

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED _____
REFERRED _____

Amending Section 28.04(22) of the Madison General Ordinances to clarify demolition standards.

RULES SUSPENSION _____
PUBLIC HEARING _____

Drafted by: Katherine Noonan

Date: January 31, 2006

SPONSORS:

DRAFTER'S ANALYSIS: This amendment serves to simplify and clarify the demolition standards in the recognition that most requests for demolition are granted.

The Common Council of the City of Madison do hereby ordain as follows:

Subsection (22) entitled "Approval of Razing, Demolition, Removal, or Wrecking" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is amended to read as follows:

"(22) Approval of Razing, Demolition, Removal or Wrecking

(a) Statement of Purpose. It is hereby declared a matter of public policy that the good maintenance and rehabilitation of existing buildings, the preservation of safe and sanitary housing available at reasonable prices, and the careful consideration and planning of changes in the urban landscape are a public necessity and are required in the interest of the health, prosperity, safety, and welfare of the people. The ordinance is also intended to aid in the implementation of adopted City plans and recommendations for the protection of neighborhood character, and to encourage the preservation of existing buildings while giving due consideration to the effect any proposed new buildings may have on their surroundings; to foster and encourage adherence to the intent and purpose of the Zoning Code, as expressed in the Code's general intent and purpose, Section 28.02 of the Madison General Ordinances, and as expressed in the individual statements of purpose for each of the zoning districts established by the code. The purpose of this section is to:

- ~~1. Foster and encourage the preservation of existing buildings which are structurally sound, economically productive, and suitable for rehabilitation or repair.~~
- ~~2. Encourage voluntary compliance with building and minimum housing codes.~~
- ~~3. Aid in the preservation of residential neighborhoods.~~
- ~~4. Require the Plan Commission to evaluate proposed alternative uses of property before existing buildings are destroyed or moved.~~
- ~~5. Allow the property owner to have a decision on approval or disapproval of the proposed use of the property before he or she takes the irrevocable step of demolishing or moving his or her existing building or buildings.~~
- ~~6. Foster and encourage adherence to the intent and purpose of the Zoning Code, as expressed in that code's general intent and purpose, Section 28.02 of the Madison General Ordinances, and as expressed in the individual Statements of Purpose for each of the zoning districts established by the code.~~
- ~~7. Encourage the relocation of existing buildings that are suitable for continued use at another location and to encourage the re-use and recycling of materials from buildings that are razed, demolished or wrecked.~~

Approved as to form:

Michael P. May, City Attorney

(b) Application for Permit. No building as defined in Section 29.03 of the Madison General Ordinances shall be razed, demolished, removed or wrecked without a permit from the Inspection Unit of the Department of Planning and Development. Applications for moving or wrecking permits shall be submitted to the Director of the Inspection Unit. An application for a moving permit shall be made pursuant to Sec. 29.12 of the Madison General Ordinances. An application for a wrecking permit shall contain a clear, detailed and complete statement of the present or most recent use and the use proposed to be made of the property if the wrecking permit is approved. The Director of the Inspection Unit shall notify the District Alderperson of all applications for moving or wrecking permits. An application for a wrecking permit shall include a plan for recycling materials from the building to be demolished.

(c) Standards. Applications for wrecking, razing, demolition or removal permits shall not be approved, except as provided in Section 28.04(22)(d) of the Madison General Ordinances, unless the following conditions are met:

1. The Zoning Administrator issues a zoning certificate for the proposed use of the property. For the purpose of this subdivision, a zoning certificate shall mean a certification in writing that the proposed use of the property would be in compliance with the provisions of the Zoning Code, Chapter 28, Madison General Ordinances.

a. If the Zoning Administrator finds that the proposed use of the property is not in compliance with the provisions of the Zoning Code, the applicant for a wrecking permit may follow the procedures provided by the Zoning Code to apply for an amendment pursuant to Section 28.12(10) of the Madison General Ordinances or for a conditional use permit pursuant to Section 28.12(11) for the proposed use. All of the provisions of Sections 28.12(10) and 28.12(11) shall apply to said applications, except that the time limit for commencement of the conditional use, pursuant to Section 28.12(11)(b)3., shall be eighteen (18) months instead of twelve (12) months.

b. If after the procedures provided in Paragraph 1. are followed, the proposed use of the property would be in compliance with the provisions of the Zoning Code, the Zoning Administrator shall grant a zoning certificate for the proposed use, pursuant to Madison General Ordinance Section 28.12(5)(a).

~~2. The Plan Commission finds that both the requested demolition and the proposed use are compatible with the purpose of this section and the intent and purpose expressed in the Zoning Code for the zoning district in which the property is located. When making this finding the Commission shall consider and may give decisive weight to any relevant facts including but not limited to the effects the proposed demolition and proposed use of the subject property would have on the normal and orderly development and improvement of surrounding properties, the reasonableness of efforts to relocate the building, including but not limited to the costs of relocation, the structural soundness of the building, and the limits that the location of the building would place on efforts to relocate it, and the availability of affordable housing after giving due consideration to the adopted master plan. The proposed use and buildings are at least as compatible with the character of other buildings and properties within the neighborhood.~~

~~3. The proposed use and buildings are consistent with adopted City plans or if no use is proposed, the Plan Commission concludes that the existing zoning is adequate to implement City plans and will ensure that the future development is compatible with Sub. (a) above.~~

~~4. The demolition and proposed use shall not have a detrimental effect on the normal and orderly development and improvement of surrounding properties.~~

~~5. The Plan Commission considers the desirability of relocating the building~~

~~3-6.~~ In the case of landmarks or improvements located in an Historic District, consideration and approval of wrecking permits by the Plan Commission shall be contingent upon the prior issuance of a certificate of appropriateness therefor by the Landmarks Commission pursuant to Section 33.01(5)(c) of the Madison General Ordinances.

~~4-7.~~ In the case of an application for a wrecking permit, consideration and approval of wrecking permits by the Plan Commission shall be contingent upon prior approval by the Recycling Coordinator of the plan for recycling materials by the Recycling Coordinator shall be obtained prior to the issuance of the demolition permit.

(d) Exemptions.

1. Wrecking permits may be issued without the prior approval referred to in Subdivision (c) above whenever any one of the following conditions is present, provided that the subject building has not been used at any time as a single-family or multiple-family dwelling in whole or in part, is not a landmark or is not located in an Historic District:

a. The Director of the Inspection Unit finds that the building proposed to be wrecked or demolished is structurally unsound subject to an appeal as provided in Section 29.18 of the Madison General Ordinances. The applicant may support the request with the report of a licensed architect or engineer certifying that the building is structurally unsound and giving the reasons therefore.

b. The Director of the Inspection Unit determines that the building proposed to be wrecked or demolished is an accessory building as defined in Section 28.03(2) of the Madison General Ordinances.

c. (R. by Ord. 11,914, 8-18-97)

2. Wrecking permits may be issued without the prior approval referred to in Subdivision (c) above, provided that the building proposed to be wrecked or demolished is owned by the City of Madison and the project necessitating the demolition has been recommended by the Plan Commission and approved by the Common Council.

3. Wrecking permits not requiring the prior approval referred to in Subdivision (c) above shall be issued, denied or deemed denied by failure to issue within seven (7) business days of the date of application.

4. The Common Council, upon recommendation of the Landmarks Commission, may adopt standards under which applications for wrecking permits for certain types of nonresidential buildings or structures which are located in an Historic District but which are neither landmarks nor improvements that contribute to the distinctive architectural or historic character of the District as a whole may be exempted from the public hearing requirements in Section 28.04(22)(e).

(e) Hearings on Applications for Wrecking Permits. The Plan Commission shall hold a public hearing on each application for a wrecking permit, and shall follow the same procedures required for other hearings by Madison General Ordinance Section 28.12(10)(d) and (e), except that if the applicant for a wrecking permit requests an amendment to the Zoning Code pursuant to Section 28.12(10) or a conditional use permit pursuant to Section 28.12(11) or if said wrecking is a detail of a proposed General Development Plan for a planned development under Section 28.07 of the Madison General Ordinances, the wrecking permit application shall be considered together with said amendment to the Zoning Code, conditional use and/or General Development Plan. In addition, the hearing on the application for said wrecking permit and any appeal thereof of the decision of the Plan Commission shall follow the provisions of Madison General Ordinances Sections 28.12(10), 28.12(11) and/or 28.07(4), (5) and (6) as appropriate, including but not limited to those provisions which relate to the filing of a verified petition and the voting requirements on appeal to the Common Council. In the case of landmarks or improvements located in an Historic District, however, the public hearing on the wrecking permit shall be held only by the Landmarks Commission pursuant to Section 33.01(5)(c); the public hearing on the proposed use of the property should a certificate of appropriateness be issued, shall be held by the Plan Commission pursuant to this subsection.

(f) Appeals. An appeal from the decision of the City Plan Commission may be taken to the Common Council by the applicant for the wrecking permit or by the Alderperson of the district in which the building proposed to be wrecked is located. Such appeal must specify the grounds thereof in respect to the findings of the City Plan Commission and must be filed with the office of the Zoning Administrator within ten (10) days of the final action of the City Plan Commission. The Zoning Administrator shall transmit such appeal to the City Clerk who shall file the appeal with the Common Council. The Common Council shall fix a reasonable time for the hearing of the appeal, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. The action of the City Plan Commission shall be deemed just and equitable unless the Common Council, by a favorable vote of two-thirds (2/3) of the members of the Common Council voting on the matter, reverses or modifies the action of the City Plan Commission. Provided, however, that if the applicant for a wrecking permit has requested an amendment to the Zoning Code pursuant to Section 28.12(10) or a conditional use permit pursuant to Section 28.12(11) or if said wrecking is a detail of a proposed General Development Plan, action on those requests, as indicated supra in Subsection (3), is not to be appealed to the Common Council under this subsection.