

ORDINANCE NO. OR17-05

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II,
ADMINISTRATION AND ENFORCEMENT, DIVISION 3, PERMITS AND PLANS,
CREATING SECTION 14-128, REMOVAL OF SALVAGEABLE NON-STRUCTURAL
MATERIALS FROM VACATED BUILDINGS
IN THE CITY OF BRILLION, CALUMET COUNTY, WISCONSIN**

The Common Council of the City of Brillion do ordain as follows:

SECTION I: Chapter 14, Buildings and Building Regulations, Article II, Administration and Enforcement, Division 3, Permits and Plans, Section 14-128 is hereby created as follows:

Sec. 14-128. - Removal of Salvageable Non-Structural Materials from Vacated Buildings

The purpose of this Ordinance is to regulate the removal of salvageable materials from vacated buildings without immediate functional replacement thereof. The phrase "immediate functional replacement thereof" does not include replacement that occurs as a part of a remodeling project in conjunction with valid building, heating, plumbing or electrical permits. The Council 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) *Definitions*

- (1) Salvageable Materials. Real or tangible personal property that is manmade; is affixed to real property; is detachable from real property; and may have a resale value, either for re-use or as scrap or recycling purposes. Such materials shall not include any structural materials or components.
- (2) Vacated Building. A building or structure having interior floor space of over ten thousand square feet (10,000 sq. ft) that had a principal non-residential use as its most recent use allowed by law, which principal use has ceased.
- (3) Code Official(s). The Building Inspector, Plumbing Inspector, Electrical Inspector, Health Officer, Police Department or Fire Department.

(b) *Permit*. No person, firm or corporation shall sell or transfer for purposes of removal or remove salvageable materials in the manner described in this Ordinance from a vacated building without first obtaining a permit from the Building Inspector and approval of the City Plan Commission.

(1) Permit Application. Application for a permit shall be made in writing to the Building Inspector and shall include the name and address of the owner of the building, name and address of the contractor, and a list of materials to be removed from the building. The Building Inspector or the City Plan Commission may require additional information of a specific applicant.

(2) Permit Fee. Permit Fees will be established by Resolution of the City Council.

- (3) Permit Approval. The Plan Commission shall consider such permit applications only at regular City Plan Commission meetings, and only after receiving the recommendations of the City staff review committee, consisting of the Fire Chief or his/her designee, the Police Chief or his/her designee, Building Inspector, and Zoning Administrator.

Prior to making a decision to grant or deny an application for permit, the City Plan Commission may consider: the application; the report of the staff review committee; the expertise of the applicant; the effect of the proposed operation on the surrounding neighborhood; the effect on the community of having a stripped structure remain if the structure is not proposed to be immediately razed or immediately renovated; the presentation, if any, of the applicant; the comments of the public; and such other matters germane to the decision.

In granting a permit, the City Plan Commission shall make findings as to the following matters: the amount of the Irrevocable Letter of Credit to be required of the permittee as a condition of issuance of the permit and as a requirement of operation; 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 requirement of operation; reasonable special operating requirements to be required of the permittee in addition to those General Operating Requirements listed in subsection (b)(6) herein; and such other matters or limitations as the City Plan Commission determines is necessary to protect the public interest.

- (4) Irrevocable Letter of Credit. As a condition of issuance by the Building Inspector of the permit, the permittee shall post an Irrevocable Letter of Credit in an amount required by the City Plan Commission and in a form acceptable to the City Attorney. The Irrevocable Letter of Credit must be issued by a financial institution certified by the State to conduct such business within the State of Wisconsin, allowing for direct draw by the City on demand without court action and without approval by permittee, to complete work or to repair damage that was the obligation of the permittee, The Irrevocable Letter of Credit must contain as a part of it provisions that it remains as an obligation to the City for no less than one year after completion of the last act by the permittee of salvage or after the expiration of a permit issued under this section to the permittee, whichever is later. In considering the amount of the Irrevocable Letter of Credit, the City Plan Commission may consider: the recommendation, if any, of the staff review committee; the expertise of the applicant; the longevity of the applicant; the capitalization of the applicant; the scope of the proposed project; the possible environmental hazards that could be created; the effect of the proposed operation on the surrounding neighborhood; the cost of remediation to the City if the City should have to address any matter due to the unwillingness or inability of the permittee to complete its obligations.

- (5) Permit Term. The term for a permit issued under this section shall be valid for a period of ninety (90) Days from the date of issue. Renewals and renewal term shall be at the discretion of the City Plan Commission.

(c) *General Operating Requirements.* The following general operating requirements shall apply to all permit holders in accordance with the provisions of this ordinance:

- (1) The permit issued pursuant to the ordinance shall be plainly displayed on the premises that the building is located.
- (2) The building and premises shall, at all times, be maintained in a clean, neat and sanitary condition as the premises will reasonably permit.
- (3) No garbage, refuse or other waste liable to give off a foul odor or attract vermin shall be kept on

the premises, except for domestic garbage kept in rodent-proof covered containers which are removed from the premises as often as necessary to provide a sanitary environment.

- (4) Work done under this permit is subject to inspection by the Building Inspector.
- (5) An applicant for a permit shall maintain proof of insurance policies, during the life of the permit and for one year following the completion of its work under the permit, in the following minimum amounts, naming the City as additional insured:
 - a. Commercial General Liability: \$2,000,000.
 - b. Automobile Liability (Owned, non-owned, leased)
 - i. Combined Single Limit: \$2,000,000.00
 - c. Pollution Legal Liability: \$1,000,000.00 each loss where asbestos removal, environmental process, abatement, remediation or dumping/disposal in a Federal or State regulated facility is required.
 - d. Worker's Compensation: Statutory Limits
 - e. Employer's Liability:
 - i. \$100,000.00 Each Accident
 - ii. \$100,000.00 Disease, Each Employee
 - iii. \$500,000.00 Disease, Policy Limit
 - f. Umbrella Liability:
 - i. \$2,000,000.00 over the primary Commercial General Liability, Automobile Liability and Worker's Compensation coverages listed above.
- (6) No scrap salvage or debris which is temporarily stored on the premises shall be allowed to rest or protrude over any public street, walkway or curb, or become scattered about or blown off the premise.
- (7) No mechanized process whatsoever shall be utilized on the premises to reduce salvageable materials or debris in volume unless approved by the City Plan Commission in conjunction with a specific permit. Such prohibited mechanized processes include, but are not limited to, crushers or shredders.
- (8) There shall be strict compliance with Chapter 58 of the Municipal Code related to noise control.
- (9) No premises or building subject to a permit shall be allowed to become a public nuisance or be operated in such a manner as to adversely affect the public health, safety or welfare.
- (10) There shall be full compliance with the City Building, Fire and Health Codes and with all other city, County, State and Federal laws, rules or regulations which may be applicable.
- (11) The permit holder shall, during the salvage process, maintain the work site in a safe and secure condition.
- (12) The permit holder shall dispose of building debris in a licensed landfill, except for salvaged materials. At any time, the permit holder shall produce to the Code Official receipts and/or an itemized list of debris disposed of by dumping or salvage.

- (13) The permit holder shall be responsible for disconnections of utilities, including plumbing and electrical, necessary for the salvaging process, and shall provide evidence that the necessary disconnections have been accomplished.
- (14) The permit holder shall comply with all orders of the Code Official imposed at the granting of the permit or at any other time.
- (15) The Irrevocable Letter of Credit imposed as a condition of issuance of the permit.
- (d) *Inspections.* Permit holders and property owners shall be permit authorized representatives of any department of City having enforcement powers to inspect the premises proposed to be permitted, with or without advance notice, as often as may be required to permit said departments to perform their duties and assure compliance with this ordinance, without first obtaining a special inspection warrant. Inspections shall be made during normal hours of business in the absence of emergency circumstances which require prompt attention to protect the public health, safety and welfare or to preserve evidence of noncompliance with this ordinance. The unreasonable failure to permit inspections shall be grounds for permit denial, suspension or revocation.
- (e) *Suspension and Revocation of Permit.* If in the opinion of the Code Official, the public is subject to imminent danger due to the violation by the permit holder of any one or combination of more than one of the General Operating Requirements, the Code Official shall issue an order to the permit holder requiring immediate cessation of those operations implicating the imminent danger. Pursuant to such order, the permit holder shall cause such operations to cease as directed by the Code Official. Failure to maintain insurance or a Letter of Credit as required, or to permit inspection as required are each violations implicating imminent danger to the public necessitating an order to cease all operations. The Permittee may appeal any such order to the City Plan Commission, in writing, setting forth the bases for any appeal, which shall be delivered to the Plan Commission care of the Office of the City Administrator. The Plan Commission shall hold a hearing regarding any such appeal, and provide notice at least ten (10) days' notice of the hearing to the Permittee and the Code Official. The City Plan Commission may revoke any permit if a Permittee fails to comply with the terms of this Ordinance at any time. The City Plan Commission will provide the Permittee with an opportunity to be heard by the Plan Commission prior to such revocation or non-renewal by providing the Permittee of notice if intent to revoke or non-renew and the grounds for the same at least ten (10) days prior to any meeting of the Plan Commission at which action is to be taken, through an order requiring immediate cessation of operations may be issued prior to such meeting. The Permittee may request a hearing before the Board of Appeals on receipt of such notice, which request shall be in writing delivered to the Board of Appeals care of the Office of the City Administrator and must be received prior to the meeting at which the Board of Appeals intends to act on revocation. The Board of Appeals shall schedule a hearing upon receipt of such request.
- (f) *Enforcement.* The Code Official shall have the responsibility to enforce this ordinance. Violations of this ordinance shall be subject to the general penalty provisions of the Municipal Code, Section 1-1-7. In addition, the City may apply to a court competent jurisdiction for injunctive relief and the assessment of damages including attorney's fees and costs.

SECTION II: This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR17-05 introduced and its adoption moved by Alderperson Levash; and seconded by Alderperson Hanson.

Upon a pole vote thereon, the result was as follows:

<u>6</u>	Votes Cast
<u>6</u>	Votes Yes
<u>0</u>	Votes No

The Mayor declared Ordinance Number OR17-05 adopted, approved and signed the same this 25th day of September, 2017.

Mel Edinger
Council President

Attested:

Lori M. Gosz, CMC
City Administrator/Clerk-Treasurer