

**CHAPTER 154: MINIMUM BUILDING STANDARDS**

---

Section

*Minimum Housing Standards*

- 154.01 Scope
- 154.02 Purpose
- 154.03 Definitions
- 154.04 Minimum standards
- 154.05 Basic equipment and facilities
- 154.06 Safety and maintenance
- 154.07 Responsibility of owner and occupants
- 154.08 Smoke alarms
- 154.09 Hotels/motels and rooming houses
- 154.10 Elimination of bed bugs
- 154.11 Registration of rental property
- 154.12 Service of notice on non-city resident
- 154.13 Inspection of property
- 154.14 Violations
- 154.15 Posting of placard on uninhabitable, dangerous buildings
- 154.16 Notice of hearing
- 154.17 Hearings
- 154.18 Appeals; finality of decisions
- 154.19 Miscellaneous provisions

*Minimum Standards for Non-Residential Structures*

- 154.30 Scope
- 154.31 Purpose
- 154.32 Definitions
- 154.33 Minimum standards for non- residential structures
- 154.34 Basic equipment and facilities
- 154.35 Safety and maintenance
- 154.36 Fire alarms and/or fire suppression systems
- 154.37 Responsibility of owner and occupants
- 154.38 Rental non-residential property registration

- 154.39 Service of notice on non-city resident
- 154.40 Inspection of property
- 154.41 Violations
- 154.42 Posting of placard on uninhabitable, dangerous buildings
- 154.43 Notice of hearing
- 154.44 Hearings
- 154.45 Appeals; finality of decisions
- 154.46 Miscellaneous provisions
  
- 154.99 Penalty

## **1MINIMUM HOUSING STANDARDS**

### **§ 154.01 SCOPE.**

(A) The City of Rushville Common Council finds the structure, equipment, sanitation, maintenance, use, and occupancy of residential property, dwellings and rooming houses may cause a hazard to the public health, safety, and welfare. These properties, dwellings and rooming houses may now exist or may exist in the future. Establishment and enforcement of minimum housing standards are required to correct and prevent the existence of public health and safety hazards and are necessary to promote the general welfare of the community.

(B) There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe housing condition in the City of Rushville, Indiana which shall be known as "The Minimum Housing Code of the City of Rushville, Indiana."

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.02 PURPOSE.**

The purpose of this subchapter is to provide minimum requirements to prevent the decay and deterioration of places of human habitation or intended for human habitation for the protection of life, limb, health, property, safety and welfare for the general public.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.03 DEFINITIONS.**

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

**BASEMENT.** A portion of the building located partly underground, but having less than two-thirds of its clear floor-to-ceiling height below the average grade of adjoining property.

**CELLAR.** A portion of a building located partly or wholly underground and having two-thirds of its clear floor-to-ceiling height below the average grade of adjoining ground.

**CODE ENFORCEMENT OFFICER.** Any employee of the city whose is assigned duties included the enforcement of this subchapter.

**DWELLING.** Any building that is wholly or partly used or intended to be used for living or sleeping by human occupants.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons including permanent

provisions which are used or intended to be used for living, sleeping, eating, cooking, and sanitation.

**EXTERMINATION.** The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing, or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigation, or trapping, or by other recognized and legal pest eliminations.

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

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, or cooking purposes, excluding bathrooms, laundries, pantries, foyers, hallways, closets, and storage spaces.

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

**OWNER.** Any person having a legal or equitable title in the real estate or premises.

**OWNER'S REPRESENTATIVE.** A person hired by the owner to represent and/or advocate on the owner's behalf.

**PERSON.** Any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

**PEST MANAGEMENT PROFESSIONAL.** A person who:

- (1) Is licensed, registered, or certified by the State of Indiana to perform pest control services; and
- (2) Follows National Pest Management Association Best Practices for the extermination of insects, rodents, pests, and bed bugs.

**RENTAL BUILDING.** A building containing one or more rental units.

**RENTAL UNIT.** A rented dwelling unit or rooming unit.

**ROOMING HOUSE.** A dwelling or part of a dwelling containing one or more rooming units, in which space is let by the owner or owner's representative to person who are not husband, wife, son, daughter, mother, father, sister or brother of the owner or the owner's representative.

**ROOMING UNIT.** A room or group of rooms forming a single habitable unit used, or intended to be used for living, and sleeping, but not for cooking purposes.

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

**TENANT.** Any person who alone, or jointly, or severally with others occupies a dwelling, dwelling unit or rooming unit, under an oral, or written lease, or holds a legal tenancy.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

## **§ 154.04 MINIMUM STANDARDS.**

No building, accessory building, or garage used for residential purposes, shall fail to comply with the following requirements:

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

(B) Every foundation, floor, wall, ceiling, and roof shall:

- (1) Be reasonably weather tight, and rodent proof;
- (2) Be capable of affording privacy; and
- (3) Be kept in good repair.

(C) 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 building. Roof drainage, gutters, and down spouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a hazard on the premises of adjacent property that is contrary to city ordinance.

(D) Every window, exterior door, and basement hatchway shall be reasonably weather tight, and rodent proof, and shall be kept in sound working condition, and good repair. All glazing materials shall be maintained free from cracks and holes.

(E) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed 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. Metal fire escapes shall be maintained in a rust free condition.

(F) Every handrail and guard shall be firmly fastened, and capable of supporting normally imposed loads, and shall be maintained in good condition.

(G) All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches, and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated, and surfaces repainted.

(H) All cornices, belt coursed, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage, and in a safe condition.

(I) All canopies, metal awnings, fire escapes, exhaust ducts, and similar overhang extensions 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, against decay, or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(J) Any pipes, 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.

(K) All premises shall be graded and maintained to prevent the erosion of soil, and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(L) All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(M) Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged, or to collapse, and thereby injure persons, or damage property.

(N) The building or structure shall not be unsafe for the purpose for which it is being used.

(O) The building or structure shall not be in such a condition that it is likely to partially, or completely collapse due to:

(1) Dilapidation, deterioration, or decay;

(2) Faulty construction; or

(3) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; or the deterioration, decay, or inadequacy of its foundation.

(P) Exterior walls or other vertical structural members shall not list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(Q) The building or structure, exclusive of the foundation, shall not show 33% or more damage, or deterioration of its supporting member, or members, or 50% damage, or deterioration of its non-supporting members, enclosing, or outside walls, or coverings.

(R) The building or structure shall not have less than 66% of the strength, fire resisting qualities, or characteristics, or weather resisting qualities, or characteristics from when originally contracted.

(S) The building shall not be so damaged by fire, earthquake, flood, or any other cause that the structural strength, and stability is materially less than it was before the catastrophe.

(T) The building or structure shall not be so damaged by fire, wind, earthquake, or flood that it has become so dilapidated, and deteriorated as it becomes freely assessable to persons.

(U) The building or structure shall not, because of obsolescence, dilapidated condition, deterioration, damage, lack of sufficient fire resistive construction, electrical wiring, gas connection, or heating apparatus become a fire hazard.

(V) A portion of the building or structure shall not remain on the real estate more than three months after demolition, or destruction.

(W) *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. Materials and objects are included, but not limited to the following: appliances, couches (sofas), furniture, mattresses, box springs, storage bins and boxes.

(1) A two-day exemption from this division (W) is granted for materials or objects temporarily placed for disposal or removal from the property.

(2) The materials or objects utilized during the construction of an active construction or improvement project are exempt from this division (W) for a period not to exceed 14 calendar days.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

## **§ 154.05 BASIC EQUIPMENT AND FACILITIES.**

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following:

### *(A) Plumbing.*

(1) Each dwelling unit shall be connected to Rushville City Utilities for water service and sewage disposal pursuant to the rules and regulations of the Rushville City Utilities.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) The water closet, and tub or shower shall be located in a room affording privacy to the user.

(4) Every dwelling unit shall be supplied with water heating facilities properly installed, and maintained in good and safe working order.

(B) *Heating system.* Every dwelling unit shall be provided with heating facilities capable of maintaining a temperature of 65 degrees Fahrenheit, at a point of three feet above the floor in all rooms.

### *(C) Electrical system.*

(1) Each dwelling unit shall be connected to a source of electrical current with a minimum 60-amp size service.

(2) Each bathroom shall have a convenience receptacle with ground fault circuit interrupter protection.

(3) An approved electrical outlet shall be provided when an electric cooking appliance is used.

### *(D) Ventilation.*

(1) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 7% of the floor area of such room.

(2) The total of openable window area in every habitable room shall equal to at least 45% of the minimum skylight type window size, as required in size, height and floor area of this section, except where there is supplied some other device affording adequate ventilation and approved by the Code Enforcement Officer.

(3) Every bathroom and water closet compartment shall have one openable window or openable skylight, except that no window or skylight shall be required in bathrooms or water closet compartments equipped with a mechanical ventilation system.

(4) Every public hall and stairway in every multiple dwelling shall be provided with adequate lighting.

(5) Every door opening directly from a dwelling unit to outdoor space shall have supplied screens and a self-closing device, and every window, or other device with openings to outdoor space, used, or intended to be used for ventilation, shall likewise be supplied with screens.

(6) Every basement or cellar window used, or intended to be used for ventilation, and every other opening to a basement or cellar

which might provide an entry for rodents, shall be supplied with a screen, or such other device as will effectively prevent their entry.

(E) *Size, height and floor area.*

(1) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, and at least 100 square feet of additional habitable area for each of the next three occupants and 75 additional square feet for any occupant thereafter.

(2) Every room occupied for sleeping purposes shall provide square footage in compliance with the following.

(a) One occupant at least 70 square feet;

(b) For each additional occupant 50 square feet.

(3) At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet six inches.

(4) Basements or cellars shall not be used for sleeping purposes.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.06 SAFETY AND MAINTENANCE.**

No person shall occupy as owner-occupant, or let to another for occupancy any dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(A) The exterior doors, including any exterior basement entrance and every exterior window shall be supplied with a lock. The owner must supply locks, and the owner, and occupant shall have the right to the keys for entry to the leased space.

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

(C) Every toilet room floor, and bathroom floor surface shall be constructed, and maintained so as to be reasonably impervious to water, and so as to permit such floor to be easily kept in a clean, and sanitary condition.

(D) No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this subchapter to be removed from, shut off from, or discontinued from any occupied dwelling, or dwelling unit let, or occupied by him or her except for such temporary interruption as may be necessary when actual repairs, or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the Code Enforcement Officer.

(E) Every dwelling unit shall have its own metering system for natural gas, water, electricity, or any other utility provided in the dwelling. If this requirement is not met, the owner of the dwelling must have the utilities that are not metered separately in his or her own name.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.07 RESPONSIBILITY OF OWNER AND OCCUPANTS.**

(A) Every owner of a dwelling, dwelling units, rooming units, or hotel shall be responsible for maintaining it in a clean, and sanitary condition.

(B) Every occupant of a dwelling unit or rooming unit shall keep it in a clean and sanitary condition; that part of the dwelling unit or rooming units, and premises thereof in which he or she occupies, and controls.

(C) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition, and shall be responsible for the exercise of reasonable care in the proper use, and operation thereof.

(D) Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double doors, storm doors, and windows whenever the same are required under the provisions of this subchapter, except where the owner has agreed to supply such service.

(E) (1) Every occupant of a dwelling or dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be

responsible for such extermination whenever his or her dwelling unit is the only dwelling unit infested. Notwithstanding the foregoing provisions of this division (E), whenever infestation is caused by failure of the owner to maintain a dwelling in a rat proof or reasonably insect proof, condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(2) If nocturnal flying mammals (bats of various species) or nocturnal flying birds (owls of various species), are discovered within the dwelling and/or rental structure, the Indiana Department Of Natural Resources, Division of Nongame and Endangered Wildlife shall be contacted.

(F) Every occupant of a dwelling or dwelling unit shall dispose of all garbage, rubbish, waste, appliances, furniture, and bulky items in a sanitary manner. This provision does not relieve the owner of the responsibility to maintain the property in a clean and sanitary condition.

(G) Every occupant of a dwelling or dwelling unit shall dispose of all garbage, which might provide food for rodents in a clean and sanitary manner by placing it in disposal facilities, or storage containers required by Chapter 51 shall be the responsibility and duty of the owner of any building containing more than one dwelling unit to supply the required waste disposal facilities, and waste container as provided in Chapter 51.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.08 SMOKE ALARMS.**

(A) All rental units, including hotel/motel, and any other buildings of mixed occupancy having any residential units, shall be equipped with approved smoke alarms.

(B) Every owner, or owner's representative, or manager of any rental unit shall install, in every dwelling unit, or rooming unit, not less than one approved smoke alarm within 15 feet of all rooms used for sleeping purposes. The installation of the smoke alarms shall be in accordance with the manufacturer's written instruction for that location.

(C) Every owner, or owner's representative, or manager of any rental unit shall install in every dwelling unit, or rooming unit, not less than one approved smoke alarm on the uppermost ceiling of all interior stairwells. The installation of the smoke detector shall be in accordance with the manufacturer's written instruction for that location.

(D) All approved smoke alarms required by this section shall be either ionization or photoelectric type, either battery powered or receive their primary power from the buildings wiring when such building is served from a commercial source and when primary power is interrupted, shall receive power from a battery. Smoke alarms shall be listed and labeled in accordance with UL 217 and installed in accordance with the manufacturer's written instructions.

(E) At every change of tenants in a rental unit, it shall be the responsibility of the owner, owner's representative, or manager to test, and ascertain that the approved smoke detectors are in operable conditions. It is the tenants' responsibility to replace batteries, as needed, while they occupy the rental unit, and report to the owner, owner's representative, or manager any repairs needed to any smoke detector.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.09 HOTELS/MOTELS AND ROOMING HOUSES.**

No person shall operate a hotel or rooming house, or shall occupy, or let to another for occupancy any rooming unit in any hotel/motel, or rooming house, except in compliance with the provisions set forth in this section. In addition to the provision set forth in this subchapter for all rental properties, the following requirements shall be met:

(A) At least one flush toilet, bathroom sink, and bathtub or shower properly connected to the water, and sewer systems of the city, and in good working condition shall be supplied for every eight persons, or fraction thereof, residing within a hotel or rooming house, including members of the operator's family whenever they share the use of such facilities. Every bathroom sink, and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement.

(B) The operator of every hotel/motel or rooming house shall change supplied bed linens, and towels therein at least once each week, and prior to the letting of any room to any occupant, the operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(C) Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each occupant thereof.

(D) Every rooming unit shall have a safe and unobstructed means of egress leading to a safe and open space at ground level.

(E) The operator of every hotel/motel or rooming house shall be responsible for the sanitary maintenance of all wall, floors, and ceilings, and the maintenance, and sanitary condition of every other part of the hotel/motel or rooming house, including where the entire structure or building is leased or occupied by the operator.

(F) Owners or managers of hotels/motels or rooming houses shall be responsible for the extermination of any insects, rodents, vermin, or other pests therein or on the premises.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.10 ELIMINATION OF BED BUGS.**

(A) Bed bugs are hereby declared to be a public nuisance subject to the abatement provisions of this subchapter.

(B) It is the responsibility of every rental certification holder under this subchapter to provide pest control services when bed bugs are found on any licensed premises. The pest control services shall be conducted by a pest management professional as many times as necessary to totally eliminate the reported bed bug problem. Every licensee shall maintain a written record of the pest control measures performed by the pest management professional on the licensed premises, and receipts, and reports prepared by the pest management professional relating to those measures taken. The record shall be open to inspection by the Code Enforcement Officer or the Rush County Health Department.

(C) It shall be unlawful for any certified rental unit under this subchapter which provides sleeping accommodations for hire, or rent, or otherwise provide, any such sleeping accommodation in which an infestation of any bed bugs is discovered, or suspected, unless an inspection by the pest management professional has determined that no such infestation exists, or the infestation has been exterminated.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.11 REGISTRATION OF RENTAL PROPERTY.**

(A) No owner of real estate within the city shall permit the real estate to be leased for any purpose that includes any person using the premises as their living quarters until a rental certification for each rental unit in a building has been obtained. No rental certification shall be required for a manufactured, or modular home occupied by the owner of same who does not own the real estate on which the manufactured, or modular home is located.

(B) A rental certification shall be obtained by making an application, on forms provided by the city, at the Office of the Code Enforcement Officer, and by paying an annual certification fee of \$100 for each rental dwelling unit and an annual fee of \$300 for each hotel/motel and rooming house. The fees shall be submitted at the time application is made. At the time application is made, the owner of the real estate shall supply their mailing address, street address of the property being certified, the nature of the rental building, or unit, and any other information which may be required to assist in the inspection, and enforcement of this subchapter.

(C) The owner or the owner's representative shall be entitled to 72 hours' written notice from the Code Enforcement Officer prior to conducting an inspection. In the event the owner, or the tenant, if occupied, refuses to allow the inspection, the Code Enforcement Officer shall apply for a warrant to make the inspection.

(D) After an inspection is complete, and the rental unit is determined to be in compliance with this subchapter, the Code Enforcement Officer shall issue to the owner a certificate.

(E) Each certificate shall be valid for a period of two years except those certificates for a hotel/motel or rooming house shall be valid for one year. Certificates shall be renewed by its expiration date by submitting the application fee to the Office of the Code Enforcement Officer. In the event that the application fee is not paid within 30 days after the expiration date, a late fee of \$100 dollars will be assessed, and the renewal will be retroactive to the prior expiration date. Certificates issued shall be valid for the specified period commencing on the anniversary date of the original expiration date, and not as of the date of payment. Payment of the certificate fee shall not be considered a defense to any action filed by the city to enforce the provisions of this subchapter if such action was filed prior to payment of the application fee.



(F) The rental certification applies to the rental unit and not to the owner of the property. However, within 30 days of the sale of equitable or legal title to any property certified under this subchapter, any person acquiring equitable or legal title shall notify the Code Enforcement Officer of their name, mailing address, and the address of the property acquired. No new application fee shall be due until the expiration date of the current certification.

(G) Each owner of a rental unit warrants at each change of tenant that the rental unit meets the certification, and inspection requirements set forth in this subchapter. This warrant is implied in the very act of renting the unit, and liability for it may not be removed by any act, or agreement, either written, or verbal of either the owner, or the prospective tenant.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

### **§ 154.12 SERVICE OF NOTICE ON NON-CITY RESIDENT.**

When the owner, and/or lienholder, and/or other legally interested person, is not a resident of the City of Rushville, or Rush County, all notices, and orders provided for herein shall be sent, by registered or certified mail to the last address on file in the Rush County Treasurer's Office.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.13 INSPECTION OF PROPERTY.**

(A) In the event the owner, or the tenant, if occupied, refuses to allow the inspection, the Code Enforcement Officer or the Rush County Health Department shall apply for a warrant to make the inspection.

(1) The Code Enforcement Officer, or the Rush County Health Department is authorized to enter, examine and survey, at reasonable times, all rental units. The owner, or the owner's representative, and/or occupant of every rental unit shall give the Code Enforcement Officer free access to such rental unit and its premises at reasonable times for the purpose of such inspection, examination, and survey, provided; however, that such Code Enforcement Officer has, prior to entry thereof, positively identified himself or herself as a person authorized pursuant to this subchapter to enter upon the premises. At the time of each inspection all pets must be controlled so that the Code Enforcement Officer can move about the rental unit and surrounding property without interruptions.

(2) The owner or the owner's representative shall be entitled to 72 hours' written notice from the Code Enforcement Officer prior to conducting the inspection, examination, or survey. The owner or the owner's representative shall be responsible for notifying the occupant of any rental unit of the inspection when he or she receives notice of the intent to inspect.

(3) This provision shall not be construed to limit, or restrain the right of the Code Enforcement Officer to make an inspection of any other budding, or premises.

(B) Every rental unit operated and maintained in the city may be subject to an annual inspection by the Code Enforcement Officer, or his or her designee. The inspection shall be made to ascertain that the facility conforms to all requirements of this subchapter, and any other ordinance of the city, and all statutes of the State of Indiana regarding such facilities.

(C) Every occupant of a rental unit shall give the owner thereof or the owner's representative access to any part of such rental unit, or its premises at reasonable times for the purpose of making such repairs, or alterations as are necessary to effect compliance with the provisions of this subchapter.

(D) The Code Enforcement Officer shall issue to the owner, after the inspected rental unit an inspection certificate as proof that the unit passed inspection. The inspection certificate shall be valid until the next inspection.

(E) At each change of occupancy, the owner or the owner's representative shall provide the occupant with a copy of the inspection certificate. In the case of hotel or rooming house, the inspection certificate shall be posted in a conspicuous place within the facility.

(F) If the Code Enforcement Officer finds that a rental unit fails to comply with any other ordinance of the city, or any statute of the State of Indiana, he or she shall give notice of the alleged violation to the owner of the rental unit. The notice shall be in writing, and shall reasonably describe the violation found. The notice shall further specify the date by which the violation must be corrected. The notice shall be served upon the owner or the owner's representative, and the occupant of the rental unit.

(G) Upon notification that a rental unit has not obtained a rental certification, the Code Enforcement Officer may inspect such

premises upon 24-hour notification to the owner of the property, for the purpose of determining if any inspection certificate is required. If access cannot be obtained, the Code Enforcement Officer may obtain an inspection warrant.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

**§ 154.14 VIOLATIONS.**

(A) The Code Enforcement Officer shall give notice of a violation of this subchapter. Such notice shall be in writing, and shall be delivered by registered or certified mail to the owner of record as recorded in the Rush County Records Office, and the last known address on file in the Rush County Treasurer's Office. If the owner's address is different than the address shown for the property involved, a notice shall also be sent to the address of the property involved, addressed to the occupant of such address.

The notice shall constitute an order based upon findings of fact, directing the owner, and occupant to repair, vacate, or demolish such building, or otherwise comply with such order.

(B) The notice shall contain the following:

(1) The name of the owner, occupant, and any other persons with legal interest in the premises;

(2) The street address, or legal description of the premises;

(3) A general description of the improvements located on the property;

(4) A list of defects;

(5) Whether or not repairs, or correction of the defects shall be made so that the building will comply with the terms of this subchapter and, if so, a list of the required repairs, or whether the building shall be demolished;

(6) Whether or not the building shall be vacated by the occupants and, if so, the date by which such vacation shall be effected;

(7) Whether or not the building constitutes a fire menace; and

(8) A statement of time considered reasonable for the owner to make the required repairs, or otherwise comply with the requirements of the notice, or allow the occupant time to vacate the premises. A reasonable time shall not exceed 30 days, except in cases of unusual or extenuating circumstances. The time to commence may be extended by the Code Enforcement Officer for an additional period up to 60 days; provided, an application for an extension is made by the owner, occupant, or other person who has a legal interest in the property, at least five days before the expiration of the time to commence, repairs, vacation, or demolition, or otherwise comply with the notice. A reasonable time to complete the repairs, vacation, or demolition, or otherwise comply as provided in the notice and such reasonable time for completion shall not exceed 90 days from the date of notice unless the time is extended by action of the Rushville Unsafe Building Board.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014) Penalty, see § 154.99

**§ 154.15 POSTING OF PLACARD ON UNINHABITABLE, DANGEROUS BUILDINGS.**

If the Code Enforcement Officer shall, upon inspection of any building within the city, find the same to be uninhabitable and dangerous, he or she shall place a placard on the uninhabitable, and dangerous building that reads as follows:

**DANGER**

This Structure Is Declared Unsafe For Human Occupancy or Use

It Is Unlawful For Any Person to Use or Occupy This Building After \_\_\_\_\_

Any Unauthorized Person Removing This Sign WILL

BE PROSECUTED.

Refer to Ordinance No. \_\_\_\_\_

Signed \_\_\_\_\_

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.16 NOTICE OF HEARING.**

(A) The Code Enforcement Office shall give notice of all proceedings before the Rushville Unsafe Building Board, to the owner of record of the affected property, and to each holder of a recorded lien against the property, as shown by the Rush County Recorder's records. The Code Enforcement Officer shall give notice to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property, or as close to the front door as practical.

(B) The Code Enforcement Officer shall mail, by registered or certified mail and post each required notice at least ten days prior to the date of the scheduled hearing before the Rushville Unsafe Building Board. The Code Enforcement Officer shall also publish on one occasion, at least ten days prior to the hearing, a notice of the hearing in a newspaper of general circulation in the city.

(C) Notice required to be mailed, posted or published under this section shall state the date, time and place of the hearing. In addition, each notice shall contain:

- (1) The name of the owner(s), occupant(s), and other persons with legal interest in the property;
- (2) The street address, or legal description of the premises;
- (3) A general description of the improvements;
- (4) A list of defects on the property; and
- (5) A brief statement of the action to be considered by the Unsafe Building Board.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.17 HEARINGS.**

(A) The property owner, or other person with legal interest in, or affected by the Code Enforcement Officer's notice may appear and be heard at the hearing scheduled before the Rushville Unsafe Building Board. An aggrieved person may present facts or evidence the subject rental unit is not defective or in violation of this subchapter. The affected person may be represented by an attorney, and may bring witnesses or other evidence to the hearing for the Rushville Unsafe Building Board's consideration. The Rushville Unsafe Building Board will receive evidence from affected and interested persons together with the evidence, and findings of the Code Enforcement Officer. Thereafter, the Rushville Unsafe Building Board will issue an order:

(1) Finding, and determination whether or not the structure is defective, and in violation of this subchapter. The findings and determinations will be made with sufficient clarity and specificity to identify the conditions that constitute the defect and, therefore, a violation of this subchapter.

(2) The order shall describe the remedial repairs, maintenance, or demolition the Rushville Unsafe Building Board determines necessary to remedy the defects, and remedy the violations of this subchapter.

(3) The order shall specify the time frame in which the owner or affected person with a legal interest shall have to remedy the defects, and the violations of this subchapter.

(B) The owner or other affected person with legal interest may agree, and consent to the findings, and the order of the Rushville Unsafe Building Board. In such an event, the owner or affected person with legal interest will sign the findings, and order which shall become binding on the owner or affected person with legal interest without further action by the Rushville Unsafe Building Board.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

### **§ 154.18 APPEALS; FINALITY OF DECISIONS.**

(A) In the event the owner or affected person with legal interest does not agree with the Rushville Unsafe Building Board's findings and orders, the owner or affected person with legal interest shall have the right to appeal the decision of the Rushville Unsafe Building Board to the Rush County Circuit or Superior Court by initiating an action within 30 days from the date of the Board's order.

(B) In the event the owner or affected person with legal interest does not agree with the Board's findings, and order, the Rushville Unsafe Building Board may seek enforcement of the order by filing an action in the Rush County Circuit or Superior Court to enforce its findings, and order by judicial decree. The judicial review provided herein, shall not be a trial de novo except that the court may, at the court's discretion, allow additional evidence as the court deems appropriate and necessary.

(C) In the event the owner or affected person with legal interest does not agree with the Board's findings and order, and in the event either party seeks intervention of the court, remedial action shall not be required until the judicial proceedings are completed, or the court enters an order directing remedial action.

(D) In the event an owner or affected person with legal interest does not undertake remedial action as required by the Board's findings and order, or a judicial determination thereon, the City of Rushville may take remedial action, as necessary, and pursue an action, at law, against the owner or affect person with legal interest for the cost necessitated thereby. Any cost and expenses incurred by the City of Rushville for remedial action under this subchapter shall become a lien against the subject property with or without judicial decree/judgment.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

## **§ 154.19 MISCELLANEOUS PROVISIONS.**

In addition to the foregoing provisions the following provisions apply:

(A) The owner or person with a legal interest may agree with the Code Enforcement Officer's notice of violation, and the owner or person with legal interest may agree to the remedial action recommended by the Code Enforcement Officer. Any such agreement shall be in writing, and shall define the defects, and remedial action that will be taken to remedy the defect(s). The agreement shall include a time frame to complete all remedial actions.

(B) In the event the Rushville Unsafe Building Board, at the request of the Code Enforcement Officer or Health Department or other governmental agency charged with the responsibility of protecting the public health, safety and welfare, determines an emergency exists, then and in that event, the Rushville Unsafe Building Board may proceed to take appropriate remedial action as may be necessary to protect the public health, safety, and welfare including the demolition of the rental unit that is in violation of this chapter. In the event the Rushville Unsafe Building Board invokes this emergency provision the Rushville Unsafe Building Board shall provide notice as is reasonable under the circumstances to the owner and any person with a legal interest as disclosed in the records of the Rush County Treasurer's Office and the Rush County Recorder's Office. Notice by certified mail, return receipt requested, to the address of the owner and any person with a legal interest shall be deemed good and sufficient notice.

(C) The City of Rushville recognizes vacant buildings pose, and present special problems. An owner has an affirmative duty to secure, and protect structures located on the owner's property.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014)

## **MINIMUM STANDARDS FOR NON-RESIDENTIAL STRUCTURES**

### **§ 154.30 SCOPE.**

(A) The City of Rushville Common Council finds the structure, equipment, sanitation, maintenance, use, and occupancy of non-residential structures may cause a hazard to the public health, safety, and welfare. These structures may now exist or may exist in the future. Establishment and enforcement of minimum standards are required to correct and prevent the existence of public health and safety hazards and are necessary to promote the general welfare of the community.

(B) There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe condition in non-residential structures in the City of Rushville, Indiana which shall be known as "The Minimum Standard for Non-Residential Structures of the City of Rushville, Indiana."

(Ord. 2015-03, passed 4-7-2015)

### **§ 154.31 PURPOSE.**

The purpose of this subchapter is to provide minimum requirements to prevent the decay and deterioration of non-residential structures for the protection of life, limb, health, property, safety and welfare for the general public.

(Ord. 2015-03, passed 4-7-2015)

## § 154.32 DEFINITIONS.

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

***BASEMENT.*** A portion of the building located partly underground, but having less than two-thirds of its clear floor-to-ceiling height below the average grade of adjoining property.

***CELLAR.*** A portion of a building located partly or wholly underground and having two-thirds of its clear floor -to-ceiling height below the average grade of adjoining ground.

***CODE ENFORCEMENT OFFICER.*** Any employee of the city whose is assigned duties included the enforcement of this subchapter.

***EXTERMINATION.*** The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing, or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigation, or trapping, or by other recognized and legal pest eliminations.

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

***NON-RESIDENTIAL STRUCTURE.*** Property that is not occupied for residential living purposes and is used for business, commercial or industrial purposes.

***OWNER.*** Any person having a legal or equitable title in the real estate or premises.

***OWNER'S REPRESENTATIVE.*** A person hired by the owner to represent and/or advocate on the owner's behalf.

***PERSON.*** Any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

***PEST MANAGEMENT PROFESSIONAL.*** A person who:

- (1) Is licensed, registered, or certified by the State of Indiana to perform pest control services; and
- (2) Follows National Pest Management Association Best Practices for the extermination of insects, rodents, pests, and bed bugs.

***PROPERTY MANAGER.*** An individual or company responsible for the day-to-day functioning of a piece of real estate.

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

***TENANT.*** Any person who alone, or jointly, or severally with others, business, group, that pays to use another person's property.

***TENANT SPACE.*** A contract granting use or occupancy of property during a specified period in exchange for a specified rent or consideration.

(Ord. 2015-03, passed 4-7-2015)

## § 154.33 MINIMUM STANDARDS FOR NON-RESIDENTIAL STRUCTURES.

No non-residential building, accessory building used for business, commercial or industrial purposes shall fail to comply with the following requirements:

- (A) Every supplied facility, piece of equipment, or utility which is required under this subchapter shall be so constructed, or installed

that it will function safely, and effectively, and shall be maintained in satisfactory working condition.

(B) Every foundation, floor, wall, ceiling, and roof shall:

- (1) Be reasonably weather tight, and rodent proof;
- (2) Be capable of affording privacy; and
- (3) Be kept in good repair.

(C) 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 building. Roof drainage, gutters, and down spouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a hazard on the premises of adjacent property.

(D) Every window, exterior door, and basement hatchway shall be reasonably weather tight, and rodent proof, and shall be kept in sound working condition, and good repair. All glazing materials shall be maintained free from cracks and holes.

(E) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed 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. Metal fire escapes shall be maintained in a rust free condition.

(F) Every handrail and guard shall be firmly fastened, and capable of supporting normally imposed loads, and shall be maintained in good condition.

(G) All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches, and trim shall be maintained in good condition. Peeling, flaking, and chipped paint shall be eliminated, and surfaces repainted.

(H) All cornices, belt coursed, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage, and in a safe condition.

(I) All canopies, metal awnings, fire escapes, exhaust ducts, and similar overhang extensions 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, against decay, or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(J) Any pipes, 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.

(K) All premises shall be graded and maintained to prevent the erosion of soil, and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(L) All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(M) Any portion, member or appurtenance of a building shall not be likely to fail, to become detached, dislodged, or to collapse, and thereby injure persons, or damage property.

(N) The building or structure shall not be unsafe for the purpose for which it is being used.

(O) The building or structure shall not be in such a condition that it is likely to partially, or completely collapse due to:

- (1) Dilapidation, deterioration, or decay;
- (2) Faulty construction; or

(3) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; or the deterioration, decay, or inadequacy of its foundation.

(P) Exterior walls or other vertical structural members shall not list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(Q) The building or structure, exclusive of the foundation, shall not show 33% or more damage, or deterioration of its supporting member, or members, or 50% damage or deterioration of its non-supporting members, enclosing, or outside walls, or coverings.

(R) The building or structure shall not have less than 66% of the strength, fire resisting qualities, or characteristics, or weather resisting qualities, or characteristics from when originally contracted.

(S) The building shall not be so damaged by fire, earthquake, flood, or any other cause that the structural strength, and stability is materially less than it was before the catastrophe.

(T) The building or structure shall not be so damaged by fire, wind, earthquake, or flood that it has become so dilapidated, and deteriorated as it becomes freely assessable to persons.

(U) The building or structure shall not, because of obsolescence, dilapidated condition, deterioration, damage, lack of sufficient fire resistive construction, electrical wiring, gas connection, or heating apparatus become a fire hazard.

(V) A portion of the building or structure shall not remain on the real estate more than three months after demolition, or destruction.

(W) Any door, aisle, passageway, or any other means of egress shall be a sufficient width or size to provide a safe and adequate means of egress in the case of fire or panic.

(X) The walking surface of any aisle, passageway, stairway or other means of egress shall not be so warped, worn, loose, torn, or otherwise unsafe to prevent a safe and adequate means of egress in the case of fire and panic.

(Y) The stress in any material, or member, or portion thereof, shall not be more than one and one-half the working stress or stresses allowed for new building of similar, purpose, or location.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

### **§ 154.34 BASIC EQUIPMENT AND FACILITIES.**

No person shall let to another for occupancy, any non-residential structure which does not comply with the following requirements:

(A) *Plumbing.*

(1) Non-residential structure shall be connected to Rushville City Utilities for water service and sewage disposal pursuant to the rules and regulations of the Rushville City Utilities.

(2) Each tenant unit shall contain or have access that does not require traveling more than 500 feet to not less than a lavatory, and water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) The water closet shall be located in a room affording privacy to the user.

(4) All non-residential structures shall be supplied with water heating facilities properly installed, and maintained in good and safe working order.

(B) *Heating system.* All non-residential structures shall be provided with heating facilities capable of maintaining a temperature of 65 degrees Fahrenheit, at a point of three feet above the floor in all rooms.

(C) *Electrical system.*

(1) All non-residential structure shall be connected to a source of electrical current with a minimum service size to accommodate the use and occupancy in the non-residential structure.

(2) If a bathroom is supplied with a convenience receptacle, the convenience receptacle shall be ground fault circuit interrupter protection.

(3) Every public hall and stairway in a non-residential structure shall be provided with adequate lighting.

(D) *Ventilation.* Every bathroom and water closet compartment shall have one openable window or openable skylight, except that no window or skylight shall be required in bathrooms or water closet compartments equipped with a mechanical ventilation system.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

### **§ 154.35 SAFETY AND MAINTENANCE.**

No person shall let to another a non-residential structure which does not comply with the following requirements:

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

(B) Every toilet room floor or bathroom floor surface shall be constructed, and maintained so as to be reasonably impervious to water, and so as to permit such floor to be easily kept in a clean, and sanitary condition.

(C) Every non-residential structure shall have its own metering system for natural gas, water, electricity, or any other utility. If this requirement is not met, the owner of the nonresidential structure must have the utilities that are not metered separately in his or her own name.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

### **§ 154.36 FIRE ALARMS AND/OR FIRE SUPPRESSION SYSTEMS.**

(A) Required fire detection, alarms, and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective.

(B) Fire detection, alarms, and extinguishing system, mechanical smoke exhaust system, and smoke and heat vents shall be inspected and tested in accordance with the applicable NFPA standard.

(C) Non-required fire protection systems and equipment shall be inspected, tested and maintained in accordance with the applicable NFPA standards.

(D) Records of all system inspections, tests and maintenance shall be maintained on the premises for a minimum of three years.

(E) If requested by the Fire Chief, copies of records for system inspections, tests, shall be provided.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

### **§ 154.37 RESPONSIBILITY OF OWNER AND OCCUPANTS.**

(A) Every owner and tenant of a non-residential structure shall be responsible for maintaining the non-residential structure in a clean and sanitary condition.

(B) Every tenant in a non-residential structure shall keep their tenant space in a clean and sanitary condition; that part of the non-residential structure the tenant occupies and controls.

(C) Every tenant in a non-residential structure shall keep all plumbing fixtures therein in a clean and sanitary condition, and shall be responsible for the exercise of reasonable care in the proper use, and operation thereof.

(D) Every tenant in a non-residential structure shall be responsible for the extermination of any vermin, insects, rodents, or other pests therein or on the premises. Notwithstanding the foregoing provisions of this division (D), whenever infestation is caused by failure of the owner to maintain the non-residential structure in a rat proof or reasonably insect and vermin proof, condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more tenant spaces, extermination thereof shall be the responsibility of the owner.

(E) If nocturnal flying mammals (bats of various species) or nocturnal flying birds (owls of various species), are discovered within a non-residential structure, the Indiana Department of Natural Resources, Division of Nongame and Endangered Wildlife shall be contacted.

(F) Every tenant in a non-residential structure shall dispose of all garbage, rubbish, waste, appliances, furniture, and bulky items in a sanitary manner. This provision does not relieve the owner of the responsibility to maintain the property in a clean and sanitary condition.

(G) Every tenant in a non-residential structure shall dispose of all garbage, which might provide food for rodents in a clean and sanitary manner by placing it in disposal facilities, or storage containers required by the Rushville Code of Ordinances.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99



## **§ 154.38 RENTAL NON-RESIDENTIAL PROPERTY REGISTRATION.**

(A) No owner of real estate within the city shall permit the real estate to be leased for any purpose until a rental certification for each tenant space in a building has been obtained.

(B) A rental certification shall be obtained by making an application, on forms provided by the city, at the Office of the Code Enforcement Officer, and by paying an annual certification fee of \$100 for each tenant space. The fees shall be submitted at the time the application is made. At the time application is made, the owner of the real estate shall supply their mailing address, street address of the property being certified, the nature of the rental building, or unit, and any other information which may be required to assist in the inspection, and enforcement of this subchapter.

(C) The owner or the owner's representative shall be entitled to 72 hours' written notice from the Code Enforcement Officer prior to conducting an inspection. In the event the owner, or the tenant, if occupied, refuses to allow the inspection, the Code Enforcement Officer shall apply for a warrant to make the inspection.

(D) After an inspection is complete, and the tenant space is determined to be in compliance with this subchapter, the Code Enforcement Officer shall issue to the owner a certificate.

(E) Each certificate shall be valid for a period of two years, unless the tenant space becomes vacant or the tenant changes at which time the rental certificate becomes void and a new rental certification application shall be filed along with the appropriate application fee. Certificates shall be renewed by its expiration date by submitting the application fee to the Office of the Code Enforcement Officer. In the event that the application fee is not paid within 30 days after the expiration date, a late fee of \$100 shall be assessed, and the renewal will be retroactive to the prior expiration date. Certificates issued shall be valid for specified period commencing on the anniversary date of the original expiration date, and not as of the date of payment. Payment of the certificate fee shall not be considered a defense to any action filed by the city to enforce the provisions of this subchapter if such action was filed prior to payment of the application fee.

(F) The rental certification applies to the tenant space and not to the owner of the property. However, within 30 days of the sale of equitable or legal title to any property certified under this subchapter, any person acquiring equitable or legal title shall notify the Code Enforcement Officer of their name, mailing address, and the address of the property acquired. No new application fee shall be due until the expiration date of the current certification.

(G) Each owner of a rental space warrants at each change of tenant that the rental space meets the certification, and inspection requirements set forth in this subchapter. This warrant is implied in the very act of leasing the tenant space, and liability for it may not be removed by any act, or agreement, either written, or verbal of either the owner, or the prospective tenant.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

## **§ 154.39 SERVICE OF NOTICE ON NON-CITY RESIDENT.**

When the owner, and/or lienholder, and/or other legally interested person, is not a resident of the City of Rushville, or Rush County, all notices, and orders provided for herein shall be sent, by registered or certified mail to the last address on file in the Rush County Treasurer's Office.

(Ord. 2015-03, passed 4-7-2015)

## **§ 154.40 INSPECTION OF PROPERTY.**

(A) In the event the owner, or the tenant, if occupied, refuses to allow the inspection, the Code Enforcement Officer shall apply for a warrant to make the inspection.

(1) The Code Enforcement Officer is authorized to enter, examine and survey, at reasonable times, all tenant spaces. The owner, or the owner's representative, and/or tenant of the tenants space shall give the Code Enforcement Officer free access to such tenant space and its premises at reasonable times for the purpose of such inspection, examination, and survey, provided; however, that such Code Enforcement Officer has, prior to entry thereof, positively identified himself or herself as a person authorized pursuant to this subchapter to enter upon the premises. If a tenant's pet or guard animal is present at the time of the inspection the pet or guard animal shall be controlled, leashed or restrained so the Code Enforcement Officer may move about the tenant space and surrounding property without interruptions.

(2) The owner or the owner's representative shall be entitled to 72 hours' written notice from the Code Enforcement Officer prior to conducting the inspection, examination, or survey. The owner or the owner's representative shall be responsible for notifying the tenants of the inspection when he or she receives notice of the intent to inspect.

(3) This provision shall not be construed to limit, or restrain the right of the Code Enforcement Officer to make an inspection of any other building, or premises.

(B) Every tenant space operated, and maintained in the city may be subject to an annual inspection by the Code Enforcement Officer, or his or her designee. The inspection shall be made to ascertain that the tenant space or facilities conforms to all requirements of this subchapter, and any other ordinance of the city, and all statutes of the State of Indiana regarding such facilities.

(C) Every tenant shall give the owner thereof or the owner's representative access to any part of tenant space, or its premises at reasonable times for the purpose of making repairs, or alterations as are necessary to effect compliance with the provisions of this subchapter.

(D) The Code Enforcement Officer shall issue to the owner and tenant after the inspection an inspection certificate as proof that the tenant space passed inspection. The inspection certificate shall be valid until the next inspection.

(E) If the Code Enforcement Officer finds that a tenant space fails to comply with any other ordinance of the city, or any statute of the State of Indiana, he or she shall give notice of the alleged violation to the owner and tenant of the tenant space. The notice shall be in writing, and shall reasonably describe the violation found. The notice shall further specify the date by which the violation must be corrected. The notice shall be served upon the owner or the owner's representative, and the tenant of the tenant space.

(F) Upon notification that a tenant space has not obtained a rental certification, the Code Enforcement Officer may inspect such premises upon 24-hour notification to the owner of the property, for the purpose of determining if any inspection certificate is required. If access cannot be obtained, the Code Enforcement Officer may obtain an inspection warrant.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

## **§ 154.41 VIOLATIONS.**

(A) The Code Enforcement Officer shall give notice of a violation of this subchapter. Such notice shall be in writing, and shall be delivered by registered or certified mail to the owner of record as recorded in the Rush County Record's Office, and the last known address on file in the Rush County Treasurer's Office. If the owner's address is different than the address shown for the property involved, a notice shall also be sent to the address of the property involved, addressed to the tenant of such address. The notice shall constitute an order based upon findings of fact, directing the owner to repair, vacate, or demolish such building, or otherwise comply with such order.

(B) The notice shall contain the following:

(1) The name of the owner, tenant, and any other persons with legal interest in the premises;

(2) The street address, or legal description of the premises;

(3) A general description of the improvements located on the property;

(4) A list of deficiencies;

(5) Whether or not repairs or correction of the deficiencies shall be made so that the building or tenant space will comply with the terms of this subchapter and, if so, a list of the required repairs, or whether the building shall be demolished;

(6) Whether or not the building shall be vacated by the tenant(s) and, if so, the date by which such vacation shall be effected;

(7) Whether or not the building constitutes a fire menace; and

(8) A statement of time considered reasonable for the owner to make the required repairs, or otherwise comply with the requirements of the notice, or allow the tenant time to vacate the premises. A reasonable time shall not exceed 30 days, except in cases of unusual or extenuating circumstances. The time to commence may be extended by the Code Enforcement Officer for an additional period up to 60 days; provided, a written request for an extension is made by the owner, tenant or other person who has a legal interest in the property, at least five days before the expiration of the time to commence, repairs, vacation, or demolition, or otherwise comply with the notice. A reasonable time to complete the repairs, vacation, or demolition, or otherwise comply as provided in the notice and such reasonable time for completion shall not exceed 90 days from the date of notice unless the time is extended by

action of the Rushville Unsafe Building Board.

(Ord. 2015-03, passed 4-7-2015) Penalty, see § 154.99

### **§ 154.42 POSTING OF PLACARD ON UNINHABITABLE, DANGEROUS BUILDINGS.**

If the Code Enforcement Officer shall, upon inspection of any building within the city, finds the same to be uninhabitable and dangerous, he or she shall place a placard on the uninhabitable, and dangerous building that reads as follows:

#### **DANGER**

This Structure Is Declared Unsafe For Human Occupancy or Use

It Is Unlawful For Any Person to Use or Occupy This Building After \_\_\_\_\_

Any Unauthorized Person Removing This Sign WILL BE PROSECUTED.

Refer to Ordinance No. \_\_\_\_\_

Signed \_\_\_\_\_

(Ord. 2015-03, passed 4-7-2015)

### **§ 154.43 NOTICE OF HEARING.**

(A) The Code Enforcement Office shall give notice of all proceedings before the Rushville Unsafe Building Board, to the owner of record of the affected property, and to each holder of a recorded lien against the property, as shown by the Rush County Recorder's records. The Code Enforcement Officer shall give notice to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property, or as close to the front door as practical.

(B) The Code Enforcement Officer shall mail, by registered or certified mail and post each required notice at least ten days prior to the date of the scheduled hearing before the Rushville Unsafe Building Board. The Code Enforcement Officer shall also publish on one occasion, at least ten days prior to the hearing, a notice of the hearing in a newspaper of general circulation in the city.

(C) Notice required to be mailed, posted or published under this section shall state the date, time and place of the hearing. In addition, each notice shall contain:

- (1) The name of the owner(s), tenant(s), and other persons with legal interest in the property;
- (2) The street address, or legal description of the premises;
- (3) A general description of the improvements;
- (4) A list of defects on the property; and
- (5) A brief statement of the action to be considered by the Unsafe Building Board.

(Ord. 2015-03, passed 4-7-2015)

### **§ 154.44 HEARINGS.**

(A) The property owner, or other person with legal interest in, or affected by the Code Enforcement Officer's notice may appear and be heard at the hearing scheduled before the Rushville Unsafe Building Board. An aggrieved person may present facts, or evidence that the subject non-residential structure is not defective, or in violation of this subchapter. The affected person may be represented by an attorney, and may bring witnesses or other evidence to the hearing before the Rushville Unsafe Building Board's consideration. The Rushville Unsafe Building Board will receive evidence from affected and interested persons together with the evidence, and findings of the Code Enforcement Officer. Thereafter, the Rushville Unsafe Building Board will issue an order:

- (1) Finding and determination whether or not the non-residential structure is defective, and in violation of this subchapter. The findings and determinations will be made with sufficient clarity and specificity to identify the conditions that constitute the defect and,

therefore, a violation of this subchapter.

(2) The order shall describe the remedial repairs, maintenance, or demolition the Rushville Unsafe Building Board determines necessary to remedy the defects, and remedy the violations of this subchapter.

(3) The order shall specify the time frame in which the owner or affected person with a legal interest shall have to remedy the defects, and the violations of this subchapter.

(B) The owner or other affected person with legal interest may agree, and consent to the findings and the order of the Rushville Unsafe Building Board. In such an event, the owner or affected person with legal interest will sign the findings, and order which shall become binding on the owner or affected person with legal interest without further action by the Rushville Unsafe Building Board.

(Ord. 2015-03, passed 4-7-2015)

#### **§ 154.45 APPEALS; FINALITY OF DECISIONS.**

(A) In the event the owner or affected person with legal interest does not agree with the Rushville Unsafe Building Board's findings and orders, the owner or affected person with legal interest shall have the right to appeal the decision of the Rushville Unsafe Building Board to the Rush County Circuit or Superior Court by initiating an action within 30 days from the date of the Board's order.

(B) In the event the owner or affected person with legal interest does not agree with the Board's findings, and order, the Rushville Unsafe Building Board may seek enforcement of the order by filing an action in the Rush County Circuit or Superior Court to enforce its findings and order by judicial decree. The judicial review provided herein, shall not be a trial de novo except that the court may, at the court's discretion, allow additional evidence as the court deems appropriate and necessary.

(C) In the event the owner or affected person with legal interest does not agree with the Board's findings and order, and in the event either party seeks intervention of the court, remedial action shall not be required until the judicial proceedings are completed, or the court enters an order directing remedial action.

(D) In the event an owner or affected person with legal interest does not undertake remedial action as required by the Board's findings and order, or a judicial determination thereon, the City of Rushville may take remedial action, as necessary, and pursue an action, at law, against the owner or affect person with legal interest for the cost necessitated thereby. Any cost and expenses incurred by the City of Rushville for remedial action under this subchapter shall become a lien against the subject property with or without judicial decree/judgment.

(Ord. 2015-03, passed 4-7-2015)

#### **§ 154.46 MISCELLANEOUS PROVISIONS.**

In addition to the foregoing provisions the following provisions apply:

(A) The owner or person with a legal interest may agree with the Code Enforcement Officer's notice of violation, and the owner or person with legal interest may agree to the remedial action recommended by the Code Enforcement Officer. Any such agreement shall be in writing, and shall define the defects, and remedial action that will be taken to remedy the defect(s). The agreement shall include a time frame to complete all remedial actions.

(B) In the event the Rushville Unsafe Building Board, at the request of the Code Enforcement Officer or Health Department or other governmental agency charged with the responsibility of protecting the public health, safety and welfare, determines an emergency exists, then and in that event, the Rushville Unsafe Building Board may proceed to take appropriate remedial action as may be necessary to protect the public health, safety, and welfare including the demolition of the rental unit that is in violation of this subchapter. In the event the Rushville Unsafe Building Board invokes this emergency provision the Rushville Unsafe Building Board shall provide notice as is reasonable under the circumstances to the owner and any person with a legal interest as disclosed in the records of the Rush County Treasurer's Office and the Rush County Recorder's Office. Notice by certified mail, return receipt requested, to the address of the owner and any person with a legal interest shall be deemed good and sufficient notice.

(C) The City of Rushville recognizes vacant buildings pose, and present special problems. An owner has an affirmative duty to secure, and protect structures located on the owner's property.

(Ord. 2015-03, passed 4-7-2015)

## § 154.99 PENALTY.

(A) (1) Except as provided in division (B) below, the first violation of this §§ 154.01 through 154.19 shall be subject to a civil fine of not more than \$250 per day. Each day that a violation continues shall be deemed a separate offense. However, there shall be no deemed violation of that subchapter until the owner, or person with legal interest has an opportunity to appear before the Rushville Unsafe Building Board, and 30 days after the Board's findings and orders determining the subject property is in violation of that subchapter.

(2) Repeat violations committed are considered separate violations of that subchapter when having been found that an earlier violation was resolved, not less than 30 days, but within a two-year period. Each day that a repeat violation continues shall be deemed a separate offense. However, there shall be no deemed repeat violation of that subchapter until the owner, or person with legal interest has an opportunity to appear before the Rushville Unsafe Building Board, and 30 days after the Board's findings and orders determining the subject property has committed a repeat violation of that subchapter.

(a) The second violation shall be subject to a civil fine of not more than \$500 per day.

(b) The third violation shall be subject to a civil fine of not more than \$750 per day.

(c) The fourth and all subsequent violations shall be subject to a civil fine of not more than \$1,000 per day.

(B) Any person who is found in violation of § 154.16 shall be fined not less than \$300 nor more than \$1,000 for each offense. Each day that a violation continues shall constitute a separate, and distinct offense to which a separate fine shall apply.

(C) (1) The first violation of §§ 154.30 through 154.46 shall be subject to a civil fine of not more than \$250 per day. Each day that a violation continues shall be deemed a separate offense. However, there shall be no deemed violation of that subchapter until the owner, or person with legal interest has an opportunity to appear before the Rushville Unsafe Building Board, and 30 days after the Board's findings and orders determining the subject property is in violation of that subchapter.

(2) Repeat violations committed are considered separate violations of that subchapter when having been found that an earlier violation was resolved, not less than 30 days, but within a two-year period. Each day that a repeat violation continues shall be deemed a separate offense. However, there shall be no deemed repeat violation of that subchapter until the owner, or person with legal interest has an opportunity to appear before the Rushville Unsafe Building Board, and 30 days after the Board's findings and orders determining the subject property has committed a repeat violation of that subchapter.

(a) The second violation shall be subject to a civil fine of not more than \$500 per day.

(b) The third violation shall be subject to a civil fine of not more than \$750 per day.

(c) The fourth and all subsequent violations shall be subject to a civil fine of not more than \$1,000 per day.

(Ord. 2014-10, passed 7-15-2014; Am. Ord. 2014-15, passed 7-15-2014; Am. Ord. 2015-03, passed 4-7-2015)