

CHAPTER 11

BUILDING CODE

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BUILDING CODE

11.01 TITLE AND SCOPE.

(1) Short Title. This Chapter shall be known as the Building Code of the City of Middleton. It may be cited as such and will be referred to as "This Code".

(2) Purpose of Code. The purpose of this Code is to provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and structures hereafter erected, constructed, reconstructed, altered, enlarged, repaired, moved, converted to other uses or demolished and to regulate the equipment, maintenance, use and occupancy of all buildings and structures.

(3) State Codes. The following provisions of the State of Wisconsin Administrative Code, including all subsequent amendments and recodifications thereto, are hereby adopted by reference and incorporated in this code as if fully set forth, exclusive of any penalties or enforcement and abatement procedures. Violations of the provisions hereby adopted shall be subject to penalties, enforcement and abatement procedures as set forth in Section 11.20 of this code. This section shall apply to all additions and alterations to existing structures, except as noted below.

(a) Licenses, Certifications and Registrations, Chapter Comm 5, Wisconsin Administrative Code.

(b) Electrical Code, Chapter Comm 16, Wisconsin Administrative Code.

(c) Uniform Dwelling, Chapters Comm 20-25, Wisconsin Administrative Code [excepting therefrom Comm 20.05(1), (3) and (5)].

(d) Building and Heating Ventilating and Air Conditioning Code, Chapter Comm 50-64, Wisconsin Administrative Code, for maintenance of buildings built prior to July 1, 2002. For new buildings, alterations, and additions started on or after July 1, 2002, Wisconsin Commercial Building Code, Chapter Comm 61-65 and Appendix A.

(e) Uniform Multi-Family, Chapter Comm 66, Wisconsin Administrative Code, for maintenance of buildings built prior to July 1, 2002.

(f) International Existing Building Code, 2006.

(g) Plumbing Code, Chapter Comm 81-86, Wisconsin Administrative Code.

(h) International Fire Code, Chapters 3-10, 12-21, 23-29, 36 and 39-42.

(4) All New Work to Conform.

(a) New Work. No building or structure shall hereafter be constructed, altered, repaired or removed, nor shall the equipment of a building, structure or premises be constructed, installed, altered, repaired or removed, except in conformity with this Code.

(b) Repairs. No building or structure shall be repaired in any manner that would be in violation of the provisions of this code or of any authorized rule or approval of the Building Inspector made and issued hereunder. If repairs in excess of fifty (50) percent of the assessed valuation for tax purposes of an existing building are made within a period of twelve (12) months, such work shall be made to conform to the requirements for new buildings, provided, however, that any buildings existing, which for any reason require repairs in excess of fifty percent of the assessed valuation thereof, not deducting from such valuation any loss caused by fire, flood, explosion, earthquake, war, riot or act of God, shall be made to conform to the requirements of this Code for new buildings or shall be entirely demolished. In the repairs or alterations of an existing building or structure, proof of engineering calculations and other data necessary in conformity with the requirements of the Wisconsin State Building Code shall be accepted as conforming with the requirements of this Chapter.

(c) Changes in Use. If the existing use or occupancy of any existing building is changed to a use or occupancy which would not be permitted in a similar building hereafter erected, the entire building shall be made to conform to the requirements given herein for new buildings; provided, however, that if the use or occupancy of only a portion or portions of an existing building is changed, then only such portion or portions of the building need be made to comply with said requirements; and provided further, that the Building Inspector is hereby given authority to approve any change in the use or occupancy of any existing building, even though such building is not made to fully conform to the requirements of this Code, when it is obvious that such a change in the use or occupancy of the existing building will not extend or increase any nonconformity or hazard of the building.

(d) When Alterations or Repairs to Conform. Every alteration or repair to any structural part or portion of any existing building shall, when deemed necessary in the opinion of the Building Inspector, be made to conform to the requirements in this Code for new work, and not more than twenty-five (25) percent of any roof covering shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of this Code for new buildings.

(5) Affects All Buildings and Structures.

(a) **Application of Code.** The requirements contained in this Code covering the maintenance of buildings, shall apply to all buildings and structures now existing or hereafter erected. All buildings and structures and all parts thereof shall be maintained in a safe condition and all devices and safeguards which are required by this Code at the erection, alteration, or repair of any building shall be maintained in good working order.

(b) **Interpretation.** This section shall not be construed as permitting the removal or non-maintenance of any existing devices or safeguards unless authorized in writing by the Building Inspector.

11.03 DEFINITIONS.

For the purpose of this Code, certain terms, phrases, and words and their derivatives shall be construed in this Chapter to have the following meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Wherever a section, chapter, or part is referred to in this Code number, it shall be understood to refer to section, chapter, or part of this Code.

(1) **Alteration.** “Alter or Alteration” means any change, addition or modification in construction or occupancy.

(2) **Apartment.** “Apartment” means a room or suite of rooms which is occupied or which is intended or designed to be occupied by one family for living and sleeping purposes.

(3) **Apartment House.** “Apartment House” means any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

(4) **Approved.** “Approved” refers to approval as to materials and types of construction by the Building Inspector as the result of investigation and tests conducted by her or him, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.

(5) **Attic, Attic Story or Half Story.** “Attic, Attic Story or Half Story” means that

part of a building between the eaves and the ridge line of pitched roofs, so designed, arranged or built as to be used for business, storage or habitation.

(6) **Building**. “Building” means any structure used or built for the shelter or enclosure of persons, animals, chattels or movable property of any kind. When separated by a fire wall, each portion of such building or structure so separated shall be deemed a separate building.

(7) **Building Inspector**. “Building Inspector” means the officer or person charged with the administration and enforcement of this Code, or her or his duly authorized representative.

(8) **Building Line**. “Building Line” means the line established by law beyond which a building shall not extend, except as specifically provided by law.

(9) **Exterior Wall**. “Exterior Wall” means the outer wall or vertical enclosure of a building other than a party wall.

(10) **Existing Building**. “Existing Building” means a building already erected or one for which a legal permit has been issued prior to the adoption of this code.

(11) **Family**. “Family” means any number of individuals customarily living together as a single housekeeping unit and using common cooking facilities.

(12) **Fire Limits**. “Fire Limits” means that territory or those districts within a municipality described by ordinance in which, with certain specified exceptions, frame construction and unprotected metal construction are prohibited.

(13) **Floor Area**. “Floor Area” means a floor space enclosed by exterior walls, fire walls, or fire partitions or by a combination of them.

(14) **Footing**. “Footing” means the spreading course at the base or bottom of a foundation wall, column or pier.

(15) **Foundation Wall**. “Foundation Wall” means a wall or pier below curb level serving as a support for a wall, pier, column, or other structural part of a building.

(16) **Lot**. “Lot” means a piece or parcel of land, abutting on a street, whose area, in addition to the parts thereof occupied by a building and its accessory buildings, is sufficient to provide the required yards and courts.

(17) **Lot Lines.** “Lot Lines” means the property lines bounding the lot.

(18) **Occupancy.** “Occupancy,” as used in this Code, pertains to and is the purpose for which a building is used or intended to be used. Change of occupancy is not intended to include change of tenants or proprietors.

(19) **Owner.** “Owner” includes the duly authorized agent or attorney of the owner, a purchaser, deviser, fiduciary, and a person having a vested or contingent interest in the property in question.

(20) **Person.** “Person” includes a corporation and a co-partnership as well as an individual.

(21) **Repair.** “Repair” means the replacement of existing work with the same kind of material used in the existing work not including additional work that would affect the structural safety of the building, or that would affect or change required exit facilities.

(22) **Residence Building.** “Residence Building,” except when classed as an institutional building, means a building in which sleeping accommodations are provided, including, among others, dwelling, tenements, multi-family houses, hotels, lodging houses, dormitories, convents, studios and club houses.

(23) **Shall.** “Shall,” as used in this Code, means mandatory.

(24) **Structure.** “Structure” means anything constructed, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground.

11.04 BUILDING INSPECTOR.

(1) Appointment; Term. The Building Inspector shall be appointed by the Common Council, for an indefinite term at a salary fixed by the Common Council, and shall hold office, unless sooner removed by the Common Council, until his or her successor shall have been duly appointed and qualified.

(2) Qualifications and Removal. The Building Inspector shall have the necessary ability to supervise the general construction of buildings and other permanent equipment of buildings. He or she shall not be interested, either directly or indirectly, in the construction of buildings, or in the preparation of plans and specifications therefor, or permanent building equipment except as may be authorized by the Common Council. The Common Council may at any time remove the Building Inspector or Inspectors or employees for

inefficiency, neglect of duties or malfeasance in office, upon due notice and hearing.

(3) Records to be Kept. The Building Inspector shall keep a record of all applications for building permits and regularly number each permit in the order of its issue. He or she shall keep a record showing the number, description and size of all buildings erected during the term of her or his office, indicating the kind of materials used and the cost of each building and the aggregate cost of all buildings of the various classes. He or she shall keep a record of all inspections made, and of all removal and condemnation of buildings, and a record of all fees collected by him or her, showing the date of their receipt and delivery to the City Treasurer. He or she shall make a semi-annual report and an annual report to the Common Council on the above matters.

(4) Powers and Duties of the Building Inspector. The Building Inspector is hereby authorized and directed to enforce all of the provisions of this Code and for such purpose shall have all the powers of a police officer.

The Building Inspector or her or his authorized representative may enter any building or premises for the purpose of inspection, or to prevent violation of this Code, upon presentation of the proper credentials. Application for, and acceptance of a permit under this Code shall constitute a consent to such entry. Any person interfering with the Building Inspector while in the performance of official duties prescribed in this section shall be deemed guilty of a violation of this Code and punished accordingly.

Whenever any building work is being done contrary to the provisions of this Code, or is being done in an unsafe or dangerous manner, the Building Inspector may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop work until authorized by the Building Inspector to recommence and proceed with the work.

Whenever any building or portion thereof is being used or occupied contrary to the provisions of this Code, the Building Inspector shall order such uses or occupancy discontinued and the building or portion thereof vacated by serving notice on any person or persons using or causing such occupancy to be continued and such persons shall vacate such building or portion thereof within twenty-four (24) hours after receipt of such notice, or make the building or portion thereof comply with the requirements of this Code.

(5) Workmanship. The Building Inspector shall have the power and authority to require that all construction, alteration, repair and removal of buildings be done and performed in accordance with the standard of good workmanship. Such power shall be part of this Code

and enforced accordingly.

(6) Permit Can Not Cancel Provisions of this Code. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except in so far as the work or use which it authorizes is lawful.

(7) Building Inspector Can Require Correction of Errors in Plans. The issuance of a permit upon plans and specifications shall not prevent the Building Inspector from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on thereunder when in violation of this Code or of any other ordinance of the City.

11.05 BUILDING PERMITS AND INSPECTION.

(1) Permit Required. No person shall excavate for, erect or construct any building or structure, nor add to, enlarge, move, improve, alter, convert, repair, extend or demolish any building or structure, or cause the same to be done, without first obtaining a building permit therefor from the Building Inspector, nor shall any person install, replace or make any alteration or addition to any heating plant, gasoline tank, oil tank, elevator, toilet room, automatic fire protection system, or make any repairs to buildings or structures damaged by fire or otherwise, without first obtaining a building permit therefor from the Building Inspector.

(2) Minor Repairs; Permit Not Necessary. Notwithstanding subsection (1) no permit shall be required for any repairs that are non-structural including, but not limited to replacement of same or smaller size windows and doors, siding, gutters, and roofing where the total cost of repairs or maintenance is less than \$1,000, however, no heating, plumbing or electrical repairs shall be subject to this exception.

(3) Application and Permit. Any person desiring a building permit as required by this Code shall file with the Building Inspector an application therefor in writing on a blank form to be furnished for that purpose. Every such application for a permit shall describe the land upon which the proposed building or work is to be done, either by lot or block or tract, tax certificate number and street number, if any, or similar general description that will readily identify and definitively locate the proposed building or work. Every such application shall show the use or occupancy of all parts of the building and such other reasonable information as may be required by the Building Inspector.

Copies of plans and specifications and a plot plan showing the location of the proposed

building and of every existing building thereon, shall accompany every application for a permit, and shall be filed in duplicate with the Building Inspector; provided, however, that the Building Inspector may authorize the issuance of a permit without plans or specifications for small or unimportant work. Plans shall be drawn to scale upon substantial paper or cloth and the essential parts shall be drawn to a scale of not less than one-eighth (1/8) inch to one (1) foot.

Plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law will be complied with. Computations, strain sheets, stress diagrams and other data necessary to show the correctness of the plans, shall accompany the plans and specifications when required by the Building Inspector. All plans shall bear the name of the architect, engineer or persons responsible for their preparation, and in no case shall permits be issued when such persons have failed to comply with the requirements of Wis. Stat. s. 101.31 as the same may be amended.

The application, plans and specifications filed by an applicant for a permit shall be checked by the Building Inspector and if found to be in conformity with the requirements of this Code and all other laws or ordinances applicable thereto, the Building Inspector shall, upon receipt of the required fee, issue a permit therefor. When the Building Inspector issues the permit he or she shall endorse in writing, or stamp both sets of plans and specifications "approved". One such approved set of plans and specifications shall be retained by the Building Inspector as a public record, and one such approved set of plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which work authorized thereby is in progress and shall be open to inspection by public officials.

Such approved plans and specifications shall not be changed, modified, or altered without authorization from the building Inspector, and all work shall be done in accordance with the approved plans.

(4) Waiver of Plans. No permit shall be issued where the cost of construction exceeds five hundred dollars (\$500.00) or in the case of alteration one hundred dollars (\$100.00) until duplicate plans and specifications have been submitted to and approved by the Building Inspector, provided that where the cost of the work does not exceed one thousand dollars (\$1,000.00) the Building Inspector may waive the filing of plans and specifications if in his or her opinion the work is sufficiently described in the application.

(5) Permit May Be Refused to Offenders. The Building Inspector is hereby authorized to refuse a permit or permits to any person, firm or corporation who shall be proved guilty, to his or her satisfaction of continued or intentional violation of this Code.

(6) Issuance of Permit. It shall be the duty of the Building Inspector to examine applications for permits, within a reasonable time after filing. If, after examination, he or she finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto and the proposed construction or work will be safe, the Building Inspector shall approve such application, and issue a permit for the proposed work as soon as practicable. If his or her examination reveals otherwise, he or she will reject such application, noting the reasons therefor and findings in a report to be attached to the application and providing a copy to the applicant.

(7) Approval in Part. Nothing in this section shall be construed to prevent the Building Inspector from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of said building or structure have been submitted or approved, if adequate plans and detailed statements have been presented for the part and have been found to comply with this Code and the Wisconsin State Building Code.

(8) Posting of Permits. With every permit issued, the Building Inspector shall issue to the applicant a weatherproof permit card properly filled out. It shall be the duty of the applicant to post such card in a conspicuous place on the building or premises where the building is to be erected unobstructed from public view and not more than fifteen (15) feet above the grade level.

(9) Limitation. A permit under which no work is commenced within six (6) months after issuance shall expire by limitation. This does not preclude the renewal of a permit if the conditions under which the permit was originally issued have remain unchanged and there has been no change in the law that would adversely affect the permit.

(10) Revocation. The Building Inspector may revoke a permit or approval issued under the provisions of this Code in case there have been any false statements or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(11) Duty of Police to Report. It shall be the duty of police officers to report at once to the Building Inspector any building which is being carried on without a building permit as required by this Code.

(12) Inspections.

(a) By Whom. Inspections required under the provisions of this Code shall be made by the Building Inspector or a duly appointed assistant; provided that he or she may accept reports of inspectors or recognized inspection services, after investigation of their qualifications and reliability. But no certification called for by any provision of this Code shall be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(b) Inspections. The Building Inspector, upon notification from the permit holder or his or her agent, shall cause to be made the following inspections of buildings and either approve that portion of the construction which has been completed or shall notify the permit holder or agent wherein the construction fails to comply with the law, regulations or orders, and it shall be the duty of the permit holder or agent to notify the Building Inspection Department when ready for such inspections. The Building Inspection Department then shall make such inspections as soon as possible and within forty-eight (48) hours after notification. Inspections shall be made of all new building, additions and alterations and of buildings where application for new use or public garage occupancy is wanted.

(c) Inspection Types. In general, the following inspections shall be completed for all building projects whenever applicable:

- 1. Footing Inspection – To be completed after forms and required reinforcing are in place but before concrete is poured.**
- 2. Foundation Inspection – To be completed after forms are removed but before backfilling. Drain tiles (when required) shall be in place and foundation waterproofing and insulation shall be applied.**
- 3. Rough Inspection – To be completed for all electrical, plumbing and heating, ventilating and air conditioning installations and all general construction and framing work. Inspections shall be completed after all rough work is finished but before it is covered or concealed.**
- 4. Insulation/Energy Inspection – To be completed after insulation and vapor barrier are in place but before they are covered or concealed.**
- 5. Final Inspection – To be completed for all electrical, plumbing and heating, ventilating and air conditioning installations and all general construction work after all work is finished but before use or occupancy of the building or part thereof.**

(d) **Inspection Disclaimer.** Inspection findings are intended to report conditions of apparent noncompliance with code standards that are apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and non-structural elements of the building or premises. No guarantee or warranty of the premises, operation, use, or the durability of equipment or materials is expressed or implied.

(e) **Stop Work Order.** Upon notice from the Building Inspector that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe or dangerous manner, including the failure to properly display permits, such work may be ordered immediately stopped. The Stop Work Order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume. Any person who shall continue any work in or about the building or structure after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be deemed guilty of a violation of this code and shall be subject to penalties and forfeitures as described in section 30.04 of this code.

(13) Certificate of Occupancy.

(a) **Requirement For.** No building shall be occupied in any part thereof or used for storage, model home or display unless or until a Certificate of Occupancy has been issued by the Building Inspector. The Building Inspector shall, after an application therefor has been filed by the owner or agent, issue a Certificate of Occupancy for such building, if after inspection it is found that such building complied with the provisions of this Code and all other requirements of law or ordinances applicable thereto. Such inspection shall also be made as to whether curbs or sidewalks have been damaged during construction. In the event that curbs and sidewalks are cracked or broken from construction activity at the time of an inspection for a Certificate of Occupancy, the applicant for the building permit shall repair such damaged curb or sidewalk within thirty (30) days. Such Certificate of Occupancy shall show the use to which the structure may be put and the maximum allowable floor loads for each floor thereof. A temporary Certificate of Occupancy may be issued by the Building Inspector for temporary use of a portion of a building prior to the completion and occupancy of the entire building, provided that such temporary occupancy or use will not jeopardize life or property.

(b) **Change of Use.** The use or occupancy of any building shall not be changed until a Certificate of Occupancy permitting the new use or occupancy is issued by the Building Inspector when the new occupancy is such as to require alterations or repairs of the building, as specified in this Code. No such Certificate of Occupancy shall be issued unless

the building shall comply with the requirements of this Code.

(14) Permit Fees. (a) Fees for all permits under this Chapter, unless otherwise specified, shall be as set forth in the Fee Schedule under Section 3.12.

(b) Certain fees may be based upon building groups identified as follows:

1. **Group I – All residential buildings, single family, two-family and multifamily dwellings, residential garages and storage sheds. (This group does not include hotels, motels or institutional buildings).**

2. **Group II – General and professional offices, barber shops, beauty parlors, bowling alleys, dry-cleaning establishments, clinics, natatoriums, shelters, hotels and motels, taverns, restaurants, cafeterias, retail establishments, commercial garages, service stations, churches, assembly halls, theaters, exhibition buildings, educational institutions, hospitals, nursing homes, places of detention, gymnasiums, arenas, laboratories, lodge halls, funeral homes, libraries, skating rinks, dance halls, and armories.**

3. **Group III – Warehouses, freight terminals, storage buildings, refrigeration storage, factories, machine shops, electric sub-stations, sewage treatment plants, heating plants, steam & electric generating plants, transformer vaults and other building not classified in Groups I – II.**

(15) Impact fees. At the time a building permit is issued, except where collection is deferred pursuant to Wis. Stats. § 66.0617(6)(g) or any City Ordinance adopted in accordance therewith, for construction of new single family, two family, multi-family, commercial or industrial development, or for an addition to any residential building adding additional dwelling units or for any additions to any commercial or industrial development, impact fees as set forth below and in the amounts set forth in the Fee Schedule under Section 3.12 shall be collected:

(a) **Law Enforcement Facilities Impact Fee.**

(b) **Fire Facilities Impact Fee.**

(c) **EMS Facilities Impact Fee.**

(16) Elevation of Buildings. In order to safeguard the public health and safety from hazards arising from the construction of steep and dangerous driveways and sidewalks extending from lots and parcels of land into public streets and sidewalks in the City and in order to prevent the construction of buildings and other structures at elevations significantly above or below the elevations of other structures in the immediate neighborhood or significantly above or below abutting streets or sidewalks which

structures would if erected at such elevations cause a substantial depreciation of the property values of said neighborhood, all plans required by this Code to be approved by the Building Inspector shall show thereon the elevation of the base of the basement or ground floor thereof, giving the number of feet and inches which said base is above or below the center point of the street at the lot line nearest to any existing or proposed private driveway or sidewalk. If the Building Inspector, after an examination of the premises, shall find the proposed elevation to be neither higher nor lower than in his or her judgment the public safety and protection of property values in the immediate neighborhood require, he or she shall place his or her signature and the date of signing the same thereon. If the Building Inspector, after an examination of the premises, shall find the proposed elevation to be either higher or lower than in his or her judgment the public safety and the protection of property values in the immediate neighborhood require, he or she shall refuse to issue a building permit and shall immediately advise the applicant of this decision. Thereupon, the applicant may appeal from the decision of the Building Inspector to the Zoning Board of Appeals, pursuant to the Zoning Code.

11.06 GENERAL BUILDING RESTRICTIONS.

(1) Damaged Buildings. Every building that may be damaged by fire or otherwise shall be examined by the Building Inspector before a permit is issued to repair or replace the same, and such parts of said buildings as in his or her opinion are unsafe, or damaged to an extent that will impair the safety of the reconstructed building shall be taken down.

(2) Excavations. Excavations started and not made use of within six (6) months from the date of issuance of the building permit shall be deemed to constitute a nuisance, and shall, (unless extensions are granted) be restored to the original grade level by back filling, and the owner shall upon notification from the Building Inspector in writing cause such excavations to be properly filled and leveled off within ten (10) days after receiving such notice. Upon failure to comply with such notice the Building Inspector may enter upon the premises with such assistance as may be necessary causing the existing condition to be corrected and the cost thereof charged against the property and shall be a lien thereon and shall be assessed and collected as a special tax.

(3) Roofed Passageways. Whenever in the opinion of the Building Inspector it is necessary for the protection of the public, the owner or contractor shall erect a roofed passageway in front of every building being constructed on or near the lot line of any street. Said passageway shall be built in front of the building under construction and also on the side of said building when such building is being erected on a corner lot. Such passageway shall extend over the sidewalk for a distance of not less than six (6) feet from the working line of the building. The roof of said passageway shall be made double.

(4) Private Garages Combined With Dwellings. When a garage is located beneath or attached to a dwelling, the following regulations as to its construction shall be observed:

(a) The floor and ceiling construction above the garage when it is located beneath the building, or the roof of the garage when it is attached to the building shall consist of wood joists, fire stopped, and a ceiling tightly sheathed.

(b) The outside walls of and partitions between the garage and dwelling shall consist of wood studs covered with a tight sheathing.

(c) Opening from a dwelling into a garage shall be restricted to a single doorway. The doorsill shall be raised at least one half (1/2) foot above the garage floor level.

(d) Garage floors shall be made of concrete or equally fire resistive and impervious material.

(5) Sanitation. Until permanent provisions are made, suitable and adequate temporary toilet facilities shall be provided during the erection, alteration or repair of a building.

(6) Rainwater. It is unlawful within the City to allow downspouts or rainwater leaders from roof gutters to be disconnected, spilling the water in such a manner as to overflow the adjacent property of the neighborhood. Anyone found guilty of causing such conditions to exist, shall upon notice in writing cause such conditions to be corrected within ten (10) days after receiving such notice. In case of failure to do so the owner of the property shall be guilty of violating this Code and prosecuted accordingly. This applies to and includes all new and existing buildings.

(7) Demolition of Buildings and Structures.

(a) **Permit Required.** No person, firm, or corporation, agent or servant shall demolish or cause to be demolished any building, structure or part thereof without applying for and obtaining a permit from the Building Inspector.

(b) **Process to be Used.** All demolitions, including demolitions of single family dwellings, shall comply with applicable National Emissions Standards for Hazardous Air Pollutants relating to asbestos promulgated by the United States Department of Environmental Protection and Wisconsin Department of Natural Resources. Whenever a building shall be demolished the roof and each upper story shall be taken down before the demolition of the next lower story is begun, and no material shall be placed to overload any part of such building in the course of demolition, and all brick, stone, timbers and structural parts of each story shall be lowered to the ground immediately upon

displacement, and all dry mortar, lime, brick dust or other flying material shall before and during removal be dampened sufficiently to prevent it from floating or being blown into the street or on adjoining property, and all sidewalks shall be protected by fences and scaffolds as required by the ordinances of the City relating to the protection of the sidewalks during the erection of buildings.

(c) **Grading and Fencing.** The building site of any building hereafter demolished shall be properly cleared of all debris and rubbish and shall be properly graded and leveled off so as not to spoil the appearance of a neighborhood, or the excavations shall be fenced in with a board fence for the protection of the public, such fence to be not less than four (4) feet in height.”

(8) Exterior Lighting Required on Multi-Family Dwellings. In all buildings containing four (4) or more dwelling units adequate security lighting of all exterior parking and service walk areas shall be provided so that visibility will be maintained

11.11 HEATING SYSTEM REQUIREMENTS.

(1) Heating Capacity. Any dwelling or building designed or intended to be used for dwelling purposes shall be equipped, maintained and operated with a heating system capable of maintaining a minimum temperature of 70 degrees Fahrenheit.

(2) Free Standing Heaters. Freestanding circulating heaters are banned for all use as of June 30, 1975.

11.12 MOVING OF BUILDINGS.

(1) Permit. Every application for a permit to move a building shall set forth in detail a description of the construction at the present time, its use and location, also the new location, and any existing building thereon, the substructure that is to be placed upon, the use intended in the future, and the route to be traversed in the moving.

(2) Bond. The applicant shall file with the application a bond in the sum of five thousand dollars (\$5,000.00) payable to the City, with good and sufficient sureties to be approved by the Mayor and the City Attorney, conditioned to save and keep the City of Middleton harmless from all liability, and will indemnify the City against any and all judgments, claims, or every nature whatsoever, costs and expenses resulting from the moving of said proposed building. In lieu of or in addition to the bond referred to herein, the Mayor and City Attorney may require a policy of liability insurance naming the City as additional insured, in an aggregate amount not less than one million dollars (\$1,000,000.00).

(3) Protection of Property While Moving Building. The removal of a building shall be continuous during all hours of the day, and day by day, and at night if the Building Inspector so orders, until completed, with the least possible obstruction to thoroughfares. No building shall be allowed to remain over night upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant. Lighted lanterns displaying a red light shall be attached to every building being moved along a street during the period from thirty (30) minutes before sunset to thirty (30) minutes after sunrise.

(4) Protection of Streets and Improvements. Every person receiving a permit to move a building shall within one (1) day after said building reaches its destination, report to the Building Inspector, who shall notify the City Engineer. The City Engineer shall thereupon inspect the streets over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to the streets, the house mover shall forthwith place them in as good repair as they were before the permit was granted. Upon the failure of the permit holder to repair such damage within ten (10) days thereafter to the satisfaction of the City Engineer, the City Engineer shall repair the damage done to such streets and hold the applicant and or the sureties on the bond given by the permit holder responsible for the payment of the same.

11.13 STORING MATERIALS ON STREETS AND SIDEWALKS.

Building materials, equipment and machinery may be stored on streets, alleys, public ways and other public property by permit issued under Section 8.06(3) of this Code.

11.14 MODIFICATIONS.

The Building Inspector shall have power to vary or modify any provisions of this Code or of any existing law or ordinance relating to the construction, alteration or removal of buildings or structures erected or to be erected within the City, upon an application to him or her therefore in writing by the owner of a building or structure, or duly authorized agent, where there are practical difficulties in the way of executing the strict letter of the law, so that the spirit of the law shall be observed, and public safety secured and substantial justice done. The particulars of each such application and of the decision thereon shall be entered upon the records of the Building Inspection Department, and if the application is granted a certificate therefor, together with a statement of the reasons for such decision, shall be issued by the Inspector. A record of all modifications properly indexed under section numbers of this Chapter shall be kept at the office of the Building Inspection Department.

Modifications of this Code made under the provision of this section shall in no manner serve to lower the standards of construction which this Code prescribes. The Building Inspector shall have the power to allow the use of any materials and type of construction approved by F.H.A. upon written and definite proof of such approval.

11.15 SURVEY OF PLOT.

If the Building Inspector deems it necessary he or she may require that the plot upon which a building or structure is to be erected be surveyed and properly staked out by a competent surveyor. The owner, lessee, contractor or agent shall give the Building Inspector all necessary assistance and information in determining that the rules and regulations of the City have been complied with.

It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions has been filed and approved.

11.16 NO ASSUMPTION OF LIABILITY.

This Chapter shall not be construed as assuming any liability on the part of the City for damages to any one injured or any property destroyed, by a defect in any building or equipment or any electric wiring or equipment.

11.17 MONEY TO BE PAID TO CITY TREASURER.

All moneys received or collected for license fees and for permits pursuant to the provisions of this Chapter shall be paid into the City Treasury and be placed in the general fund. The City Clerk shall keep an account of the same and make a report thereof once a year to the Common Council.

11.18 UNSAFE BUILDINGS.

(1) Authority of Building Inspector. If the Inspector finds that any building, structure, or part thereof is dangerous to life, health, or adjoining property, by reason of bad condition, defective construction, overloaded floors, decay, lack of guards against fire, general dilapidation or other cause, he or she shall notify the owner or tenant thereof to cause the same to be made safe or to be removed, as in the judgment of the Building Inspector may

be necessary; and he or she shall affix a notice of such order in a conspicuous place on the outside wall of the building, and no person shall remove or deface such notice. The owner or tenant of such building or structure shall thereupon immediately cause the same to be made safe or to be removed, as ordered; and if any such building is used for any purposes requiring a license, the Building Inspector may revoke such license until the building is made safe, or removed, to the satisfaction of the Building Inspector. Where the public safety requires immediate action, the Building Inspector shall enter upon the premises, with such assistance as may be necessary, and cause the building or structure to be made safe or to be removed, and the expense of such work may be recovered by the City in an action against the owner or tenant. The Fire Department shall give all reasonable assistance to the Building Inspector in such work. If the owner or tenant of any such building or structure is dissatisfied with the decision of the Building Inspector, as to the unsafe character thereof, the question shall be referred to the Common Council, whose decision shall be final.

(2) Razing buildings. The Building Inspector is hereby empowered to carry out the provisions of Wis. Stat. s. 66.0413.

11.21 AGRICULTURAL FARMING.

(1) Definition. "Agricultural Farming" means the cultivation or harvesting of any crop, including native grasses, or the keeping or grazing of any livestock on a parcel of land consisting of one or more acres within the corporate limits of the City.

(2) Required Cooperation. No person, firm, or corporation shall engage in agricultural farming or rent or lease any land for agricultural farming purposes within any zoning district of the City without first becoming a cooperator with the Dane County Soil Conservation District, and shall implement a soil and water resource plan under the guidelines of the United States Department of Agriculture, Soil Conservation Service's Technical Guide.

(3) Time For Compliance. Every individual, firm or corporation which is presently engaged in agricultural farming or who presently or in the future rents or leases land for agricultural farming purposes within the City shall become a cooperator at the commencement of the agricultural farming operation, and shall have developed a plan approved by the Soil Conservation Service within one year of becoming a cooperator and shall thereafter in good faith comply with the requirements of the approved plan as specified therein, provided, however, that major components or improvements in any parcel of land specified in an approved plan which are eligible for federal funding shall not be required to be completed on any date provided in the plan if funds are not available for

compliance therewith under any federal program.

(4) Exception. This ordinance shall not apply to any person engaged in agricultural farming or who rents or leases land for agricultural farming, if such person obtains and files with the Director of Public Works a notification from the Soil Conservation Service specifically identifying a particular parcel of land as being exempt from the operation of any federal erosion control program.

(5) Penalty. Any person, firm, or corporation who fails to comply with any of the provisions of this ordinance is subject to a penalty as provided in s. 30.04 of this Code.

11.22 PENALTY.

Any person who violates any of the provisions of this Chapter, or fails to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter or repair, or has erected, constructed, altered or repaired a building or structure in violation of a detailed statement or plan submitted and approved thereunder or of a permit or certificate issued thereunder, or in violation of any provision of any of the said sections, shall be subject to a penalty as prescribed by s. 30.04 of this Code. The owner of a building, structure or premises where anything in violation of any provision of any of the said sections shall be placed or shall exist, and an architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall each be guilty of a separate offense and upon conviction thereof shall be subject to a penalty as provided herein. Nothing contained in this section shall be construed as making a penalty under s. 30.04 of this Code the exclusive remedy for violation of this Code. Other penalties, abatement actions, or required repairs may be imposed in addition to the penalty set forth in s. 30.04.