

ORDINANCE NO. OR17-06

AN ORDINANCE AMENDING THE MUNICIPAL CODE

**CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II,
ADMINISTRATION AND ENFORCEMENT, DIVISION 3, PERMITS AND PLANS,
CREATING SECTION 14-127, RAZING OF 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 14-127 is hereby created as follows:

Sec. 14-127. - Razing of buildings.

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 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.

- (1) *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, 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 ten percent of the replacement value of the structure as determined by the building inspector. Any demolition work shall include:
 - a. Proper disposal of recyclables, solid waste, and hazardous materials pursuant to applicable regulations and approved plans, if any;
 - b. 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;

- c. Termination of utilities serving the premises including permits and final inspections and approvals;
 - d. Removal of driveways and repair of public sidewalks, as required;
 - e. Site cleanup and restoration including grading, landscaping and fencing, as required;
 - f. Compliance with all other applicable building regulations including; and
 - g. Payment to the city of any outstanding taxes, fees, citations, or assessment owed.
- (2) *Permit for properties with buildings in excess of 10,000 square feet.* Properties with buildings exceeding a total of 10,000 square feet require common council approval. The common council may consider the permit application only after receiving the recommendation of the plan commission. Prior to making its recommendation to grant or deny the application, the plan commission shall consider:
- a. The application;
 - b. The report, if any, of the building inspector, police chief or his/her designee, fire chief or his/her designee, or city engineer;
 - c. The expertise and financial condition of the applicant and/or owner;
 - d. The effect of the proposed operation on the surrounding neighborhood;
 - e. The conditions in which the site and building will be left upon completion of the proposed demolition, including the post-demolition plan;
 - f. The effect on the city of having a stripped structure remain, if the structure is not proposed to be immediately razed or immediately renovated;
 - g. The presentation, if any, of the applicant;
 - h. The comments of the public; and
 - i. Such other matters germane to the decision.

The plan commission may seek input from the building inspector, zoning administrator, fire chief, police chief and/or city engineer for the purpose of formulating its recommendation.

In making a recommendation, the plan commission shall address the following matters:

- a. The amount of the irrevocable letter of credit, to be required by the city attorney of the permittee as a condition of issuance of the permit and as a requirement of operation;

- b. 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;
- c. Reasonable special operating requirements to be required of the permittee; and
- d. Such other matters or limitations as the plan commission 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.

- (3) *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.
- (4) *Fees.* Permit fees shall be established by the Common Council.
- (5) *Irrevocable letter of credit.* As a condition of issuance by the building inspector or 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 permits, 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 its 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 razing or after 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.

- (6) *Comprehensive liability insurance.* An applicant for a permit shall provide 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: \$2,000,000.00.
 - (b) Automobile liability (owned, non-owned, leased)
 - (c) Combined single limit: \$2,000,000.00
 - (d) 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.
 - (e) Worker's compensation: statutory limits.
 - (f) Employer's liability:
 - (g) \$100,000.00 each accident
 - (h) \$100,000.00 disease, each employee
 - (i) \$500,000.00 disease, policy limit.
 - (j) Umbrella liability:
 - (k) \$2,000,000.00 over the primary commercial general liability, automobile liability and worker's compensation coverages listed above.
- (7) *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.
- (8) *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.

- (9) *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.
- (10) *Permit conditions.* All permits shall be subject to the following conditions:
- a. *Permit term.* The razing or demolition of a building shall be completed 90 consecutive calendar days after the permit is issued. The plan commission may 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 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 four 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 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 four 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 state 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.

(11) *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.

(12) *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.

(13) *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 II: This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR17-06 introduced and its adoption moved by Alderperson Levash; and seconded by Alderperson Shafran.

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

5 Votes Cast

5 Votes Yes

0 Votes No

The Mayor declared Ordinance Number OR17-06 adopted, approved and signed the same this 23rd day of October, 2017.

Gary Deiter

Mayor

Attested:

Lori M. Gosz, CMC

City Administrator/Clerk-Treasurer