of Salem, Indiana.

COMMON COUNCIL
CITY OF SALEM, INDIANA

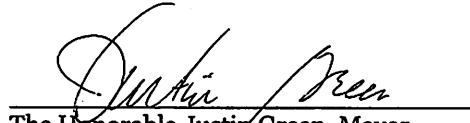


Jody Smedley, President

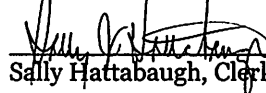
ATTEST:


Sally Hattabaugh, Clerk-Treasurer

Signed and approved by me as the Mayor of the City of Salem, Indiana this 9th day of MAY, 2022.


The Honorable Justin Green, Mayor
City of Salem, Indiana

ATTEST:


Sally Hattabaugh, Clerk-Treasurer