

ORDINANCE NO. _____
AN ORDINANCE CREATING
CHAPTER 14.17 RAZING OF BUILDINGS.

WHEREAS, this ordinance was reviewed by the _____ [committee/commission] and is recommended for adoption by said committee; and,

WHEREAS, [reasons to adopt ordinances are not required, but as many as are relevant can be added here]; and,

WHEREAS, [each whereas should be a complete sentence or independent justification.]

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Section 14.17 is hereby created to read as follows:

14.17 RAZING OF BUILDINGS.

14.17.010 Definition. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning

(A) *Code Official* means the Building Director or their designee.

(B) *Major Structure* means a building or structure having occupiable space of over 20,000 square feet that had a principal commercial/industrial use as its most recent legal use, which principal use has ceased.

(C) *Minor Structure* means a building or structure having occupiable space of under 20,000 square feet that had a principal residential/commercial/industrial use as its most recent legal use, which principle use has ceased.

(D) *Razing of buildings* means demolishing and removing the building and restoring the site to a dust-free and erosion-free condition.

14.17.020 Permits.

(A) **Permit Required.** No person, firm, or corporation shall raze or cause to be razed any structure, as defined in 19.09.690, or part thereof without first obtaining a permit from the City of Whitewater.

(B) **Permit Application.** The Owner of the 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 the permission of the owner to apply for the permit and designating the agent as a razing contractor. The Building Official may require additional information and other state or local permits as required by law, rule or regulation.

(C) **Fees.** Permit fees shall be established by resolution by the Common Council from time to time.

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

- (1) A notice of Demolition DNR form #4500-113 must be completed and provided to the Building Official for all commercial buildings or residential buildings of five or more dwelling units if asbestos is being removed prior to razing. An asbestos containing material (ACM) inspection will be completed by a certified asbestos inspector separate from and prior to work under a razing permit. All asbestos containing materials which require removal prior to razing will be removed from the building by a certified asbestos abatement contractor separate from and prior to the start of work under a razing permit. Proof of DNR approval must be submitted prior to issuance of a razing permit.
- (2) Every person filing an application for a permit for the razing of a major building or structure shall file with the Building Official such application a detailed plan indicating the manner in which the building or structure is to be demolished, the time schedule for all phases of the razing work, a disposal plan for debris. The plan shall also address noise, dust, debris transport, hours of work, and protection of excavated or hazardous areas and disposal areas.
- (3) The razing of a building shall be completed within 60 days after the date the permit was issued. The Building Official may, at their discretion, extend the permit for cause. Cause shall mean the inability of the permittee to act due to circumstances beyond permittee's reasonable control upon the exercise of due diligence. Razing permits shall lapse and be void unless work authorized thereby is commenced within six months from the date thereof or completed within 30 days from the date of commencement of work. Any unfinished portion of work remaining beyond the required 30 days must have special approval from the code official or a penalty may be issued. The site must be returned to a dust-free surface within 30 days as approved by the code official.
- (4) Work done under a razing permit is subject to inspection by the Building Official who shall have the authority to order corrective work. Failure to follow the orders of the Building Official, or to complete the raze in accordance with this Code, shall give the Building Official authority to seek restitution from any required bond. If no bond, the cost thereof shall be assessed against the property as a special charge and added to the next tax roll against such property.
- (5) Whenever a building or structure has been razed, the foundation thereof, if any, shall be leveled to at least one foot below grade. The basement and other openings shall be filled to grade with sand, limestone, or other fill approved by the Building Official. No combustible material may be used for the fill material. The excavation must be filled to grade within a period of 60 days from the date the permit to raze had been issued, unless within that time actual new construction has been commenced on the site. If such excavation has not been

filled, construction commenced, or an extension granted by the Building Official within the 60-day period of time, it shall be the duty of the Building Official to have the excavation filled and the cost thereof shall be assessed against the property as a special charge and added to the next tax roll against such property. After all razing operations have been completed, unless the owner produces and submits proof from a state-approved architect or engineer certifying the existing foundation is stable and usable, the foundation and floor slab shall be broken up with all utilities being capped, sealed and appropriately marked. The foundations shall then be filled at least one foot above adjacent grade, and the property raked clean and all debris hauled away. No combustible material shall be used for backfill but shall be hauled away.

- (6) Remaining slabs and private sidewalks shall be removed from the site by the permittee prior to final approval.
- (7) Whenever a building or structure has been razed, the site shall be graded with a minimum of six inches of topsoil, with seed and mulch or sod applied to cover the entire disturbed area.
- (8) A snow fence or other approved barricade shall be provided as soon as any portion of the structure is removed and shall remain during razing operations.
- (9) If determined by the Building Inspector, a site that remains idle for more than 30 days must maintain appropriate erosion control practices.
- (10) All debris must be securely disposed of. There shall not be any burning of materials on the site of the demolished structure.
- (11) If any razing or removal operation under this section results in or would likely result in an excessive amount of dust particles in the air, creating a nuisance in the vicinity thereof, the permittee shall take necessary steps by use of water spraying or other appropriate means to eliminate such nuisance.
- (12) The permittee shall take all necessary steps prior to razing of a structure, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building so as to prevent spread and migration of rodents and insects therefrom during and after the razing operations.

14.17.030 Operating Requirements.

(A) The following general operating requirements shall apply to all permittees or those working for a permittee subject to terms of the permit in accordance with the provisions of this article.

- (1) Razing contractor shall notify all utilities for proper disconnections.
- (2) The owner of each adjacent building shall be legally notified of the proposed wrecking so that proper precautionary and protective measures can be arranged

and made, and that proper arrangements have been made by the wrecker or adjacent owner or by both parties to treat the resulting exposed portion of each adjacent building aesthetically so that such exposed portion will not present an eyesore to the public spectacle.

- (3) Razing contractor is responsible for permanent compliant capping and inspection of all sewer and water laterals as determined by the Building Official.
- (4) Any underground storage tanks shall be removed in accordance with Fire Department Regulations and other applicable regulations.
- (5) Any well must be capped and abandoned with DNR approval. The DNR abandonment form must be submitted to the water utility.
- (6) Razing contractor is responsible for payment of repairs for any excavation in the right-of-way for this project.
- (7) Razing contractor shall replace all public sidewalk, curb, gutter, street, or utility damaged during the razing.
- (8) The building and premises shall, at all times, be maintained in as clean, neat, and sanitary of a condition as such premises will reasonably permit, in the sole opinion of the Building Official and/or their designee.
- (9) No basement or excavation hole will remain exposed overnight without proper barricading or fencing.
- (10) Work done under this permit is subject to inspection and approved by the Building Official and/or their designee.
- (11) No scrap salvage or debris which is temporarily stored on the premises shall be allowed to rest or protrude over any public street, walkway, terrace, other public property, or curb, or become scattered about or blown off the premises, or become a nuisance or hazard of any kind.
- (12) All razing work shall be watered down during the razing.
- (13) In cases where a building or structure to be razed lies in a business or industrial zone and is not more than five feet from a sidewalk, all necessary precautions such as barricades, railings, wall, light, etc., shall be taken to safeguard and protect any persons or property on or adjacent to such sidewalks. All existing and adjoining public and private property shall be protected from damage incidental to the razing operations.
- (14) The permit holder shall dispose of building and structure debris in a licensed landfill, except for salvaged materials.

- (15) The permit holder comply with the standards provided in Chapter 8.28, as from time to time amended and/or renumbered.

14.17.040 Inspections. Permit holders and property owners shall permit authorized representatives of any department official, or employee of the City having enforcement powers to inspect, from time to time and at any time, the premises permitted and those proposed to be permitted, with or without advance notice, as often as may be required to permit said departments, the Building Official, and/or their designee to perform their and/or their duties to facilitate compliance with the permittee's requirements under this article, without first obtaining a special inspection warrant. The unreasonable or unexcused failure and/or refusal by any person to permit such inspection shall be grounds for permit denial, suspension, revocation, enforcement, the imposition of fee penalties, the imposition of other penalties, the issuance and execution of a special inspection warrant, and/or such other relief as provided in law and equity, all such remedies being cumulative and not exclusive in favor of the City, its Building Official, and/or their designee.

14.17.050 Major buildings. Additional condition of issuance by the Building Official of the permit for major buildings:

(A) **Bond.** The applicant/permittee shall post with the City Treasurer a surety bond payable to the City of Whitewater in a form approved by the City Attorney in the amount of the actual cost of the permitted work. Such bond shall guarantee that all work is performed in accordance with this Code and other state and local laws, rules, and regulations, hold the City harmless from any costs and expenses arising from the permitted work, and secure timely performance of the work. The City may reasonably require a bond of a greater amount, on a case-by-case basis, where deemed necessary, to protect the City. In extraordinary circumstances, the City Council may allow for an alternate form of security in an amount deemed reasonably necessary and sufficient. The bond shall be made payable to the City of Whitewater upon demand unless all work is timely completed by the permittee.

(B) **Plan.** Every person filing an application for a permit for the razing of a major building or structure shall file with the Building Official such application a detailed plan indicating the manner in which the building or structure is to be demolished, the time schedule for all phases of the razing work, a disposal plan for debris. The plan shall also address noise, dust, debris transport, hours of work, and protection of excavated or hazardous areas and disposal areas.

14.17.060 Insurance.

(A) **Minor Building Razing projects:** 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.

(B) **Major Building Razing projects.** The permittee shall have the responsibility at all times to obtain, pay for, and maintain policies of insurance in the following minimum amounts, naming the City of Whitewater as an additional and/or co-insured for all entities

or natural persons doing work upon the property, building, and/or structure, or associated with the work under the permit, and shall maintain on file with the City Treasurer current certificate of insurance for the following insurance levels:

- (1) Commercial general liability:
 - a. General aggregate: \$2,000,000.00.
 - b. Each occurrence \$1,000,000.00.
- (2) Automobile liability (owned, non-owned, leased):
 - a. Bodily injury: \$1,000,000.00 each occurrence.
 - b. Property damage: \$1,000,000.00 each occurrence.
- (3) Pollution legal liability: \$5,000,000.00 each loss where asbestos removal, environmental process, abatement, remediation, or dumping/disposal in a federal or state regulated facility is required.
- (4) Workers' compensation: Statutory limits.
- (5) Umbrella liability: \$2,000,000.00 over the primary Commercial General Liability and Automobile Liability insurance coverages listed above.

14.17.070 Concurrence of Landmarks Commission.

(A) **Landmarks Commission Approval.** No person shall demolish all or part of a structure, landmark or improvement on a landmark site unless the Landmarks Commission has approved such work by issuing a certificate of appropriateness. A razing permit shall not be issued for razing a structure on a local landmark without presentment of a certificate of appropriateness from the Landmarks Commission.

(B) **Request for Certificate.** When a person applies for a permit to demolish such property, such application shall also be filed with the Landmarks Commission.

(C) **Landmarks Commission Process.** Upon the filing of an application, the Commission may refuse to approve the work for up to 120 days from the date of filing, during which time the Landmarks Commission and the applicant shall undertake serious continuing discussion to try to find a method to save such property. During such time, the applicant and the Landmarks Commission shall cooperate to try and avoid razing of the property. At the end of 120 days, if no mutually agreeable method of saving the property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the property is pending, the razing permit may be issued without the approval of the Landmarks Commission.

(D) **Exception.** Subsection C does not apply to buildings or structures deemed by the code official to be so deteriorated or dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitations or occupancy, and such that it is unreasonable to repair the structure.

14.17.080 Dilapidated Buildings.

(A) The code official shall comply with the requirements of Wis. Stat. §66.0413, in proceeding under this section.

(B) Repairable. The code official shall order the owner of any premises to repair and make safe and sanitary or to board up and hold for future repair or to demolish and remove at the owner's option any structure located on the premises, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy that is capable of being made safe by repairs,

(C) Unreasonable to repair. The code official shall order the owner of any premises to demolish or remove any structure located on the premises, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy such that it is unreasonable to repair the structure.

(D) Cessation of Normal Construction. Where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure or board up until future repair. Boarding the building up for future repairs shall not extend beyond one year, unless approved by the Building Inspector of the City.

14.17.090 Notice. All notices shall comply with 14.05.120.

14.17.100 Enforcement. The Building Director and/or their designee shall have the primary responsibility to enforce this article.

14.17.110 Failure to comply. If the owner of a premises fails to comply with a raze order within the time prescribed, the code official may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangements with private persons, the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, pursuant to 14.05.130(c).[

(A) Failure to obtain a permit prior to commencement of work will result in a penalty of \$100.00 or double the permit fee, whichever is greater, but in no event shall the penalty exceed \$2,000.00. Such penalty shall be paid in addition to the customary permit fee.

(B) A re-inspection fee shall be charged by the City against and paid by the property owner if the violation is not corrected by the re-inspection date. The re-inspection fee will be charged for each subsequent re-inspection until full compliance is achieved. Re-

inspection fees that are not timely paid shall be entered upon the tax roll as a special charge against the lot or parcel of land, pursuant to the provisions of Wis. Stats. § 66.0627, as from time to time amended or renumbered. The re-inspection fee shall be in an amount as established by the City Council from time to time.

(C) Additional penalties, remedies, and relief for violations hereof are as set forth in § 14.05.160, as from time to time amended or renumbered.

(D) All double and other permit fees, re-inspection fees, relief, remedies, penalties, and enforcement set forth in this article, in § 14.05.160, and/or at law or equity are cumulative and not exclusive.

14.17.120 Salvage Materials. When any structure has been ordered demolished and removed, the Common Council or other designated officer under said contract or arrangements aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sales, after deducting the expenses of such razing and removal, shall promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force the day after its passage and publication.

Ordinance introduced by Council Member _____, who moved its adoption.

Seconded by Council Member _____.

DATE	First Meeting Date				Second Meeting Date			
READING	FIRST				SECOND			
	YES	NO	PASS	ABSENT	YES	NO	PASS	ABSENT
Michael Smith								
Orin Smith								
Steven Sahyun								
Brian Schanen								
Neil Hicks								
Greg Majkrzak								
Patrick Singer								
Total:								

ADOPTED: _____

John Weidl, City Manager

ATTEST:

Heather Boehm, City Clerk