

SUBCHAPTER 8
OCCUPANCY AND USE

200-42. Certificate of Occupancy. 1.

DEFINITION. In this section, "offer" means to communicate a willingness, desire or intent.

2. WHEN REQUIRED. a. It shall be unlawful to occupy or use, or offer to occupy or use any building, structure or premises now existing or hereafter erected unless or until a certificate of occupancy has been issued by the commissioner, except as provided in s. 200-43 and s. 295-303. A separate certificate of occupancy shall be obtained for each occupancy and use stated in ch. 295, including a commercial farming enterprise, or any other regulation of this code. A new certificate of occupancy shall be required each time there is a change in the operator or tenant of a non-residential premises.

b. It shall be unlawful to maintain, occupy or use, or offer to maintain, occupy or use, any building, structure, premises or part thereof that has been erected, constructed, altered or changed, occupied or used in violation of any regulation of this code or other laws or in violation of the code or other laws which were in effect and which applied to any existing building, structure, or premises, or part thereof at the time of its erection, construction, alteration, or change and designated occupancy or use.

c. Unless and until a new certificate of occupancy has been issued by the commissioner, it shall be unlawful to occupy any building, structure or premises or part thereof which is vacant under any of the following circumstances:

c-1. It has been found unfit for human habitation or use under any order issued in accordance with this code requiring the repair, alteration, vacation, removal or demolition.

c-2. It has been vacant for a period in excess of 6 months and has orders issued to the property owner by the department.

c-3. It is subject to orders regulating vacant buildings under s. 275-32-7 and the order specified that the internal conditions of the property do not comply with code requirements and that a certificate of occupancy shall be obtained.

d. Where any of the conditions described in pars. c-1 and 3 are found, the premises shall be placarded and shall not be occupied until a certificate of occupancy is first obtained.

e. Unless and until a new certificate of occupancy has been issued by the commissioner, it shall be unlawful to occupy any building or structure if it has been licensed as a rooming house, the license expires and is not renewed, or the license is revoked.

3. WHEN ISSUED. a. In the case of a proposed use, as described in ch. SPS 362, Wis. Adm. Code, as amended, that is not within the same group of uses as the prior use, and where the proposed use is as hazardous or more hazardous, based on life and fire risk, than the prior use, or whenever the proposed use is an elementary or secondary school, or a daycare or a rooming house, or a tavern, fast food/carryout restaurant as defined under s. s. 295-201-499 or a sit-down restaurant, as defined under s. 295-201-501, or where otherwise requested, the commissioner shall issue a certificate of occupancy:

a-1. After an application has been filed in the commissioner's office by the owner, agent or tenant.

a-2. After an inspection or reinspection of the building, structure, premises or part thereof by the commissioner of neighborhood services finds no violations of the regulations of this code applicable to the proposed use.

b. Unless otherwise required by law, in the case of a proposed use, as described in ch. SPS 362, Wis. Adm. Code, as amended, that is within the same group of uses as the prior use, or in the case of a proposed use that is not within the same group of uses as the prior use and that is less hazardous, based on life and fire risk, than the prior use, except whenever the proposed use is an elementary or secondary school, a daycare, a rooming house, a tavern, fast food/carryout restaurant as defined under s. 295-20-449 or a sit-down restaurant, as defined under s. 295-201-501, or if otherwise requested, the commissioner of city development shall issue a certificate of occupancy indicating conformance with the use requirements set forth in ch. 295 and:

b-1. After an application has been filed in the commissioner's office by the owner, agent or tenant.

b-2. After investigation it is found that such building, structure, premises or part thereof complies with all zoning laws applicable to its use.

200-43 Administration and Enforcement

b-4. After a zoning inspection to determine that the building, structure, premises or part thereof complies with all applicable zoning regulations, if the proposed use is for light or heavy motor vehicle uses including sales, rental and repair facilities, body shops, outdoor storage, and parking lots where parking is the principal use of the premises.

c. If a building, structure, premises or part thereof has been vacant for more than 6 months, the inspection requirements set forth in par. a shall apply.

d. No certificate of occupancy for a family day care home shall be issued by the commissioner of neighborhood services unless the applicant for the certificate provides the commissioner with documentation indicating that the dwelling unit for which the certificate is sought is licensed as a family day care center by the Wisconsin department of children and families under s. 48.65, Wis. Stats., and ch. DCF 250, Wis. Adm. Code, or certified as a day care center for not more than 8 children by Milwaukee county.

4. **REQUIRED INFORMATION.** a. Such certificates of occupancy shall indicate the edition of the building code under which the certificate is issued, the use of the building, structure or premises or part thereof, the type of construction of the building, whether an automatic system is provided, any special stipulations and conditions under which the certificate is issued and whether any variances were issued.

b. An application for a certificate of occupancy submitted by a tenant or prospective buyer shall be accompanied by a written statement by the applicant that the owner or owner's agent has granted permission for the necessary inspections of the premises.

5. **CERTIFICATE TO BE POSTED.** The certificate of occupancy shall be posted in a conspicuous place in the building, structure or on the premises except one-family and 2-family dwellings and accessory buildings or structures thereto.

6. **PENALTY.** Any person who violates any of the provisions of this section shall be subject to penalty pursuant to s. 200-19.

200-43. Temporary Certificate of Occupancy. A temporary certificate of occupancy may be issued by the commissioner of neighborhood services for the temporary occupancy and use of any building, structure or premises or part thereof, prior to the completion of the same and the issuance of a final certificate of occupancy,

provided that such occupancy or use would not jeopardize life, health or property. The commissioner of neighborhood services is authorized to require whatever temporary precautionary measures over and above any code requirements to safeguard the public as a condition of the issuance of a temporary certificate of occupancy.

200-44. Nonconforming Occupancy or Use of Building. Nothing in this code shall require the removal, alteration, or abandonment of, nor prevent the continuance of a legal nonconforming original or changed occupancy or use of a building, structure, or premises or part thereof, lawfully existing at the time of the adoption of this code, except as required by the provisions of s. 295-415. Legal nonconforming structures can be converted to less restrictive occupancies provided said occupancy complies with the regulations of ch. 295.

200-45. Approval of Existing Occupancies. Upon written request from an owner, the commissioner of neighborhood services shall certify and issue a certificate of legality for the continuance of an existing occupancy or use of any existing building, structure, premises, or part thereof, if, after verification of the records on file in the commissioner of neighborhood services' office, and after inspection, it is found that the occupancy or use is a permitted and lawful occupancy or use under current code requirements, and, provided further, that no fire hazards or other hazards are found in the building, structure, premises or part thereof.

200-46. Changes in Occupancy or Use. 1. No change in any occupancy or use as described in ch. SPS 362, Wis. Adm. Code, as amended, of an existing building, structure, premises or part thereof shall be permitted that is not consistent with a lawful occupancy or use permitted under a prior certificate of occupancy, or which is not based upon the requirements applicable to types of construction and zoning as regulated by this code.

2. No change from one group of occupancies to another group of occupancies as provided in ch. SPS 362, Wis. Adm. Code, as amended, shall be permitted unless after inspection it is found that the building, structure, premises or part thereof conforms to the regulations of this code relating to the proposed new occupancy and use and required types of construction.

200-47. Authority for Change in Occupancies and Uses. The commissioner is authorized to approve any change in the occupancy and use of any existing building, structure, or premises or part thereof within any one group of occupancies and uses, as regulated by this code, if the proposed occupancy or use does not fully conform to all of the regulations of this code applicable thereto, provided it is obvious that such change in the occupancy or use will not extend or increase the hazards of fire, health, and public safety, and when not in violation of the regulations of ch. 295.

200-48. Abandonment of Occupancy, Use Rights and Privileges. Whenever a lawful nonconforming occupancy or use of any existing building, or structure, premises or part thereof is changed to an occupancy or use conforming to the regulations of ch. 295 or to a conforming type of construction applicable to such building, structure, premises, or part thereof, as regulated by this code, thereafter any such existing building, structure, premises or part thereof shall not again be occupied or used for any nonconforming occupancy and use rights and privileges. If a nonconforming building or structure, or use is abandoned for one year, the legal nonconforming use of occupancy of that building or structure shall cease and the use of that building or structure shall thereafter be restricted to a legal use or occupancy. If a nonconforming open storage occupancy and use on any premises is vacated for a period of 6 months, then any future occupancy and use of the premises shall conform to the regulations of ch. 295.

200-49. Voiding of Occupancy Applications. If an applicant for a certificate of occupancy does not make use of the application, either by not using the premises or not complying with required regulations of the code within a period of 6 months, such application shall be declared void and no new use of the premises shall be made until a new certificate of occupancy or certificate of zoning has been procured.

200-50. Change in Floor Loads. If the occupancy or use of any existing building or structure or part thereof is changed to any occupancy or use permitted by this code but imposing greater floor loads, then the structural and load carrying portions of such building or structure shall be strengthened to conform with the regulations of this code for such new occupancy or use.

200-51. Rental Units. 1. INSPECTION. Any owner of a rental dwelling unit may request that such unit be inspected by the commissioner. The commissioner shall examine such dwellings to determine if they conform to code standards. Should the commissioner find code violations, the appropriate building code orders will be issued.

2. ISSUANCE OF CERTIFICATE. Once the dwelling unit or units conform to code, the commissioner shall issue a certificate of occupancy which shall contain the following information:

- a. The address of the property.
- b. The owner's name.
- c. A statement specifying that the dwelling unit conforms to all requirements of ch. 275.
- d. The date of such conformance.
- e. The signature of the commissioner.

200-51.5. Property Registration. 1. PURPOSE. Registration of residential and commercial buildings, and condominium units and associations is essential for the proper enforcement of the city's building and zoning code and to safeguard persons, property and general welfare.

2. DEFINITIONS.

- a. "Address" means any location at which first-class mail can be received.
- b. "Authorized contact person" means a natural person with charge, care and control of the property, and in the case of a condominium association, a condominium resident agent.
- c. "Condominium association" means an association, as defined in s. 703.02 (1m), Wis. Stats.
- d. "Condominium-resident agent" means a resident agent as defined in s. 703.23, Wis. Stats.
- e. "Common elements" means common elements as defined in s. 703.02 (2), Wis. Stats.
- f. "Domicile" means the building or unit at issue which is the owner's true, fixed and permanent home where the individual intends to remain permanently and indefinitely, and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. It is the one residence that controls for determining the owner's legal rights and privileges such as voting rights, vehicle registration, driver licensure.

200-51.5-3 Administration and Enforcement

g. "Owner" means each person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to present use and enjoyment of the premises. The term includes, but is not limited to, a trustee, a trust, a life-estateholder, a remainderman, a condominium association, a land contract grantee (buyer), a general partnership, a limited partnership, a limited liability partnership, a corporation, a limited liability company, and a cooperative.

h. "Owner-occupied" means the owner is domiciled in the subject building or unit.

3. REGISTRATION REQUIRED.

a. Registration Required. Except as specified in sub. 4, the following shall file with the department on forms provided by the department, a registration in compliance with this section:

a-1. Owners of residential or commercial buildings. One registration form for each tax-key-numbered parcel containing a residential or commercial building.

a-2. Owners of commercial condominium units. One registration form for each tax-key-numbered unit.

a-3. Owners of non-owner-occupied residential condominium units. One registration form for each tax-key-numbered unit.

a-4. Condominium associations. One registration form for the common elements that are part of the condominium.

b. Multiple Buildings on Same Tax-Key Number. Multiple buildings on a parcel with a single tax key number shall be registered on one application.

c. Registration After Death. In the event of death of the owner of a building or condominium unit required to be registered under this section, the subsequent owner shall file an application within 15 days after conveyance from the estate or other acquisition of interest. In the event of death of an authorized contact person required under this section, the owner or condominium association, as the case may be, shall have 60 days after that death to file an application naming a new authorized contact person.

d. Registration After Conveyance or Change in Ownership. In the event of any conveyance of any building or condominium unit required to be registered under this section, the new owner shall file a new registration form and pay the fee required within 15 days of the date of conveyance, or if the conveyance is by sale after foreclosure, then within 15 days of the date of

court-confirmation of the sale. New registration forms are required in the event of change in ownership, including, but not limited to, conveyances between an individual and a business entity, and conveyances between business entities.

4. EXCEPTIONS. The following are exempt from having to file registration forms required under this section:

a. Owners of owner-occupied one and 2-family buildings where the ownership is recorded with the Milwaukee county register of deeds.

b. Owners of owner-occupied residential-condominium units where the ownership is recorded with the Milwaukee county register of deeds.

c. Owners of jails, convents, monasteries, parish rectories, parsonages and similar facilities where the ownership is recorded with the Milwaukee county register of deeds.

d. Owners of hospitals and residential facilities licensed by the city of Milwaukee or the state of Wisconsin where the ownership is recorded with the Milwaukee county register of deeds.

e. Government-owned buildings where the ownership is recorded with the Milwaukee county register of deeds.

f. Owners of newly-constructed residential and commercial buildings where the ownership is recorded with the Milwaukee county register of deeds until actual occupancy of any such building or any unit in any such building commences.

g. Owners of residential and commercial buildings and owners of condominium units, owned for less than 15 days prior to sale or other transfer of the buildings or units to new owners. However, anyone acquiring from such owner shall file a registration form unless otherwise exempt under this subsection.

h. Condominium associations responsible for 2-unit residential buildings.

5. REGISTRATION FORM. Registration forms shall be provided by the department and shall at least contain the following:

a. The tax-key number and address of the parcel containing the residential or commercial building or condominium unit.

b. The legal name of the property owner.

c. The legal name, address and telephone number of the authorized contact person.

6. REGISTRATION FEES; FEE EXCEPTIONS; CHANGES IN INFORMATION.

a. If any information listed on a previously filed registration form changes, within 15 days of the change in information a new registration form shall be filed with, and the requisite fee shall be paid to, the department. Any registration form filed later than that 15-day period shall result in doubling of the fee and subject the required filer to sanctions.

b. Except as provided in par. a, there shall be no fee for the filing of an amendment to an existing registration form where the change in information does not involve a change of ownership interest in the property; where the change in information is associated with a land-contract buyer paying off the land contract and becoming the fee-title holder or with the land-contract relationship otherwise being extinguished; or where the change in information results from the sale or transfer of ownership between husband, wife, father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson or granddaughter.

c. There shall be no fee for the filing of a registration form, but a registration form is required, for a one or 2-family residential building or a residential condominium unit where that building or unit has been conveyed to a grantee with a life estate, or an estate for years, or where the grantor has made a conveyance but reserved a life estate, or an estate for years, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one of the grantors or one of the grantees is domiciled in the building or unit after the conveyance.

d. There shall be no fee for the filing of a registration form, but a registration form is required, for a one or 2-family residential building or a residential condominium unit where that building or unit has been conveyed to a trust, where the conveyance is recorded with the Milwaukee county register of deeds, and where at least one trust settler or one trust beneficiary is domiciled in the building or unit after the conveyance.

e. The commissioner may refund fees paid in error to the department.

f. See s. 200-33-44.2 and 44.3 for fees associated with this section.

7. SELLER NOTIFICATION FORMS.

a. The department shall provide seller notification forms.

b. An owner who conveys any ownership interest in any building or condominium unit required to be registered under this section shall file a seller notification form with the department within 15 days of the conveyance, providing the name and address of the buyer and date of conveyance. There shall be no fee for the filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying owner was also required, but failed to, file a registration form under this section.

c. Upon satisfaction of a land contract registered under this section, the land-contract seller shall file a seller notification form with the department within 15 days after the satisfaction, providing the name and address of the land-contract buyer and date of conveyance in satisfaction of the land contract. There shall be no fee for the timely filing of a seller notification form; providing, however, there shall be a charge of double the fee in s. 200-33-44.3 if the conveying land-contract seller was also required, but failed to, file a registration form under this section.

8. SERVICE OF ORDER. a. Any order issued under this section shall identify the section of the code to which the order applies in accordance with s. 200-12-2-b.

b. Service of orders shall be in accordance with s. 200-12-3.

c. The order may also be posted on the premises.

d. The commissioner may issue an order to the owner, the condominium association, the condominium-resident agent, or the authorized contact person, requiring the owner or condominium association to comply with this section.

9. ENFORCEMENT; SANCTIONS.

a. Enforcement Fee. If there is a failure to comply within the time set forth in any order issued under this section, or a failure to file an application as required under this section within the time set forth in this section, the commissioner may assess the owner or association a monthly registration enforcement fee under s. 200-33-44.3 until compliance is obtained. The fee may be assessed and collected as a special tax on the property or otherwise be collected as allowed by law.

200-51.7 Administration and Enforcement

b. Penalties. Any owner, former owner, or condominium association failing to comply with this section or providing false, misleading or fraudulent information on any application required under this section shall be subject to the penalties provided in s. 200-19. Any authorized contact person providing false, misleading or fraudulent information on any registration form required under this section shall also be subject to the penalties provided in s. 200-19.

10. APPEALS. Appeals of orders and notices under this section shall be made pursuant to s. 200-17.

200-51.7. Vacant Building Registration.

1. FINDINGS. The common council finds that a significant relationship exists between vacant buildings and increased calls for service for police services, higher incidence of fires, both accidental and intentional, and decline and disinvestment in neighborhoods. Vacant buildings become havens for vandalism, arson and drug crimes, representing not only a clear drain of valuable governmental resources, but also creating a significant reduction of the quality of life for the surrounding neighborhood. Registration, inspection and aggressive monitoring of vacant properties helps stabilize and improve impacted neighborhoods and helps in the development of code enforcement efforts as well as public safety. The common council further finds that a property owner or entity functioning as a trustee of an owner that does not register, permit inspection, insure, secure and maintain a vacant building places an undue and inappropriate burden on the taxpayers of the city and poses an increased risk to public safety. The common council therefore directs the chief of police, fire chief and the commissioner of neighborhood services, as provided in this section, to charge the owner or entity functioning as a trustee of an owner of such property the costs of any public safety services rendered to the property while non-compliant with this section.

2. PURPOSE. Registering of residential buildings or any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses is essential for the proper enforcement of the city's building, fire and zoning code and to safeguard persons, property and general welfare. Residential condominium and rental units are excluded from this section provided the vacancy rate of the building they are situated in does not exceed 95%.

3. DEFINITIONS. In this section:

a. "Owner" means the person in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and right to present use and enjoyment of the premises.

b. "Secured" means a building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes intact and unbroken.

c. "Vacant" means a building which lacks habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operation or residential occupancy is at a level of at least 95% vacant. An owner occupied single family home or owner occupied 2-family dwelling residential property shall not be deemed vacant if it has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

d. "Violation" means that an order has been issued by the department and the conditions forming the basis for the order have not been fully abated.

e. "Unsecured" means any building that does not meet the definition of secured.

4. REGISTRATION REQUIRED.

a. The owner of any building that has become vacant shall within 30 days after the building becomes vacant or within 30 days after assuming ownership, whichever is later, file a registration statement and pay a registration fee as prescribed in s. 200-33-64 for each such building with the department on forms provided by the department.

b. In addition to other information, the registration statement shall include the name, street address and telephone number of a person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of the owner or owners in connection with the enforcement of this section. This person shall reside within the 7-county area as described in s. 200-51.5-2-j.

c. The owner shall be required to renew the registration for successive 6-month periods as long as the building remains vacant and shall pay a registration renewal fee as

prescribed in s. 200-33-64 for each registered building.

d. If, at the time of any 6-month inspection by the city, the building is in violation of any provision of this section, the owner shall pay a vacant building inspection renewal fee as provided in s. 200-33-64.

5. EXEMPTIONS. The following are exempt from the provisions of this section:

a. Property owned by governmental bodies and the housing authority.

b. Abandoned residential property pending foreclosure while subject to s. 200-22.5.

c. Property that is vacant as a result of a natural disaster and covered by emergency response requirements issued by the commissioner.

d.d-1. Property that is undergoing an active renovation or rehabilitation, provided a written plan for such renovation or rehabilitation has been submitted to and approved by the commissioner in accordance with subd. 2. The commissioner may revoke his or her approval of an exemption under this paragraph for violation of any condition or provision of application for such approval, for violation of any ordinance, law, lawful order or Wisconsin statute relating to the property, or if in the opinion of the commissioner the continuation of the exemption will be contrary to this section's purpose of safeguarding persons, property and general welfare.

d-2. An owner may request an exemption pursuant to subd. 1 by filing with the commissioner a written application and plan for the subject renovation or rehabilitation on a form furnished for such purpose. All plans submitted for approval shall include:

d-2-a. The legal description of the lot or parcel of land as obtained from official records.

d-2-b. The name and address of the owner of the premises.

d-2-c. The name and address of the person or contractor completing the work.

d-2-d. A detailed description of the renovation or rehabilitation.

d-2-e. The projected cost of the renovation or rehabilitation.

d-2-f. The time frame for completion of the renovation or rehabilitation.

e. A single family home or owner-occupied 2-family dwelling residential property that has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

f. Residential condominium and rental units in buildings whose vacancy rate does not exceed 95%.

g. Properties that are part of an estate that is in probate and are not subject to bankruptcy provided the personal representative or executor resides in the 7 county area as defined in 200-51.5-2-j.

6. OWNER RESPONSIBILITIES. The owner of any building that has become vacant shall:

a. Enclose and secure the building as provided in sub. 7.

b. Maintain the building in a secure and closed condition until the building is again occupied or demolished.

c. Acquire or otherwise maintain liability insurance in an amount not less than \$300,000 for buildings designed primarily for residential use and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Evidence of this insurance shall be available at the request of the commissioner.

7. MINIMUM REQUIREMENTS FOR VACANT BUILDINGS. The owner of any vacant building for which registration is required by this section shall provide access to the city to conduct an exterior and interior inspection of the building to determine compliance with this section, following reasonable notice. If any owner of a vacant building does not provide access to the property at the scheduled time, the commissioner may apply for and obtain a special inspection warrant pursuant to s. 66.0119, Wis. Stats. In addition, failure to provide access to the property at the scheduled time shall subject the property owner to the fees specified in s. 200-33-64-g. In addition to any other applicable requirements, vacant buildings shall comply with the following requirements:

a. Lot Maintenance Standards. Lot maintenance standards include the lot the building stands on and the surrounding public way and shall meet the following:

a-1. All grass and weeds on the premises including abutting sidewalks, gutters and alleys shall be kept below 9 inches in height and all dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises.

200-51.7-7-b Administration and Enforcement

a-2. Any public sidewalk adjoining the lot shall be shoveled clear of snow so as to comply with s. 79-13.

a-3. Junk, rubbish, waste and any material that creates a health, safety or fire hazard, including but not limited to any mail or flyers that have been delivered to the building, shall not be permitted to accumulate on any portion of the exterior lot of the building.

a-4. No portion of the lot nor any structure, vehicle, receptacle or object on the premises shall be maintained or operated in any manner that causes or produces any health or safety hazard or permits the premises to become a rodent harborage or is conducive to rodent harborage.

a-5. The lot shall be maintained so that water does not accumulate or stand on the ground.

a-6. All fences and gates shall be maintained in sound condition and in good repair.

b. Exterior Maintenance Standards. The exterior of the building shall be enclosed, secured and maintained to meet the following:

b-1. Foundations, basements, cellars and crawlspaces shall be maintained in sound and watertight condition adequate to support the building and protected against the entry of rodents or other animals.

b-2. Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or the interior spaces and shall be protected against the entry of rodents or other animals.

b-3. Exterior windows and doors shall be maintained in sound condition and good repair and prevent rain from entering the building, or the opening shall be secured in accordance with s. 275-32-7. The windows and doors shall be equipped with hardware for locking and the locking mechanism shall be maintained in properly functioning condition. All points of possible ingress and egress shall be secured to prevent unauthorized entry.

b-4. The roof shall be adequately supported and maintained in weathertight condition; the gutters, downspouts, scuppers and appropriate flashing shall be in good repair and adequate to remove the water from the building.

b-5. Chimneys and flues shall be kept in sound, functional, weathertight condition and in good repair.

b-6. Every outside stair or step shall be maintained in sound condition and in good

repair; every porch, stoop, deck, veranda, balcony and walk shall be maintained in sound condition for its purpose.

c. Interior Maintenance Standards. The interior of any building shall be maintained in accordance with the following:

c-1. It is prohibited to accumulate or permit the accumulation of junk, trash, debris, boxes, lumber, scrap metal or any other materials that may produce any health, fire or safety hazard, or provide harborage for rodents or other animals.

c-2. Every foundation, roof, floor, wall, stair, ceiling or other structural support shall be safe and capable of supporting the loads associated with normal usage and shall be kept in sound condition and repair.

c-3. Any plumbing fixtures shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained or heated to resist being frozen.

c-4. Every exit door shall be secured with an internal deadbolt lock, or with a locking mechanism deemed equivalent or better by the department, and every exit door shall be capable of being opened from the inside easily and without the use of a key or special knowledge.

c-5. Interior stairs shall have treads and risers that have uniform dimensions, are sound, securely fastened and have no rotting, loose or deteriorating supports.

c-6. Every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.

d. Building Security Standards. The following apply to the securing of vacant buildings:

d-1. All building openings shall be closed and secured, using methods and materials so as to comply with the requirements of s. 275-32-7.

d-2. If a building has been vacant for 6 months or longer, or upon any renewal of the registration statement, the building owner shall implement and provide proof satisfactory to the department that in addition to complying with the security standards in subd. 1, it is secured. If the building fails to be secured as determined by the commissioner or the commissioner's designee, then the building shall be boarded in accordance with s. 275-32-7.

d-3. If the owner has provided proof that a building is secured and based on an inspection by the department the building is found to be in violation, the commissioner shall send by first class mail a written notice of the violation to the person responsible for day-to-day supervision

and management of the building or to the authorized agent for service of process or to the owner of record. Within 30 days of the mailing of the notice of violation, the owner shall be required to either comply with subd. 2 or restore the building to a secured state and also install and maintain a working alarm system. The alarm system shall connect to all areas of the building subject to unauthorized human entry, including but not limited to, all exterior doors, windows or other readily accessible openings. The alarm system shall, upon detecting unauthorized entry, send an automatic signal to a licensed alarm business that has 24-hour live operators who will monitor the system and contact the building owner or designated agent.

8. ISSUANCE OF MODIFICATIONS.

Upon written application by an owner or an owner's agent, the commissioner may approve a modification of any provision of this section, including the requirement for inspections and fees, provided the spirit and functional intent of the section will be observed and the public health, welfare and safety will be assured. The decision of the commissioner concerning a modification shall be made in writing and the application for a modification and the decision of the commissioner concerning such modification shall be retained in the permanent records of the department.

9. RULES AND REGULATIONS.

The commissioner may issue rules and regulations for the administration of this section.

These rules may specify additional board-up materials which may be used when securing a building, if proof is provided satisfactory to the commissioner that the materials will perform in a manner equivalent to, or better than, the materials specified in this section.

10. PENALTY. a. Failure to Register.

Any property owner or entity functioning as a trustee of an owner, that fails to register a vacant building as required under sub. 4 shall, upon conviction, forfeit not less than \$500 nor more than \$2,000, together with the cost of the action, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed by law.

b. Failure to Secure and Maintain.

Any property owner or entity functioning as a trustee of an owner, having a duty to register a vacant building that fails its duty to secure and maintain the property as required under sub. 6 or 7 shall, upon conviction, forfeit not less than \$350 nor more than \$1,500, together with the cost of the action, and in default of payment

thereof may be imprisoned in an appropriate county facility as allowed by law.

10.5. MAINTENANCE OR SECURING OF VACANT BUILDING BY CITY. a. Common Council Findings. Notwithstanding the penalty provisions of sub. 10, the commissioner shall promptly, pursuant to s. 66.0119, Wis. Stats., petition the court for a special inspection warrant to enter upon the premises of a vacant building and immediately take all actions necessary to ensure the building is compliant with subs. 6-a and b and 7 if the common council, by resolution, makes findings that:

a-1. The property owner or entity functioning as a trustee of the owner has failed to secure and maintain the property as required by sub. 6 or 7.

a-2. The lack of proper securing or maintenance of the property by the owner or entity functioning as a trustee of the owner is resulting in the permissive waste of the property.

a-3. The property is of substantial and extraordinary historic, architectural or commercial value to the surrounding neighborhood and to the city as a whole.

b. Cost Recovery. Whenever, pursuant to this subsection, the commissioner takes actions necessary to ensure that a building is compliant with subs. 6-a and b and 7, all costs of such actions shall be charged as a lien upon the property and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

11. CHARGE FOR PUBLIC SAFETY SERVICES.

a. Any property owner or entity functioning as a trustee of an owner that fails to comply with any provision of this section shall be charged for any public safety services rendered to the property by the police department or fire department while non-compliant with this section. The chief of police or fire chief shall provide a record of each service rendered to the property and the costs of services, investigation, administration and enforcement to the commissioner of neighborhood services. The costs of the services, investigation, administration and enforcement by any police or fire personnel may be charged to the owner or entity functioning as a trustee of an owner and in whole or in part. Appeal of the determination of the chief of police or fire chief imposing costs against the owner or entity functioning as a trustee of an owner may be submitted to the administrative review appeals board as provided by s. 320-11.

200-51.8 Administration and Enforcement

b. Cost Recovery. Upon receipt of a cost referral letter from the chief of police or fire chief pursuant to par. a., the commissioner of neighborhood services shall charge any premises owner or entity functioning as a trustee of an owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. A notice of intent to charge shall be issued to the premises owner or entity functioning as a trustee of an owner along with notice that, if the property is brought into compliance with the vacant building registration program within 30 days of the notice, the public safety service charge shall not be issued. If the property is not brought into compliance within 30 days, all costs shall be charged as a lien upon such premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

200-51.8. Hazardous Vacant Building Placarding Program.

1. DEFINITION. In this section, "hazardous vacant building" means any building or other structure that is vacant or abandoned within the meaning of s. 200-51.7-3 and has been ordered closed, removed, shutdown or otherwise vacated under s. 200-12, 200-12.5, 218-4, 218-9 or by court order.

2. WARNING PLACARD AUTHORIZED. The fire chief is authorized to:

a. Mark any hazardous vacant or abandoned building with a first responder warning placard alerting first responders to the existence of the structural or interior hazards at the building of the type that warrant extreme caution when conducting interior firefighting or rescue operations at such building or exterior operations with entry only occurring for known life hazards.

b. Remove a first responder warning placard when the authority responsible for ordering the building closed, removed, shutdown or otherwise vacated lifts the applicable order or otherwise determines that the building is no longer a hazardous vacant building.

3. PLACARD DESIGN AND PLACEMENT. Any hazardous vacant building determined by the fire department to be

especially unsafe in case of fire, under s. 110.1.1, International Fire Code, as amended, shall be identified and marked with one or more first responder warning placards in accordance with the following:

a. Design of Placards.

a-1. A square with a diagonal line from the bottom left corner to the upper right corner shall mean that structural or interior hazards exist and interior firefighting or rescue operations should be conducted with extreme caution.

a-2. A square with 2 diagonal lines, one from the bottom left corner to the upper right corner and another from the bottom right corner to the upper left corner, shall mean that structural or interior hazards exist to a degree that consideration should be given to limit firefighting to exterior operations only, with entry only occurring for known life hazards in a known location.

a-3. Additional symbols consistent with current Milwaukee fire department policy shall be used to further designate descriptive hazards on the hazardous vacant building placard.

b. Location and visibility.

b-1. The placard shall be applied on the front of the hazardous vacant building and be visible from the street. Additional placards may be applied to the side of each entrance to the building and on penthouses.

b-2. Each placard shall be 16 inches by 16 inches minimum in size with a white background, orange reflective stripes and an orange reflective border. The stripes and border shall have a 1-inch minimum stroke.

b-3. Symbols shall include red lettering 3 inches minimum in height.

c. Inspections. Prior to receiving a placard, every hazardous vacant building shall be inspected by the department of neighborhood services or a representative of the fire chief.

4. REMOVAL OF PLACARD PROHIBITED. It shall be unlawful for any person, other than authorized city officials or their respective designees, to cover, obliterate, deface, damage or remove any first responder warning placard unless written permission to engage in such activity has first been obtained from the fire chief.

5. NOTICE OF DEMOLITION REQUIRED. If any building marked with a first responder warning placard is to be wrecked, demolished or razed, the owner of the building or the owner's agent shall notify the department of neighborhood services for proper removal.

6. PENALTY FOR VIOLATION. Any person who violates any requirement of this section shall be fined not less than \$500 nor more than \$1,000 for each offense.

7. RULES AND REGULATIONS. The fire chief is authorized to promulgate rules and regulations necessary or appropriate to implement the requirements of this section, including, but not limited to, rules and regulations pertaining to the location, number, size, color, reflective marking, date of application, design, construction, use, symbols or removal of first responder warning placards per current Milwaukee fire department policy.

8. CONSTRUCTION OF SECTION. The marking of a building with a first responder warning placard is informational only and shall not be construed to limit in any way the discretion of the on-scene incident commander or similar fire department personnel. The absence of such warning placard on any building shall not be construed to mean that entry to such building is permitted or that such building is safe or otherwise free of dangerous and hazardous conditions.

200-51.9. Registration of Rental Property and Rental Units. Notwithstanding the provisions of ss. 200-22.5, 200-51.5, 200-51.7 or any other real-property registration ordinance, the only information that shall be required to register a rental property or rental unit is:

1. The name of the owner.
2. The name of an authorized contact person, as defined in s. 200-51.5-2-a.
3. The address at which the authorized contact person may be contacted.
4. The telephone number at which the authorized contact person may be contacted.

200-55. Home Occupations.

1. PURPOSE AND INTENT. The purpose and intent of this section is to permit residents of the city a broad choice in the use of their homes as a place of livelihood and the

production or supplementing of personal and family income. This section is also intended to protect residential areas from adverse impacts of activities associated with certain home occupations.

2. CERTIFICATE REQUIRED. Any person engaged in a home business requiring a license or permit from the city must first obtain a certificate of home occupation from the commissioner of neighborhood services and pay the fee specified in s. 200-33-24.5. An application for a certificate of home occupation shall be filed with the department of neighborhood services on forms provided by the department. An inspection may be required prior to issuance of the certificate.

3. REQUIREMENTS. All home occupations shall comply with the requirements provided in ss. 295-503-3-c, 295-603-4-c and 295-803-4-c.

200-57. Community Garden Permit.

1. PERMIT REQUIRED. No person may establish or maintain a community garden without first obtaining a community garden permit from the commissioner of city development or the commissioner's designee.

2. APPLICATION. Application for a community garden permit shall be made on a form provided therefor by the commissioner or designee. The application shall contain the following information:

a. The name of the organization that will be operating the community garden, as well as the name, address and home telephone number of an authorized representative of the organization who will be responsible for overall operation of the community garden.

b. The types of vegetables, fruits, flowers or other plants that are expected to be grown on the site.

c. The anticipated daily hours of operation of the community garden.

d. The average and maximum numbers of persons expected to be present at the community garden on a given day.

e. A description of pedestrian and vehicular access to the site.

f. A description of where persons coming to the community garden by motor vehicle are likely to park their vehicles, including any parking restrictions in effect in the anticipated parking area.

200-61 Administration and Enforcement

g. Whether any motorized vehicles or farm equipment will be brought onto the site, including the means of transporting the vehicles or equipment to and from the site and any provisions for storing the vehicles or equipment on the site.

h. Whether operation of the community garden will involve the application of pesticides or herbicides and, if so, information on the types of pesticides or herbicides that will be applied, the name of the individual or business who will be making the application and a description of measures that will be taken to warn persons entering the community garden site of the presence of these chemicals.

3. COMMUNITY OUTREACH. At the time of submitting an application for a community garden permit, the applicant shall submit to the commissioner of city development or the commissioner's designee a description of the applicant's outreach to the surrounding neighborhood to develop public awareness of, and support for, the proposed community garden. The outreach may include, but shall not be limited to, circulation of petitions of support or distribution of fliers in the surrounding neighborhood.

4. APPROVAL OR DENIAL OF PERMIT. Upon receipt of a completed application for a community garden permit, the commissioner of city development or the commissioner's designee shall submit the application to the local common council member for review. The commissioner or commissioner's designee shall approve and issue the permit unless the common council member, within 10 days of receipt of the application, notifies the commissioner or commissioner's designee that the local common council member opposes issuance of the permit. The commissioner shall issue a permit unless:

a. The applicant is not a group of individuals or a public or non-profit organization, in which case the applicant does not fit the definition of "community garden" in s. 295-201.

b. The applicant has had a community garden permit revoked at some time in the past 3 years.

c. Operation of the community garden will unreasonably disrupt the safe and orderly use of any street, alley or other public place as a result of vehicular traffic or parking related to the community garden.

d. Operation of the community garden will degrade the surface of the adjacent public right-of-way through the tracking of dirt and other materials onto the public right-of-way, damaging of turf, creation of ruts, damaging of curbs and so forth.

e. Operation of the community garden will occur at such hours or at such intensity as to disturb the peace of the surrounding neighborhood.

f. The community garden will not be in compliance with all applicable standards and requirements of this code.

g. The common council member in whose district the community garden will be located opposes the issuance of the permit based on the criteria in pars. a to f.

5. FEE. There shall be no fee for a community garden permit.

6. DROP OFF CENTER USE. The authorized representative of the organization approved for a community garden permit, or his/her designee, may dispose of debris or litter resulting from gardening activities and garden management at the city's drop off centers without charge.

7. REVOCATION OF PERMIT. The commissioner of neighborhood services may revoke a community garden permit upon determining that the community garden is not in compliance with any provision of this chapter or ch. 68, 78, 79 or 275.

8. APPEAL. An applicant whose application for a community garden permit has been denied, or a permit holder whose permit has been revoked, may appeal the denial or revocation to the standards and appeals commission in accordance with the provisions of s. 200-17.

200-61. Architectural Review Board.

1. PURPOSE AND FINDINGS. The common council finds that the physical and architectural character of certain neighborhoods and locations in the city require special regulation with respect to the alteration, rehabilitation and construction of buildings, structures or sites because of significant historical, cultural, social or commercial attributes. In order to promote this goal, an architectural review board is created to review all applications for the alteration, rehabilitation or construction of any building, structure or site in a designated district, except for those exempted under sub. 9, prior to the

issuance of permits under s. 200-24 by the department of city development.

2. DEFINITIONS. In this section:

a. "Alteration" means any material change in the exterior appearance of any building, structure or site in the district.

b. "Board" means the architectural review board.

c. "Certificate of appropriateness" means a certificate issued by the board approving the alteration, rehabilitation or construction of any building, structure or site in the district.

d. "Design guidelines" means guidelines adopted by the common council for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. "District" means the area designated by common council resolution 870501 as business improvement district #2 or the area designated by common council resolution 110693 as the East Side architectural review district. "District" also means such additional areas as may be designated by the common council. Each district created hereunder shall have a separate board.

f. "Rehabilitation" means the improvement of property through repair or alteration.

g. Structure shall include, but is not limited to, a temporary or permanent sign or advertisement placed or erected on the exterior of any building, structure, site or in the public way in the district.

3. COMPOSITION. a. The board shall be composed of 7 members. The members shall consist of one member of the historic preservation commission appointed by its chair; the commissioner of the department of neighborhood services or the commissioner's designee; one member of the common council representing the district under sub. 2-e or the council member's designee, and 4 citizen members appointed by the mayor and confirmed by the common council. A majority of the citizen members shall own or occupy property in the district. Citizen members and the historic preservation commission member shall be appointed for terms of 3 years or until their successors are appointed and confirmed. Members may be reappointed to succeeding terms.

a-1. The common council board member may designate an alternate in writing by filing with the city clerk's office. The alternate may represent the common council member and exercise all powers of the member when such member is unable to attend board meetings.

b. With respect to any board for any district created after February 18, 2005, 2 of the initial citizen members shall be appointed for one year; one for 2 years and one for 3 years.

c. Citizen members shall be exempt from city service provisions.

d. Citizen members may be removed for cause by the mayor.

e. Board members shall receive no compensation.

f. No member of the board shall vote on any matter that materially affects the property, income or business interest of that member or creates the appearance of a conflict of interest.

4. FUNCTIONS, POWERS AND DUTIES. The board shall:

a. Adopt by-laws, rules and procedures concerning the operation of the board.

b. Designate one of its citizen members, or retain the services of a consultant, as its administrative officer to perform administrative functions pursuant to the direction of the board and to draft decisions, findings and orders for consideration by the board.

c. Utilize the design guidelines when reviewing applications for certificates of appropriateness for the alteration, rehabilitation and construction of buildings, structures and sites in the district.

d. Issue certificates of appropriateness with or without conditions for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. Advise and assist property owners and other persons and groups, regarding the design guidelines, programs and regulations concerning the district.

f. Work closely with the department of neighborhood services to provide training and technical assistance on issues relating to the design, preservation, repair, renovation and maintenance of buildings, structures and sites in the district.

200-61-5 Administration and Enforcement

g. Make recommendations to the common council regarding amendments to the design guidelines and the designation of additional areas for inclusion in the district.

5. CERTIFICATE OF APPROPRIATENESS. No person or entity shall, with respect to the exterior of any building, structure or site in the district, alter, rehabilitate, or reconstruct all or any part of, undertake any new construction with respect to, or permit any work to be performed upon a building, structure or site, nor shall the commissioner of city development issue a permit for any such work unless a certificate of appropriateness has been issued by the board, as provided in this subsection.

a. **Application.** Applications for a certificate of appropriateness shall be obtained from and filed with the district office which address shall be on file in the city clerk's office.

b. **Review.**

b-1. Upon receipt of an application for a certificate of appropriateness for the alteration, rehabilitation or construction of any building, structure or site in the district, the board shall review it at its next regular meeting, provided the application is complete and is received before the board's published deadline for the receipt of applications.

b-2. The board may designate one or more persons to administratively approve applications for certificates of appropriateness that comply with the design guidelines without board review, provided that the board shall first adopt a written policy on the types of projects which may be administratively approved.

b-3. Except as provided in subd. 2, the board shall review the proposed alteration, rehabilitation or construction project to determine if it complies with the design guidelines. If the proposed project complies with the design guidelines, the board shall find the proposed project appropriate and issue a certificate of appropriateness. If the board finds that the proposed project does not comply with the guidelines, the board shall deny the application and provide written notice of this denial to the applicant within 30 days of such denial.

b-4. In the event that the board denies an application for a certificate of appropriateness pursuant to subd. 3, the applicant may request a public hearing before the board by submitting a written request to the district office within 30 days of the date of denial.

c. **Public Hearing.**

c-1. Upon receipt of a written request for a public hearing on the board's denial of an application for a certificate of appropriateness, the board shall schedule the hearing within 45 days of receipt of the request.

c-2. Notice of the public hearing shall be sent by certified mail, return receipt requested, addressed to the applicant's address as stated in the application. Notice shall also be posted by the city clerk, sent to the common council member representing the district and sent, via first class mail, to all recorded owners of property within 500 feet of the building, structure or site in the district that is the subject of the public hearing. Notice shall be provided not less than 10 days prior to the date of the public hearing.

c-3. The notice of public hearing may require the applicant to provide supplemental information, including, but not limited to, photographs, plans, floor plans, elevations or detailed drawings of any building, structure, site or portion thereof.

c-4. The board may grant adjournments for any reason upon good cause.

c-5. At the public hearing the applicant shall be entitled to call witnesses and present evidence in support of the application for the certificate of appropriateness. The board shall take testimony from and consider the evidence of any person in attendance at the hearing. An audiotape record shall be made of all proceedings at the public hearing. Such audiotapes shall be made available to any person upon payment of the reasonable costs to process and reproduce such tapes.

c-6. After all evidence has been received, the board shall review the record to determine whether, notwithstanding non-compliance with the design guidelines, the application for a certificate of appropriateness should be granted. In making this determination the board shall consider:

c-6-a. Whether the proposed work would alter or affect any significant architectural feature of the building, structure or site upon which the work is to be done.

c-6-b. Whether the proposed alteration, rehabilitation or construction would harmonize with the character and appearance of neighboring buildings, structures or sites within the district.

c-6-c. Whether the proposed alteration, rehabilitation or construction would be consistent with an approved comprehensive land use plan for the district.

c-6-d. The existence of extraordinary circumstances under which strict adherence to the design guidelines would cause a substantial hardship on the applicant provided, however, that such hardship is not self-imposed or based solely on economic grounds.

c-7. Following review of the record from the public hearing, the board shall either affirm its denial of the application for a certificate of appropriateness or grant the application. If denial of the application is affirmed, the board shall notify the applicant of its decision by certified mail, return receipt requested, within 30 days of its decision. The board shall set forth the findings of fact that constitute the basis for its decision. All decisions of the board shall be filed with the commissioners of neighborhood services and city development.

d. Appeals. Applicants may appeal to the common council the denial of an application for a certificate of appropriateness following a public hearing. Appeals shall be in the form of a written request filed with the city clerk within 30 days after the mailing of the certified letter containing the board's decision. The city clerk shall file the appeal with the common council. The council shall hold a public hearing on the appeal and shall, by a majority vote of its members, affirm or reverse the decision of the board.

e. Resubmission of Application. Whenever an application for a certificate of appropriateness is denied, the proposed alteration, rehabilitation or construction project is ineligible for reconsideration for a period of one year following the denial.

f. The board shall issue a certificate of appropriateness within 30 days of the board's decision granting such application or within 30 days of a decision of the common council reversing the denial of an application of a certificate of appropriateness by the board after public hearing.

6. OTHER PERMITS AND APPROVALS REQUIRED. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other necessary permits and approvals required by the city. All other ordinances, rules and regulations of the city remain applicable.

7. COMPLIANCE WITH CERTIFICATES OF APPROPRIATENESS.

a. Within 12 months of the issuance of the certificate of appropriateness, work on the project must begin, shall at all times be in compliance with the certificate and be completed within 24 months of the issuance of the certificate of appropriateness, or the certificate shall be subject to revocation by the board. The board may grant extensions to complete a project upon good cause.

b. Projects approved, started and not completed prior February 18, 2005, shall be granted an extension of 24 months from February 18, 2005.

c. Failure to comply with a certificate of appropriateness shall be a violation of this section. In the event work is being performed without, or not in accordance with, a certificate of appropriateness, the board shall request that a stop work order be issued by the commissioner of neighborhood services.

8. PERMIT REVOCATION. Any permit issued by the commissioner of city development under the terms of this section may be revoked by the commissioner of neighborhood services whenever any of the conditions under which the permit was issued are not complied with.

9. EXCEPTIONS. a. The Henry W. Maier Festival grounds, except for the grounds' perimeter fences, are exempt from the provisions of this section.

b. Ordinary routine maintenance and repair of buildings, structures or sites may be undertaken without a certificate of appropriateness, provided that the work involves routine maintenance or repair of existing features of a building or structure or the replacement of elements of a building or structure with pieces identical in appearance and provided that the work does not change the exterior appearance and does not require the issuance of a building permit.

10. VIOLATIONS. a. Whenever the commissioner of neighborhood services determines that a violation of this section exists or has reasonable grounds to believe that such a violation exists, the commissioner is authorized to order the owner to correct the violation or issue a stop work order, if requested, as provided in sub. 7-c.

b. Any person violating any provision of this section shall be subject to the penalties under s. 200-19.

200-61-- Administration and Enforcement

For legislative history of chapter 200, contact the
Municipal Research Library.

This page is blank.