

1st Reading
5/17/2010
2nd Reading
6/17/2010

SUBSTITUTE ORDINANCE NO. 9-2010
(Sponsor - Councilmember Shasky)

ENACTING CHAPTER 1470 (DEMOLITION OF STRUCTURES) OF TITLE SIX (MISCELLANEOUS BUILDING REGULATIONS) OF THE CODIFIED ORDINANCES OF THE CITY OF SHELBY.

WHEREAS, the City of Shelby has buildings that are being demolished or planned to be demolished, and

WHEREAS, it is imperative that the City of Shelby adopt guidelines for the efficient, safe and timely removal of said structures, and

WHEREAS, it is in the interest of the public health, safety, morals, and general welfare of the citizens of the City of Shelby that an Ordinance be passed to establish guidelines for the demolition of structures, and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE CITY OF SHELBY, OHIO, A MAJORITY ELECTED THERETO CONCURRING:

Section 1: That Chapter 1470 (Demolition of Structures) be enacted as follows:

CHAPTER 1470

DEMOLITION OF STRUCTURES

1470.01 DEFINITIONS

As used in this chapter, words and phrases are defined as follows:

(a) "Demolish" or "demolition" means the tearing down and removal, so as to require reassembly as new construction if rebuilt, of any dangerous building, shed, fence or other man-made structure permanently affixed to the soil whose original construction cost was five hundred dollars (\$500.00) or more.

(b) "Party Wall" means a wall, part of a building or fence constructed upon and straddling the common lot line between two adjoining properties under different ownership and serve both of such adjoining properties

(c) "Permanently affixed to the soil" means construction or erection so designed as to not anticipate removal from the original site during the reasonable life of the building or structure

(d) "Person" includes individual, partnership, firm, association, corporation or other legal entity.

1470.02 DEMOLITION CONTRACTOR TO BE REGISTERED.

(a) No person shall engage in the business of demolishing any structure, unless he or she has registered the business in the city. The registration shall not be approved until the applicant has paid a registration fee of \$50.00 for the first year or \$25 for a renewal each year after, and has filed with the Director of Public Safety evidence of the following:

(1) Compensation insurance. The applicant shall procure and shall maintain during he life of his or her registration workers' compensation insurance as required by applicable state or

territorial law for all of his or her employees to be engaged in the business of demolishing structures in the city. In case any class of employees engaged in hazardous work is not protected under the workers' compensation statute, the applicant shall provide adequate employer's liability insurance for the protection of such of his or her employees as are not otherwise protected.

(2) Contractor's public liability and property damage insurance and vehicle liability insurance. The applicant shall procure and shall maintain during the life of his or her registration contractor's public liability insurance, contractor's property damage insurance and vehicular liability insurance in the following amounts: public liability insurance in an amount not less than \$250,000 for injuries, including accidental death to any one person, and subject to the same limit for each person, in an amount not less than \$500,000 on account of one accident, and contractor's property damage insurance in an amount not less than \$500,000.

(b) The Director of Public Safety shall keep up-to-date files of registered demolition contractors, with the addresses of their places of business. Should a registered demolition contractor change the location of his or her place of business, he or she shall file notice of the change with the Director of Public Safety and the latter shall cause the record to be amended accordingly. Notice of city instructions or orders shall be communicated to a demolition contractor by written notice to be mailed to him or her by certified mail at the address on file.

(c) If any registered demolition contractor violates the provisions of any ordinance, rule or regulation relating to the making of the demolition of buildings, or fails or refuses to perform any of the duties imposed on him or her by ordinance, resolution, rule or regulation, the Mayor as Director of Public Safety, shall be authorized to revoke his or her registration, and the demolition contractor shall receive the notice by certified mail.

1470.03 REGISTRATION AND PERMIT REQUIRED.

No person, except a general contractor registered in accordance with the requirements of Chapter 1470, nor any employee of such person, shall demolish or undertake to demolish or represent himself as having the capacity of demolishing any building or other structure or part thereof, unless he has been registered as a demolition contractor, and no person shall demolish or undertake to demolish any building or other structure or part thereof, unless he has secured, or caused to be secured, a permit for such demolition under the provisions of this chapter.

1470.04 BOND.

At the time of making application for a demolition permit as required by Sections 1470 03 and 1470 06 (a), a demolition contractor applicant shall have on file with Mayor as Director of Public Safety a bond in the penal sum of two thousand dollars (\$2,000), approved as to form by the Director of Law, indemnifying the City for all liability arising by reason of the demolition contractor or his employees while in the pursuit of his business under a demolition permit issued by the City.

1470.05 INSURANCE; ADDITIONAL BONDS.

Prior to engaging in any demolition operations, a demolition contractor shall have on file with the Mayor as Director of Public Safety evidence that he has current comprehensive liability insurance as prescribed in Section 1470.02(a).

In case of a demolition contract awarded by the City under the provisions of this chapter, the contractor shall also post satisfactory and sufficient performance, work, labor and materials bonds, and, if required by the nature of the work under the contract, sufficient explosive insurance coverage. As a condition of the issuance of any permit for a specific demolition project the City

may require a performance bond indemnifying the City for defects in performance within one year after completion of the work covered by the permit.

1470.06 DEMOLITION PERMIT.

(a) Application. Application by any person for a demolition permit shall be in the form prescribed by, and filed with, the Mayor as Director of Public Safety. Such application shall describe the demolition to be accomplished and shall designate the manner, method and equipment to be used. Application shall be made by the owner or the contractor employed to conduct such demolition, or the agent of either; unless made by the owner the applicant shall evidence his authority to make application by means of a duly verified affidavit of the owner. The application shall indicate the date upon which demolition is intended to begin and the probable date of completion thereof.

(b) Issuance of Permit. Prior to issuance of the permit the Mayor and/or his or her designee shall determine that the proposed method of demolition is in accordance with good engineering practices and that the contractor or owner has the necessary and proper means and equipment to accomplish the demolition in accordance with the manner, method and equipment specified in the application.

(c) Fees.

(1) The fees for a demolition permit shall be at the rate of fifty dollars (\$50.00) per structure for a four week period. Beyond the four-week period there shall be an additional charge of ten dollars (\$10.00) for each week until the final inspection certificate can be issued as required by Section 1470.09.

(2) No fee shall be required for the demolition or removal of any garage or outbuilding.

(3) Abandonment of water and sanitary sewer service shall be approved by the City of Shelby.

1470.07 NOTICE AND PROSECUTION OF WORK.

The contractor or owner shall give the Mayor as Director of Public Safety twenty-four hours notice before commencing demolition work under any permit. He shall carry out the work in an orderly manner and without unnecessary delay. He shall not, during regular working hours, interrupt his demolition operations without the consent of the Mayor and/or his or her designee when the permit relates to demolition within the Central Business District as defined by the Zoning Code of the City. Provided that the Shelby Police Department may require a cessation of such demolition work for one "rush" hour each morning and each afternoon when such work requires use of public, rights of way and continuation thereof would be especially hazardous to traffic.

1470.08 REGULATION OF DEMOLITION AND GENERAL CONTRACTORS.

In undertaking any work of demolition as defined in this chapter any general or demolition contractor during his entire employment under a contract, whether public or private, shall be responsible and liable for:

(a) Faithful compliance and adherence to all Federal, State and local laws and regulations relating to safe demolition and construction processes and procedures including equipment, apparel and individual protective device regulations.

(b) Securing all necessary licenses, permits, easements and rights of way.

(c) One week notice to the City and utility companies for appropriate disconnections and the safeguarding thereof

(d) One week notice to adjoining property owners.

(e) The protection and safeguarding of adjacent property and public passersby

(f) Damages resulting from the extension of explosion waves into adjacent property

(g) Minimization of air pollution and contamination through wetting, soaking and other dust and debris settling techniques.

(h) Installation, erection and maintenance of barricades, warning lights and signals, pedestrian cautions and walkways in accordance with safety codes, regulations and ordinances. When necessary for the public protection, the contractor shall employ guards and watchmen.

(i) Unless the contract or orders of the City provide otherwise, total removal of the structure to the actual building and property line.

(j) Provision of proper drainage in the subsoil conditions. Percolation shall be provided in basement slabs by breaking or by drilling holes through the slabs, approximately six feet on center in all directions and connecting drain tile into existing storms where necessary for proper drainage. All floor slabs, under which a pit well, cistern, tank or void exists, shall be broken or removed. All drains not removed shall be sealed with masonry or with precast clay or concrete stoppers.

(k) Complete removal from the demolition site of all organic materials, including wood, plastics, old plaster, floor tile and similar rubble. Masonry, stone, concrete, tile, bank-run gravel and compacted earth are permitted fill materials.

(l) Adjoining and party walls, as follows:

(1) If one of two back to back or adjoining walls, each of which is built along a common property line of two different ownerships, is required by order to be demolished with the rest of the structure, the contractor shall be responsible for the adjacent or adjoining property wall for repair of defects occasioned by the contractor, to the extent that the same shall be repaired or reconditioned as needed with suitable construction materials and procedures to insure that such remaining wall is as free from defects, and safety, fire and health hazards as it would have been had the wall not been demolished.

(2) Where the back to back or adjoining wall of the structure to be demolished is not required to be demolished, the contractor shall insure that such wall does not create or constitute a health, fire or safety hazard. When such wall exposes a variety of materials such as brick, stone, plaster or block, a cement or latex paint specifically prepared for masonry walls shall be applied to such exposed surface; provided that other means may be utilized when prior approval of the means has been granted by the Mayor or his/her designee.

(3) The contractor shall insure that party walls are structurally sound and do not create or constitute a health, fire or safety hazard. When such party wall exposes a variety of materials such as brick, stone, plaster or block, a cement or latex paint specifically prepared for masonry walls shall be applied to such exposed surface; provided that other means may be utilized when prior approval of the means has been granted by the Bureau.

(m) Insuring that any remaining walls, whether adjoining, party or back to back, have all openings, crevices, gaps, fissures, joist slots and the like plugged and carefully tamped or sealed with some suitable material against the weather, elements, fowl, rodents and other wildlife, so as to render them free of health, safety and fire hazards.

(n) Maintaining established property lines and grades at the original lines and grades. Backfill when necessary shall include structures suitable to retain the original grades. Where vertical walls have been removed from stone retaining walls, such retaining walls may be retained if suitable backfill is provided to furnish sufficient side load to retain the original support of the property. The premises shall be graded to prevent water from unnecessarily draining onto adjacent premises.

(o) Construction of damaged or destroyed curbs, gutters and sidewalks with new four-inch concrete improvements in accordance with City specifications.

(p) Filing with the City Engineer a sketch plan of any foundations, walls or other pertinent data relating to the site which have been buried by backfill.

(q) Continuity of service to adjacent property by the replacement or repair of overhangs, cornices, downspouts, etc., which overhang from adjacent property and which have been removed or damaged by the contractor.

(r) The replacement and repair of damaged or destroyed curb boxes and utility entrance service.

1470.09 COMPLETION.

Demolition of any building or structure under any permit shall not be considered completed until:

(a) The contractor or resident-owner under Section 1470.13 has removed all lumber, rubble and other building or structural materials and debris and all demolition equipment from the graded premises, or, at the owner's request, has piled it neatly upon the premises, in such a manner as not to constitute a public nuisance, hazard or possible rodent harborage;

(b) The contractor or resident-owner under Section 1470.13 has broken and removed all foundations or slabs to not less than two feet below the ground surface, and has filled all basements, trenches or other depressions with not less than two feet of compacted earth, or as otherwise provided herein, graded neatly to the existing established grade level, unless a building permit has been issued for a structure which will make use of the foundation or slab remaining after demolition; and

(c) The Mayor as Director of Public Safety has issued to the contractor or resident-owner under Section 1470.13 a certificate of final inspection, which certificate shall issue when the provisions of this chapter have been satisfied, subject, however, to Section 1470.05.

1470.10 ZONING CODE RECONCILIATION.

(a) The provisions of Section 1470.09(a) shall not be construed so as to permit a violation of the Zoning Code or other ordinances of the City.

(b) Notwithstanding the provisions of the Zoning Code or any other ordinance of the City as pertains to the valid period of a building permit, any building permit secured which will make use of the foundation or slab referred to in Section 1470 09(b) shall require the beginning of construction within thirty days of its issuance

1470.11 NONCOMPLETION.

No person shall fail to comply with the provisions of Section 1470 09(a) and (b) within three days after a structure or building has been demolished.

1470.12 PERMIT COMPLIANCE.

No person shall demolish a building or structure other than in accordance with the method of demolition set forth in an approved application for demolition permit.

1470.13 EXCEPTIONS.

The provisions of this chapter which require the holding of a demolition contractor's registration, the filing of bonds and evidence of liability insurance coverage shall not be applicable to the owner of any parcel of land desiring to demolish any building or structure which is situated upon the parcel of land being occupied as the residence of such owner, and when such is to be executed personally by such owner; and the permit fees established in Section 1470.06(c) shall be reduced fifty percent (50%) for such resident-owner applicant

Such resident owner shall otherwise comply with all of the requirements of this chapter as though he were a duly registered general or demolition contractor

1470.14 VIOLATIONS.

(a) No person or firm shall violate any section of this chapter, or any order made in pursuance thereof, or obstruct or interfere with the execution thereof, or willfully or illegally omit or fail to obey such order.

(b) No officer of a corporation who has authority over the matter involved in the violation of subsection (a) hereof shall permit the violation of such subsection

1470.15 PENALTY.

(a) Each day of any violation of any of the provisions of this chapter shall be punishable as a separate offense.

(b) In addition to any other penalties provided for violations of the provisions of this chapter the Mayor as Director of Public Safety shall have the right to revoke any contractor's registration or any registration or permit issued under this chapter.

(c) Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Each days violation shall constitute a separate offense;

Section 2: That Section 1442.02 (c) is hereby repealed

Section 3: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220 01, Ohio Revised Code Section 121 22, and the Charter of the City of Shelby, Ohio

Section 4: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law.

PASSED: June 21, 2010

Steven L. Schag
Steven L. Schag
Vice President of Council

APPROVED:

ATTEST: Robert A. Lafferty
Robert A. Lafferty
Clerk of Council

Marilyn S. John
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