

ORDINANCE NO. 15-07

AN ORDINANCE AMENDING AND RECREATING THE CODE OF ORDINANCES FOR THE CITY OF WINDSOR HEIGHTS, IOWA, BY ADDING CHAPTER 163, TITLED DEMOLITION AND RAZE PERMIT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDSOR HEIGHTS, POLK COUNTY, IOWA:

SECTION 1. Purpose. The purpose of this ordinance is to amend and recreate the Code of Ordinances for the City of Windsor Heights by adding Chapter 163 of the Windsor Heights Code of Ordinances, titled Demolition and Raze Permit.

SECTION 2. Amended. Chapter 163 is created and added as follows:

Chapter 163 Demolition & Raze Permit

163.01 Demolition Permit Required	163.07 Time Limit for Demolitions
163.02 Application for Permit	163.08 Removal and Disposal
163.03 Demolition with Explosives	163.09 Disconnection of Sewer and Water
163.04 Abatement Ordered – Bond Required	163.10 Plugging Sewers for Abandoned, Razed, Demolished or Destroyed Buildings
163.05 Clearing and Leveling the Site	163.11 Right of the City to Enter Upon Premises in the Event of Noncompliance
163.06 Fencing or Covering Excavation of Building	163.12 Miscellaneous Provisions

163.01 DEMOLITION PERMIT REQUIRED.

- A. No building in the City of Windsor Heights can be demolished or razed until a permit authorizing such work has been obtained from the building official.
- B. No permit for the demolition of a building shall be issued other than in conformity with the provisions of this ordinance, as well as in conformity with the provisions of other laws and ordinances applicable to historic preservation and to the demolition of buildings.
- C. Except as provided in this section, a demolition permit that has expired shall be null and void, and before any demolition work is subsequently commenced a new permit therefore shall be obtained. The fee for such permit shall be at the same rate as the original permit.
- D. If a demolition permit to remove an unsafe building or a building that is the subject of a public nuisance action has expired, the building official shall order the prompt removal of such structure, in accordance with all requirements of this article. All of the costs attendant to this action, including administrative costs, shall be either assessed against the property or collected from the owner unless otherwise directed by the City Council.

163.02 APPLICATION FOR PERMIT. An application for demolition shall be made only by the person, partnership, corporation or realty trust which is the legal deed holder of the building at the time of such application. The applicant must comply with all federal, state and local regulations pertaining to the disposal of hazardous wastes and building demolition. The application must be made on the form provided by the City of Windsor Heights and must clearly state the following at a minimum:

- A. How the anticipated final disposition of material will be accomplished in as sustainable manner as possible;
- B. The name and address of the person in responsible charge of the work;
- C. The street address and legal description of the property on which the building or structure is located;
- D. The name and address of the owner and, when appropriate, his or her legal agent in responsible charge of the property;
- E. Overall dimensions, number of stories and materials of construction of the building or structure to be demolished;
- F. A plan showing areas to be protected by fences, barricades, covered walkways, or other protective devices, and details of construction for such devices;
- G. Location of the site where the demolition debris is to be discarded;
- H. Approval from other city departments including: Public services, fire and administration, and other governmental agencies when deemed necessary by the building official and any special conditions or restrictions relating thereto;
- I. For demolition by explosives, the applicant shall furnish the information required in this subsection and shall furnish information regarding the person who will be conducting the demolition by explosives and shall furnish plans showing how the building or structure will be prepared for demolition, the type and amount of explosives to be used, and a detailed plan showing what safety precautions will be taken to protect persons and property;
- J. Identification of any potential hazardous materials and how any hazardous materials contained within the structure proposed for demolition will be determined and remediated;
- K. Identifying all material. Such as basements, sidewalks, utilities materials, etc., which will not be removed from the property as part of the proposed demolition;
- L. A plan and schedule for accomplishing the demolition to include safety and security, and access limits.
- M. The applicant shall provide a certificate of liability insurance for personal injuries, death and for property damage in an amount not less than \$2,000,000.00 naming the City as an additional named insured party. The certificate shall provide that the coverage shall not be cancelled or changed without ten days' prior written notice to the City. The City Council may require additional insurance coverage when the hazard appears greater than normally expected and may also in such instance require the posting of a bond acceptable

to the City in an amount commensurate with the severity of the hazard. The bond shall provide that the applicant shall well and satisfactorily perform the demolition. The bond shall be for the benefit of the City and any person who is injured or damaged by the failure of the applicant to satisfactorily perform the demolition.

- N. The applicant shall agree to indemnify and hold harmless the City from all losses resulting from damages or injuries caused by the applicant or the applicant's employees, servants or agents arising out of the use of explosives in demolition.

No permit for demolition of a building shall be granted until plans for use or development of the site after demolition have been filed with the Zoning Administrator and found to comply with all laws pertaining to the issuance of a building permit and where applicable, a site plan unless it is subject to a public nuisance or unsafe building, All approvals necessary for the issuance of such a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

163.03 DEMOLITION WITH EXPLOSIVES. A permit for the demolition of a building or structure by the use of explosives may be issued by the City Council subject to the following conditions, in addition to those set forth in Section 163.02:

- A. The applicant for a permit must demonstrate to the City Council the need for demolition by explosives rather than demolition by conventional means and must demonstrate that demolition by explosives can be safely conducted at the specific location requested;
- B. The building official, Public Services Director, fire chief and police chief shall review the application and submit their opinions to the City Council concerning whether or not the demolition can be safely conducted, together with any recommendations they may have;
- C. The applicant shall pay the City in advance for reasonable expenses that will be incurred by the City in furnishing necessary security and police protection in the vicinity of the demolition site;
- D. The applicant shall observe all applicable federal, state and local laws in the course of the demolition, including but not limited to the following:
 - 1. The applicable provisions of the city fire prevention code relating to the storage, transportation and use of explosives.
 - 2. The rules and regulations of the United States Environmental Protection Agency relating to the demolition of buildings or structures containing asbestos materials or other hazardous air pollutants.
- E. The applicant shall meet all other requirements of this article relating to the demolition of structures or buildings; provided, however, that if a conflict exists between the provisions of this subsection and other sections of the City Code, the provisions of this subsection shall be deemed to be controlling;
- F. The City Council shall at any time have the authority to impose additional requirements and safety precautions in the interest of the public health, safety and welfare;
- G. Such other information as shall be reasonably required by the building official.

163.04 ABATEMENT ORDERED - BOND REQUIRED.

- A. Before a permit is issued to remove a building which has been ordered removed as a public nuisance and which period of time granted by the City or by the courts for removal or other remedial action by the applicant or other party of interest has expired, the applicant may be required to post a cash bond equal to the estimated costs of the removal of the building and the disconnection of the existing utility services. If the applicant does not remove the building at the time the permit expires at a time specified by the building official, such bond shall be forfeited and used toward the costs of the City to remove it.
- B. If the building is removed by the applicant prior to the time the permit expires, such bond shall be returned to the applicant. A return of the bond does not exempt the applicant from further assessments to the real estate for costs that have occurred prior to the issuance of the permit.

163.05 CLEARING AND LEVELING THE SITE.

- A. The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in some other manner acceptable to the Building Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than fifteen (15) consecutive days after demolition is completed.
- B. Upon completion of the demolition work, the site shall be left in a clean, smooth condition. Inorganic building rubble, sand, clean earth, or other approved fill material may be used to fill excavations, basements, and depressions, provided that the top 12 inches shall be clean earth or its equivalent in terms of surface smoothness, free from dust, and cleanliness.
- C. Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or his/her agent, in writing and upon forms provided by the Building Inspector for that purpose, shall within seventy-two (72) hours inspect each excavation, or part thereof, before applicant is permitted to fill any excavation.
- D. It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within the seventy-two (72) hours after written notice; the Director of Public Service or designee may conduct inspection. Said opinion shall be deemed a sufficient approval by the City provided that a written copy of the opinion delivered to the City Clerk is at least forty-eight (48) hours before filling of the excavation commences.

163.06 FENCING OR COVERING EXCAVATION OF BUILDING. Before the demolition or razing of any building or structure has commenced the building or structure undergoing such demolition or razing and all debris on the property site shall be fenced and closed off to access

by unauthorized persons with a fence not less than four feet in height. When such demolition and razing has reduced the building or structure to ground level, the resulting excavation consisting of a basement, cellar or other underground excavation shall be promptly filled to ground level not more than fifteen days after said building or structure has been lowered to ground level.

163.07 TIME LIMIT FOR DEMOLITION. The razing or demolition of any building or structure within the city limits shall be completed within thirty (30) days after such demolition or razing first commences. Completion of razing or demolition shall include the removal of all debris resulting from such razing or demolition from the site where said building or structure was located.

163.08 REMOVAL AND DISPOSAL. Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. The permit holder shall give the Building Inspector seventy-two (72) hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.

163.09 DISCONNECTION OF SEWER AND WATER. No permit to demolish shall be issued until it has been established that existing sewer and/or water services have been properly disconnected and approved.

163.10 PLUGGING SEWERS FOR ABANDONED, RAZED, DEMOLISHED OR DESTROYED BUILDINGS. From and after the effective date of this ordinance all sewer drains, sewer connections, and water service line serving any razed or demolished building or any building that has been destroyed by fire or other casualty shall be sealed, plugged or capped by concrete or a mechanical watertight device where such sewer line exits from the building. Any plugs, caps or seals applied under the provisions of this ordinance shall be made between the sidewalk and the curb or such other point designated by the Director of Public Services and shall remain exposed until they have been viewed and approved by the Director of Public Services. Failure to obtain a permit as herein required or failure to seal, plug or cap a sewer drain or water service line within ten days after notice to do so by the Director of Public Works or failure to allow such plug, cap or seal to remain exposed until inspected by the Director of Public Works shall constitute a violation of this ordinance.

163.11 RIGHT OF THE CITY TO ENTER UNPON PREMISES IN THE EVENT OF NONCOMPLIANCE. Authorized representatives of the City of Windsor Heights shall have the right to enter upon any premises where the razing or demolition of any building or structure is in progress for the purpose of constructing the fence or for the purpose of providing fill for the excavation where the owner of said property has failed to do so as required by this ordinance and assess the costs as a lien on the property.

163.12 MISCELLANEOUS PROVISIONS.

- A. Demolition permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.
- B. The building official shall have the authority to impose at any time reasonable requirements and safety precautions in the interest of public health, safety, and

welfare, which, in his or her opinion, are commensurate with the severity of hazard, either demonstrated or anticipated, provided that such requirements may be appealed to and reviewed by the board of appeals at the request of the affected party.

- C. The discharging, loading, or dumping of building materials from any building shall be accomplished in such manner as to minimize the creation of dust and scattering of debris. Materials shall not be dropped by gravity to any point lying outside the building walls except through an enclosed chute, unless such materials are dust free and the height of the drop is at least equal to the horizontal distance to the nearest property or barricade line. Where such horizontal distance is not available and practical necessity dictates the dropping of relatively large masses of materials, the building official may approve appropriate protective measures designed to provide protection from danger equivalent to that afforded by the otherwise required setback; provided, however that in all cases such materials shall be handled in a manner approved by the air pollution control division of the county health department.
- D. When necessary as determined by city officials, in order to protect the public health, safety, or welfare, every demolition project shall be barricaded, fenced, lighted, and signed with warning and/or directional signs in a manner approved by the building official or Director of Public Services. The building official may also require the presence of approved security guards or flag persons. Such barricades, fences, lights, and signs as may be deemed necessary by the building official for protection of the public shall be maintained after completion of the demolition work until such time as the site is cleaned of all debris and all excavations, basements, and depressions in the ground are restored to grade rendered harmless.
- E. Adequate precautions shall be taken to ensure that procedures or conditions relation to the demolition work do not constitute a fire hazard. If, in the opinion of the fire chief, a fire hazard exists or is likely to exist, he or she may order the cessation of work or require that appropriate protective measures approved by him or her are taken.
- F. All streets, alleys, and public ways adjacent to the demolition site shall be kept free and clear of any rubbish, refuse, and loose material resulting from the demolition work unless an obstruction permit for such space has been obtained.
- G. Demolition of structures subject to public nuisance action shall include removal of all footing and foundation materials unless an obstruction permit for such space has been obtained.
- H. All debris must be hauled away at the end of each week for the work that was completed during that week. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building.
- I. If any razing or removal operation under this Section results in, or would likely result in, dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other

appropriate means, to eliminate such nuisance.

- J. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

SECTION 3. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. Severability. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. Effective Date. This ordinance shall be effective after the final passage, approval and publication as provided by law.

Passed and Approved this 19th Day of October, 2015

1st Reading: _____

2nd Reading: _____

3rd Reading: _____

Publish Date: _____

Diana Willits, Mayor

(SEAL)

ATTEST:

Brett Klein, City Administrator