



City of Racine, Wisconsin
COMMON COUNCIL

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Public Works and Services Committee **LEGISLATION ITEM #:** 0837-22

AGENDA DATE: November 9, 2022

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Robin K. Zbikowski

Reviewed By: City Attorney Scott R. Letteney

SUBJECT: Communication sponsored by Alder Jones, requesting that Racine Ordinances Chapter 18, Article II, Division 1, Section 18-38 be amended to provide the authority to the Building Department to secure unsecure buildings and that Ordinance 0015-22 be approved.

EXECUTIVE SUMMARY: Ordinance 0015-22 would amend section 18-38 (the Unsafe Buildings Ordinance) to account also for unsecure buildings. This amendment allows the chief building inspector to respond to unsecure buildings by means of an inspection, proper notification, and remedy, just as is already prescribed by ordinance for unsafe buildings.

BACKGROUND & ANALYSIS: The United States and Wisconsin Constitutions recognize and protect the right to private property. Consequently, there are limited exceptions for the City to enter private property without a warrant. The City's existing Unsafe Buildings Ordinance provides a lawful exception; it allows the chief building inspector to enter private property without a warrant in response to unsafe buildings (i.e. buildings that are structurally dangerous or unsafe). Pursuant to an inspection and following proper notification, the property owner must make safe or remove the building. In the event the property owner is unresponsive or public safety requires immediate action, the chief building inspector may enter private property to cause the building to be made safe or removed.

While the existing Unsafe Buildings Ordinance allows the chief building inspector to respond to unsafe buildings, it leaves no room to respond to unsecure buildings. Ordinance 0015-22 amends the existing Unsafe Buildings Ordinance to account also for unsecure buildings in the same procedural manner as

unsafe buildings. As proposed by this ordinance change, unsecure buildings include those that are damaged by fire or water; unlawful entry, occupancy, or use; vacancy, or other cause. In the event a property owner is unresponsive or immediate action is required, the city may cause the building to be secured. It is anticipated that in most instances, the city would board any broken and/or missing doors and windows.

BUDGETARY IMPACT: The cost to cause buildings to be made safe and secure may be recovered by the City in an action against the owner or tenant or cause such cost to be paid and levied as a lien against the property, per Racine Ordinance section 18-38(e).

OPTIONS/ALTERNATIVES: Without this amendment to the Unsafe Buildings Ordinance, the City will remain unable to respond to unsecure buildings, leaving them exposed to the elements and susceptible to illegal entry and criminal activity.

RECOMMENDED ACTION: To approve.

ATTACHMENT(S): The existing Unsafe Buildings Ordinance is set forth below with the proposed amendments in red, with the proposed additions underlined and the proposed deletions stricken-through, to account also for unsecure buildings.

Sec. 18-38. - Unsafe or Unsecure buildings.

- (a) A building or structure that may be or shall at any time become dangerous, ~~or unsafe~~, or unsecure shall, unless made safe and secure, be taken down and removed.
- (b) A building or structure declared structurally unsafe or unsecure by the chief building inspector may be restored to safe or secure condition; provided, that if the damage or cost of reconstruction or restoration is in excess of 50 percent of the value of the building or structure, exclusive of foundations, such building or structure, if reconstructed or restored, shall be made to conform with respect to materials and type of construction to the requirements for new buildings and structures.
- (c) Upon receipt of information that a building or structure or part thereof is dangerous to life, health or adjoining property by reason of bad condition, defective construction, overloaded floors, decay, lack of protection against fire, damage caused by fire or water, unlawful entry; occupancy; or use, vacancy, general dilapidation or other cause, the chief building inspector shall make or cause to be made an inspection. If it is found that an unsafe or unsecure condition exists, he shall serve or cause to be served on the owner, or on one of the owners, executors, administrators, agents or lessees or other persons who may have a vested or contingent interest in such building or structure or part thereof, a written notice containing a description of the building or structure or part thereof deemed unsafe or unsecure, a statement of the particulars in which the building or structure or part thereof is unsafe or unsecure, and an order requiring the building or structure or part thereof to be made safe and secure or removed as in the judgment of the chief building inspector may be necessary. The chief building inspector shall affix a notice of such order by placing a card with the inscription "This building cannot be used for human habitation, occupancy or use" in a conspicuous place on the outside wall of the building or structure. No person shall remove or deface such notice.

- (d) The owner or person upon whom such notice was served shall thereupon immediately cause such building or structure to be made safe or secure or to be removed, as ordered. If any such building or structure is used for any purposes requiring a license, the chief building inspector may cause such license to be revoked until the building or structure is made safe so as to comply with the requirements of this article.
- (e) If the person served with a notice or order to remove or repair an unsafe or unsecure building or structure shall fail, within a reasonable time, to comply with the requirements thereof, or where the public safety requires immediate action, the chief building inspector may enter upon the premises, with such assistance as may be necessary, and cause the building or structure to be made safe or secure or to be removed, and the cost of such work may be recovered by the city in an action against the owner or tenant or cause such cost to be paid and levied as a lien against the property.