

ORDINANCE #1324

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF NEW CARLISLE BY AMENDING TITLE XV CHAPTER 150, REGULATING CODE ENFORCEMENT OF UNSAFE BUILDINGS

WHEREAS, the Town of New Carlisle Town had previously adopted Town Ordinance 584 on August 17, 1981, adopting the provisions of the Indiana Unsafe Building Law enacted by the Indiana General Assembly as Public Law 181, Acts 1973; and

WHEREAS, the Indiana statutes governing regulation of unsafe buildings and premises have been amended at least six times since the adoption of Town Ordinance 584 in 1981; and

WHEREAS, the Town Building Code sections regulating code enforcement of unsafe buildings and premises have not been amended since August 17, 1981, are outdated and should be amended;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CARLISLE THAT:

SECTION 1. Chapter 150, Section 150.080 of the New Carlisle Town Code is amended to read as follows:

§ 150.080 ADOPTION OF UNSAFE BUILDING LAW.

(A) The provisions of I.C. 36-7-9-1 et seq. are adopted by the town, and this subchapter shall be known as the Unsafe Building Law. All proceedings with the jurisdiction of the town for the inspection, repair, demolition, and removal of unsafe buildings shall be governed by Indiana law and the provisions of these sections. In the event the provisions of these sections conflict with the provisions of I.C. 36-7-9-1 et seq., then the provisions of the state statutes shall control. The International Property Maintenance Code, dated 2006, together with all amendments to it is adopted as the official property maintenance code of the town. Two copies of this Code are on file and open for public inspection in the Clerk-Treasurer's office.

(B) The administration of the provisions of this subchapter shall be the responsibility of the Building Commissioner of the town.

SECTION 2. Chapter 150, Section 150.81 of the New Carlisle Town Code is amended to read as follows:

§ 150.081 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD or TOWN BOARD. The Council of the Town of New Carlisle, Indiana.

COMMUNITY ORGANIZATION. A citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

- (1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;
- (2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

- (3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
- (4) has been incorporated for at least two (2) years; and
- (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

CONTINUOUS ENFORCEMENT ORDER. Is an order that:

- (1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:
 - (a) compliance and abatement authority; or
 - (b) orders for the same or similar violations;
- (2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;
- (3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and
- (4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's order.

DIRECTOR or ENFORCEMENT AUTHORITY. The appointed person in charge of the Office of Code Enforcement.

HEARING AUTHORITY. Person or persons designated as such by the Town Board. An employee of the enforcement authority may not be designated as the hearing authority.

KNOWN OR RECORDED FEE INTEREST, LIFE ESTATE INTEREST, OR EQUITABLE INTEREST OF A CONTRACT PURCHASER. Any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

- (1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;
- (2) written information or actual knowledge received by the department; or
- (3) a review of department records that is sufficient to identify information that is reasonably ascertainable.

KNOWN OR RECORDED SUBSTANTIAL PROPERTY INTEREST. Any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, a lien as evidenced by a certificate of sale issued under IC 6-1.1-24, or an equitable interest of a contract purchaser, that:

- (1) may be affected in a substantial way by actions authorized by this chapter; and
- (2) is held by a person whose identity and address may be determined from:
 - (a) an instrument recorded in:
 - (i) the recorder's office of the county where the unsafe premises is located; or
 - (ii) the office of the county auditor of the county where the unsafe premises are located in the case of a lien evidenced by a certificate of sale issued under IC 6-1.1-24;
 - (b) written information or actual knowledge received by the department; or
 - (c) a review of department records that is sufficient to identify information that is reasonably ascertainable.

OFFICE OF CODE ENFORCEMENT or OFFICE. The Building

Commissioner who is charged with administering this subchapter.

ORDER. Any written directive issued by the Office of Code Enforcement in accordance with § 150.082 of this Code.

PERSON. Any entity capable of holding an interest in real estate, including, but not limited to, individuals and corporations.

SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, estate or equitable interest of a contract purchaser, as defined by IC 36-7-9-2.

UNSAFE PREMISES. Any unsafe building; or the tract or real estate on which an unsafe building is located; or any unsafe building and the tract of real estate on which the unsafe building is located; or any real property that does not contain a building or structure not including land used for production agriculture, which is a fire hazard, a hazard to public health, a public nuisance, or is dangerous to a person or property because of a violation of a statute or an ordinance.

UNSAFE STRUCTURE OR BUILDING. Any building or structure, or any part thereof, that is in an impaired structural condition or state which renders it unsafe or dangerous to any person or property; or is a fire hazard; or is a hazard to the public health; or is a public nuisance; or does not comply with standards for building condition or maintenance, the violation of which would be dangerous to any person or property, found in an ordinance enacted by the Town Council or in state law; or is vacant or blighted and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance. The standards for building condition, maintenance and safety, of the State of Indiana, and the Town of New Carlisle are incorporated to the extent they are consistent with each other.

SECTION 3. Chapter 150, Section 150.082 of the New Carlisle Town Code is amended to read as follows:

§ 150.082 CODE ENFORCEMENT OFFICE; ISSUANCE OF ORDERS.

(A) The Office of Code Enforcement may issue an order relative to any unsafe premises to require action, including but not limited to:

- (1) Vacation of an unsafe building;
- (2) Sealing an unsafe building against intrusion by unauthorized persons in accordance with uniform standards established by the Town Board;
- (3) Extermination of vermin in and about the unsafe premises;
- (4) Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use found in ordinances enacted by the Town Board or state laws;
- (5) Demolition and removal of a portion of an unsafe building if the general condition of the building warrants removal or the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and order; and
- (6) Demolition and removal of an unsafe building if the general condition of the building warrants removal or the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and order; and

(7) Removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises.

(8) Requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises.

(B) The ordered action shall be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties.

(C) The order shall take precedence over any municipally issued permit relating to building or land use which is obtained either before or after the order is issued.

(D) The force of an order shall expire 2 years from the day the notice of the order is given, unless one or more of the following events occur within the 2-year period:

(1) A complaint requesting judicial review is filed in accordance with § 150.089 of this subchapter;

(2) Work is let out at public bid to a contractor to perform action required by an order in accordance with § 150.094 of this subchapter; or

(3) A civil action is filed in the Circuit or Superior Court in accordance with § 150.999 of this code of ordinances.

(E) An order issued under section (A)(2), (A)(3), (A)(4), (A)(5) of this section, or an order of Noncompliance of § 150.088(H) becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises.

SECTION 4. Chapter 150, Section 150.083 of the New Carlisle Town Code is amended to read as follows:

§ 150.083 CONTENTS OF ORDERS.

(A) Any order shall contain the following information:

(1) The name of the person to whom the order is issued;

(2) The legal description or address of the unsafe premises that is the subject of the order;

(3) The action which the order requires to be accomplished;

(4) The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) If a hearing is required, a statement indicating the exact time and place of the hearing regarding the order; and that the person to whom the order was issued has a right to appear at the hearing with or without legal counsel and present evidence, cross-examine opposing witnesses, and make argument;

(6) A statement briefly indicating what action can be taken by the Office of Code Enforcement if the order is not complied with;

(7) A statement indicating the obligation created by § 150.091 relating to notification of subsequent interest holders and the Office of Code Enforcement; and

(8) The name, address, and telephone number of the Office of Code Enforcement.

(9) If a hearing is not required, a statement that an order under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 becomes final ten (10) days

after notice is given, unless a hearing is requested in writing by a person of substantial property interest and the request is delivered to the Office of Code Enforcement before the end of the ten (10) day period.

(B) The order shall allow sufficient time in which to accomplish the required action. In no case shall less than 10 calendar days from the time when notice of the order is given be allowed for compliance with an order.

(C) In the instance where more than 30 calendar days are allowed by the order to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within a period of 30 calendar days.

(D) If an order is for the removal of an unsafe building or portion of an unsafe building under subsections (A)(5) or (A)(6) above, notice of the order shall be given to each person with a known or recorded substantial property interest.

SECTION 5. Chapter 150, Section 150.084 of the New Carlisle Town Code is amended to read as follows:

§ 150.084 SERVICE OF ORDERS.

If service of the order is by publication, the publication shall include the information required by divisions (A)(1), (2), (4), (5), (6), ~~and~~ (8), and (9) of § 150.083 and also a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the Office of Code Enforcement.

SECTION 6. Chapter 150, Section 150.088 of the New Carlisle Town Code is amended to read as follows:

§ 150.088 HEARINGS; NOTICE; PROCEDURE; NONCOMPLIANCE.

(A) A hearing shall be held relative to each order, except for an order issued under subsections (A)(2), (A)(3), (A)(4), or (A)(5) of § 150.082 or an order of Noncompliance of § 150.088(H). The hearing shall be conducted by the-Hearing Authority.

(B) The hearing shall be held on a business day no earlier than 10 calendar days after notice of the order is given. The Director may, however, take action at a hearing to continue the hearing relative to the order so that it will be held on a later business day. Unless the Director takes action to have the continued hearing held on a definite, specified date, notice of the hearing shall be given to the person to whom the order was issued at least 5 calendar days before the hearing date in the manner provided by § 150.087.

(C) The person to whom the order was issued, or any person having a substantial property interest in the unsafe premises which are the subject of the order may appear in person or by counsel at the hearing. The person shall have the opportunity to present evidence, cross-examine opposing witnesses, and make argument.

(D) At the conclusion of any hearing at which a continuance is not granted the Director may, irrespective of whether the person does or does not appear at the hearing, make findings and take action to either: affirm the order; rescind the order; or modify the order; provided, however, that unless the person to whom the order was issued, or counsel for the person, is present at the hearing, the Director shall have authority only to modify the order in such manner as to make its terms less stringent.

(E) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) as provided by I.C. 36-7-9-7(e). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduce or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under § 150.089 or enforcement of an order through a civil action under § 150.097, the action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars (\$5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(F) If the person to whom the order was issued to repair or rehabilitate under (A)(4) of § 150.082 fails or refuses to comply with the order within sixty (60) days or the time specified in the order, the enforcement authority may impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The enforcement authority shall give notice of the civil penalty to all persons with a known or recorded substantial property interest in the unsafe premises.

(1) After a civil penalty is imposed the enforcement authority may impose an additional civil penalty in an amount not to exceed one thousand dollars (\$1,000) every ninety (90) days if the person to whom the order was issued continues to fail or refuse to comply with the order.

(2) If a civil penalty under this section is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected in the same manner as costs under § 150.094(H). The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

(G) If a person to whom an order has been issued requests at a hearing a period of time to accomplish action beyond that time stated in the order, the Director may, as a condition for modifying the order to allow the additional time period, require that the person post a cash performance bond to be forfeited in the event that the order action is not completed within the additional time period allowed. The amount of the bond shall be equal to 30% of the value of the services and materials required to accomplish the ordered action.

(H) The record of the findings made and action taken by the Hearing Authority at the hearing shall be available the public upon request. No provision in this chapter shall be construed to require affirmative action by the Office of Code Enforcement or the Hearing Authority to give notice of the findings made and action taken by the Hearing Authority at the hearing to the person to whom the order was issued, or any other person.

SECTION 7. Chapter 150, Section 150.090 of the New Carlisle Town Code is amended to read as follows:

§ 150.090 RECORDING ORDERS, STATEMENTS AND RECORDS; EFFECT.

(A) Orders issued in accordance with § 150.082 or § 150.085, statements of rescission issued in accordance with § 150.086, statements that public bids are to be let as provided in § 150.094, and records of action taken by the Director in accordance with § 150.058, shall be recorded in the office of the Recorder of the county by the Office of Code Enforcement at no charge.

(B) The effect of orders and administrative acts under this subchapter upon property interests in unsafe premises shall be governed by the provisions of I.C. 36-7-9-~~2627~~ and I.C. 36-7-9-~~2728~~.

SECTION 8. Chapter 150, Section 150.091 of the New Carlisle Town Code is amended to read as follows:

§ 150.091 EMERGENCY ACTION.

(A) If in any instance the Office of Code Enforcement shall find that it is necessary to take emergency action with reference to an unsafe premises in order to protect life, safety, or property, the office may cause such action as is necessary to protect life, safety, or property to be performed without issuing an order or giving notice.

(B) This emergency action shall be limited to removing any immediate danger. The costs incurred by the Office of Code Enforcement in taking or having the action taken may be recovered against the persons who have a fee interest or life estate interest in the unsafe premises by the filing of a civil action in the Circuit or Superior Court of the county by the town.

(C) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this chapter's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the enforcement authority's determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

(D) Instead of filing a civil action to recover the costs incurred by the enforcement authority in taking emergency action, the enforcement authority may set a hearing for the hearing authority to review the necessity of the emergency action and the amount of the costs of the emergency action. Notice of the hearing must be provided to each person with a known or recorded substantial property interest in the unsafe premises. If the emergency action or the costs of the emergency action are determined by the hearing authority to have been an abuse of discretion or otherwise unlawful, the hearing authority may reduce or deny the costs of the emergency action as warranted under the circumstances; otherwise, the hearing authority shall affirm the costs of the emergency action.

SECTION 9. Chapter 150, Section 150.088 of the New Carlisle Town Code is amended to read as follows:

§ 150.092 RECEIVERS.

Eligibility for appointment as a receiver for unsafe premises, and powers and other matters concerned with receivership under this subchapter shall be governed by the applicable provisions of the state law, I.C. 36-7-9-20 and I.C. 36-7-9-20.5.

SECTION 10. Chapter 150, Section 150.093 of the New Carlisle Town Code is amended to read as follows:

§ 150.093 PERFORMANCE BY CONTRACTOR; PUBLIC BIDS; PROCEDURE; NOTICE.

(A) The Office of Code Enforcement may cause the action required by an order issued under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 to be performed by a contractor if the following has occurred:

(1) Service of an order in the manner provided by § 150.087 has been made on each person having a substantial property interest in the unsafe premises which are the subject of the order;

(2) The order has not been complied with; and

(3) a hearing was not requested under (A)(9) of § 150.083, or, if a hearing was requested, the order was affirmed at the hearing; and

(4) The order is not being reviewed in accordance with § 150.089.

(B) The Office of Code Enforcement may cause the action required by an order, other than an order issued under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 to be performed if the following has occurred:

(1) An order has been issued to each person having a substantial property interest in the unsafe premises;

(2) Service of an order in the manner provided by § 150.087 has been made on each person having a substantial property interest in the unsafe premises which are the subject of the order;

(3) Each of the orders have been affirmed or modified at hearing in such manner that all persons having a substantial property interest in the unsafe premises which are the subject of each of the orders are currently subject to an order requiring the accomplishment of substantially identical action;

(4) The order, as affirmed or modified at the hearing, has not been complied with, or, having once been complied with, is not now being complied with; and

(5) The order is not being reviewed in accordance with § 150.089.

(C) The work shall be let out at public bid to a contractor licensed and duly qualified under the laws of the state and any applicable municipal ordinances.

(D) All persons with a substantial property interest in the unsafe premises shall be notified about the public bid in accordance with § 150.087 by means of a written statement, which shall include the following information:

(1) The name of the person to whom the order was issued;

(2) A legal description or address of the unsafe premises that are the subject of the order;

(3) A statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;

(4) A description of work to be accomplished;

(5) A statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable

estimate of the cost incurred by the Office of Code Enforcement in processing the matter of the unsafe premises, may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest or life estate interest in the unsafe premises;

(6) A statement that the owner has the right to elect in writing within a period of 5 calendar days to retain any or all materials salvaged from the work;

(7) The time of the bid opening;

(8) The place of the bid opening; and

(9) The name, address, and telephone number of the Office of Code Enforcement.

(E) If service of the notice of statement that public bids are to be let is by publication, the publication shall include the information provided for in division (D) of this section except that it need only include a general description of the work to be accomplished. The publication also shall include a statement that a copy of the statement of public bid may be obtained from the Office of Code Enforcement.

(F) Notice of the statement that public bids are to be let shall be given to all persons having a substantial property interest in the property at least 10 calendar days before the date of the public bid.

(G) Persons having a substantial property interest in the unsafe premises which are the subject of a statement that public bids are to be let may, as their interest allows, within a period of 5 calendar days after they have received notice, elect by sending a statement in writing resulting or salvaged from the work. In the absence of such a statement, the Office of Code Enforcement may decide the method of disposal of the materials.

(H) If action in accordance with this section is being taken on the basis of an order which was served by publication, it shall be sufficient to serve the statement that public bids are to be let by publication unless the Office of Code Enforcement has received information in writing that would enable it to make service in accordance with § 150.087 by a method other than publication.

SECTION 11. Chapter 150, Section 150.094 of the New Carlisle Town Code is amended to read as follows:

§ 150.094 PERFORMANCE OF WORK REQUIRED; LIABILITY OF OWNERS; LIEN; ENFORCEMENT.

(A) The work required by an order of the enforcement authority may be performed in the following manner:

(1) If the work is being performed other than under an order other than an order under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 and if the cost of this work is estimated to be less than ten thousand dollars (\$10,000.00), the Office of Code Enforcement may perform the work acting through the unit's enforcement authority or other agent, by means of the unit's own workers and equipment owned or leased by the unit. Notice that this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (C) below, at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a

lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082, and if the estimated cost of this work is ten thousand dollars (\$10,000) or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by subsection (G) of this section is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the unit's enforcement authority or other governmental agency and using the unit's own workers and equipment owned or leased by the unit. Work performed under an order issued under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work.

(B) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by subsection (G).

(C) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an order under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082 must be notified about the public bid by means of a written statement including:

- (1) the name of the person to whom the order was issued;
- (2) a legal description or address of the unsafe premises that are the subject of the order;
- (3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) a description of work to be accomplished;
- (5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
- (6) the time of the bid opening;
- (7) the place of the bid opening; and
- (8) the name, address, and telephone number of the enforcement authority.

(D) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (C), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(E) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a known or recorded substantial property interest in the property and

are subject to an order other than an order under (A)(2), (A)(3), (A)(4) or (A)(5) of § 150.082.

(F) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables the unit to make service under § 150.1093 by a method other than publication.

(G) When action required by an order is performed by a contractor in accordance with § 150.093, any person or persons who have a fee interest or life estate interest or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was issued to the time that the work was completed, or, if emergency action was taken under section 9 of this chapter, during the time of such emergency action, is jointly and severally responsible for

(1) The:

(a) actual cost of the emergency action taken, as affirmed by the hearing authority; or

(b) actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor. In calculating the amount of the average processing expense, the following costs may be considered:

(a) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(b) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record.

(c) Salaries for employees.

(d) The cost of supplies, equipment, and office space.

(3) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).

(H) The calculation of amounts under this section, and the perfection and enforcement of liens or those amounts shall be governed by the provisions of I.C. 36-7-9-13, I.C. 36-7-9-13.5, and I.C. 36-7-9-19.

SECTION 12. Chapter 150, Section 150.095 of the New Carlisle Town Code is amended to read as follows:

§ 150.095 FUNDS AND FINANCIAL ADMINISTRATION.

All funds and financial administration for the implementation and administration of this subchapter shall be governed by the provisions of I.C. 36-7-9-14 and I.C. 36-7-9-15 and other applicable state law.

SECTION 13. Chapter 150, Section 150.096 of the New Carlisle Town Code is amended to read as follows:

§ 150.096 INSPECTION WARRANTS.

(A) In those cases in which the owners or those in possession of a building refuse inspection, an inspection officer in the Office of Code Enforcement may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building.

(B) The court shall issue the warrant subject to and in accordance with the provisions of I.C. 36-7-9-16.

(C) A warrant issued under this section is valid for only forty-eight (48) hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within seventy-two (72) hours.

SECTION 14. Chapter 150, Section 150.999 of the New Carlisle Town Code is amended to read as follows:

§ 150.999 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) If any person, firm, or corporation shall violate any of the provisions of §§ 150.001 through 150.028, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect, or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this subchapter each such violation, failure, or refusal, the person, firm, or corporation shall be fined as set forth in the Fee Schedule, Chapter 98. Each day of such unlawful activity as is prohibited by the first sentence of this division (B) shall constitute a separate offense.

(C) In addition to the civil penalties provided in § 150.088, any person who shall remain in, use, or enter any building or structure in violation of an order; or willfully interfere with or delay the carrying out of an order; or violate any provision of §§ 150.080 through 150.097 by willfully obstructing, delaying, damaging, injuring, or interfering with any persons engaged or property used in performing any work or duty under or authorized by this subchapter; or fail to comply with the requirements of I.C. 36-7-9-28, shall be guilty of a Class C infraction and upon conviction shall be fined as set forth in the Fee Schedule, Chapter 98. Each day that the violation shall continue to exist, or each distinct repetition of any violation, shall constitute a separate offense.

SECTION 15. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF NEW CARLISLE THIS 28th DAY OF JUNE, 2016.

NEW CARLISLE TOWN COUNCIL

AYES

NAYS

Ken Carter

Stephen Vojtko

Aaron Rypma

Daniel Vermillion

Attest:

Susan I. Moffitt
Susan I. Moffitt, Clerk-Treasurer