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120914
SUBSTITUTE 1

THE CHAIR

A substitute ordinance relating to the transfer of permit issuance, plan examination and associated functions from the department of city development to the department of neighborhood services.

80-29-1 am
80-29-4 am
200-01-2-n rn
200-01-2-n cr
200-01-2-o cr
200-01-3-b am
200-04-1 am
200-04-2 am
200-09-2 am
200-11.5 am
200-12-1 am
200-12.5-1 am
200-13-1-a-0 am
200-13-1-e cr
200-13-1-f cr

200-13-5	am
200-16.5	cr
200-17-3-a	am
200-17-4-a	rc
200-17-4-b	am
200-17-7	am
200-17.5-1	am
200-17.5-2-a	rc
200-19-1	am
200-24-1	am
200-24-3	am
200-26-1-a	am
200-26-1-b	am
200-26-1-c-0	am
200-26-1-d	am
200-26-1-e	am
200-26-1-f	am
200-26-2	am
200-26-2.5	am
200-26-4-0	am
200-26-4-b	am
200-26-5-0	am
200-27-2	am
200-28-1	am
200-28-3	am
200-28-4	am
200-28-6	am
200-28-7	am
200-29-1	am
200-29-2-e	am
200-29-2-h	am
200-29-2-i	am
200-30-1-b	am
200-30-2-e	am
200-30-2-f-1	am
200-30-2-g	am
200-30-2-h	am
200-31-2-d-0	am
200-31-2-d-2	am
200-32-1-a	am
200-32-1-b	am
200-32-2-c	am
200-33-8.5-b	am
200-33-9-a	am
200-33-10	am
200-42-2-a	am
200-42-2-c-2	am
200-42-2-e	am
200-42-3-a-0	am

200-42-3-b-0 am
200-42-3-c am
200-42-3-b-3 rp
200-42-4-a am
200-47 am
200-51-2-0 am
200-51-2-e am
225-1-2-b-0 am
225-43-2 am
245-5-4 am
252-77-3-c am
275-20-3 am
290-9-0 am
308-1-2-h rp
308-1-2-i rp
308-1-2-j rn
308-1-3-c-1 am
308-1-3-c-4 rp

This ordinance transfers the plan review and approval and permit and certificate issuance functions from the department of city development to the department of neighborhood services.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 80-29-1 and 4 of the code is amended to read:

80-29. Masonry Building Cleaning: Sandblasting. 1. PERMIT REQUIRED. No person, firm or corporation shall undertake to clean the exterior of an existing masonry building without first obtaining a permit from the department of ~~[[city development]]~~ >>neighborhood services<<. When chemical or abrasive cleaning or sandblasting methods are to be used, the applicant must file a notarized statement stating familiarity with and intent to comply with the environmental regulations of the Wisconsin department of natural resources. When the public way is occupied by any materials, equipment, scaffolding and/or structures, a separate permit shall also be obtained from the commissioner of public works as provided in ss. 115-10 and 115-32.

4. REVOCATION OF PERMIT. The commissioner of ~~[[city development]]~~ >>neighborhood services<< or the commissioner's authorized representative shall have the authority to summarily halt the abrasive cleaning operation by suspension or revocation of the masonry building cleaning permit if the commissioner or the commissioner's authorized representative finds the permit holder to be in violation of the terms of the permit as specified in sub. 2.

Part 2. Section 200-01-2-n of the code is renumbered 200-01-2-p.

Part 3. Section 200-01-2-n and o of the code is created to read:

200-01. DEPARTMENT OF NEIGHBORHOOD SERVICES.

2. FUNCTIONS, POWERS AND DUTIES:

n. To perform plan reviews, approvals and permit issuance for the erection, construction, enlargement, alteration, repair, moving, improvement, conversion to new uses, razing or demolition, occupancy and use of buildings or structures.

o. To keep comprehensive records of all applications for permits, of all permits and fees thereof,

approvals and certificates of occupancy issued, and to make such records available for public inspection or as certified copies. Certified copies of any record may be obtained upon payment of the fee specified in s. 200-33 and in compliance with any rules and regulations of the commissioner.

Part 4. Section 200-01-3-b of the code is amended to read:

3. COMMISSIONER.

b. Jurisdiction. The commissioner shall have supervision, control and direction over matters relating to building and zoning code enforcement and inspections, nuisance abatement and vector control and all functions, powers and duties of the department described in sub. 2. >>The commissioner shall also have control over development permit issuance activities, including the building permit issuance authority of a "building inspector" as provided in s. 62.23(9)(a), Wis. Stats.<< The commissioner shall provide for the enforcement of all laws and ordinances related to buildings by means of the imposition of forfeitures, injunctive actions and other remedies available at law.

Part 5. Section 200-04-1 and 2 of the code is amended to read:

200-04. Interpretation, Emergency Rules, and Approvals. 1. All matters concerning, affecting, or relating to the erection, construction, installation, enlargement, alteration, repair, removal, conversion to new uses, razing, demolition, fire, public safety, and health protection, use of equipment, materials, occupancy and use, sanitation, and location and maintenance of all buildings, structures, equipment and premises are presumed to be provided for in this code. All reasonable interpretations of the code or emergency rules covering construction and conditions promulgated by the commissioner in furtherance thereof, and in conformance therewith, or in the absence of specific provisions affecting any of the aforesaid items, shall govern in each case except insofar as such matters are otherwise provided by the city charter or other valid law or ordinances. ~~[[Notwithstanding any other term or provision of the code, including s. 200-09, ch. 295 shall be interpreted by the commissioner of city development neighborhood services.]]~~

2. All interpretations and emergency rules shall be prepared in memoranda form. Approval of materials or methods of construction bearing evidence of approval of Underwriters Laboratory, ~~[[Building Officials Conference of America]]~~ >>International Code Council<<, or those referenced in this chapter will be accepted for use in the city of Milwaukee.

Part 6. Section 200-09-2 of the code is amended to read:

200-09. Authority.

2. VARIANCES. A variance granted from any provision of the orders of the Wisconsin department of ~~[[commerce]]~~ >>safety and professional services<< granted by the department, pursuant to s. 101.02, Wis. Stats., as amended, shall apply to an identical or similar regulation of this code and be in force and effect when, in the opinion of the commissioner, such variance shall in no manner adversely affect the public safety and health. Such variance shall not apply to any such or related regulation of this code which obviously creates a higher standard of safety and health than the standard of safety and health established by the regulation of such orders as modified by said department, nor shall any such variance apply to any regulations of ch. 295.

Part 7. Section 200-11.5 of the code is amended to read:

200-11.5. Enforcement of Codes Against Historic Structures. Except in cases where a structure poses an immediate threat to public health and safety, the commissioner shall stay enforcement of chs. 218 and 275 of this code and s. 66.0413, Wis. Stats., against any structure which has local or national

designation as an historic structure, or which is part of a local or national historic site or district, provided that the owner of such structure has obtained a mothballing certificate from the historic preservation commission, in accordance with the provisions of s. 320-21-15, and, subsequently, a mothballing permit from the department ~~[[of city development]]~~ upon payment of the fee provided in s. 200-33 and in compliance with any rules and regulations of the commissioner.

Part 8. Section 200-12-1 of the code is amended to read:

200-12. Orders to Correct Condition.

1. **ISSUANCE OF ORDERS.** Whenever the commissioner ~~[[of neighborhood services]]~~ determines, or has reasonable grounds to believe, that there exists a condition which violates any provision of the Milwaukee code over which the commissioner ~~[[of neighborhood services]]~~ has enforcement jurisdiction or authority, or the conditions of a certificate of appropriateness issued pursuant to s. 320-21-11, in any building, structure or premises or in the use of any equipment covered by any provision of the Milwaukee code over which the commissioner ~~[[of neighborhood services]]~~ has enforcement jurisdiction or authority, or that any person builds contrary to the plans and specifications submitted to and approved by the commissioner ~~[[of city development]]~~, or the historic preservation commission in the case of a certificate of appropriateness, or that any person omits, neglects or refuses to do any act required by any provision of the Milwaukee code over which the commissioner ~~[[of neighborhood services]]~~ has enforcement jurisdiction or authority, the commissioner ~~[[of neighborhood services]]~~ may order the owner, operator or occupant thereof to correct the condition. If a placard action which requires posting of the order is warranted, it shall be as prescribed in s. 200-11-6.

Part 9. Section 200-12.5-1 of the code is amended to read:

200-12.5. Emergency Orders. 1. **ISSUANCE OF EMERGENCY ORDERS.** Whenever the commissioner ~~[[of neighborhood services]]~~ finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, or that any person builds contrary to the plans and specifications submitted to and approved by the commissioner of ~~[[city development]]~~, or that any person omits, neglects or refuses to do any act required by any provision of the Milwaukee code over which the commissioner ~~[[of neighborhood services]]~~ has enforcement jurisdiction or authority, the commissioner ~~[[of neighborhood services]]~~ may issue an order to the owner, operator or occupant thereof, reciting the existence of such an emergency and requiring that such action be taken as necessary to meet the emergency.

Part 10. Section 200-13-1-a-0 of the code is amended to read:

200-13. Inspections. 1. **REQUIRED.**

a. Following the issuance by the department ~~[[of city development]]~~ of any permit for the erection, construction, installation, enlargement, alteration, repair, removal, occupancy, conversion to other uses, raising or demolition of any building, structure or equipment, the commissioner may inspect the work, at intervals sufficiently frequent to ascertain if the work is being done or executed in compliance with this code. The permit holder or an agent shall notify and allow inspection as follows:

Part 11. Section 200-13-1-e and f of the code is created to read:

e. The commissioner may accept reports of inspections and tests from individuals or inspection agencies approved in accordance with the commissioner's written policy. The individual or inspection agency shall meet the qualifications and reliability requirements established in the written policy. If the commissioner

is unable to make a required inspection or test within 2 working days of a request or an agreed upon date or if authorized for other circumstances in the commissioner's written policy, the commissioner shall accept reports for review. The commissioner shall approve the report from such approved individuals or agencies unless there is a cause to reject it. Failure to approve a report shall be in writing within 2 days of receiving it stating the reason for rejection. Reports of inspections conducted by approved third-party inspectors or agencies shall be in writing, indicate if compliance with the applicable provisions of the building code are met and be certified by the individual inspector or by the responsible officer when the report is from an agency.

f. The written policy for third-party inspectors shall establish the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalifications or pre-approval requirements before conducting third-party inspections and any other requirements and procedures established by the commissioner. In determining third-party qualifications, the commissioner may consider such items as safety and professional services certification, other state and national certifications, state professional registrations and any other factors that would demonstrate competency and reliability to conduct inspections.

Part 12. Section 200-13-5 of the code is amended to read:

5. RECORDS. The commissioner ~~[[of city development]]~~ shall keep comprehensive records of all applications for permits, permits and fees therefor, approvals and certificates of occupancy issued. The commissioner ~~[[of neighborhood services]]~~ shall >>also<< keep records of all inspections made and reports rendered, and of orders or citations issued, together with all correspondence and statistics on the various phases of construction and housing. All records maintained pursuant to this subsection shall be open to public inspection at reasonable hours, but shall not be removed from the office in which they are located. Certified copies of any record may be obtained upon payment of the fee specified in s. 200-33 and in compliance with any rules and regulations of the commissioner ~~[[of neighborhood services or the commissioner of city development, as the case may be]]~~.

Part 13. Section 200-16.5 of the code is created to read:

200-16.5. Variances. Upon written application by an owner or an owner's agent, the commissioner may approve a variance of any provision of the building and zoning code, except ch. 295, provided the spirit and functional intent of the code are observed and the public health, safety and welfare are assured. The decision of the commissioner concerning a variance shall be made in writing, and the application for the variance and the decision by the commissioner concerning the variance shall be retained in the permanent records of the department. The commissioner may require or consider a statement from a registered design professional or another person competent in the subject area of the application as to the equivalency of the proposed variance. In addition, the commissioner may require the application to include construction documents sealed by a registered design professional.

Part 14. Section 200-17-3-a of the code is amended to read:

3. POWERS AND DUTIES. a. The commission shall hear all appeals from the decision of the commissioner ~~[[of neighborhood services or commissioner of city development]]~~ relative to the application and interpretations >>or issuance of variances in accordance with s. 200-16.5<< of any regulation of this code, except appeals of orders issued under ss. 200-12.5, 218-4.5, ch. 295, the state of Wisconsin department of safety and professional services and appeals under s. 200-04-3.

Part 15. Section 200-17-4-a of the code is repealed and recreated to read:

4. APPEALS ON THE INTERPRETATION AND ENFORCEMENT OF THE CODE.

a. The commission may hear an appeal concerning the commissioner's refusal to grant a variance under s. 200-16.5. The authority to interpret the intent of the code does not apply to appeals taken under ss. 200-12.5, 218-4 and 218-4.5, to petition for state building code variances under s. 200-17.5 or revocation of permits, certificates of occupancy or approvals made pursuant to s. 200-31 for violations of ch. 295.

Part 16. Section 200-17-4-b of the code is amended to read:

b. Any decision of the commission shall be by a concurring vote of at least 5 members. Failure to secure 5 concurring votes shall be deemed a confirmation of the decision of the commissioner ~~[[of neighborhood services or commissioner of city development]]~~.

Part 17. Section 200-17-7 of the code is amended to read:

7. DEADLINES FOR APPEALS. Subject to the exceptions provided in sub. 3, appeals of any order issued by the department ~~>>or departmental refusal to grant a requested variance<<~~ shall be made in writing within 20 days of the date of service of the order, unless the order requires compliance in less than 20 days. In such cases, appeals shall be made in writing before the end of the term required for compliance. If service of the order is made by mail, any appeal of the order shall be made in writing within 30 days of the date of the order, unless the order requires compliance in less than 30 days. In such cases, appeals shall be made in writing before the end of a period equal to the term required for compliance plus 5 additional days. In no case, however, shall the appeal period be longer than 30 days. Citations issued by the department may not be appealed to the commission.

Part 18. Section 200-17.5-1 of the code is amended to read:

200-17.5. State Building Code Variances.

1. Pursuant to authority delegated to the city as agent of the state under s. 101.12, Wis. Stats., as amended, ~~>>and through a memorandum of understanding with the Wisconsin department of safety and professional services, division of industry,<<~~ the commissioner ~~[[of city development]]~~ may evaluate, decide upon and administer petitions for variances to the rules of chs. SPS ~~[[361 to 356]]~~ >>316, 318, 320 to 325, 340, 341, 343, 361 to 366, 375 to 379 and 382<<, Wis. Adm. Code, as amended, and chs. SPS 375 to 379, Wis. Adm. Code, as amended, as they relate to buildings and structures in the city.

Part 19. Section 200-17.5-2-a of the code is repealed and recreated to read:

2.a. Authority delegated and exercised under this section shall not involve the following types of buildings and structures owned by the state of Wisconsin:

- a-1. Buildings and structures owned by Milwaukee county.
- a-3. Buildings and structures owned by the city of Milwaukee.

Part 20. Section 200-19-1 of the code is amended to read:

200-19. Penalties. 1. Any person who is the owner, operator or occupant of any building or premise wherein or whereon there shall be placed or there exists anything in violation of any of the regulations of this code; or who shall build contrary to the plans and specifications submitted to and approved by the commissioner ~~[[of city development]]~~; or who shall omit, neglect or refuse to do any act required in this code, except where special penalty is provided, shall, upon conviction, forfeit not less than \$150 per

violation per day nor more than \$5,000 for each premises, structure or property found to be in violation, together with the cost of the action, and in default of payment thereof to imprisonment in the house of correction or county jail of Milwaukee County, for a period of not less than 6 days nor more than 90 days or until such forfeiture and cost is paid; and every person shall be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue. If the property contains more than one dwelling unit, the minimum forfeiture may be assessed against each dwelling unit found to be in violation or directly affected by the violation. Accumulated penalties recoverable in any one action shall not exceed \$10,000. A violation of this code exists on the date that the order or citation is issued and continues to exist until remedied.

Part 21. Section 200-24-1 and 3 of the code is amended to read:

200-24. Permits Required. 1. REQUIRED. No person may erect, construct, enlarge, alter, repair, move, improve, convert to new uses, raze or demolish any building or structure, nor install therein any equipment, occupy and use any building, structure, equipment or premises or cause the same to be done or commence any excavation on any premises without first obtaining a permit from the commissioner ~~[[of city development]]~~ and paying the fee as prescribed by this code. Permits may be issued at the discretion of the commissioner ~~[[of city development]]~~ to persons in arrears of payment of any fees specified in ss. 200-32 and 200-33 or persons who have failed to comply with any outstanding order of the department if the permit is required to comply with an outstanding order or citation. No permit applied for under this subchapter may be issued unless the applicant has first complied with s. 66-12-5, with respect to submitting an asbestos project statement. A permit is not required for decorative landscaping edging as regulated in s. 116-54-3.

3. DEMOLISHED BUILDINGS. A duplicate copy of every permit issued to any person to raze or demolish any building or structure, issued under this chapter, shall be transmitted to the office of the commissioner of health on the same day it is issued by the department of ~~[[city development]]~~ >> neighborhood services<<. The commissioner of health shall cause such premises to be inspected for evidence of vermin and rodent infestation and, if evidence of such infestation is found, the commissioner shall take appropriate steps to eliminate the infestation.

Part 22. Section 200-26-1-a to c-0,d,e-4 and f of the code is amended to read:

200-26. Application for Permits.

1. APPLICATION. a. Any owner of a premises or person desiring a permit as required by this code shall file with the commissioner ~~[[of city development]]~~ an application in writing on a form furnished for such purpose. Every application shall state the name and address of the owner of the premises, and, when required, a legal description of the premises upon which the proposed construction is to be done.

b. Notice of every change in ownership of any premises on which any construction is being done and for which a permit has been granted shall be filed by the permit holder with the commissioner ~~[[of city development]]~~ within 5 days from date of such change in ownership.

c. Every application shall describe the construction to be done, the exact cost thereof, and shall give any other reasonable information as may be required by the commissioner ~~[[of city development]]~~ and, except as hereinafter provided, shall be accompanied by 4 sets of plans (drawings) and a set of specifications giving the required information set forth herein. Complete foundation and footing plans may be submitted for approval prior to submitting the building plans if the plot plan, itemized structural loads, complete foundation or footing design calculations and schematic floor plans are included, showing exits, windows and other pertinent information. Six copies of a certified survey shall accompany all plans submitted for approval and shall include:

d. Complete structural calculations shall be furnished upon request of the department ~~[[of city~~

development]]. All plans and specifications shall be sealed or stamped by a registered architect or registered professional engineer, except that plans for buildings having total volume of less than 50,000 cubic feet shall be signed by the designer.

e-4. If in the opinion of the commissioner ~~[[of city development]]~~ plans (drawings), data specifications and certified lot or plot plan filed for examination with an application for a permit to execute any construction as regulated in s. 200-24 and ch. 295 disclose that following the completion of such construction the same will thereafter obviously be occupied and used in violation of this code, or other ordinances, the Wisconsin Administrative code, or other laws, or lawful orders applicable thereto, the commissioner ~~[[of city development]]~~ shall deny the permit until revised plans (drawings), data, specifications and certified lot or plot plan are filed showing that such construction when completed will thereafter be occupied and used in conformance with this code.

f. At the option of the commissioner ~~[[of city development]]~~, plans (drawings), data specifications and certified lot or plot plans need not be submitted with an application or repairs to any building, structure or equipment, or for the construction of private accessory buildings, provided the proposed construction is sufficiently described in the application for permit.

Part 23. Section 200-26-2, 2.5, 4-0 and b, and 5-0 of the code is amended to read:

2. ACCEPTANCE OF APPLICATION FOR PERMIT. If, in the opinion of the commissioner of ~~[[city development]]~~ >>neighborhood services<<, the character of the construction is sufficiently described in the plans (drawings), data specifications and certified lot or plot plan in the application for permit, and if the plans (drawings), data, specifications and certified lot or plot plan, as submitted with the application for permit bear the seal, signature and address of the architect, engineer or designer by whom they were prepared, such plans (drawings), data specifications and certified lot or plot plan and application for permit shall be received for examination.

2.5. REVIEW FOR FLOOD SAFETY. The commissioner ~~[[of city development]]~~ shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damage; and be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. HEALTH COMMISSIONER'S APPROVAL. a. When the architectural plans for the following buildings are submitted to the commissioner ~~[[of city development]]~~, he >>or she<< shall forward one copy to the commissioner of health for examination.

b. After the commissioner of health has examined the plan, the plan shall be returned with comments to the commissioner of ~~[[city development]]~~ >>neighborhood services<<.

5. APPLICATIONS FOR CERTAIN DEMOLITION PERMITS. Whenever the commissioner ~~[[of city development]]~~ has received an application for the demolition of any building or structure, the commissioner ~~[[of city development]]~~ shall have the notification of the application published once in a newspaper of general circulation, and notify, and notify the common council member of the district in which the proposed demolition is situated. The completed application shall include a color 3x3 inch, or larger, street-facing photograph of the structure to be demolished. Applications for the demolition of any building or structure shall then be processed in accordance with s. 200-28 and when in compliance issued 16 working days following applications, subject to s. 320-21. This subsection does not apply to:

Part 24. Section 200-27-2 of the code is amended to read:

200-27. Design and Supervision.

2. On completion of the construction, the supervising architect or engineer shall file a written statement with the department ~~[[of city development]]~~ certifying that, to the best of his or her knowledge and belief, the construction has been performed in accordance with the plans and specifications approved by the department of city development.

Part 25. Section 200-28-1, 3, 4, 6 and 7 of the code is amended to read:

200-28. Issuance of Permits. 1. APPLICATION. The application for permit, plans (drawings), data, specifications and certified lot or plot plan filed by an applicant as required in s. 200-26 shall be examined by the commissioner ~~[[of city development]]~~ within a reasonable time, all of which, together with the proposed occupancy and use of the construction and premises, if found to be in conformity with the requirements of this code, or other ordinances, the Wisconsin Administrative Code, orders issued by the common council, or other lawful orders applicable thereto, shall be approved, and upon the payment of the required fee, a permit shall be issued by the commissioner ~~[[of city development]]~~. When ~~[[such]]~~ >>a<< permit is issued, the commissioner ~~[[of city development]]~~ shall endorse, by stamp, seal or otherwise, such plans (drawings), data, specifications and certified lot or plot plan as approved with the date of approval.

3. REQUIREMENTS. The issuance of a permit shall not prevent the commissioner ~~[[of city development]]~~ from thereafter requiring the correction of errors in plans (drawings), data, specifications, and certified lot or plot plan, ~~[[or the commissioner of neighborhood services]]~~ from stopping construction operations being carried on thereunder when in violation of any regulation of this code.

4. PLANS FILED. Two sets of approved plans (drawings), data, specifications, and certified lot or plot plan shall be retained by the commissioner ~~[[of city development]]~~ and filed as a public record, and 2 sets shall be returned to the applicant.

6. PLAN CHANGES. Plans (drawings), data, specifications and certified lot or plot plan approved by the commissioner ~~[[of city development]]~~ shall not be changed or modified in any manner, nor shall the amount or character of the work authorized by such approval be changed, modified or increased unless the consent and approval of the commissioner ~~[[of city development]]~~ shall have first been obtained in writing.

7. PLAN CHANGES TO BE FILED. No alterations or corrections of plans (drawings), data, specifications and certified lot or plot plan for any construction shall be made in the office of the commissioner ~~[[of city development]]~~. ~~[[Where]]~~ >>If<< such plans (drawings), data, specifications, and certified lot or plot plan for any proposed construction do not conform to all of the regulations of this code, violations may be indicated, but the applicant shall be required to prepare and file prints of any new plans (drawings), data, specifications and certified lot or plot plan in corrected form.

Part 26. Section 200-29-1 and 2-e, h and i of the code is amended to read:

200-29. Footing and Foundation Permits. 1. In order to facilitate construction, the commissioner ~~[[of city development]]~~ may, upon presentation of sufficient preliminary structural plans (drawings), data, specifications and certified lot or plot plan whereupon there is indicated the character of the proposed construction and the proposed use of the building, structure, equipment, and premises, and its compliance with s. 200-28 and ch. 295, except as provided in sub. 2, issue a footing and foundation permit for the excavation, foundations or structural parts thereof, not higher than the first floor level, subject to all other regulations of this code. However, the issuance of such footing and foundation permit shall not be construed as an approval of any other required permit; or any use of any part of the building, structure, equipment, or premises.

2.

e. The commissioner ~~[[of city development]]~~ may require whatever temporary precautionary measures over and above any code requirements to safeguard the public as a condition of the issuance of a footing and foundation permit.

h. The applicant demonstrates to the commissioner ~~[[of city development]]~~ that exceptional, extraordinary or unusual circumstances exist and, therefore, a footing and foundation permit should be issued.

i. The commissioner ~~[[of city development]]~~ notifies common council members at least 48 hours prior to the issuance of a footing and foundation permit in their districts.

Part 27. Section 200-30-1-b, 2-e,f-1, g and h of the code is amended to read:

200-30. Lapse of Permit, Refunds. 1. LAPSE OF PERMIT.

b. Except as provided for in s. 200-28-2, after the issuance of a permit, if for any reason construction is not started, or there is a cessation of construction, and the commissioner ~~[[of city development]]~~ is notified within 30 days of such delay, an extension of time not exceeding 3 months may be granted. Additional extensions of time may be granted if the circumstances warrant such extensions.

2. REFUNDS.

e. Any applicant requesting a refund for an unissued certificate of occupancy must make the request in writing to the commissioner ~~[[of city development]]~~. Any applicant requesting a refund for an unissued licensed dwelling facility license ~~[[must]]~~ >>shall<< make the request in writing to the department ~~[[of neighborhood services]]~~. The processing fee shall be \$75 plus \$50 for each inspection made. Processing and inspection fees shall be deducted from the application fee and any remaining balance will be refunded to the applicant. There ~~[[will]]~~ >>shall<< be no refund after the certificate or license is issued.

f-1. Any applicant who requests the department ~~[[of city development]]~~ to cancel a certificate of zoning shall do so in writing to the commissioner ~~[[of city development]]~~. No refund shall be made of the fee paid; however, where a plumbing inspection is required and has not been made, the refund will be \$50.

g. Any person requesting a refund for a permit or certificate of occupancy which was issued in error by the commissioner ~~[[of city development]]~~ shall be entitled to a full refund of the permit fee.

h. Refunds shall be paid upon certification by the commissioner ~~[[of city development]]~~ to the city comptroller who shall charge such refunds to the appropriate revenue account and shall annually inform the common council of the amount of fees refunded and the persons to whom refunds were made.

Part 28. Section 200-31-2-d-0 and 2 of the code is amended to read:

200-31. Revocation of Permit or Approval.

2. NOTIFICATION.

d. In those cases where the permit, certificate of occupancy or approval for a premises, property, building or portion thereof is revoked for violation of any of the provisions of ch. 295, the commissioner ~~[[of city development]]~~ shall act on any subsequent application for occupancy of the same premises, property, building or portion thereof only under the following conditions:

d-2. The commissioner ~~[[of city development]]~~ shall refer the plan of operation to the chief of police ~~[[,]]~~ >>and<< the commissioner of health ~~[[and the commissioner of neighborhood services]]~~. Each department shall prepare a finding as to whether the proposed use, if operated in a manner consistent with the plan of operation submitted by the applicant, would be operated in a manner that protects the health, safety and welfare of the public. The commissioner ~~[[of city development]]~~ may consider these findings in making the determination to grant the occupancy. The commissioner ~~[[of city development]]~~ may act without these findings if they are not provided by the departments within 30 days of the

application for a permit, certificate of occupancy or approval.

Part 29. Section 200-32-1-a and b, and 2-c of the code is amended to read:

200-32. Permit Fees. 1. PAYMENT. a. Upon the issuance of a permit by the commissioner ~~[[of city development]]~~ and before such permit shall be in effect, the applicant shall pay to the city a fee or fees as required in this code.

b. The commissioner ~~[[of city development]]~~ may forward to owners of respective premises or holders of permits, annual, semiannual or periodic bills on which all fees shall be enumerated for all special privileges granted by the common council under s. 66.0425, Wis. Stats., and annual, semiannual and maintenance or periodic inspections fees as prescribed therein, and any unpaid fees of other governmental units as defined in s. 66.0131(1)(a), Wis. Stats. All special privilege and maintenance or periodic inspection fees are payable within 30 days after notice has been forwarded to the person to whom the permit was originally issued or to the owner of the premises. If not paid when due, unpaid fees shall be charged against the real estate upon which the permit or special privilege was granted, and shall be a lien upon such real estate and shall be assessed and collected as a special tax.

2. REGULATIONS.

c. Building Volume. Applicants for permits for new buildings or structures, or additions to existing buildings or structures, shall furnish an estimate of the volume thereof as a basis for determining the fee. The volume shall be as determined in s. 200-06. Such computations of volume shall be subject to review by the commissioner ~~[[of city development]]~~.

Part 30. Section 200-33-8.5-b of the code is amended to read:

200-33. Fees.

8.5. CERTIFICATES OF OCCUPANCY.

b. Conditional Certificate of Occupancy. The application fee for a conditional certificate of occupancy shall be \$150. This fee shall be payable at the time the application is submitted to the department ~~[[of city development]]~~.

Part 31. Section 200-33-9-a of the code is amended to read:

9. CONDITIONAL PERMIT.

a. The application fee for a conditional permit shall be \$150. This fee shall be payable at the time the application is submitted to the department ~~[[of city development]]~~.

Part 32. Section 200-33-10 of the code is amended to read:

10. COPIES OF RECORDS; CERTIFIED.

a. The fee for making a certified copy of any public record on file in the office of the commissioner ~~[[of city development]]~~ shall be \$2 per certificate plus the reproduction fee established pursuant to s. 81-38.5.

b. The fee for reproducing any size or type of record shall be set by the commissioner ~~[[of city development]]~~ equivalent to the actual cost of reproduction. A list of the reproduction fees shall be posted in the ~~[[appropriate]]~~ department.

Part 33. Section 200-42-2-a, c-2 and e of the code is amended to read:

200-42. Certificate of Occupancy.

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 ~~[[of city development]]~~, 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 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.

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<<.

e. Unless and until a new certificate of occupancy has been issued by the commissioner ~~[[of city development]]~~, 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.

Part 34. Section 200-42-3-a-0, b-0, and c of the code is amended to read:

3. WHEN ISSUED. a. In the case of a proposed use, as described in ch. Comm 62, 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. 295-20-449<< or a sit-down restaurant, as ~~[[described]]~~ >>defined<< under s. 295-201-501, or where otherwise requested, the commissioner ~~[[of city development]]~~ shall issue a certificate of occupancy:

b. Unless otherwise required by law, in the case of a proposed use, as described in ch. Comm 62, 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 ~~[[described]]~~ >>defined<< under s. 295-201-501, or ~~[[where]]~~ >>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:

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.

Part 35. Section 200-42-3-b-3 of the code is repealed.

Part 36. Section 200-42-4-a of the code is amended to read:

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<<.

Part 37. Section 200-47 of the code is amended to read:

200-47. Authority for Change in Occupancies and Uses. The commissioner ~~[[of city development]]~~ 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.

Part 38. Section 200-51-2-0 and e of the code is amended to read:

200-51. Rental Units.

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

e. The signature of the commissioner ~~[[of city development]]~~.

Part 39. Section 225-1-2-b-0 of the code is amended to read:

225-1. Administration.

2. DUTIES.

b. The commissioner ~~[[of city development]]~~.

Part 40. Section 225-43-2 of the code is amended to read:

225-43. Abandonment Procedure.

2. A licensed contractor is required to obtain a well abandonment permit from the department ~~[[of city development]]~~ prior to any well abandonment and to notify the department in advance of any well abandonment activities. The department may require the verification of proper abandonment.

Part 41. Section 245-5-4 of the code is amended to read:

245-5. Street Walk Basements.

4. APPROVAL. a. No permit shall be issued by the commissioner ~~[[of city development]]~~ for the construction of a street-walk basement unless such basement is first approved by the commissioner of public works ~~[[and the commissioner of neighborhood services]]~~.

Part 42. Section 252-77-3-c of the code is amended to read:

252-77. Outdoor Play Space for Elementary Schools.

3. EXEMPTION FOR OFF-PREMISE OUTDOOR PLAY SPACE.

c. Department Review and Approval. A school's plan for use of an off-premise outdoor play space is subject to approval by the department ~~[[of city development]]~~. Within 30 days after receipt of a plan and request for an exemption from the requirements of sub. 2, the department shall either approve the plan and grant the exemption or not approved the plan and deny the request for exemption. The department shall notify the school in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.

Part 43. Section 275-20-3 of the code is amended to read:

275-20. Licensing of Licensed Dwelling Facilities.

3. APPLICATION. Application for a license shall be made to the commissioner ~~[[of neighborhood services]]~~ upon forms furnished by the commissioner ~~[[of neighborhood services]]~~. The building owner or operator shall file with the license application an approved occupancy permit issued by the commissioner ~~[[of city development]]~~ for the operation of the licensed dwelling facility. The forms shall contain the following information:

Part 44. Section 290-9-0 of the code is amended to read:

290-9. Control Plan for Building and Site Development. No landowner or land user may commence a land disturbance or land development activity subject to this chapter without receiving prior approval of a control plan for the site and a permit from the department ~~[[of city development]]~~, except as provided in s. 290-11. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this chapter shall submit an application for a permit and a control plan and pay an application fee to the department ~~[[of city development]]~~. By submitting an application, the applicant is authorizing the department ~~[[of neighborhood services]]~~ to enter the site to obtain information required for the review of the control plan.

Part 45. Section 308-1-2-h and i of the code is repealed.

Part 46. Section 308-1-2-j to m of the code is renumbered 301-1-2-h to k.

Part 47. Section 308-1-3-c-1 of the code is amended to read:

308-1. DEPARTMENT OF CITY DEVELOPMENT.

3. COMMISSIONER.

c. Jurisdiction. c-1. The commissioner of the department of city development shall have supervision, control and direction over all matters related to community development, city planning, urban renewal ~~[[;]]~~ ~~>>and<<~~ real estate (except demolition and vacant lot maintenance) ~~[[and development permit issuance activities]]~~.

Part 48. Section 308-1-3-c-4 of the code is repealed.

Part 49. This ordinance takes effect January 1, 2013.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB
Teodros W. Medhin:lp/sd
LRB14378-2
10/30/2012

clerical correction -- 1/18/13 -- lp