

ORDINANCE

An Ordinance to amend Section 16.070 of the Manitowoc Municipal Code regulating Razing of Buildings.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 16.070 is amended to read as follows:

“16.070 Razing of Buildings.

(1) The purpose of this section is to regulate the razing or demolition and the removal of scrap and salvageable equipment and materials from vacated buildings without immediate functional replacement. The City of Manitowoc finds that such removal may result in the complete abandonment of property and reduce the chance that such property will in the future be devoted to any productive or enjoyable public or private use, and therefore cause conditions which will create health and safety hazards and aggravate blight, interfere with the enjoyment of and reduce the value of private property, and interfere with the safety and welfare of the public.

(a) **Permit and Definition of “Demolition.”** No person shall raze or demolish any building within the City without first obtaining a permit from the ~~Building Inspector~~ Fire Department, unless otherwise exempted under this section. For purposes of this section, the terms “demolition” and “razing” shall be used interchangeably, and shall be defined as a license for the deconstructing, destroying, razing, tearing down, or wrecking of any building including its foundation in an environmentally responsible manner, protective of worker safety. Demolition shall include any partial demolition and any interior demolition affecting more than 10 percent of the replacement value of the structure as determined by the Building Inspector. Any demolition work shall include (1) proper disposal of recyclables, solid waste, and hazardous materials pursuant to applicable regulations and approved plans, if any; (2) the controlled removal of materials to be salvaged or intended to be reclaimed or saved from destruction from the interior of a building including, but not limited to, machines, wire, conduit, equipment, steel, wood, copper, aluminum, glass, brick, concrete, asphalt material and the like; (3) termination of utilities serving the premises including permits and final inspections and approvals; (4) removal of driveways and repair of public sidewalks, as required; (5) site cleanup and restoration including grading, landscaping and fencing, as required; (6) compliance with all other applicable building regulations including, but not limited to, Section 30.08 of the Wisconsin Uniform Building Code; and (7) payment to the City of any outstanding taxes, fees, citations, or assessment owed.

(b) **Permit Grant for Properties with Buildings in Excess of 100,000 Cubic Feet.** Properties with buildings exceeding a total of 100,000 cubic feet require Common Council approval. The Common Council may consider the permit application only after receiving the recommendation of the ~~Licensing, Permits, and Inspections~~ Public Safety Committee.

Prior to making its recommendation to grant or deny the application, the ~~Licensing, Permits, and Inspections~~ Public Safety Committee shall consider: (1) the application; (2) the report, if any, of the Building Inspector; (3) the expertise and financial condition of the applicant and/or owner; (4) the effect of the proposed operation on the surrounding neighborhood; (5) the conditions in which the site and building will be left upon completion of the proposed demolition, including the post-demolition plan; (6) the effect on the City of having a stripped structure remain, if the structure is not proposed to be immediately razed or immediately renovated; (7) the presentation, if

any, of the applicant; (8) the comments of the public; and (9) such other matters germane to the decision.

In making a recommendation, the ~~Licensing, Permits and Inspections~~ **Public Safety** Committee shall address the following matters: (1) the amount of the irrevocable letter of credit, which shall in no case be less than 120 percent of the project cost, to be required by the City Attorney of the permittee as a condition of issuance of the permit and as a requirement of operation; (2) other State or local permits as required by law, rule or regulation that must be obtained as a condition of issuance of the permit or as a condition of operation; (3) reasonable special operating requirements to be required of the permittee; and (4) such other matters or limitations as the Public Safety Committee determines is necessary to protect the public interest.

After all conditions of issuance have been satisfied, the Building Inspector shall issue the permit to the applicant, who may then be referred to herein as permittee or permit holder.

(2) Application. The owner of a building to be razed shall sign the permit application. In the alternative, an agent for the owner may sign the permit application upon providing written authorization verifying permission of the owner to apply for the permit. The Building Inspector may require additional information, such as proof the applicant has sufficient financial resources and ability to complete the project, including, but not limited to: (a) identification of materials to be recycled; (b) a performance schedule; (c) financial assurances, including a project pro forma detailing projected revenues and expenses; (d) environmental assessment, asbestos or other reports regarding hazardous substances; and (e) other State or local permits as required by law, rule or regulation. The owner and demolition contractor/operator shall be jointly and severally liable for performance under a permit issued pursuant to this section.

(3) Fees. Permit fees shall be established by resolution of the Common Council.

(4) Irrevocable Letter of Credit or Alternative Forms of Security. Any application for a permit to engage in the razing of buildings within the City shall be accompanied by an irrevocable letter of credit which meets the following requirements:

- (a) In an amount no less than 120 percent of the estimated project cost;
- (b) Name the City as a beneficiary;
- (c) Be irrevocable and unconditional;
- (d) Be conditioned for payment to the City solely upon presentation of the letter of credit and a sight draft, which shall direct the issuing lending institution to pay the City without any explanation, affidavit or documentation;
- (e) Expire not earlier than one year after completion of the last act by permittee of demolition or salvage (unless the one-year period is waived or modified by the Common Council), or after the expiration of a permit issued under this section to the permittee, whichever is later;
- (f) Issued by a company certified by the State to conduct such business within Wisconsin.

The irrevocable letter of credit shall be a guarantee of performance by the permittee. The City Attorney shall act as the reviewing authority for the letter of credit. The letter of credit shall be delivered to the attention of the City Attorney, who may reasonably require a greater amount on a case-by-case basis, where deemed necessary to protect the City. In considering the amount of the irrevocable letter of credit, the City Attorney shall consider: (1) the

recommendation, if any, of the Building Inspector; (2) the expertise of the applicant; (3) the applicant's work history; (4) the capitalization of the applicant; (5) the scope of the proposed project; (6) the possible environmental hazards that could be created or currently exist; (7) the effect of the proposed operation on the surrounding neighborhood; and (8) the cost of remediation on the City, should the City have to address any matter due to the unwillingness or inability of the permittee to complete its obligations.

(5) Comprehensive Liability Insurance. An applicant for a permit shall provide proof of comprehensive liability insurance in the amount of \$1,000,000 per occurrence and per person, and \$50,000 property damage. Such coverage shall be maintained for the duration of the project and shall be a condition of a permit issued under this section. In addition, the permittee shall agree to indemnify and hold the City harmless from any and all claims, demands, actions, judgments, liabilities and obligations of any nature whatsoever arising from the demolition activity or site restoration for which the permit is issued, including any attorneys' fees and costs incurred by the City as a result thereof. In addition to liability insurance, the Building Inspector or City Attorney may require additional coverages including, but not limited to, automobile liability, pollution legal liability or other environmental insurance coverage, and workers' compensation.

(6) Disconnection of Utilities. The owner or agent shall notify all utilities having service connections within a building to be razed, such as water, electric, gas, sewer, telecommunications, and other connections. A permit to demolish or remove a building shall not be issued until the Building Inspector has determined that all appurtenant equipment, such as meters and regulators, has been removed, and service connections are sealed and plugged correctly. No permit to demolish or remove any building shall be issued without written proof of the notification and appropriate removal of appurtenant equipment provided to the Building Inspector.

(7) Sewer and Water Connections. During demolition, sewer pipes shall be protected to prevent entrance of sand, earth or other foreign materials. Upon completion of demolition, the ends of all underground sewer or drain pipes shall be securely stopped with watertight and durable material. The water supply and sewer systems shall be abandoned inside the lot line by a licensed master plumber.

(8) Dropping Materials – Chutes Required. Where a space on the ground or on a floor is railed off and openings in boundary walls closed, materials may be dropped into such space. When a protected or enclosed space cannot be provided, material and debris shall be removed through fully enclosed inclined chutes of wood, metal or other approved durable material. Open chutes may be used to lower dismantled falsework or lumber from a height not exceeding 30 feet. The bottom of all chutes shall be equipped with a gate or stop for closing and regulating the flow of materials.

(9) Permit Conditions. All permits shall be subject to the following conditions:

(a) **Permit Term.** The razing or demolition of a building shall be completed ~~no later than~~ 90 consecutive calendar days after the permit is issued. The Building Inspector may, at his/her discretion, extend the permit term for cause, on terms and conditions acceptable to the parties and recorded in writing. "Cause" shall mean the inability of the permittee to act due to circumstances beyond permittee's reasonable control and upon the exercise of due diligence.

(b) **Inspection of Work.** During the entire period of any demolition project, employees and agents of the City shall have the ability to enter onto the property, at any time, without notice, for inspections. Such ability shall be a condition of the demolition permit. Work authorized by the permit is subject to inspection by the Building Inspector who shall have the authority to order corrective work. Failure to

follow the orders of the Building Inspector, or to complete the raze in accordance with the ~~MMC~~ Manitowoc Municipal Code, shall give the Building Inspector authority to seek restitution from the letter of credit or alternative security, by any remedies available at law.

(c) **Foundation of Razed Building.** Whenever a building has been razed, the foundation thereof, if any, shall be removed to at least two feet below adjacent grade and filled in with clean fill material approved by the Building Inspector with the top two feet of fill material being of dirt or sand. No combustible material may be used for the fill material.

(d) **Driveway Approaches, Sidewalks and Slabs.** Remaining driveway approaches shall be removed and replaced with curb and gutter; damaged public sidewalks shall be replaced; and driveway aprons, remaining slabs and private sidewalks shall be removed from the site pursuant to any permits for replacing curb and gutters, driveway approaches and public sidewalks obtained from the Department of Public Infrastructure.

(e) **Restoration of Site.** Prior to the issuance of a permit under this section by the Building Inspector to a contractor licensed in Wisconsin, the contractor may be required to provide a sufficient level of detail regarding the post-demolition activities, condition and use of the property. The Building Inspector reserves the right to require the property owner or its agent to submit (prior to commencement of any demolition activity) a site plan pursuant to MMC [15.370\(2\)](#) for the property upon which the structure to be demolished is located. All debris, rubbish and other materials not used for fill shall be removed from the site upon completion of demolition work, and the site leveled and graded to provide proper drainage to conform with the grade of adjoining premises, or fenced in with a temporary solid barrier fence not less than four feet high to safeguard the public. The foundation walls shall be removed a minimum of two feet below adjacent grade, and the basement floor broken up to allow free flow of water to its natural grade. The site shall be left in a dust-free and erosion-free condition. Excavations shall be filled with a minimum of three inches of clean, solid fill to match lot grade within five consecutive calendar days of removal of the structure. The contractor shall be responsible for the repair and replacement of any public sidewalk, curb, gutter or street damaged in this process. Any excavation shall be protected with appropriate fences, barriers and/or lights.

(f) **Disposal of Debris.** Except for recycled or salvaged materials, the permit holder shall dispose of all building debris in a licensed landfill in a manner compliant with Wisconsin Department of Natural Resources requirements. At any time, the permit holder shall provide to the Building Inspector receipts and/or an itemized list of debris disposed of by dumping or salvage. There shall be no burning of any structure or demolition waste.

(g) **Site Safety and Security.** The permit holder shall, during the razing process, maintain the site in a safe and secure condition, and shall promptly report any personal injury and property damage to the Building Inspector.

1. All building materials which produce dust or other flying debris shall be sufficiently dampened during removal to minimize floating or blowing into the street or adjoining property. All adjacent streets, sidewalks or other public areas shall be protected by fences and/or scaffolds. The Building Inspector may require additional safety and security methods, including fencing and gating, as deemed necessary to protect the site and restrict access to the public.

2. The structural elements of a building or structure shall be taken down one story at a time, beginning from the top, unless a different method is approved by the Building Inspector. All structural parts of each story shall be lowered to the ground by means of approved equipment or devices except as hereinafter provided. No material shall be placed or allowed to fall in such a manner so as to overload any part of the structure which may be caused to fall because of such practice.

(10) Exception. After consideration of the factors in this section, the Building Inspector may grant an exception to subsections (9)(a), (9)(b) and (9)(c) of this section for any property for which the City will be taking title or for which a related redevelopment plan has been approved by the City. In the exercise of discretion in granting an exception, the Building Inspector shall consider the following factors:

- (a) Type of contamination that may be on the property or the larger, integrated site associated with the building to be razed;
- (b) Suspected level of contamination on the property based on best evidence available;
- (c) Possible vectors of migrations from the property;
- (d) Any known migration of contamination from the property;
- (e) Reasonableness of other means of remediation or containment;
- (f) Any communication from the State or Federal government suggesting the necessity or adequacy of maintaining the foundation, or portion thereof, for environmental protection.

(11) Exemption.

(a) **Residential Remodeling.** This section shall not be construed to apply to contractors or homeowners doing demolition work on part of a one- or two-family residential building which is necessary in the course of remodeling work being conducted under a building permit. The Building Inspector may exempt contractors or homeowners from the irrevocable letter of credit provisions using the same criteria used to establish whether a permit should be granted.

(b) **Accessory Buildings and Detached Garages.** This section shall not apply to demolition of accessory buildings or detached garages less than 500 square feet in area as measured by the exterior dimensions of the structure.

(12) Special Assessment. The Building Inspector shall recover all costs of enforcement and legal fees through special assessments to be levied and collected as a delinquent tax against the real estate upon which the building is located. Such special assessment shall be a lien upon the real estate. An administrative fee as set forth by resolution of the Common Council shall be added to the special assessment against the benefited property.”

Section 2. This ordinance shall take effect the day after publication.

INTRODUCED _____ ADOPTED _____ APPROVED _____

Justin M. Nickels, Mayor

Fiscal Impact:	\$0
Funding Source:	n/a
Finance Director Approval:	sc
Approved as to form:	km

This resolution was drafted by Elizabeth Majerus, Staff Attorney

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