

**CHAPTER 218
RAZING OF BUILDINGS**

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218-01. Adoption of State Law. Except as otherwise provided in this chapter, the city of Milwaukee adopts s. 66.0413, Wis. Stats., as amended, as part of this code.

218-1. Scope. The regulations in this chapter shall apply to the moving of buildings, unsafe buildings and structures, condemnation of buildings and structures, demolition, abandoned buildings and are intended to supplement the provisions of s. 66.0413, Wis. Stats.

218-2. Moving of Buildings. 1. PERMITS. No building or structure shall be moved without first obtaining a permit from the commissioner. When any building or structure is to be moved over any public thoroughfare, a separate permit shall also be obtained from the commissioner public works.

a. The application for a permit shall conform to the regulations of ch. 200, and shall show the type of construction of the building or structure, its occupancy and use, its location, and the intended occupancy and use in the new location.

b. The commissioner may require a statement from a registered architect or engineer approving and outlining the moving process for large or unusual buildings prior to issuance of the permit.

2. BUILDINGS OR STRUCTURES WHICH CAN BE MOVED. A permit may be granted for the moving of any building or structure which is structurally sound and safe from one location to another location on the same premises, or from one premises to another premises, provided such building or structure conforms to the regulations of this code.

3. BUILDINGS AND STRUCTURES WHICH CANNOT BE MOVED. No permit shall be granted for the moving of any building or structure, or portion thereof, which has deteriorated or been damaged to an extent greater than 50% of the assessed value of the building or structure.

4. CONTINUOUS MOVING OPERATION. The moving of a building or structure shall be a continuous operation. The storage of such building or structure on any property, unless approved by the commissioner of city development, is prohibited.

218-3. Wrecker's and Mover's Bond and Insurance. 1. PERFORMANCE BOND. a. Before any permit is issued for the moving, wrecking or demolishing of a building or structure, except as provided for in sub. 3, the applicant shall file with the commissioner a performance bond and a certificate of insurance.

b. The wrecker's and mover's performance bond shall be executed by the applicant and a corporate surety, and shall provide in substance that the applicant and surety are firmly bound unto the city in the penal sum of \$20,000 or in such other amount as the commissioner shall deem necessary, and that such bond shall be void if the applicant shall perform and sufficiently complete all work for which the permit is issued in accordance with all ordinances of the city within a reasonable period of time, or within the time specified on the permit, and shall reimburse the city for all damages to any city property resulting from the work operations, regardless of whether the damage is done by the applicant, its agents, employees or subcontractors. The corporate surety shall be authorized to execute bonds in the state of Wisconsin and have a power of attorney on file in the city attorney's office.

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c. Any person wishing to apply for more than one permit to wreck, raze, demolish or move structures or buildings in the city in any calendar year, in lieu of filing a separate bond for each permit, may file a bond under the same terms and conditions set forth in par. b, binding the surety to the sum of \$20,000 for each permit issued, but with an annual calendar aggregate limit of \$100,000.

2. INSURANCE. a. Applicants for a wrecker's or mover's permit shall furnish the commissioner of city development a certificate of insurance indicating the applicant holds a general liability policy in the sum of at least \$1,000,000 covering bodily injury, property damage and personal injury. The \$1,000,000 coverage shall be provided for each occurrence, for general aggregate, and for products/completed operations aggregate. The policy shall name the city as an additional insured. The applicant shall indemnify and save the city, its officers and agents, harmless against any and all claims for injuries or damages and any and all costs or expenses in connection therewith resulting or arising from any act or omission on the part of the applicant, his or her agents, employees and subcontractors. The insurer shall notify the city in writing at least 60 days prior to the cancellation of any certificate of insurance afforded hereunder, the certificate to be in full force and effect as to any permits issued prior to cancellation and all work done under said permits.

b. The insurance carrier shall be authorized to sell insurance in the state of Wisconsin and have an agent's license on file in the city attorney's office.

3. EXCEPTION. The owner of any premises who wishes to wreck, raze or demolish a building on the premises, provided that the volume of such building or structure does not exceed 18,000 cubic feet, and there is no sewer or water service in such building connected to a private or public water or sewer system, may be granted a permit without providing the aforesaid performance bond and insurance.

218-4. Razing of Structures. **1. REPAIR OR RAZE.** All such unsafe buildings, structures or parts thereof as defined in s. 200-11 or consistent with the conditions specified in

s. 218-9-1, are declared to be a public nuisance, endangering life, limb, health or property, and shall be repaired and made safe, or razed and removed in compliance with this chapter, as ordered by the commissioner, pursuant to the authority provided in s. 66.0413(4), Wis. Stats.

2. RAZE. a. An order to raze, remove and restore the site to a dust-free and erosion-free condition shall be served on the owner, operator or the owner's agent where the agent is authorized to receive service of process on behalf of the owner. Service of the order shall be in the manner provided for service of a summons pursuant to ch. 801, Wis. Stats. If the owner, operator or the owner's agent cannot be found, or if the owner is deceased and an estate has not been opened, the order may be served by posting it in a conspicuous place on the premises and by publishing it as a class 1 notice, under ch. 985, Wis. Stats., before the time limit in the order commences to run. The time limited in the order commences to run from the date of service upon the owner, operator or the owner's agent, or, if the owner, operator and agent cannot be found, from the date that the order was posted on the building. The order shall also be served on the holder of any encumbrance of record by first class mail at the last-known address, and by publication as a class 1 notice under ch. 985, Wis. Stats.

b. If the commissioner determines that the cost of such repairs would exceed 50 percent of the assessed value of such building divided by the ratio of the assessed value to the recommended value as last published by the Wisconsin department of revenue for the city of Milwaukee, such repairs shall be presumed unreasonable and it shall be presumed for the purposes of this section that the building is a public nuisance.

c. Acts of municipal authorities under this section shall not increase the liability of an insurer.

d. If a raze order issued under par. a is recorded with the Milwaukee County register of deeds, the order is considered to have been served, as of the date the raze order is recorded, on any person claiming an interest in the building or the real estate as a result of a conveyance from the owner unless the conveyance was recorded before the recording of the raze order.

3. FAILURE TO COMPLY. If the owner fails or refuses to comply within the time prescribed, the commissioner may cause the building or part thereof to be razed and removed and may restore the site to a dust-free and erosion-free condition either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use under s. 200-11-4 and 5 or 218-9-1. The cost of the razing, removal and restoration of the site to a dust-free and erosion-free condition or closing may be charged in full or in part against the real estate upon which the building is located, and if that charge becomes delinquent, it is a lien upon such real estate and may be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter.

4. FILING OF A NOTICE OF APPEAL. Anyone who is served an order under sub. 2 shall, within 20 days of service or, if service is by publication, within 30 days, file a notice of appeal to the standards and appeals commission for an administrative stay of the commissioner's order to raze and remove the building and restore the site to a dust-free and erosion-free condition pursuant to s. 200-17-3-h or forever be barred. The filing of a notice of appeal shall stay the order until the hearing date. The hearing shall be held within 20 days and shall be given preference. The administrative remedies provided in this subsection are exclusive remedies.

5. FINAL ORDER OF THE COMMISSIONER. No individual is affected, as described in s. 66.0413(1)(h), Wis. Stats., by an order of the commissioner under this chapter until such time as a final determination from the standards and appeals commission finding the order of the commissioner reasonable is filed in the office of the commissioner.

6. REPAIR PERMIT. If the commissioner allows repairs under this section, a repair permit is required.

218-4.5. Emergency Razing of Structures.

1. The commissioner, pursuant to s.200-12.5, may order the razing of any structure which is damaged so extensively or is so dilapidated that its physical condition in the judgment of the commissioner poses an imminent risk to the health, safety or welfare of the public.

2.a. Service of an order under this section shall be made pursuant to s. 200-12.5-3.

b. The commissioner shall consider the following when making a determination as to whether a structure should be razed under this section:

b-1. The extent that the structure is unstable.

b-2. The proximity of the structure to adjoining properties and the public right-of-way.

b-3. The cost of repairing the structure. If the cost of repairing the structure exceeds 100% of the structure's value, it shall be presumed that the structure is unsafe and poses an imminent risk to the health, safety or welfare of the public. For the purpose of this section, "structure's value" means the assessed value of the structure divided by the ratio of assessed value to the recommended value as last published by the Wisconsin department of revenue for the city of Milwaukee.

c. Acts of municipal authorities under this section shall not increase the liability of an insurer.

3. If the owner fails, refuses or is unable to comply within the time prescribed, the commissioner may cause the building or part thereof to be razed and removed and may restore the site to a dust-free and erosion-free condition either through any available public agency or by contract or arrangement with private persons. The cost of such razing, removal and restoration of the site to a dust-free and erosion-free condition may be charged in full or in part against the real estate upon which the building is located, and if that charge becomes delinquent, it is a lien upon the real estate and may be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter.

4. Anyone who is served an order under sub. 1 may, prior to demolition, appeal to the commissioner for a review of the reasonableness of the order to raze and remove the building and restore the site to a dust-free and erosion-free condition. The order shall specify the time period in which the appeal must be brought and the procedures for making the appeal.

218-5. Temporary Safeguards. **1.** When in the judgment of the commissioner a building or structure or part thereof is extremely unsafe and in danger of structural failure or collapse before demolition and removal can be started, the commissioner may order the owner or agent to immediately provide temporary safeguards as directed for the protection of the general public. If the owner fails, neglects or cannot provide

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such temporary safeguards, the commissioner may, with the aid of any available public agency, provide the necessary safeguards and charge the cost thereof against the real estate upon which the building or structure is located, and if that charge becomes delinquent, it is a lien upon the real estate and may be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter.

2. The commissioner may require that such temporary safeguards be designed by a registered architect or engineer. The drawings for such structures shall be approved by the commissioner and a separate permit issued for the construction of the temporary safeguard.

218-6. Demolition and Landscaping.

1. PROCEDURE. In the demolition of buildings or structures or parts thereof, work on the structural elements shall begin at the top and, except as regulated in this section, one story at a time shall be completely removed. No wall, chimney, equipment or column of material shall be allowed to fall in mass on a floor or other construction which may be caused to fall because of such practice, except that when the surrounding area is vacant and of sufficient size, and when permitted by the commissioner, the whole or part of a building or structure may be dropped or pulled down if no persons are exposed to the hazard of falling or flying materials. All walls, floorings and structural remnants shall be removed to a depth of 2 feet below the adjacent grade.

2. REMOVAL OF MATERIAL AND EQUIPMENT. All material and equipment removed from the elevated portions of any building or structure or part thereof undergoing alterations, repair or demolition work shall be lowered to grade or other storage or disposal level by means of approved equipment or devices. Where a space on the ground or on a floor is railed off and openings in boundary walls closed, materials or equipment may be dropped into the space. This regulation shall not apply to demolition work in which the material is removed and stored or otherwise disposed of within a story height.

3. CHUTES. a. When a protected or enclosed space for the dropping of materials cannot be provided, or when so ordered by the commissioner, fully enclosed, inclining chutes of wood or metal of a size which will not readily

cause their obstruction, shall be provided for the removal of material and debris. Open chutes may be used to lower dismantled false-work or lumber from a height not exceeding 30 feet, but all other material or equipment shall be lowered by means of approved equipment or devices.

b. Enclosed chutes shall not extend in an unbroken line for more than 30 feet, but shall be equipped at intervals of 30 feet or less with stops to prevent descending materials from attaining dangerous speeds. The bottom of each chute shall be equipped with a gate or stop, with approved means for closing or regulating the flow of material.

4. SPRINKLING. All materials as handled under sub. 3 shall be sprinkled to minimize the dust.

5. PROTECTION OF THE PUBLIC AND WORKERS. Protection of the public and workers from falling material or equipment, or other hazards, and the covering of floor openings, other than those openings while in use during demolition, shall conform to the regulations of ch. 228.

6. TEMPORARY OCCUPANCY OF PUBLIC THOROUGHFARES. Permits for the temporary occupancy of public thoroughfares for the storage of materials, construction of sheds, roofs, fences and for other temporary guards, devices and equipment shall be obtained from the commissioner of public works, as regulated in ch. 115.

7. ABANDONMENT OF SEWER AND WATER CONNECTIONS. Any person, firm or corporation demolishing or moving a building or structure that is served by a private or public water or sewer system shall have such system disconnected and abandoned in accordance with s. 225-9.

8. REMOVAL OF MATERIALS, GRADING AND EROSION CONTROL. a. All materials not to be used for fill in excavated areas shall be removed from the premises as the demolition work progresses.

b. To prevent a public hazard or the creation of a public nuisance, upon completion of demolition, the premises shall, unless a permit for new construction has been issued, be filled where necessary with soil or other approved inorganic material not greater than one foot in dimension and graded to the level of the lot grade adjoining the building site, with allowance made for settlement.

c. Once graded, the premises shall be returned to an erosion-free and dust-free condition by utilizing suitable landscaping, grass, trees, shrubs or other planted ground cover, or by other suitable means approved of by the commissioner. If the premises is located in a downtown zoning district, compliance with s. 295-705-8-a shall be required.

d. If an owner fails or neglects to comply with the provisions of this sub. within the time allotted by the commissioner, the commissioner may issue an order to the owner or the owner's agent to correct the violation. If the order expires before it is complied with, the commissioner may cause the premises to be restored to an erosion-free and dust-free condition. The cost of such action shall be charged against and be a lien upon the real estate and be assessed and collected as a special charge, as provided in s. 200-21-7.

9. PARTY WALL. When any building or structure adjoining a party wall is demolished, the owner of the demolished building or structure shall remove the anchors at the beam and joist end in the standing wall. All voids in such wall shall be filled with material consistent with the adjacent wall section. All plaster, furring strips, paneling, lathe, gypsum board and stair stringers shall be removed from the standing wall surface as directed and approved by the department.

10. REMOVAL OF DRIVEWAY APPROACHES. a. Pursuant to s. 115-25, whenever the commissioner of city development issues a permit for the demolition of all structures on a premises, and the demolition will result in the discontinuance of the use of an existing driveway, the removal of the driveway and restoration of the street pavement, curb, gutter and sidewalk shall be a condition of issuance of such permit. Such removal and restoration shall not be required whenever the owner has obtained a permit for new construction prior to demolition of the structure or structures and the existing driveway is necessary for proper access to the structure described in the new construction permit.

b. If an owner fails or neglects to comply with the provisions of par. a within the time allotted by the commissioner, the commissioner of neighborhood services may issue an order to the owner or the owner's agent to correct the violation. If the order expires before it is complied with, the commissioner may cause the driveway to be removed and cause the restoration of the street pavement, curb,

gutter and sidewalk. The cost of this action shall be charged against and be a lien upon the real estate and be assessed and collected as a special charge.

218-7. Abandoned or Unsecured Buildings.

Whenever any building, structure or part thereof is abandoned or unsecured, with one or more doors or windows removed or opened, leaving the interior of such building, structure or part thereof exposed to the elements or accessible to trespassers, so that crime may be committed, the building, structure or part thereof may be deemed to be dangerous, unsafe and a menace to public safety, susceptible to theft of its contents or likely to expose the city to general liability, and may be condemned by the commissioner in accordance with s. 66.0413, Wis. Stats., or boarded by the department of public works at the request and direction of the chief of police.

218-8. Historic Buildings. 1. STABILIZATION

OF ABANDONED BUILDINGS. Whenever a locally or nationally designated historic building, or a contributing building in a locally designated historic district, is found to be abandoned or otherwise condemnable under this chapter or s. 66.0413, Wis. Stats., or the building owner has failed to maintain the structure in accordance with the standards of s. 275-32, the commissioner may act to stabilize the structure. The cost of stabilization may not exceed 3 times the estimated cost of demolition, as determined by the commissioner. Stabilization may include, but shall not be limited to, the following:

a. Repair or replacement of deteriorated roofing, flashing and related appurtenances.

b. Boarding of windows and door openings in a manner to secure the structure.

c. Winterization of plumbing and heating systems.

d. Bracing, securing, replacing or otherwise repairing deteriorated structural elements such as roofs, floors, walls, foundations, columns and beams.

e. Tuckpointing of eroded masonry materials and replacement or repair of missing masonry units.

f. Repair or rebuilding of building elements to prevent further deterioration or damage.

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g. Removal and storage of architectural elements such as trim, moldings, ornaments, windows, doors and railings in order to protect them from theft or damage.

2. STABILIZATION COST RECOVERY. The cost of stabilization of an abandoned or otherwise condemnable historic building shall be charged against the real estate upon which the building is located and, if the charge becomes delinquent, it shall be a lien upon the real estate and shall be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter.

218-9. Unsafe or Vacant Noncompliant Buildings. 1. NUISANCE DECLARATION.

a. Requirements for Declaration. The commissioner may declare a building a nuisance and order the building's owner to make the building safe and code compliant or have it razed and removed whenever all of the following are true:

a-1. The building is found to be in violation of this code.

a-2. The building is unsafe and has been ordered closed, pursuant to s. 200-11, or the building is vacant and has been ordered secured pursuant to s. 275-32-7 or s. 218-4, or the building has been secured by the boarding of one or more window or door openings in whole or in part for at least 6 months and is unoccupied.

a-3. The conditions described in subds. 1 and 2 exist at least 6 months after the order to close or secure the structure has been served upon the owner.

b. Additional Factors. Additional factors which may be considered by the commissioner in determining whether a structure constitutes a nuisance include, but are not limited to, whether the building has been the subject of re-board or clean-up orders, complaints received by the department, or police or health department reports.

2. POSTING OF ORDER. In addition to complying with the service requirements of s. 200-12-3, the commissioner shall serve a copy of such order on all holders of encumbrances of record, post a copy of the order in a public place in city hall and provide a copy of the order to the department of city development.

3. RAZING OR SIGN-POSTING BY COMMISSIONER. If the owner fails to comply with the commissioner's order to make the building safe and code compliant or have it razed

and removed within the time specified, the commissioner may do either or both of the following:

a. Contract for the razing and removal of the structure and the restoration of the site to a dust-free and erosion-free condition.

b. Post a sign which indicates the address of the building, the fact that the building has outstanding code violations and has been boarded-up for at least 6 months, the name, address and telephone number of the owner, and any available information on related court dates, as specified in sub. 4. The same information shall also be published in one or more daily newspapers, as specified in sub. 5.

4. PROCEDURE FOR POSTING SIGN. Any sign posted pursuant to sub. 3 shall be affixed to, or placed within 10 feet of, the building to which the sign pertains. Such sign shall indicate the address of the building and the fact that the building has had outstanding code violations and has been boarded-up for at least 6 months. Such sign shall also indicate the name and last known home address of the owner as determined by the department from the city's tax rolls or from the property ownership recording information required pursuant to s. 200-51.5, as well as the home telephone number or business telephone number of the owner, if known to the department. If the commissioner has commenced a court action against the owner, the sign may also provide the court case number and a telephone number for obtaining information on the next court date.

5. PROCEDURE FOR PUBLISHING NAMES. Whenever the commissioner posts a sign pursuant to sub. 3, the commissioner shall publish, in one or more daily or community newspapers, including at least one newspaper of general circulation in the community in which the property owner resides, a notice containing the same information presented on the sign.

6. UNLAWFUL SIGN REMOVAL. It shall be unlawful for any person to remove, cover, obliterate or deface any sign posted pursuant to sub. 3.

7. ASSESSMENT OF COSTS. The cost of razing, removal and site restoration or of sign-posting and newspaper notice publication pursuant to sub. 3 may be charged against the real estate upon which the building was or is located, and if that charge becomes delinquent, it shall be a lien upon the real estate and may be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter.

8. APPEALS. The standards and appeals commission is authorized to hear appeals of orders issued pursuant to this section and to grant relief from such orders as specified in s. 200-17.

218-10. Deconstruction of Residential Buildings. 1. PURPOSES. This section provides deconstruction requirements for the removal of Milwaukee's older and more historic primary dwelling structures. In particular, through the enactment and enforcement of this section, the common council seeks to:

a. Maximize the salvage of valuable building materials, especially old-growth structural lumber, for reuse, thereby supporting the city's goal of being a sustainable community.

b. Reduce the amount of demolition waste disposed of in landfills, thereby saving city and taxpayer dollars, extending the lives of existing landfills and reducing the need to create new landfills.

c. Create employment opportunities for city residents, as the deconstruction process is much more labor-intensive than demolition, which relies on the use of heavy mechanical equipment.

d. Reduce carbon emissions associated with demolition activity by preserving the embodied carbon and energy of existing building materials and avoiding the creation of greenhouse gasses associated with producing new materials.

e. Minimize the adverse impacts associated with building removal by increasing the likelihood of discovering materials containing lead and asbestos for safe removal and disposal.

f. Reduce the releasing of dust and other hazardous or potentially hazardous airborne substances associated with mechanical demolition of structures.

g. Preserve Milwaukee's historic architectural features and building materials.

2. DEFINITIONS. In this section:

a. "Certified deconstruction contractor" means a contractor that has successfully completed a deconstruction certification program either conducted by the department or approved by the commissioner, and where the contractor appears on a list of certified deconstruction contractors maintained by the commissioner and posted on or accessible from the department's website. A

firm shall be considered certified if at least one person currently employed by the firm is certified.

b. "Deconstruction" means the systematic dismantling of a structure, or portion thereof, to maximize the salvage of materials for reuse, in preference over salvaging materials for recycling, energy recovery, or sending the materials to the landfill.

c. "Primary dwelling structure" means a residential structure containing one to 4 dwelling units based on current permitted occupancy at the time of demolition permit application. This term does not include an accessory building such as a garage or shed.

d. "Recycling" means the processing of waste materials into new products or material feed stock for products. Materials that can be recycled include, but are not limited to, concrete, metal piping, and asphalt roofing shingles.

e. "Responsible party" means any owner or person in control of a primary dwelling structure, or that owner or person's authorized agent.

f. "Reuse" means the use of a product or material that was previously installed for the same or similar function to extend its life cycle. Materials salvageable for reuse include but are not limited to cabinets, doors, windows, hardware, fixtures, flooring, siding, and framing lumber.

3. AUTHORITY AND DUTIES OF COMMISSIONER a. The commissioner shall administer and enforce the provisions of this section.

b. The commissioner shall adopt rules, procedures, and forms to implement the provisions of this section, and post the same, or links to the same, on the department's website, provided:

b-1. Any rule adopted pursuant to this paragraph shall pertain to certification of deconstruction contractors, to certification-program training, or to deconstruction method or practice, and shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. The notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.

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b-2. During the public review, the commissioner shall hear testimony or receive written comment concerning the proposed rules. The commissioner shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the commissioner and shall be filed in the office of the commissioner and with the legislative reference bureau, and shall be posted on or accessible from the department's website.

c. The commissioner shall develop, and the department shall conduct, a deconstruction certification training program to teach deconstruction method and practice principles generally recognized in the deconstruction industry. A firm shall apply to the commissioner for certification-program training on a form provided by the commissioner, and, subject to the provisions of this section, shall be listed as a certified deconstruction contractor following successful completion of the program and certification by the commissioner.

d. A contractor may apply to the commissioner, on a form provided by the commissioner, for recognition of deconstruction training certification based on successful completion of a training program other than the department-conducted program. The commissioner shall consider course teaching and certification requirements and generally recognized training and certification principles in the deconstruction industry in determining whether to recognize the alternative certification program. The commissioner may require an interview or testing in making a determination. The commissioner shall inform the contractor of the commissioner's determination regarding recognition of alternative certification in writing.

e. The commissioner shall maintain and post on the department's website a listing, or a link to a listing, of certified deconstruction contractors.

f. The commissioner shall provide reports on the implementation of this section to the common council's zoning, neighborhoods and development committee at least annually. Beginning in 2018, each report shall be submitted to the committee no later than June 30 of each year. These reports shall include, but not be limited to, information on contractors certified for deconstruction, responsive deconstruction bidders, bid amounts, jobs

created, buildings deconstructed, and the recovery and marketing of reclaimed materials.

4. REGULATIONS. a. Scope. The deconstruction requirements of this section apply to any demolition permit application under this chapter for any of the following:

a-1. A primary dwelling structure that was built in 1929 or earlier according to building permit records on file with the department or, if no such permit records exist, according to records of the commissioner of assessments or the Milwaukee county register of deeds.

a-2. A primary dwelling structure that has been designated as an historic structure by the common council under s. 320-21.

a-3. A primary dwelling structure located in an historic district designated by the common council under s. 320-21.

b. Requirements. b-1. General. Primary dwelling structures shall be deconstructed in accordance with the provisions of this section and associated administrative rules. Salvaged material may be sold, donated, or reused on- or off-site. Every deconstruction project shall achieve a documented 85% landfill diversion rate by weight, unless:

b-1-a. Otherwise approved by the commissioner in writing for the particular structure based on economic or practical infeasibility as determined by the commissioner after consideration and inspection; or

b-1-b. Otherwise allowed by administrative rule adopted by the commissioner under this section.

b-2. Demolition Permit Application. An application for a demolition permit under this chapter for any primary dwelling structure shall not be considered complete unless it is accompanied by a completed pre-deconstruction form provided by the commissioner, including a list of targeted salvageable materials and final destinations or by a commissioner-approved exemption issued under this section.

b-3. Certified Deconstruction Contractor. Deconstruction shall only be performed by a certified deconstruction contractor listed on the department's website. At least one certified employee of the contractor shall be present on the job site when activities related to deconstruction are underway. The department shall maintain and make available to the public, and post on the department's website, a list, or a link to a list, of currently-certified deconstruction contractors.

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b-4. Site Posting. Prior to commencement of deconstruction activity, a yard sign approved and provided by the commissioner shall be posted on each street frontage of the site. The sign shall:

b-4-a. Indicate that the structure is being deconstructed

b-4-b. Provide department of neighborhood services contact information for questions or concerns.

b-4-c. Remain in place throughout the course of deconstruction.

b-4-d. Be posted within 5 feet of a street lot line, be visible to pedestrians and motorists, and not be posted in a public right-of-way.

b-5. Heavy Machinery. Heavy machinery may be used in deconstruction to assist in the salvage of materials for reuse or to remove material not required to be salvaged for reuse. Heavy machinery may not be used in deconstruction to remove or dismantle components of buildings in ways that render building components unsuitable for salvage. For purposes of this section, heavy machinery includes, but is not limited to, track hoes, excavators, skid steer loaders, and forklifts.

b-6. Documentation. The demolition permit holder shall maintain receipts for donation, sale, recycling, and disposal of all materials for any deconstruction project. Materials intended for reuse on site, and materials disposed of and concerning which no receipt for disposal is obtainable, shall be documented with photographs. The commissioner may ask that the permit holder produce the receipts or photographs for inspection any time until the demolition permit is closed.

b-7. Closing of Demolition Permit. A completed post-deconstruction form and all documentation required in subd. 6. shall be submitted to the department before a department inspector may approve a demolition permit as closed.

c. Exemptions. The following are exempt from the requirements of this section:

c-1. The moving of a building, provided it occurs in accordance with s. 218-2.

c-2. Any primary dwelling structure that the commissioner has determined is unsuitable for deconstruction because either of the following is true:

c-2-a. The structure is structurally unsafe or is otherwise hazardous to the health, safety or welfare of the public and too unsafe or hazardous for deconstruction.

c-2-b. Most, or a substantial portion, of the material in the structure is not suitable for reuse.

d. Request for an Exemption. An applicant may request an exemption from the requirements of this section under par. c by submitting a written request for exemption, together with supporting evidence, when submitting a demolition permit application. Where the city, as the owner of the primary dwelling structure, seeks an exemption, the commissioner shall approve and sign a city-exemption form to document satisfaction of the exemption requirements of par. c.

e. Determination of an Exemption. The commissioner shall make the final determination of exemption based on evidence submitted by the applicant as well as an inspection to confirm conditions and unsuitability.

The demolition permit shall not be issued until the final determination is made on the exemption request. If the applicant disagrees with the final determination, the determination may be appealed by the applicant under sub. 6.

5. ENFORCEMENT AND PENALTIES. a. General. a-1. A first violation of this section may be subject to a penalty of up to \$1,000.

a-2. A second violation of this section committed by the same person or firm may be subject to a penalty of up to \$2,000.

a-3. Third and subsequent violations of this section by the same person or firm may be subject to a penalty of up to \$3,000.

a-4. Penalties may be imposed on a per-month, per-day or per-incident basis, or such other basis as the commissioner may determine appropriate based upon the criteria in par. f.

a-5. Any person receiving a notice of violation shall, within 10 days of issuance of the notice, either pay to the city the stated penalty amount or appeal the penalty under sub. 6.

b. Heavy Machinery.

b-1. Improper use of heavy machinery in violation of this section may be subject to a penalty of up to \$20,000.

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b-2. Any person receiving a notice of violation shall, within 10 days of issuance of the notice, either pay to the city the stated penalty amount or appeal the penalty under sub. 6.

c. Additional Enforcement Actions for Certified Deconstruction Contractors. The commissioner may impose the following additional remedies on a certified deconstruction contractor:

c-1. A first violation of this section may result in removal from the list of certified deconstruction contractors for up to 6 months.

c-2. A second violation of this section may result in removal from the list of certified deconstruction contractors for up to 12 months.

c-3. A third or subsequent violation of this section may result in removal from the list of certified deconstruction contractors for an indefinite period. The contractor may not apply for reinstatement to the list of certified deconstruction contractors for a period of 18 months.

d. Temporary Removal. Temporary removal from the list of certified deconstruction contractors shall expire immediately following the end of the term of removal, and shall not require further action by the commissioner except for re-listing of the contractor on the department's website.

e. Stop Work Orders. When necessary to obtain compliance with this section, the commissioner may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the commissioner issues a stop work order, activity subject to the order may not be resumed until such time as the commissioner gives specific approval in writing. The stop work order will be in writing and posted at a conspicuous location at the site. When an emergency condition exists, a stop work order may be issued orally, followed by a written stop work order. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.

f. Criteria. The commissioner shall use the following criteria in determining the type and magnitude of penalties or remedies to impose under this subsection:

f-1. The nature and extent of the person's involvement in the violation.

f-2. Whether the person was seeking any benefits, economic or otherwise, through the violation.

f-3. Whether the person has committed similar violations in the past.

f-4. The length of time since any prior violations.

f-5. Whether the violation was isolated and temporary, or repeated and continuous.

f-6. The magnitude and seriousness of the violation.

f-7. The costs of investigating and remedying the violation.

f-8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

g. Inspections. The commissioner may conduct inspections whenever necessary to enforce any provisions of this section, to determine compliance with this section or whenever the commissioner has reasonable cause to believe there exists any violation of this section. If the responsible party is at the site when the inspection is occurring, the commissioner will first present proper credentials to the responsible party and request entry.

6. RIGHT OF APPEAL. Whenever the responsible party has been given a written notice, order or determination pursuant to this section, or has been directed to make any correction, pay a penalty or to perform any act, and the responsible party believes the finding of the notice, order or determination was in error, the responsible party may have the notice, order or determination reviewed by the commissioner. If a review is sought, the responsible party will submit a written request to the commissioner within 10 days of the date of the notice, order or determination. Such review will be conducted by the commissioner. The responsible party requesting such review will be given the opportunity to present evidence to the commissioner. Following a review, the commissioner shall issue a written decision. The responsible party may appeal the commissioner's decision to the administrative review appeals board under s. 320-11.

**** Enforcement of s. 218-10 is stayed until March 1, 2023.**

For legislative history of chapter 218, contact the Municipal Research Library.

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