

ORIDINANCE NO. 2062
AN ORDINANCE CREATING TITLE 20 PROPERTY MAINTENANCE

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Title 20 is hereby created to read as follows:

A. INTENT, PURPOSES.

- (1) **Intent.** This Chapter is adopted to preserve and promote the public health, safety, morals, comfort, convenience, prosperity and general welfare of the people of the City and its environs, including, but not limited to, physical, aesthetic, and monetary values. The establishment and enforcement of minimum standards of habitation and property conservation is necessary to preserve and promote the private and public interest.
- (2) **Purpose.** The purpose of this Chapter is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and non-residential buildings, structures, yards and vacant areas by adopting minimum standards. Attractive and well-maintained property will enhance the neighborhood and the City as a whole by maintaining physical, aesthetic and monetary values. With respect to rental housing, it is necessary to adopt minimum regulations regarding human habitation to protect the health, safety, and general welfare of tenants within the City.

B. APPLICABILITY.

- (1) **General.** The provisions of this Chapter shall apply to all properties and buildings within the City and its jurisdiction.

C. GENERAL MAINTENANCE REQUIRED; DEFINITION.

- (1) The exterior of all properties and premises including the open space of the property or premises shall be maintained in a clean, safe and sanitary condition, free from accumulation of any combustible or non-combustible materials, debris and refuse.
- (2) “Debris and refuse” shall include but not be limited to: broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; new and used lumber or other wood that is not part of a structure or that is not used as firewood and is not stacked or stored in a neat manner on the property; paper, rags, animal waste, cardboard, rubber, plastic, wire, tin and metal materials; discarded household goods or appliances, junk lawn mowers, snow blowers, tires, tire rims or used motor vehicle parts, machine parts, junked boats or junked recreational vehicles; tar paper residue from burning or similar materials which

constitute health, fire or safety hazards or any other materials that have a detrimental visual and aesthetic impact upon the neighborhood in which the property is located or the City in general, which tend to cause a blighted condition as defined under state law, or which emit a noxious, foul or offensive odor.

- (3) The provision of this section shall not apply to materials stored or maintained on a property in conjunction with any business, manufacturing or other use which meets applicable City ordinance including but not limited to fire, building and zoning code requirements and restrictions.

D. SPECIFIC MAINTENANCE REQUIRED.

(1) Exterior Walls and Foundations.

- (a) Every foundation and exterior wall shall be reasonably weather tight, rodent proof, insect proof and shall be kept in a good and sound condition and state of repair. The foundation elements shall adequately support the building at all points. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that they safely and properly remove the products of combustion from the building.
- (b) Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- (c) All cornices, moldings, lintels, sills, oriel windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

- (2) **Paint and Other Preservatives.** Exterior surfaces of buildings, fences and other structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. Missing or damaged siding shall be promptly replaced.

(3) Doors, Windows and Basement Hatchways.

- (a) Every window, screen, exterior door and basement hatchway shall be tight and shall be kept in a good and sound condition and state of repair. Every window sash shall be fully supplied with glass windowpanes or an approved substitute which is without open cracks or holes. Every window sash shall be in good condition and fit well within its frame.

- (b) Every exterior door, door hinge and door latch shall be maintained in a good and sound condition and state of repair. Exterior doors, when closed, shall fit well within their frames.
 - (c) **Insect screens.** During the period from April to October, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens.
 - i. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
 - (d) **Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.
- (4) **Porches, Railings, Stairways, Decks, Balconies, Platforms and Patios.** Every outside stair, porch, balcony, platform, patio and appurtenance thereto, shall be so constructed to be safe to use and capable of supporting normal loads as required by the Building Code and shall be kept in a good and sound condition and state of repair.
- (a) **Handrails and Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (5) **Roofs and Drainage.**
- (a) All roofs shall be maintained so as not to leak and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, interior walls, eaves, soffits or foundations.
 - (b) All courts, yards or other areas on the premises shall be properly graded to divert water away from the building. Ground surface adjacent to the building shall be sloped away from the structure where possible and shall not cause nuisance water to flow onto neighboring properties.
- (6) **Fence and Retaining Wall Requirements.**
- (a) All fences shall be properly maintained and kept in a good and sound state of repair.
 - (b) Retaining walls shall be structurally sound. No retaining wall shall be constructed or maintained in such a manner as to cause a repeated spillage

of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property.

- (7) **Exterior Property Areas.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, or physical hazards, rodent harborage and infestation, or animal feces.
- (8) **Grading and Drainage of lots.** Every yard, court, vent passageway, driveway, and other portion of the lot on which the building stands shall be graded and drained so as to prevent the accumulation of water on any such surface or on adjacent property. Driveways shall be maintained in good repair.
- (9) **Landscaping.** All exterior property areas shall be kept free from noxious weeds as defined in Chapter 10 of these ordinances. Landscaping, plantings and other decorative surface treatments including common species of grass shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas.
 - (a) Landscaping material. No person shall accumulate, allow to accumulate or store landscaping material in an unused state and open to the public view for a period exceeding ten days.
- (10) **Decorative features.** Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (11) **Overhand extensions.** Overhand extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (12) **Accessory structures.** All accessory structures shall be maintained in a state of good repair and vertical alignment. All exterior appurtenances or accessory structures which serve no useful purpose and are deteriorated or dilapidated condition, which are not economically repairable, shall be removed. Such structures include, but shall not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds.
- (13) **Motor Vehicles.** Except as provided for in other regulations, inoperative or unlicensed motor vehicles, or motor vehicle parts shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantles. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

- (a) **Exception.** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.
- (14) **Residential yard parking regulations.** The parking of any vehicle upon a residential lot shall be in compliance with the following standards:
 - (a) The parking of any vehicle within the front yard or (street) side yard shall be on an improved surface driveway or parking pad. Improved surface shall mean a surface of concrete, asphalt, or other material other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water. The remainder of the required front yard setback, and the streetside yard setback on any corner lot, shall not be considered a part of the permitted parking area and shall be landscaped.
 - (b) No parking pad shall be allowed in the minimum front yard setback or minimum street side yard setback established for the district except that one additional parking pad up to ten feet wide may be added directly abutting a single-width or double-width driveway leading to an approved parking area, provided the parking pad shall not be located in front of a home.
 - (c) Parking is prohibited within a driveway right-of-way.
- (15) **Pools, Spas and Hot Tubs.**
 - (a) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
 - (b) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool.
 - i. **Exception.** If a hot tub is outfitted with a securely locking, tightly fitted cover, the hot tub will not require an enclosure.
- (16) **Storage and parking of recreational vehicles and trailers.** In all residential and commercial districts provided for in the zoning chapter, it is permissible to park or store a recreational vehicle, camper, trailer, watercraft or boat and boat trailer on private property in the following manner:
 - (a) Parking is permitted inside any enclosed structure, which otherwise conforms to the zoning requirements of the particular zoning district where located.

- (b) Parking is permitted outside in the rear yard provided it is not nearer than five feet to the lot line.
- (c) Parking is permitted outside on a hard-surfaced or well-graveled driveway.
- (d) No part of the unit may extend over the public sidewalk or public right-of-way.
- (e) No unit shall be parked on public streets, highways, intersections, or public land or parking lots for an extended period exceeding 48 hours.
- (f) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling or cooking purposes.
 - b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (g) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (h) The unit shall be owned by the resident on whose property the unit is parked for storage.
- (i) The number of units on any property within City jurisdiction shall not exceed two (2).

E. ACCESS TO PROPERTY.

After presenting proper identification, the Building Inspector, Neighborhood Services Officer, Code Enforcement Officer, or the Police Chief, or their respective deputies or designees, shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Chapter and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stat., as amended from time-to-time.

F. ENFORCEMENT.

(1) Enforcement.

- (a) **Order to correct conditions.** Whenever the City, through its agents or employees shall, upon inspection of the premises within the City, find the condition of the property or premises is in violation of this Chapter, an order shall be issued to the owner (and occupant if different from owner) of the premises or property to correct said condition by the Building Inspector or designee.
- (b) Contents of the order shall include:
 - i. A description of the premises and the violation of the Chapter;

- ii. A statement of the correction necessary to bring the property into compliance;
- iii. A statement specifying the time within which the owner and occupant shall comply with the order; and
- iv. A statement of the penalty section of the ordinance for noncompliance.
- v. A statement specifying accessibility needs, and request for language translation.

G. SERVICE.

The order shall be served on the owner (and occupant if different from owner) by delivering the same to and leaving it with any adult competent person in charge of the premises or in case no such person is found upon the premises by affixing a copy thereof in a conspicuous place near the entrance of the premises and by regular mail to the owner and occupant of the premises.

H. FAILURE TO COMPLY; DECLARATION OF PUBLIC NUISANCE.

(1) Failure to comply.

- (a) **Citation.** Any person, firm or corporation violating any provision of this Chapter shall be subject to the general penalty provisions of this code found in Section 1.20 of the City's Code of Ordinances. A citation may be issued pursuant to Sec. 1.20 of the City's Code or Ordinances.
- (b) **Cause work to be done.** Upon failure to comply with an order where there is proof of service of said order which requires that any premises or property be cleaned or condition abated or improved in accordance with this Chapter, the City may cause such cleaning, improvement, abatement or removal of the offending combustible or incombustible materials, debris or refuse. Such repair or removal shall be deemed a special benefit to such property and the costs of the same shall be charged against the owner(s) of the property. If the cost of the same is not paid within 60 (sixty) days, it shall be levied as a special charge against the property as authorized by Section 66.0627 of the Wis. Stat.
- (c) **Injunctive Relief.** In addition to other applicable enforcement procedures the City shall have the right to abate any violation of this Chapter by an action for injunctive relief in Walworth or Jefferson County Circuit Court.

(2) Abatement

- (a) Enforcement. The chief of police, the chief of the fire department, the building inspector, neighborhood services officer, or other designee shall enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
 - (b) Summary abatement. If the inspecting officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the president may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (c) Abatement after notice. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.
 - (d) Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state.
 - (e) Court order. Except when necessary under subsection (b) of this section, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (3) **Cost of abatement.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

I. REINSPECTION FEES

The following fees shall be imposed for the administration of this Chapter.

- (1) First re-inspection fee of \$75.00 per property upon verification of continued violation by City Building Inspector, Neighborhood Services Officer, Code Enforcement Officer or designee.

- (2) For a second reinspection, a fee of \$200.00
- (3) For a third reinspection a fee of \$400.00, and for each subsequent reinspection for the same condition.

If a property owner fails to pay such fees after billing, the City may impose such fees as against the property pursuant to applicable law and collect such charges on the property tax bill each year.

J. APPEAL

Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this section may request and shall be granted a hearing before the Common Council. Requests for such hearing will be filed with the Clerk no later than 5 business days from the date of the final notice of the order.

Ordinance introduced by Council Member Hicks, who moved its adoption.

Seconded by Council Member Schreiber

AYES: Allen, Brown, Dawsey-Smith, Gerber, Hicks, Schreiber, Stone

NOES: None

ABSENT: None

ADOPTED: September 19, 2023

John Weidl, City Manager

Karri Anderberg, City Clerk