

PUBLIC SAFETY & WELFARE COMMITTEE
- MINUTES -

Monday, March 9, 2009

Jesse Downing, Chairman
Donald Ruef
Stephen P. Casey

Kathy Carpenter
Michael J. Orth

The regular meeting of the Public Safety & Welfare Committee was held on Monday, March 9, 2009 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:42 pm. The following members were present: Chairman Jesse Downing, Alderman Donald Ruef, Kathy Carpenter, and Michael J. Orth. Alderman Stephen P. Casey was excused. Staff members in attendance were Chief Thomsen, Sue Hill, Carol Stancato, and Jan Schroeder.

It was moved by Alderman Ruef, seconded by Alderman Carpenter, to approve the minutes of the meeting held on Monday, February 23, 2009. Motion passed 4-0.

1. Previous Trial for the Removal of No Parking, Any Time, on the North Side of 21st Street from 22nd Avenue East 170 feet. (District 4)
Public Hearing: No one spoke.
It was moved by Alderman Ruef, seconded by Alderman Orth, to approve. Motion passed 4-0.
2. Proposed Resolution to Amend the Table of Organization for the Kenosha Fire Department.
Public Hearing: No one spoke.
Alderman/Staff: Alderman Ruef is pleased that this is saving money. Alderman Orth inquired about the health insurance only for half the year. Carol replied that when a new hire starts the insurance doesn't start until two full months after date of hire. Alderman Carpenter inquired why the loss of the Apparatus Operator. Chief Thomsen replied that it was due to retirement.
It was moved by Alderman Carpenter, seconded by Alderman Ruef, to approve. Motion passed 4-0.

ADJOURNMENT - *There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 5:46 pm.*



**DEPARTMENT OF
NEIGHBORHOOD SERVICES
AND
INSPECTIONS**

JAMES M. SCHULTZ
Director

Building Inspection

Property Maintenance

Zoning Enforcement

March 5, 2009

Keith G. Bosman, Mayor
Members of the City of Kenosha Common Council
Public Safety & Welfare Committee Members

Dear Honorable Mayor, Common Council Members, and Public Safety & Welfare Committee Members:

SUBJECT: Prohibition of Flatbed Truck Used for Towing Motor Vehicles, Flatbed Truck on Pickup Truck Body, Tow Truck (Reference - Code of General Ordinances 7.129(C)(1))

Prepared for Discussion Purposes Only:

In response to the Public Safety & Welfare Committee's December 8, 2008, request that Neighborhood Services & Inspections' staff pursue the drafting of an ordinance to prohibit the parking and/or storage of tow trucks on residential properties, the following information is being provided to ensure that all interested parties are cognizant of existing conditions associated with this issue.

In addition to analyzing tow trucks and flatbed trailers, which are explicitly cited in the existing ordinance, car haulers are included in this evaluation, as their function is identical to that of the aforementioned vehicles, which also prove to be a nuisance in residential districts.

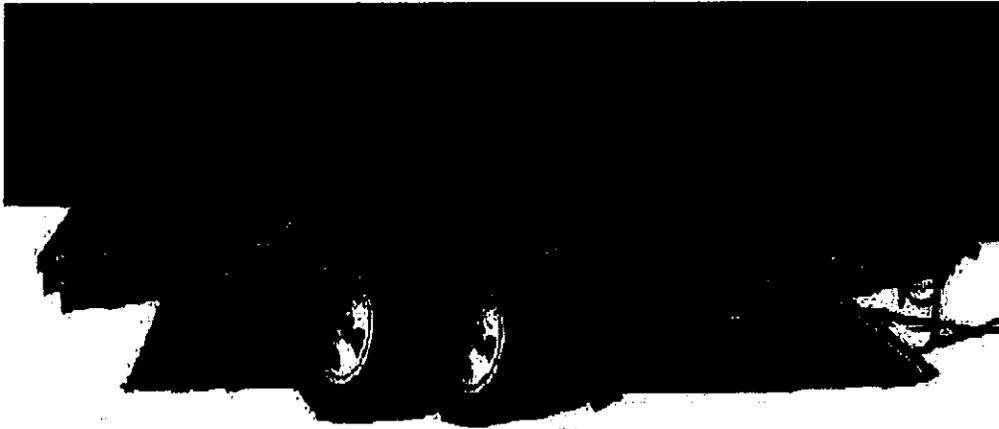
The following photos illustrate the differences between flatbed tow trucks, wrecker tow trucks and open car haulers, which are utilized to transfer vehicles from place to place.



Flatbed Tow Truck



Tow Truck / Wrecker



16" Car Hauler

Police Department Tow List Information:

Contact was made with all of the towing firms affiliated with the Kenosha Police Department Tow List to determine their role in the parking of towing vehicles in residential neighborhoods. Following are the findings:

1. J&M Towing Services (business location, 6010 26th Avenue, 694-9493) District 7

This establishment utilizes a maximum of two (2) flatbed tow trucks per night within residential neighborhoods at the following locations:

- 4405 22nd Avenue (RG-1 zoning district - 4-unit rental property) District 6
- 913 40th Place (RG-1 zoning district - single-family rental property) District 2
- 3727 60th Street (B-2 zoning district - commercial property) District 11
- 3113 15th Street (RM-2 zoning district - Wood Creek Apartment Complex) District 4

2. Atlas/McDevitt's Towing Services (business location, 2205 Roosevelt Road, 657-2190) District 12

This establishment allows "on call" employees to take home flatbed tow trucks; "...two out of three times per week, drivers take their trucks home on an alternating basis." The vehicles are parked at the following locations:

- 1907 22nd Street (RS-3 zoning district - single-family rental property) District 4
- 6001 55th Street (RM-2 zoning district - Arbor Green Apartment Complex) District 16
- 6831 29th Avenue (RG-1 zoning district - two-unit/owner occupied & rental property) District 12
- 7303 22nd Avenue (RS-3 zoning district - single-family, owner-occupied) District 12
- 1404 16th Avenue (RM-2 zoning district - Canterbury Apartment Complex) District 1
- 910 Washington Road (B-2 zoning district - two-unit, residential-use rental property) District 2
- 1602 59th Street (RG-2 zoning district - two-owner occupied and rental property) District 8

3. Jensen Towing (business location, 5410 50th Street, 656-1100) District 16

This establishment utilizes a maximum of three (3) wreckers per night, in addition to a flatbed tow truck within residential neighborhoods at the following locations:

- 7300 41st Avenue (RS-3 zoning district - single-family, owner-occupied) District 14
- 1404 16th Avenue (Canterbury Apartment Complex) District 1
- 2027 87th Place (RS-2 zoning district - single-family, owner-occupied) District 9
- 6102 11th Avenue (RG-2 zoning district - two-unit, owner-occupied and rental property) District 8

4. Jantz Towing (business location, 3405 Washington Road, 654-0238) District 10

This establishment advises that "...trucks (wreckers) at these locations vary depending upon necessity." A flatbed tow truck is stored, on occasion, at a residential location:

- 5116 21st Avenue (RG-2 zoning district - single-family, owner-occupied) District 7
- 3807 60th Place (RG-1 zoning district - single-family, owner-occupied) District 11
- 2012 74th Place (RS-3 zoning district - single-family, owner-occupied) District 12
- 1417 70th Street (RS-3 zoning district - single-family, owner-occupied) District 8

5. Glasman Towing (business location, 8230 160th Avenue, Bristol, Wisconsin, 857-2653)

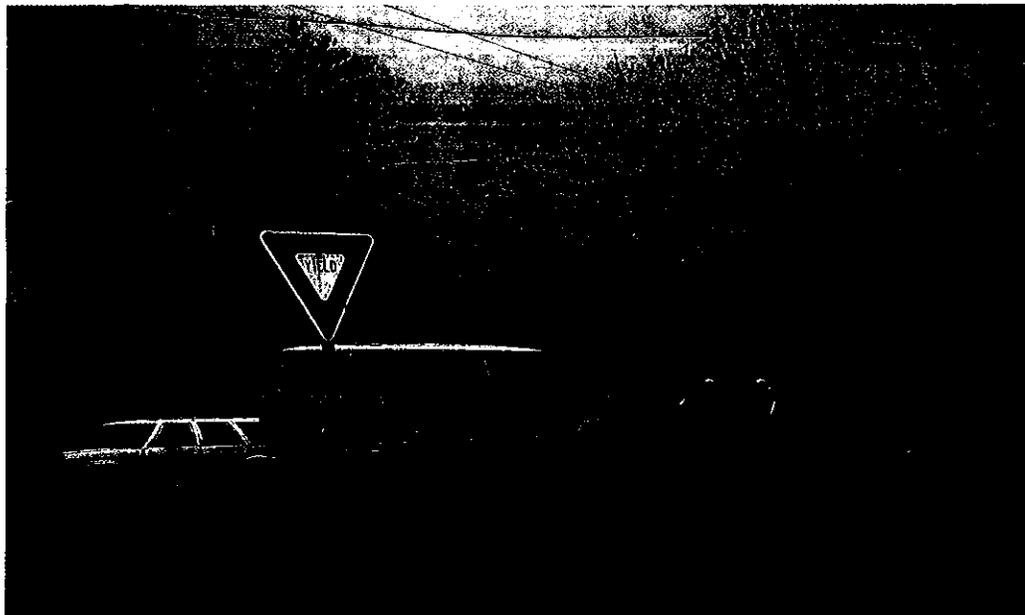
This establishment does not store towing vehicles in the City of Kenosha.

Based on a random inspection, the following flatbed tow vehicle (McDevitt's) was observed at 1907 22nd Street on Friday, February 27, 2009, at 2:53 p.m.



Citizens' Complaints:

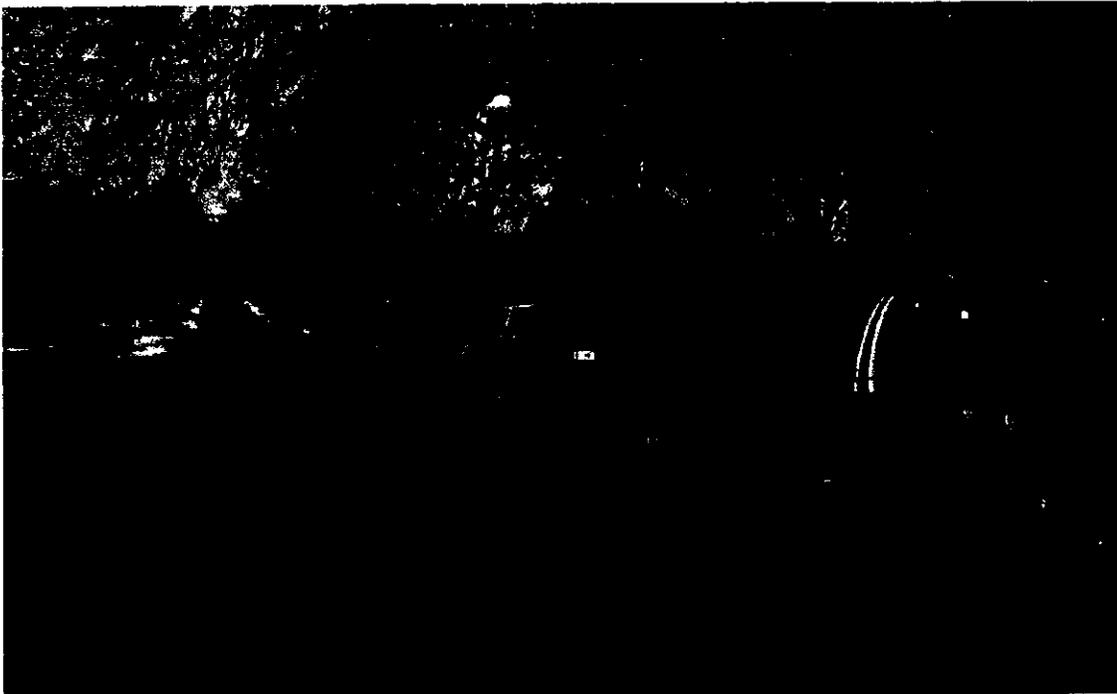
Complaints associated with illegal motor vehicle repair in residential neighborhoods are prevalent. Commercial motor vehicle repair, sales, or other related activities are not permitted uses within residential districts. In many instances, flatbed trailers, wreckers and/or car haulers are utilized by the violator to transport non-roadworthy vehicles to the residence for repair. The following photographs provide an example of a recently filed complaint associated with an illegal motor vehicle repair business, which utilizes an auto transport trailer within a residential neighborhood (66th Street and 31st Avenue).



The following photographs are associated with a January, 2009, aldermanic complaint, which involved a residential-based “repo” business. The operator utilizes a wrecker tow vehicle to transfer vehicles.



Wrecker tow truck located at 5532 33rd Avenue



Wrecker Tow Truck and Repossessed Vehicles

Mayor, Council, PS&W
March 5, 2009
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An intermittent Jeep repair business located at 5807 37th Avenue, utilizes a car hauler trailer to transfer vehicles to the residential property.



Copies of Section 7.129 of the Code of General Ordinances; Section 3.03F of the Zoning Ordinance, the Police Department Tow List, and a map defining tow list business locations are attached for review and discussion purposes.

Sincerely,

DEPARTMENT OF NEIGHBORHOOD
SERVICES AND INSPECTIONS

Handwritten signature of Paula A. Blise in cursive script.

Paula A. Blise, MBA, CCEA
Zoning Coordinator

PAB:kah
Enclosures

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Ordinances. Towers shall have mechanic's lien rights on towed vehicles for towing fees and storage charges, if any. In the event of the nonpayment of towing fees and/or storage charges, towers may, in accordance with procedures prescribed by law, dispose of towed vehicles.

C. Claiming Towed Vehicle. To claim a towed vehicle, claimant must show evidence of proof of ownership to the tower. In the event the tower is not satisfied that the evidence shown clearly demonstrates ownership, the tower may require the claimant to obtain an authorization for the release of the vehicle from the City Police Department. A towed vehicle must be released to the owner if the towing fee and storage charges, if any, are paid. The owner need not pay for any citation or respond to any citation, warrant or commitment as a condition of reclaiming the towed vehicle.

D. Notice of Tow. The City Police Department shall, within twenty-four (24) hours after the tow of an illegally parked vehicle, send by first class mail written notice to the last known registered owner of the towed vehicle at the last known address of said registered owner, as shown by records of the State Department of Transportation, informing said registered owner of the fact of the tow, of the citation issued for illegal parking and of the owner's right to a hearing as herein provided.

E. Hearing. Citation recipients wishing to contest the legality of the citation and of the tow resulting therefrom may obtain a "review" of same by an attorney within the City Attorney's Office within one (1) business day of the receipt of a written request therefor by the City Attorney's Office. At this review, the citation recipient may challenge the basis for the tow and/or citation and may bring witnesses to support their position. If an attorney within the City Attorney's Office determines, following review, that there was probable cause to issue the citation and tow the vehicle, the vehicle may be retained by the tower, unless towing fees and storage charges, if any, are paid and the citation will be processed through the Municipal Court where the citation recipient will be entitled to a full hearing on the merits thereof. In the event that an attorney within the City Attorney's Office determines that there was no probable cause, the citation shall be voided and the towed vehicle, if still in the custody of the tower, will be released immediately without payment of any towing fees or storage charges to the citation recipient. In the event that the citation recipient has previously claimed the towed vehicle and paid the relevant fees and charges therefor, the citation recipient shall be reimbursed for said payment by the City. In the event that the towed vehicle is still in the custody of the tower, the City will reimburse the tower

for the relevant fees and charges.

F. Policy and Procedure. Prior to towing vehicles under this Ordinance, the Police Department shall put into effect a policy and procedure which has been approved by the City Attorney which outlines the administration and enforcement of this Ordinance. Said policy and procedure will be incorporated into this Ordinance by reference and shall be considered a part hereof as if fully set forth herein. A copy thereof shall be filed with the Municipal Court.

7.129 PARKING OF CERTAIN MOTOR VEHICLES AND EQUIPMENT PROHIBITED ON THE EXTERIOR OF ANY RESIDENTIAL PROPERTY AND ON ANY PUBLIC STREET, HIGHWAY, ALLEY, THOROUGHFARE OR RIGHT-OF-WAY IN ANY RESIDENTIAL ZONING DISTRICT OF THE CITY

A. Definitions.

1. **"Commercial"** shall mean for profit or gain, whether full time, part time or incidental.

2. **"Exterior"** shall mean outside of a fully enclosed garage or structure.

3. **"Non-Commercial Pickup Truck"** shall mean a four wheel motor vehicle, having an enclosed cab and an open body with low sides and tailgate, used or maintained privately for the transportation of property solely for personal use.

4. **"Prohibited Motor Vehicles and Equipment"** shall mean commercial trucks and buses, recreational motor vehicles over twenty-four (24') feet in length, a piece of mobile machinery or equipment, such as ditch digging apparatus, power shovels, drag lines and earthmoving equipment, or a piece of road construction or maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, gravel crushers, screening plants, scrapers, tractors, earth movers, front or rear end loaders, conveyors or road pavers, buses, flatbed trucks, semitrailers, semicabs, trailers, coupled or uncoupled, trailers used for landscaping and lawn maintenance equipment, homemade trailers, skid-steer loaders, dump trucks, tow trucks, or street sweepers.

5. **"Park(ed)(ing)"** shall mean to park, store, stand or keep.

6. **"Recreational Vehicles"** shall mean non-commercial vehicles/equipment designed or used for recreational purposes.

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7. "Residential Property" shall mean real property zoned or used for a residential purpose, under the City Zoning Ordinance.

8. "Residential Zoning District" shall mean a City Zoning District where the residential use of property is a permitted or conditional use, as well as any streets, highways or public areas abutting or directly adjacent to a City zoning district where the residential use of property is a permitted or conditional use.

B. Prohibition.

1. It shall be unlawful, except as hereinafter provided, for any owner, agent, operator, or person in charge of any Prohibited Motor Vehicle and Equipment, whether or not used for a commercial purpose, to park, cause to be parked or allow to be parked, such Prohibited Motor Vehicle and Equipment on the exterior of any residential property, or on any public street, highway, alley, thoroughfare, or right-of-way in any residentially zoned district in the City, for a period in excess of one (1) hour, unless engaged in lawful construction work, having all licenses, permits and approvals, where required, which are in full force and effect, customer service activity, repair work, home improvement work, or loading or unloading activities, and, in which event, such Prohibited Motor Vehicle and Equipment shall be promptly removed upon completion of any such activity. This prohibition is subject to the exceptions set forth in **Subsection C.** below.

2. It shall be unlawful, except as hereinafter provided, for any owner, lessee, agent, or person in charge of any residential property to park, cause to be parked, or allow to be parked, any Prohibited Motor Vehicle and Equipment, whether or not used for a commercial purpose, on the exterior of any residential property for a period in excess of one (1) hour, unless engaged in lawful construction work, having all licenses, permits and approvals, where required, which are in full force and effect, customer service activity, repair work, home improvement work, or unless engaged in loading or unloading activities, in which event such Prohibited Motor Vehicle and Equipment shall be promptly removed upon completion of such activity. This prohibition is subject to the exceptions set forth in **Subsection C.** below.

C. Exception. Subsections B.1. and 2. are subject to the following parking exceptions:

1. One (1) bus, flatbed truck used for towing motor vehicles, flatbed truck on pickup truck body, tow truck, semicab, or two (2) of any combination of the above, irrespective of gross weight, used for a commercial purpose, may be parked on the exterior

of any residential property, in excess of one (1) hour, subject to compliance with the special conditions in **Subsection D.**

2. Any pickup truck, tractor or truck which is rendering service or loading or unloading materials.

3. Non-Commercial Pickup Trucks with clean or covered beds, without advertising or stakes inserted in the sides, or bumpers raised more than twenty-six (26") inches from the street.

D. Special Conditions. The following Special Conditions shall apply to the exception in **Subsection C.:**

1. Prohibited Motor Vehicle and Equipment shall be parked off a public street, highway, alley, thoroughfare or right-of-way.

2. Prohibited Motor Vehicle and Equipment parking shall not occur between the street and the front wall of the building or an imaginary line extended parallel to such front wall.

3. Prohibited Motor Vehicle and Equipment shall not be parked on a vacant lot.

4. Prohibited Motor Vehicle and Equipment shall be parked on a parking surface paved with concrete or asphalt.

5. A Recreational Motor Vehicle over twenty-four (24) feet in length, on any public street, highway, alley, thoroughfare, or right-of-way in any residentially zoned district in the City between the hours of 2:00 A.M. and 7:00 A.M. for more than thirty (30) minutes.

E. Other Ordinances. This Ordinance shall not affect the application and enforcement of any other Ordinance on the same subject matter. In the event of a conflict, the stricter Ordinance shall apply.

F. Enforcement. This Ordinance shall be enforced by the Kenosha Police Department. The Police Department shall authorize the towing of unlawfully parked Prohibited Motor Vehicles and Equipment under **Section 7.128** of the Code of General Ordinances. The Police Department will post a sticker on the front windshield of a Prohibited Motor Vehicle and on the front end of a piece of Prohibited Equipment, providing a notice of intent to tow.

G. Penalty. Any person violating this Ordinance, upon conviction thereof, shall forfeit not more than Fifty (\$50.00) Dollars for each violation. Each day of violation shall be a separate violation. Each motor vehicle and equipment parked in violation of this Ordinance shall be a separate violation.

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structure within the RS-3, RG-1 or RG-2 Districts have a larger footprint than the footprint of the principal building. Furthermore, an attached accessory structure within the RS-3, RG-1 or RG-2 Districts shall not have a larger footprint than the footprint of the living area of the principal building. The total ground area covered by all accessory buildings in multifamily residential developments shall not exceed fifteen (15%) percent of the lot area, unless approved under a Conditional Use Permit.

5. Decks. A deck shall not be closer than five (5') feet to an interior side property line, nor closer than fifteen (15') feet to a rear property line.

6. Nonconforming Buildings and Structures. Buildings or structures which were nonconforming as to yard requirements, and which continue to be nonconforming as to yard requirements established by this Ordinance, shall continue to be considered nonconforming and shall not be entitled to the yard exceptions outlined in this Section. Repairs, alterations and additions are permitted to nonconforming buildings and structures as provided in **Section 7.0** of this Ordinance.

E. Building Height Exceptions.

1. Single Family Residences. Single family residences in the RR-1, RR-2, RR-3, Rs-1, Rs-2, Rs-3 and Rg-1 Districts may be increased in height by not more than ten (10') feet above the district height limit when interior side yards are increased to a minimum fifteen (15') feet provided that such residences shall not exceed forty-five (45') feet in height.

2. Antennas. Television and radio receiving antennas, used exclusively for a residence, may be erected to a height which exceeds the height limit established for any residential district, but in no instance may exceed forty-five (45') feet in height.

3. Secondary Religious Facilities. Accessory secondary religious facilities servicing a religious institution located in a residential district may be erected to a height which exceeds the accessory building height limit established for the district, but shall not exceed the principal building height limit established for the district.

F. Home Occupations.

1. Purpose. It is the intent of this Section to permit home occupations in any residential dwelling, provided such uses conform to the standards and conditions set forth in this Section. Custom and tradition are intentionally excluded as criteria. In

general, a home occupation is an accessory use so located and conducted that the average neighbor would not be aware of said use other than for a name plate as herein permitted. The standards and conditions for home occupations in this Section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood.

2. Definition. "Home Occupation" means any business profession, trade or employment conducted in a person's residential dwelling which may involve that person's immediate family and/or household who reside in that residential dwelling and a maximum of one (1) other unrelated person at any one (1) time, but does not include a business involving:

a. Explosives, fireworks, or repair of motor vehicles; or,

b. More than twenty-five (25%) percent of the habitable floor area of the dwelling.

3. Standards for Home Occupations. Home occupations are permitted accessory uses in a residential dwelling only when said use:

a. Is not detrimental to the public health, safety and welfare;

b. Will not impair the basic character of the residential district;

c. Will not cause, create, or result in noxious or unpleasant loud noises;

d. Will not create greater risk of disease, fire, explosion, or other hazard than that which is common to a residential neighborhood;

e. Will not involve the permanent or temporary piling or storing of any goods, merchandise, filled or empty containers, tools, or equipment about the exterior of said premises;

f. Will not involve the parking of construction equipment on or about the property; and,

g. Will not cause parking or traffic congestion in the vicinity.

4. Necessary Conditions. Home occupations are permitted accessory uses in residential districts only so long as all of the following conditions are observed:

a. The occupation is conducted in accordance with the Zoning Ordinance and Code of General Ordinances;

b. The occupation is clearly incidental and secondary to the principal use of the residential building for residential purposes;

c. The Home Occupation shall not require internal or external alterations, or involve construction features not customary in a residential building in a residential district;

d. No mechanical or electrical equipment shall be employed in a home occupation other than

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machinery or equipment ordinarily designed for use in a residence in a residential district, or associated with a home hobby or avocation not conducted for gain or profit;

e. No storage of flammable, toxic or hazardous substances other than such substances customarily used in the conduct of a residence in a residential district or associated with a home hobby not conducted for gain or profit. Other substances customarily used in the occupation may be stored on the premises if approved in writing by the Fire Chief, or designee thereof. The Fire Chief, or designee thereof, may, by written order, limit the nature, quantity, and means of storage of any such substance;

f. No outdoor or window display of goods or outside storage of equipment or materials used in the home occupation shall be permitted;

g. No stock in trade shall be manufactured, displayed, sold or stored on the premises, except as follows. Arts and crafts may be manufactured on the premises. Arts and crafts manufactured on the premises may be displayed, sold and stored on the premises. Other stock in trade shall not be manufactured, sold or stored on the premises, but may be displayed on the premises as a sample. Orders for such other stock in trade may be taken and stock in trade may be delivered to premises provided the manner and frequency of delivery shall not impair the residential character of the premises. Bulk delivery from semi-trailers is prohibited.

h. No sign shall be permitted except in accordance with the provisions of §3.03 of this Ordinance.

5. Nameplate Allowed. Only one (1) nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation (e.g., John Jones, Realtor). It shall not exceed one (1) square foot in area, shall be nonilluminated, and attached flat to the principal structure or visible through a window. The limitation to one (1) nameplate is intended to apply to all lots, including corner lots.

6. Permitted Home Occupations. Home occupations may include the following, but only when in compliance with the previously listed standards and conditions and when no more than six (6) persons (not including nonparticipating parents or legal guardians of minor children) not residing in the residential building are on the premises at any one time for purposes associated with the Home Occupation. Nothing contained herein shall limit the number of persons who, on an incidental and occasional basis, frequent the residence of a person not residing on the premises wherein the home occupation is conducted,

for the purpose of the person involved in the home occupation conducting a show or demonstration and taking orders for stock in trade. "**Incidental and occasional**" shall mean one (1) day or less per calendar month. "**Associated with**" shall mean to be a customer, patron, student or attendee of a meeting.

a. Artists, sculptors and photographers.

b. Authors and composers.

c. Dressmakers, seamstresses, and tailors.

d. Child or adult day care.

e. Arts and crafts.

f. Office facility of a minister, rabbi, priest, or other clergy.

g. Office facility of a salesman, sales representative, or manufacturer representative provided that no retail or wholesale transactions are made on the premises.

h. Office facility of an architect, attorney broker, engineer, instructor in arts and crafts, insurance agent, interior designer, land surveyor, marketing analyst or musician.

i. Classes of instruction in areas in fields such as liberal arts, science, engineering, religion, business or physical education.

j. Facility for the repair of electronic and communication equipment.

k. Sale and distribution of products not manufactured in the residence where the marketing of said products is through home-oriented sales on an appointment basis.

l. Noncommercial Kennel in a single family residence where licensed under §14.015 of the Code of General Ordinances and in compliance with the requirements thereof, subject to the following conditions:

(a) The number of dogs and cats shall not exceed the number for which the premises is licensed under 14.015 of the Code of General Ordinances.

(b) Dogs and cats may be kept in a fenced in rear yard or an outdoor kennel in a rear yard only during daylight hours.

(c) Compliance with State and City laws regulating dogs and cats.

(d) The maintenance of a record of all dogs and cats kept on premises, identifying name, breed, color and sex.

(e) The maintenance of an adoption log identifying adoption activity and dogs and cats adopted, date of adoption and name and address of persons adopting animals.

(f) The rear yard must be fenced to contain dogs and cats, unless kept in an outdoor kennel. The fence must be of a size and construction sufficient to contain the type of dogs and cats kept. The fence must be straight and well maintained.

(g) Dogs and cats with communicable diseases

KENOSHA POLICE DEPT TOW LIST 2009

(2) residences

J&M TOWING/ SERVICES
694-9493

If no answer: Claudia 496-3407

(2 residences)

JENSEN TOWING
656-1100 / 620-0045

JANTZ TOWING (1-2-3)
654-0238 / 654-0239

~ ATLAS SERVICE CENTER
657-2190

2205 Rook

GLASSMAN TOWING
857-2653

(none in City)

Towing Firm	Location	10-28	Date	Time	Case #	Auth.
JANTZ (1)						
J&M SERVICES						
JANTZ (2)						
JENSEN						
JANTZ (3)						
J&M TOWING						
ATLAS SERVICE						
GLASMAN						
JANTZ (1)						
J&M SERVICES						
JANTZ (2)						
JENSEN						
JANTZ (3)						
J&M TOWING						
ATLAS SERVICE						
GLASMAN						
JANTZ (1)						
J&M SERVICES						
JANTZ (2)						
JENSEN						
JANTZ (3)						
J&M TOWING						
ATLAS SERVICE						
GLASMAN						

