

**Village of Brokaw
Marathon County, Wisconsin\
Brokaw, WI 54417-0108**

Ordinance 1 -- 2012

Razing, Scrapping, Salvaging, and Recycling Ordinance

The Board of Trustees of the Village of Brokaw, Marathon County, Wisconsin, ordain as follows:

Brokaw Village Ordinance 1–2003 is repealed and recreated as follows:

Section 1. PURPOSE. The purpose of this Ordinance is to regulate the removal of scrap and salvageable equipment and materials from vacated buildings without immediate functional replacement thereof. The phrase "immediate functional replacement thereof" does not include replacement that occurs as a part of a remodeling project in conjunction with valid building, heating, plumbing or electrical permits, nor to removal of industrial equipment where industrial operations of the same or similar kind will continue after removal. The Village Board finds that such removal may result in the complete abandonment of property and reduce the chance that such property will in the future be devoted to any productive or enjoyable public or private use, and therefore cause conditions which will create health and safety hazards and aggravate blight, interfere with the enjoyment of and reduce the value of private property, and interfere with the safety and welfare of the public.

Section 2. DEFINITIONS

- (1) Salvageable Materials. Real or tangible personal property that is man-made; is affixed to real property; is detachable from real property; and may have a resale value, either for re-use or as scrap or recycling purposes. Such materials shall not include any structural materials or components.
- (2) Vacated building. A building or structure that had a principal non-residential use as its most recent use allowed by law, which principal use has ceased.
- (3) Code Official(s). The Building Inspector, Fire Department, Village Constable, County Health Officer, Sheriff's Department or Emergency Management official.
- (4) Razing shall mean the wrecking or disassembly of a structure more than 300 square feet in area measured at the ground level;
- (5) Scrapping, salvaging, or recycling shall mean the removal of fixtures, equipment, or building materials from a residential, commercial or industrial structure following cessation of residential use or business operations.
- (6) Razing, scrapping, salvage, or recycling shall not include sale and purchase of a residential, commercial, or industrial structure or facility for the purpose of continuing a previous or similar use.

Section 3. PERMITS REQUIRED.

- A) A) The razing, scrapping, salvaging or recycling of any building, structure or facility located within the Village shall require a permit obtained in accordance with this ordinance.
- B) A Class 1 Permit shall be required for the razing, scrapping, salvaging, or recycling of any vacated residential property.
- a. Residential property shall mean any single- or two-unit dwelling structure or an appurtenant structure more than 300 square feet in area measured at the ground level.
 - b. The application for the permit shall be submitted to the [Village Board?], along with a proposed plan that will identify the following:
 - i. Date of razing, scrapping, salvaging or recycling.
 - ii. Names, addresses, and contact information for contractors engaged to carry out the activity.
 - iii. Proposed disposition of salvageable materials, fixtures, and personal property
 - iv. Identification of utility contacts for disconnecting water, sewer, electricity, and other utilities.
 - v. Abandonment of any private water well, dry well, or septic tank or system on the property.
 - vi. Plan for disposition of building materials.
 - vii. Plan for removing foundation, backfilling, topsoil restoration, re-grading, landscaping, and continuing maintenance.
 - viii. Plan for tree protection
 - ix. Plan for protection or restoration of sidewalk, curb, gutter and infrastructure.
 - c. The fee for a Class 1 permit shall be in accordance with a resolution adopted by the Village Board.
 - d. The Village may require the applicant or the property owner to post an irrevocable letter of credit or other acceptable surety in an amount sufficient to cover the costs of repairs to the streets, curb, gutters, sidewalks, and infrastructure that may be caused by the activity and in a form acceptable to the Village Board.
- C) A Class 2 Permit shall be required for the razing, scrapping, or recycling of any vacated commercial building.
- a. Commercial building shall mean any multi-family dwelling, retail business, government or non-profit service or sales building, and any appurtenant structure more than 300 square feet in area measured at the ground level.
 - b. The application for the permit shall be submitted to the [Village Board], along with a proposed plan that will identify the following:
 - i. Date of razing, scrapping, salvaging, or recycling
 - ii. Identification and location of any hazardous materials or waste and plans for its disposition.
 - iii. Identification and quantification of any known chemical, material, substance, or waste which is now or hereafter defined as or included in the definition of a "hazardous substance," "hazardous material,"

- xv. Names, addresses, and contact information for contractors engaged to carry out the razing, scrapping, or recycling activity.
 - xvi. Removal or abandonment of any private water well, dry well, storage tanks, or septic tank or system on the property.
 - xvii. Disposition of any salvageable materials, fixtures, machinery, equipment, and personal property.
 - xviii. Disposition of salvageable building materials.
 - xix. Identification of utility contacts for disconnecting water, sewer, electricity, and other utilities.
 - xx. Plans for removing foundation, infrastructure, re-grading, landscaping and maintenance.
 - xxi. Plans for recycling building and industrial materials and equipment.
 - xxii. Plan for building removal.
 - xxiii. Plan for removing, remediating, capping or containing any contamination.
 - xxiv. Plan for future use.
 - xxv. Plan for backfilling, site restoration,
- d. The fee for a Class 3 permit shall be in accordance with a resolution adopted by the Village Board. A supplemental fee for a Class 3 permit shall include the reasonable cost of expert advisors to the Village needed for review and analysis of the applicant's plan.
- (7) The Village may require the applicant or property owner to file an irrevocable letter of credit or other acceptable surety in a form acceptable to the Village Board and in an amount sufficient to cover the costs of repairs to the public streets, curb, gutters, sidewalks, and infrastructure that may be caused by the razing, scrapping, salvaging, or recycling activity, which shall be effective for a period of one year following completion of razing, scrapping, or salvaging activity pursuant to the plan.
- (8) A Class 1 Permit shall be valid for a period of 60 days following the date of issuance. A Class 2 Permit shall be valid for a period of 90 days following the date of issuance. A Class 3 Permit shall be valid for a period of one year following the date of issuance. Any permit may be extended for a period of up to 90 days due to weather or other unforeseeable circumstances. The terms of the plan filed with the Village shall become the enforceable obligation of the permittee and a continuing condition of the permit issuance.
- (9) Failure to file the required application and plan and secure a permit prior to beginning razing, scrapping, salvaging, or recycling operations following cessation of residential occupation or commercial or industrial business activities, or continuation of demolition or removal operations following revocation of a permit shall be a violation of this ordinance and shall be punishable by a forfeiture of the following amounts:
- a. For failure to secure a Class 1 Permit prior to commencement of razing activities, \$50.00 to \$200.00 per day.
 - b. For failure to secure a Class 2 Permit prior to commencement of razing, scrapping or recycling activities, \$200.00 to \$500.00 per day
 - c. For failure to secure a Class 3 Permit prior to commencement of razing, scrapping, or recycling activities, \$500 to \$1,000.00 per day.

- d. For failure to cease razing, scrapping, salvaging or recycling activities following an cease order by the Building Inspector, \$500.00 to \$1000.00 per day
- (10) Failure to perform in accordance with the terms of the filed plan shall be enforceable in a court of competent jurisdiction, and the permit holder shall be liable for injunctive relief and for the costs of compliance with the terms, the costs of prosecution, and reasonable attorney fees.

Section 4. NOTICE REQUIRED FOR SMALL STRUCTURES. The razing of any small structure of more than 100 square feet but less than 300 square feet in area measured at ground level shall be permitted upon notice to the Village Clerk.

Section 5. APPLICATION.

- (A) The application shall be presented with the fee no less than 15 days prior to the proposed date of commencement, and shall include such information as may identify the owner, the contractor, a list of materials to be removed from the building and the providers of all utility services to the structure. A copy of the application shall be forwarded to the Village Building Inspector by the Village Clerk. The application shall contain a site drawing, indicating the location of utility service entrances and rights of way, any working or abandoned well, storage tanks, overhead power or communications cables, and describe the termination or capping of utility services, the proposed site restoration, and proposed disposal of demolition waste.
- (B)The Building Inspector or a Code Official may require additional information of a specific applicant. Upon the filing of a Class 2 or 3 permit application, the owner and the Village may agree to extend the period for plan review for an additional 45 days.
- (C) Issuance of the Permit shall be done at a regular Village Board of Trustees meeting upon the recommendation of the Building Inspector or other Code Official.

Section 6. IRREVOCABLE LETTER OF CREDIT.

- (A)When required as a condition of issuance by the Village of the permit, the permittee shall post an Irrevocable Letter of Credit in an amount required by the Village Board of Trustees and in a form acceptable to the Village Attorney. The Irrevocable Letter of Credit must be issued by a financial institution certified by the state to conduct such business within the State of Wisconsin, allowing for direct draw by the Village on demand without court action and without approval by permittee, to complete work or to repair damage that was the obligation of the permittee.
- (B)The Irrevocable Letter of Credit must contain as a part of its provisions that it remains as an obligation to the Village for no less than one year after completion of the last act by the permittee of razing of the vacated building, or after the expiration of a permit issued under this section to the permittee, whichever is later. In considering the amount of the Irrevocable Letter of Credit, the Village Board of Trustees shall consider: the recommendation, if any, of the Code Official; the expertise of the applicant; the longevity of the applicant; the capitalization of the applicant; the scope of the proposed project; the possible environmental hazards that could be created; the effect of the proposed operation on the surrounding neighborhood; the cost of remediation to the Village if the Village should have to address any matter due to the unwillingness or inability of the permittee to complete its obligations.

Section 7. ABATEMENT OF ASBESTOS. The applicant shall provide proof of notification to the Wisconsin Department of Natural Resources in compliance with Wisconsin Administrative Code, ch. 447 or its successor concerning examination for and presence of regulated asbestos-containing materials in the structure.

Section 8. GENERAL OPERATING REQUIREMENTS

(A) The following general operating requirements shall apply to all permit holders in accordance with the provisions of this ordinance:

- (1) The permit issued pursuant to this ordinance shall be plainly displayed on the premises upon which the building is located (2) The building and premises shall, at all times, be maintained in a clean, neat and sanitary condition as the premises will reasonably permit.
- (3) No garbage, refuse or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, except for domestic garbage kept in rodent-proof covered containers which are removed from the premises as often as necessary to provide a sanitary environment
- (4) Work done under this permit is subject to inspection by the Code Official.
- (5) An applicant for a permit shall maintain proof of insurance policies during the life of the permit in the following minimum amounts, naming the City as additional insured:
 - (a) Automobile Liability (Owned, non-owned, leased)
 - (1) Bodily Injury: \$2,000,000.00 each occurrence
 - (2) Property Damage: \$2,000,000.00 each occurrence
 - (b) Pollution Legal Liability: \$5,000,000.00 each loss where asbestos removal, environmental process, abatement, remediation or dumping/disposal in a Federal or State regulated facility is required.
 - (c) Worker's Compensation: Statutory Limits
 - (1) Employer's Liability:
 - \$500,000.00 Each Accident
 - \$500,000.00 Disease, Each Employee
 - \$1,000,000.00 Disease, Policy Limit
 - (d) Umbrella Liability
 - \$2,000,000.00 over the primary insurance coverages listed above
- (6) No scrap salvage or debris which is temporarily stored on the premises shall be allowed to rest on or protrude over any public street, walkway or curb, or become scattered about or blown off the premises.
- (7) No mechanized process whatsoever shall be utilized on the premises to reduce salvageable materials or debris in volume unless approved by the Village in conjunction with a specific permit. Such prohibited mechanized processes include, but are not limited to, crushers or shredders.
- (8) There shall be strict compliance with the Village Code related to noise control.
- (9) No premises or building subject to a permit shall be allowed to become a public nuisance or be operated in such a manner as to adversely affect the public health, safety or welfare
- (10) There shall be full compliance with the Village Building, Fire and Health Codes and with all other City, County, State and Federal laws, rules or regulations which may be applicable
- (11) The permit holder shall, during the salvage process, maintain the work site in a safe and secure condition
- (12) The permit holder shall dispose of building debris in a licensed landfill, except for salvaged materials. At any time, the permit holder shall produce to the Code Official receipts and/or an itemized list of debris disposed of by dumping or salvage.

- (13) The permit holder shall be responsible for disconnections of utilities, including plumbing and electrical, necessary for the salvaging process, and shall provide evidence that the necessary disconnections have been accomplished
- (14) The permit holder shall comply with all orders of the Code Official imposed at the granting of the permit or at any other time.
- (15) The Irrevocable Letter of Credit and required insurance imposed is a continuing condition of issuance and validity of the permit.
- (16) The permit holder is responsible for any damage to Village streets, curb and gutter, sidewalks, signage, lighting fixtures, or other Village infrastructure caused by or arising out of demolition operations or transport within the Village limits.
- (17) The Permit may restrict outdoor operations during the night-time hours of 10 PM until 7 AM.
- (17) The Building Inspector is authorized to inspect and render final approval of completed razing, scrapping, salvaging, or recycling activities.

Section 9. BACKFILL AND GROUNDS RESTORATION.

If the plan does not provide for new or other construction on the site to be commenced within 180 days following completion of demolition described in the plan, the plan shall provide for the following site restorations:

- A. Foundations. Whenever a building has been razed, the foundation thereof, if any, shall be leveled to at least one foot (1') below grade and filled in with ninety-five percent (95%) noncombustible granular fill material with the top two feet (2') of fill material being of dirt or sand. No solid fill or combustible material may be placed in said foundation.
- B. Driveway Approaches, Sidewalks and Slabs. Remaining driveway approaches shall be removed and replaced with curb and gutter; damaged public sidewalks shall be replaced; and driveway aprons, remaining slabs and private sidewalks shall be removed from the site prior to final approval.
- C. Site Grading. Whenever a building has been razed, the site shall be graded with a minimum of three inches (3") of topsoil, with seed and mulch or sod applied to cover the entire disturbed area.
- D. If capping of a contaminated site is contemplated with the approval of the Wisconsin Department of Natural Resources or other environmental protection agency, a copy of the approved order shall be provided to the Village.

Section 10. INSPECTIONS. Permit holders and property owners shall be permit authorized representatives of the Village having enforcement powers to inspect the premises proposed to be permitted, with or without advance notice, as often as may be required to permit said Officials to perform their duties and assure compliance with this ordinance, without first obtaining a special inspection warrant. Inspections shall be made during normal hours of business in the absence of emergency circumstances which require prompt attention to protect the public health, safety and welfare or to preserve evidence of noncompliance with this ordinance. The unreasonable failure to permit inspections shall be grounds for permit denial, suspension or revocation.

Section 11. SUSPENSION AND REVOCATION OF PERMIT. If in the opinion of the Code Official, the public is subject to imminent danger due to the violation by the permit holder of anyone or combination of more than one of the General Operating Requirements, the Code Official shall issue an order to the permit holder requiring immediate cessation of those operations implicating the imminent danger. Pursuant to such order, the permit holder shall cause such operations to cease as directed by the Code Official. Failure to maintain insurance or a Letter of Credit as required, or to permit inspection as required are each per se violations implicating imminent danger to the public necessitating an order to cease all operations. The Permittee may appeal any such order to the Village Board of Trustees, in writing, setting forth the basis for any appeal, which shall be delivered to the Village Board of Trustees in

the care of the Village Clerk. The Village Board shall hold a hearing regarding any such appeal, and provide at least ten (10) days notice of the hearing to the Permittee and the Code Official. The Village Board of Trustees may revoke any permit if a Permittee fails to comply with the terms of this Ordinance at any time. The Village Board will provide the Permittee with an opportunity to be heard by the Board prior to such revocation or non-renewal by providing the Permittee of notice of intent to revoke or non-renew and the grounds for the same at least ten (10) days prior to any meeting of the Village Board at which action is to be taken, though an order requiring immediate cessation of operations may be issued prior to such meeting. The Permittee may request a hearing before the Village Board on receipt of such notice, which request shall be in writing delivered to the Village Board of Trustees in the care of the Village Clerk, and must be received prior to the meeting at which the Board intends to act on revocation. The Board shall schedule a hearing upon receipt of such request. The Board may authorize a committee to hear any appeal of an order to cease operations or in relation to any intended revocation, in which case such committee shall report to the Board regarding the hearing and its recommendation regarding action by the Board.

Section 12. BUILDING INSPECTION AND ORDER TO RAZE

(A) CONDEMNATION OF ANY BUILDING OR STRUCTURE. All buildings or structures or any part thereof within the Village which because of fire loss, windstorm or tornado damage, age, dilapidation, deterioration, lack of repairs or any other cause, are dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy, or use and which cannot reasonably be repaired, shall be razed and removed. Where there has been a cessation of normal construction of any building or structure for a period of more than 2 years without issuance of an occupancy permit, the building or structure shall be razed and removed in accordance with this ordinance.

(B) INSPECTION AND ORDER TO OWNER TO RAZE AND REMOVE OR REPAIR.

(1) The Building Inspector may investigate and inspect all buildings and structures or parts thereof in the Village for the purpose of determining whether or not their condition shall require removal and razing or repair and rehabilitation. The Building Inspector may, if he deems it advisable, utilize the services of other persons qualified to render opinions relative to the conditions of buildings and structures to assist him in making investigations and inspections.

(2) If the Building Inspector determines that, because of the location and condition of any building or structure or part thereof, the same should be ordered razed and removed, he shall serve or cause to be served on the owner of record or his agent, where an agent is in charge of the building, and on the occupant and holder of any encumbrance of record, an order in the manner required by sub. (4), ordering razing and removal within such time as he shall, under the facts and circumstances, consider reasonable, but in no case shall such order require the commencing of razing or removal on the part of the owner, agent, occupant or mortgagee prior to 15 days after the serving of such order, exclusive of the day of service. Where publication of a class 3 notice is required, the published order shall provide that razing or removal on the part of the owner, agent, occupant or mortgagee shall commence within 15 days of the date specified in the order, exclusive of the date stated.

(3) In those cases where razing and removal is not mandatory and where such buildings and structures or parts thereof are, because of lack of repairs, fire or windstorm losses, depreciation, age, deterioration or other causes, unsafe or unfit for use or occupation or are

hazardous or jeopardize life or property, the Building Inspector shall order that such buildings and structures or parts thereof be repaired and rehabilitated within a reasonable time or razed and removed at the owner's option and serve such order upon the owner, agent, occupant and mortgagee in the manner provided by sub. (4) herein, directing the making of such repairs and necessary rehabilitation. In cases where repairs and rehabilitation are ordered, the order shall specify a time in which the owner shall comply therewith and specify repairs, if any.

(3) PROHIBITING USE AND POSTING NOTICE. If after inspection and investigation, the Building Inspector finds that any building or structure in the Village is insanitary, unsafe and unfit for human habitation, occupancy or use but not structurally unsafe or dangerous, he shall prohibit human habitation, occupancy or use until the necessary repairs and rehabilitation have been made and post on such building or structure any proper notice that, in his opinion, may be required as a suitable and adequate protection to the public against such use and occupancy.

(4) METHOD OF SERVING ORDER TO RAZE AND REMOVE OR TO REPAIR. Orders to remove, raze or repair, rehabilitate and make safe given by the Building Inspector shall be served on the owner of record or his agent, where an agent is in charge of the building, and upon the holder of any encumbrance of record in the manner provided for service of a summons in circuit court. If the owner or holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the building and publishing as a class 3 notice under Ch. 985, Wis. Stats., before the time limit in the order commences to run. If the post office address of any persons affected who cannot be served personally is known or can, with reasonable diligence, be ascertained, a copy of the order may be mailed by certified or registered mail to such persons at or immediately prior to the first publication.

(5) FINANCIAL ABILITY OR PERFORMANCE BOND REQUIREMENTS. In addition to the above requirements, whenever the Building Inspector shall determine that the estimated cost of demolition and removal of disposal debris exceeds the assessed value of the land, including remaining improvements upon which the structure is located, then in that event the applicant shall:

- (a) Furnish information to demonstrate that the applicant has sufficient financial resources to complete the project.
- (b) In lieu of the above, provide a performance bond with the application in the amount equal to the estimated cost of demolition and removal of the structure.

Section 13. The provisions of Chapter 8.08 of the Brokaw Village Code are amended by the addition of the following:

BURNING OF RECYCLABLES, CONSTRUCTION, OR DEMOLITION WASTE. No owner, agent or contractor may burn any structure or any construction or demolition waste that is painted, stained, or coated, or materials designated as recyclable materials under the Brokaw Village Code within the Village limits; except that following notice to and consultation with the Village President, a municipal or volunteer fire department may burn a structure within the Village as part of a training exercise.

Dated this __12th____day of June, 2012

Jeffrey Weisenberger, Village President

Wayne Utecht, Village Clerk

Adopted June 12, 2012

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Effective Upon Publication