

TOWN OF WESTPORT, INDIANA

ORDINANCE 84-3

TOWN OF WESTPORT, INDIANA
HEALTH AND SANITATION ORDINANCE

WHEREAS, The Town of Westport desires to provide for the improved health and sanitation of its residents;

NOW, THEREFORE, BE IT ORDAINED, by the Town Board, of the Town of Westport, State of Indiana:

General

- 1.01 Weed removal
- 1.02 Animal matter and wastes
- 1.03 Litter, wastes, and junk on premises prohibited
- 1.04 Notice to correct condition
- 1.05 Performance by Town on owner's noncompliance
- 1.06 Collection of costs by Town

Buildings

- 1.15 Definitions
 - 1.16 Facilities and utilities to be safe and effective
 - 1.17 Dwelling units to be sanitary
 - 1.18 Structures to be weathertight and rodent-proof
 - 1.19 Stairs and porches to be in good repair
 - 1.20 Plumbing and flooring to be in good repair
 - 1.21 Condemnation of unfit dwellings
 - 1.22 Condemnation hearing
 - 1.23 Vacation of unfit dwelling
 - 1.24 Inspection of buildings
 - 1.25 Notice of violations
 - 1.26 Service of notice
 - 1.27 Performance by Town on owner's noncompliance
 - 1.28 Hearing on violations
 - 1.29 Record of hearing
 - 1.30 Emergency order
 - 1.31 Conflicting provisions; higher standard to prevail
- 1.99 Penalty

GENERAL

1.01 WEED REMOVAL:

Any weeds, such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of any kind or obnoxious vegetation of any kind found growing in any lot or tract of land in the Town are declared to be a nuisance and it shall be unlawful to permit any such weeds or vegetation to grow or remain in any such place.

1.02 ANIMAL MATTER AND WASTES:

(A) It shall be unlawful for any person having the ownership or control of any animal matter which is in the process of decay and is offensive or dangerous to the public health to permit the same to be and remain within the Town more than 24 hours.

(B) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage, or other objectionable wastes or waste waters.

1.03 LITTER, WASTES, AND JUNK ON PREMISES PROHIBITED:

(A) It shall be the duty of all persons owning, renting, leasing, or controlling houses or other buildings, or premises or vacant lots or tracts of land, abutting on any public street, alley, or other public way within the Town to maintain such premises in a reasonably clean and orderly manner and to a standard conforming to other orderly premises within the Town and in the vicinity of such premises.

(B) It shall be unlawful and a violation of this section for anyone to abandon, neglect, or disregard the condition or appearance of any such premises so as to permit the same to become unclean, unsightly, or unsanitary, obnoxious or a fire hazard, or a blight to the vicinity or offensive to the senses of the users of any such public way abutting such premises, and to permit an accumulation of litter or waste on such premises, including wastepaper, boxes, rags, cans, bottles, lumber, metal, garbage, or disused or inoperable motor vehicles, trailers, or machinery or appliances, furniture, or other junk thereon, for a period longer than ten days in any calendar year, unless specifically authorized under existing laws and regulations.

1.04 NOTICE TO CORRECT CONDITION:

The public Clerk-Treasurer shall serve or cause to be served a notice on the owner or occupant of any premises on which weeds or vegetation are permitted to grow in violation of 1.01 or on which litter has accumulated in violation of 1.03 and to demand the abatement of the nuisance, the cutting and destroying of such weeds or the correction of the unclean conditions within ten days. Such notice may be served on any adult occupying such premises. If no such person can be found, then such notice shall be given by U.S. Certified Mail, addressed to the person and at the address shown as the owner of such premises as the same appears on the tax duplicate.

1.05 PERFORMANCE BY TOWN UPON OWNER'S NONCOMPLIANCE:

If the person served pursuant to 1.04 does not abate the nuisance, cut and destroy the weeds, or correct the unclean conditions of such premises as specified in such notice within ten days, the Clerk-Treasurer may proceed to abate the nuisance, cut and destroy weeds, and correct the unclean conditions, keeping an account of the expense thereof, and such expense shall be charged to and paid by the owner or occupant.

1.06 COLLECTION OF COSTS BY TOWN:

Once each year the Clerk-Treasurer shall prepare, certify and forward to the County Auditor a list containing the names of the owners of property who have not paid the cost and expense incurred by the Town in cleaning up property pursuant to 1.05. Such list shall also contain a description of the property cleaned up and shall certify the actual cost and expense incurred in cleaning up such property. The County Auditor shall thereupon enter the cost and expense so certified on the tax duplicate of the owners of the real estate, and such cost and expense shall be collected in the same manner as property taxes are now collected and shall remain a lien on the real estate until paid in full by the owners thereof.

BUILDINGS

1.15 DEFINITIONS:

For the purpose of this Ordinance the following definitions shall apply unless the contexts clearly indicates or requires a different meaning.

"CLERK-TREASURER." The Clerk-Treasurer and his authorized representatives.

"DWELLING." Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

"EXTERMINATION." The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible that which may serve as their food, by poisoning, spraying, fumigating, trapping, or by other recognized and legal pest elimination methods approved by the Clerk-Treasurer.

"GARBAGE." The animal and vegetable waste resulting from handling, preparation, cooking, and consumption of food.

"INFESTATION." The presence, within or around a dwelling, of any insects, rodents, or other pests.

"MOBILE HOME." Any vehicle which is constructed to permit its use as a conveyance, either self-propelled or nonself-propelled, on the public streets and highways, and which is designed and constructed to permit its occupancy as a dwelling or sleeping place for one or more persons and which has no foundation other than wheels, jacks, skirting, or other temporary support.

"OCCUPANT." Any person living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

"OPERATOR." Any person who has charge, care or control of a dwelling or building, or part thereof.

"OWNER." Any person who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling, building, or structure with or without accompanying actual possession thereof, provided, however, that whenever the dwelling or building is subject to conditional sale contract, lease with option to purchase, or any other form of written contract under the terms of which any person is entitled to a conveyance of legal title on payment of a specified sum, the term "OWNER" shall mean the person who shall have such contractual right, rather than the person holding legal title; or

(2) Shall have charge, care, or control of any dwelling building or structure as executor, executrix, receiver, or guardian of the owner as defined in division (1) above. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance to the same extent as if he were the owner. Any person acting as agent of the owner shall not be construed to be an owner within the terms of this Ordinance, but shall be bound to notify the owner, by means of registered letter addressed to the owner at his last known address, or any order or notice issued by the Clerk-Treasurer relating to the property of the owner.

"PERSON." Any individual, firm, corporation, association or partnership.

"RUBBISH." Combustible and noncombustible waste materials, except garbage, including the residue from the burning of wood, coal, coke, and other combustible material, papers, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, tin cans, metals, mineral matter, glass, crockery, and dust.

"SUPPLIED." Paid for, furnished, or provided by or under the control of the owner or operator.

"TEMPORARY HOUSING." Any tent, mobile home, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 days.

1.16 FACILITIES AND UTILITIES TO BE SAFE AND EFFECTIVE:

(A) No person shall occupy as owner occupant or let to another for occupancy any dwelling, building, or structure for the purpose of occupying or living therein, which does not comply with the requirements of this Ordinance.

(B) Every supplied facility, piece of equipment, or utility which is required under this Ordinance shall be so constructed and installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(C) No owner, operator, or occupant shall cause any service facility, equipment, or utility which is required under this Ordinance to be removed from or shut off from or discontinued for any occupied dwelling or building let or occupied by him except for temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies or when discontinuance of service is approved by the Clerk-Treasurer.

1.17 DWELLING UNITS TO BE SANITARY:

No owner shall occupy or let to another occupant any vacant dwelling unit unless it is clean, sanitary, and fit for human occupancy.

1.18 STRUCTURES TO BE WEATHERTIGHT AND RODENT-PROOF:

(A) Every foundation floor, wall, ceiling, and roof shall be reasonably weathertight, watertight, and rodent-proof, and shall be capable of affording privacy, and shall be kept in good repair.

(B) Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, and rodent-proof and shall be kept in sound working condition and good repair.

1.19 STAIRS AND PORCHES TO BE IN GOOD REPAIR:

Every inside and outside stair, every porch, and every appurtenance thereto shall be so construed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

1.20 PLUMBING AND FLOORING TO BE IN GOOD REPAIR:

(A) Every plumbing fixture and water waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

(B) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit floor to be easily kept in a clean and sanitary condition.

1.21 CONDEMNATION OF UNFIT DWELLINGS:

(A) Any dwelling, building, or structure which shall be found to have any of the following defects shall be condemned as unfit for human occupancy and shall be so designated and placarded by the Clerk-Treasurer.

(1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health of the occupants or the public.

(2) One which lacks illumination, ventilation, or sanitary facilities adequate to protect the health of the occupants or the public.

(3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health of the occupants or the public.

(B) No person shall deface or remove the placard from any dwelling or building which has been condemned as unfit for human occupancy and placarded as such, except as provided in this Ordinance.

1.22 CONDEMNATION HEARING:

Any person affected by any notice or order relating to the condemnation and placarding of a dwelling unit as unfit for human occupancy may request and shall be granted a hearing on the matter before the Town Board under the procedure set forth in this Ordinance.

1.23 VACATION OF UNFIT DWELLING:

(A) Any building, dwelling, or other structure condemned as unfit for human occupancy, and so designated and placarded by the Clerk-Treasurer shall be vacated within 60 days or any lesser period deemed appropriate by the Clerk-Treasurer in order to protect the health of the occupants and general welfare of the public.

(B) No dwelling, building, or structure which has been condemned and placarded as unfit for human occupancy shall again be used for human occupancy until written approval is secured from and such placard is removed by the Clerk-Treasurer. The Clerk-Treasurer shall remove such placard whenever the defect or defects on which the condemnation and placarding action were based have been eliminated.

1.24 INSPECTION OF BUILDINGS:

The Clerk-Treasurer is authorized and directed to make inspections to determine the condition of dwellings, buildings, or structures located within the Town, in order to perform the duty of safeguarding the health and safety of the occupants of dwelling and of the general public. For the purpose of making such inspections, the Clerk-Treasurer is authorized to enter, examine, and survey at proper times after a ten-day notice, all dwellings, buildings, or structures, or the person in charge thereof shall give the Clerk-Treasurer access to such dwelling, building, or structure and its premises, at proper times after due notice, for the purpose of such inspection, examination, and survey. Every occupant of a dwelling, building or structure shall give the owner thereof or his agent or employee, access to any part thereof or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this subchapter.

1.25 NOTICE OF VIOLATIONS:

Whenever the Clerk-Treasurer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance which affects the health of the occupants of any dwelling, building, or structure, or the health and safety of the general public, the Clerk-Treasurer shall give notice of such alleged violation to the person or persons responsible therefor, to owners, lessees, vendors, mortgagors, and all other persons having an interest and to any known agent of such person, as hereinafter provided. Such notice shall:

- (A) Be put in writing;
- (B) Include a statement of the reasons why it is being issued;
- (C) Allow a 15-day period for the performance of any acts it requires including repairs, alterations, and restoration, which period of time may be extended by written notice from the Clerk-Treasurer; and
- (D) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this subchapter.

1.26 SERVICE OF NOTICE:

Notice as provided for in 1.25 shall be served upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served on such owner or agent or occupant if a copy thereof is served on him personally, or if a copy thereof is posted in a conspicuous place in or about the dwelling or building affected by the notice or if he is served with such notice by any other method authorized or required under the laws of the state.

1.27 PERFORMANCE BY CITY ON OWNER'S NONCOMPLIANCE:

If the owner, occupant, or anyone responsible for the condition and maintenance of a dwelling, building, or structure refuses to comply with the notice of the Clerk-Treasurer to make repairs, alterations, or restorations on the dwelling or building structure, or appurtenance thereto will be forthwith condemned and shall be wrecked and removed either by the one affected or by the Town or a representative thereof. The enforcement of this section shall be as set forth in the provisions of IC 36-7-9-1 through 36-7-9-7, as amended.

1.28 HEARING ON VIOLATIONS:

(A) Any person affected by any such notice issued by the Clerk-Treasurer pursuant to 1.25 may request and shall be granted a hearing on the matter before the Town Board, provided that such person shall file in the office of the Clerk-Treasurer, within ten days after service of the notice, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. On receipt of such petition, the Clerk-Treasurer shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be held as soon as practicable after receipt of request therefor. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should not be complied with.

(B) After such hearing the Board shall sustain, modify, or withdraw the notice, depending on its findings as to whether the provisions of the Ordinance have been complied with. If the Board sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to 1.25 shall automatically become an order if a written petition for a hearing is not filed in the office of the Clerk-Treasurer within ten days after such notice is served.

1.29 RECORD OF HEARING:

The proceedings of such hearings, including the findings and decision of the Board, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Board. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Board may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the State.

1.30 EMERGENCY ORDER:

Whenever the Clerk-Treasurer finds that an emergency exists which requires immediate action to protect the public health and safety he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but on petition to the Clerk-Treasurer shall be afforded a hearing within ten days, in the manner provided in 1.28. After such hearing depending upon the finding as to whether the provisions of this Ordinance have been complied with, the Board shall continue such order in effect, modify it, or revoke it.

1.31 CONFLICTING PROVISIONS; HIGHER STANDARD TO PREVAIL:

In any case where a provision of this Ordinance is found to be in conflict with a provision of any health ordinance enacted by the Town Board and existing on the effective date of this Ordinance, the provision which establishes the higher standard for the promotion and protection of the health of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance existing within the limits of the Town on the effective date of this Ordinance, which establishes a lower standard for the promotion and protection of the health of the people, the provision of this Ordinance shall be deemed to prevail.

1.99 PENALTY:

Whoever violates any provision of this Ordinance for which no penalty is otherwise provided, shall be fined not more than \$1,000. A separate offense shall be deemed committed on each day a violation occurs or continues.

ADOPTED, this 9 day of July, 1984
by the Board of Trustees, Town of Westport, Indiana in public
session at the Town Hall Building, Westport, Indiana 47283.

✓
Aye

Paul S. Johnson
President, Board of Trustees

✓
Aye

Mike Cooper
Member

Aye

Member

ATTEST:

Virginia Allen
Clerk-Treasurer
Town of Westport, Indiana

(This instrument prepared by Roger P. Hoffman, A Professional Law Corporation, 109 West Main Street, Post Office Box 426, Westport, Indiana 47283.)