Ordinance No. 531

An Ordinance to amend and restate Sections 141-9 and 141-10 of Chapter 141(Dangerous or Vacant Buildings and amend Section 230-57 of Chapter 230 (Zoning) of the Code of the City of New Castle

WHEREAS, the City Council of the City of New Castle is charged with the responsibility of ensuring the health, safety, and welfare of the citizens of the City of New Castle by administering and enforcing the regulations of the building industry; and

WHEREAS, the City's Board of Building Appeals is charged with hearing and deciding cases and appeals relating to dangerous buildings as set forth in Chapter 141 of the City Code, including the power to affirm, reverse or modify any decision of the Building Official; and

WHEREAS, by the adoption of this ordinance, the City Council intends to update:

(1) Amend and restate Section 141-9 of the City Code to provide for the ability to retain outside counsel in matters before the Board of Building Appeals;

(2) Amend and restate Section 141-10 of the City providing for the City's the Board of Adjustment to serve as its Board of Building Appeals; and

(3) Amend Section 230-57 of the City Code to confirm the jurisdiction of the Board of Adjustment to serve as the Board of Building Appeals.

WHEREAS, the City Council finds that the provisions of this ordinance are rationally and reasonably related to, substantially advance, and are narrowly tailored to achieve its goal of protecting and preserving legitimate governmental interests, including, but not limited to, the protection and preservation of the public health, safety, prosperity, general welfare and quality of life;

NOW, THEREFORE BE IT ORDAINED by the Council of the City of New Castle, the following:

SECTION 1: Section 141-9 of the City Code (Duties of City Solicitor) is revised, amended and replaced as follows:

§141-9 Duties of City Solicitor.

The City Solicitor shall:

A. When directed by the City Council, prosecute all persons failing to comply with the terms of any order provided for in this Code.

B. Bring suit to collect all municipal liens, assessments or costs incurred in repairing or causing to be vacated or demolished any dangerous buildings.

C. Take such other legal action as is necessary to carry out the terms and provisions of this code.

D. In the event that the City Solicitor's membership on the Board of Building Appeals creates a conflict of interest with his duties under this Section 141-9, the City shall retain the option to obtain outside counsel to prosecute matters consistent herewith.

SECTION 2: Section 141-10 of the City Code (Board of Building Appeals) is hereby revised, amended and replaced as follows:

§141-10 Board of Adjustment to serve as the Board of Building Appeals.

A. The Board of Adjustment shall serve as the City's Board of Building Appeals (the "Board").

B. Except in emergency cases under section 141-14 of this Chapter, a property owner aggrieved by any notice or order to repair, vacate or demolish a dangerous building received from the Building Official under this Chapter, may file an appeal with the Board of Building Appeals within thirty (30) days from the date of such notice or order. Upon the filing of an appeal as set forth herein, the Board of Building Appeals shall set a hearing date and hold a hearing within 40 days. At such hearing, the Board shall receive any evidence which the person aggrieved, the Building Official, or a complainant may desire to offer, shall make findings and shall render a decision, in writing within 30 days of the date of the hearing. The Board, with a concurring vote of the majority of its members, may affirm, modify, reverse, vacate, or revoke the action appealed; provided, however, that the action of the Building Official shall be affirmed by the Board if the action was not arbitrary or capricious and was taken pursuant to law; and provided, further, that the decision of the Board shall not vary the terms of any law, code, or ordinance.

C. The Board of Building Appeals, subject to approval by City Council, shall have the power to make, revise, or rescind such rules as it may deem necessary or appropriate to regulate and govern practice and procedure before the Board and the conduct of the Board's affairs.

SECTION 2. Existing subsections E, F, G and H of Section 230-57 in Chapter 230 of the City Code (Zoning) are hereby re-designated as subsections F, G, H and I respectively, and a new subsection E is hereby adopted to read as follows:

§ 230-57 Powers and duties.

The Board of Adjustment shall have the following powers and duties:

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E. Board of Building Appeals Matters. The Board of Adjustment shall serve as the Board of Building Appeals and shall be vested with the jurisdiction, powers and duties delegated to the Board of Building Appeals as provided in Chapter 141 of the City Code.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. In the event any existing Ordinances or parts of Ordinances are in conflict herewith, the provisions of this Ordinance shall control unless otherwise specified herein.

SECTION 5. This Ordinance shall become effective immediately upon passage.

First Reading October 13, 2020

Second Reading November 4, 2020

Signed this _____ day of _____, 2020

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Linda Ratchford, President of Council

I hereby certify that the foregoing Ordinance was duly approved by the Council of the Mayor and Council of New Castle upon the dates above set forth and signed by the President of Council.

_____
Brian G. Whitaker, City Clerk

Approved this_____ day of _____, 2020

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Michael J. Quaranta, Mayor