

AGENDA
PUBLIC SAFETY & WELFARE COMMITTEE MEETING
Kenosha Municipal Building - Room 202
Monday, September 26, 2011 - 5:00 pm

Chairman:	Jesse L. Downing	Vice Chair:	Lawrence Green
Aldersperson:	Anthony Kennedy	Aldersperson:	Michael J. Orth
Aldersperson:	Rocco J. LaMacchia, Sr.		

Call to Order
Roll Call

A. APPROVAL OF MINUTES

A-1 Approval of the minutes of the meeting held on September 12, 2011.

C. REFERRED TO COMMISSION

C-1 Alderman Request for a 4-Way Stop at 31st Street & 14th Avenue. (*District 6*) (Staff recommends approval 90 day Trial)

C-2 Staff Request for a Southbound Stop Sign at 68th Avenue & 56th Street. (*District 16*) (Staff recommends approval 90 day Trial)

C-3 Proposed Ordinance by Aldersperson Patrick Juliana - To Create Section 1.06 A.A. (*of the Code of General Ordinances*) Entitled "Ethics Board" and to Repeal and Recreate Various Sections of Chapter 30 (*of the Code of General Ordinances*) Entitled "Code of Ethics". (*Also referred to Finance, Public Works, Licensing/Permit and Stormwater Utility Committees*)

C-4 Proposed Ordinance by Aldersperson Steve Bostrom - To Repeal Chapter 28 (*of the Code of General Ordinances*) for the City of Kenosha, Entitled "Vacant Building Code" in its Entirety. (*Also referred to Finance Committee*)

C-5 Proposed Ordinance Regarding 13.0112 (*of the General Code of Ordinances*) Entitled "Non-Structural Demolition."

C-6 Proposed Ordinance Regarding 9.17 B.3 (*of the General Code of Ordinances*) Entitled "Foundation of Razed Building Relating to Alternate Forms of Security, Operating Requirements, and Exceptions and Exemptions to the Requirements."

DISCUSSION ITEM:

1. Parking Lot Lights

CITIZEN COMMENTS/ALDERMEN COMMENTS/OTHER BUSINESS AS AUTHORIZED BY LAW

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4052 BEFORE THIS MEETING

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMBERS OF THE COMMON COUNCIL MAY BE PRESENT AT THE MEETING, AND ALTHOUGH THIS MAY CONSTITUTE A QUORUM OF THE COMMON COUNCIL, THE COUNCIL WILL NOT TAKE ANY ACTION AT THIS MEETING.

PUBLIC SAFETY & WELFARE COMMITTEE
Minutes of Meeting held Monday, September 12, 2011

A meeting of the Public Safety & Welfare Committee was held on Monday, September 12, 2011 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:16 pm by Chairman Downing.

At roll call, the following members were present: Alderpersons Green, Orth, Kennedy, and LaMacchia. Alderperson Orth left during item C-2. Staff members in attendance were Alderperson Eric Haugaard; Matt Knight, Deputy City Attorney; Paula Blise, Zoning Coordinator; Jeff Labahn, Director of City Development; and Brian Wilke, City Development Planner.

It was moved by Alderperson LaMacchia, seconded by Alderperson Green, to approve the minutes from the meeting held on Monday, August 29, 2011. Motion passed unanimously.

C-1. Proposed Ordinance to Repeal and Recreate Various Sections of Chapter 15 (*of the Code of General Ordinances*) Related to Off-Premise Signs.

Public Hearing: Jason Saari, Adams Outdoor, 5732-95th Ave, Ste 500, and Mark Rausch, Clear Channel, 908 Silver Mail Rd, Pewaukee, WI spoke and handed out suggested revision to the Ordinance.

Staff: Matt Knight, Paula Blise, and Brian Wilke were present to answer questions.

- It was moved by Alderperson Orth, seconded by Alderperson Green to strike the following wording from Section 15.15 A.2:
2. A nonconforming off-premise commercial sign removed as a result of a street Right-of-Way taking or for any other reason may be relocated only if the sign is made to conform to this ordinance. Motion carried unanimously.
- It was then moved by Alderperson Orth, seconded by Alderperson Green, to strike the following sentence from Section 15.15 H:
~~An Off-Premise Sign Permit shall be obtained prior to the expiration of subject-credits.~~ Motion carried unanimously.
- Chairman Downing passed the gavel. It was then moved by Alderperson Downing, seconded by Alderperson Orth to strike the following wording from Section 15.15 H.2:
2. Off-Premise Signs shall not exceed three hundred (300) six hundred seventy-two (672) square feet of Sign Face area per Sign Face, not including any trim, supporting frame work, uprights or decorative fencing/apron, with no more than two (2) sides per Sign structure and only one (1) Sign Face per side, for a total Sign Face area of..... Motion carried unanimously.
- It was then moved by Alderperson Green, seconded by Alderperson LaMacchia to strike word from Section 15.15 H.4. Motion carried unanimously.
- Alderman Downing requested that the following information be added to Section 15.15:
 A: Table 2 of this ordinance identifies off-premise sign review procedure requirements.
 G.1. The Replacement Sign Credit shall *“not expire”*.
 G.4. *A Replacement Sign Credit shall be awarded for each sign face removed.*
 Section 9: To create the line pertaining to off-premises in Table 12 of Chapter 15 of the Code of General Ordinances for the City of Kenosha, Wisconsin, *“pertaining to off-premise signs”* as follows:

SIGN DESCRIPTIONS	B-1/B-2/B-3/B-4	IP	M-1/M-2	RG/RS/RD/RR/TRD	RM
Off-Premises Sign Replacement (Same location/ Same size)	OFF-PREMISE SIGN PERMIT	NOT PERMITTED	OFF-PREMISE SIGN PERMIT	NOT PERMITTED	NOT PERMITTED

Off-Premises Sign – New location or relocation	SITE PLAN REVIEW	NOT PERMITTED	SITE PLAN REVIEW	NOT PERMITTED	NOT PERMITTED
Off-Premises Sign – Bulletin Size (14' x 48')	CONDITIONAL USE PERMIT	NOT PERMITTED	CONDITIONAL USE PERMIT	NOT PERMITTED	NOT PERMITTED
Off-Premises Sign – Not in Compliance with 15.15 H.7. of G.C.	CONDITIONAL USE PERMIT	NOT PERMITTED	CONDITIONAL USE PERMIT	NOT PERMITTED	NOT PERMITTED
Digital Display Off-Premises Sign	CONDITIONAL USE PERMIT	NOT PERMITTED	CONDITIONAL USE PERMIT	NOT PERMITTED	NOT PERMITTED

- It was then moved by Alderperson Green, seconded by Alderperson LaMacchia to approve as amended. Motion carried unanimously.

C-2 Proposed Ordinance By Alderpersons Eric Haugaard, Rocco LaMacchia, Tod Ohnstad, Jan Michalski, Anthony Nudo, Steve Bostrom and Jesse Downing - To Renumber Sections 3.03 F., 3.03 G., and 3.03 H. (*of the Zoning Ordinance for the City of Kenosha*) as Sections 3.03 G., 3.03 H., and 3.03 I. and to Create Section 3.03 F. Entitled Accessory Building Exemptions for Residential Property. (*referred back from 9/7/11 Council meeting*) (CP-Ayes 8:Noes 1)
Public Hearing: Alderperson Eric Haugaard, 3818-5th Ave, spoke.
It was moved by Alderperson Green, seconded by Alderperson Kennedy, to approve.
Motion passed unanimously.

ADJOURNMENT - There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 7:04 pm.



Engineering Division
Michael M. Lemens, P.E.
Director/City Engineer
Fleet Maintenance
Mauro Lenci
Superintendent
Park Division
Jeff Warnock
Superintendent

Street Division
John H. Prijic
Superintendent
Waste Division
Rocky Bednar
Superintendent

C-1

DEPARTMENT OF PUBLIC WORKS

Michael M. Lemens, P.E. Interim Director

Municipal Building - 625 - 52nd Street - RM 305 - Kenosha, WI 53140
Telephone (262) 653-4050 - Fax (262) 653-4056

DATE: September 13, 2011
TO: Public Safety and Welfare Committee
FROM: Kevin Risch, P.E., Assistant City Engineer KKR 9-16-11
SUBJECT: Aldermanic Request for a 4-Way Stop 31st Street and 14th Avenue.

This intersection use to be a 4-way stop prior to 1985 when 14th Avenue North of 31st Street was a public street.

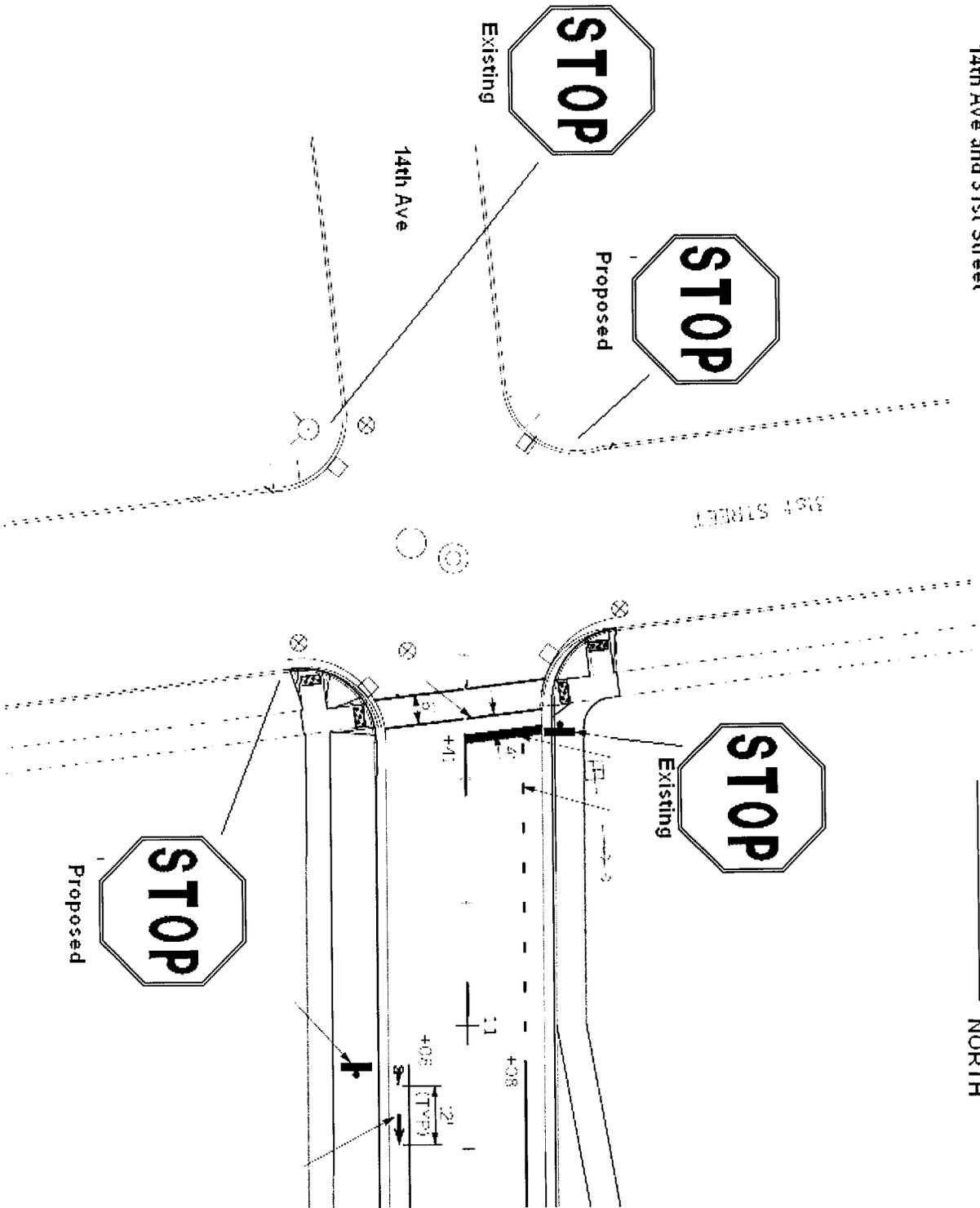
An Aldermanic request has been made to provide a 4-way Stop due to the new extension of 14th Avenue North of 31st Street making this a 4 leg intersection.

A 90 day trial for a 4-way Stop at 31st Street and 14th Avenue is suggested.

KKR:dh

cc: Alderperson Tod Ohnstad—w/a
Michael M. Lemens, Interim Director/City Engineer—w/a
Kevin Risch—w/a
Randy LaClaire—w/a

Existing Intersection of
14th Ave and 31st Street





Engineering Division
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Director/City Engineer
Fleet Maintenance
Mauro Lenci
Superintendent
Park Division
Jeff Warnock
Superintendent

Street Division
John H. Prijic
Superintendent
Waste Division
Rocky Bednar
Superintendent

C-2

DEPARTMENT OF PUBLIC WORKS

Michael M. Lemens, Interim Director

Municipal Building - 625 - 52nd Street - RM 305 - Kenosha, WI 53140
Telephone (262) 653-4050 - Fax (262) 653-4056

DATE: September 19, 2011

TO: Public Safety and Welfare Committee

FROM: Kevin Risch, P.E., Assistant City Engineer KKR 9-19-11

SUBJECT: Request for a Southbound Stop on 68th Avenue at 56th Street

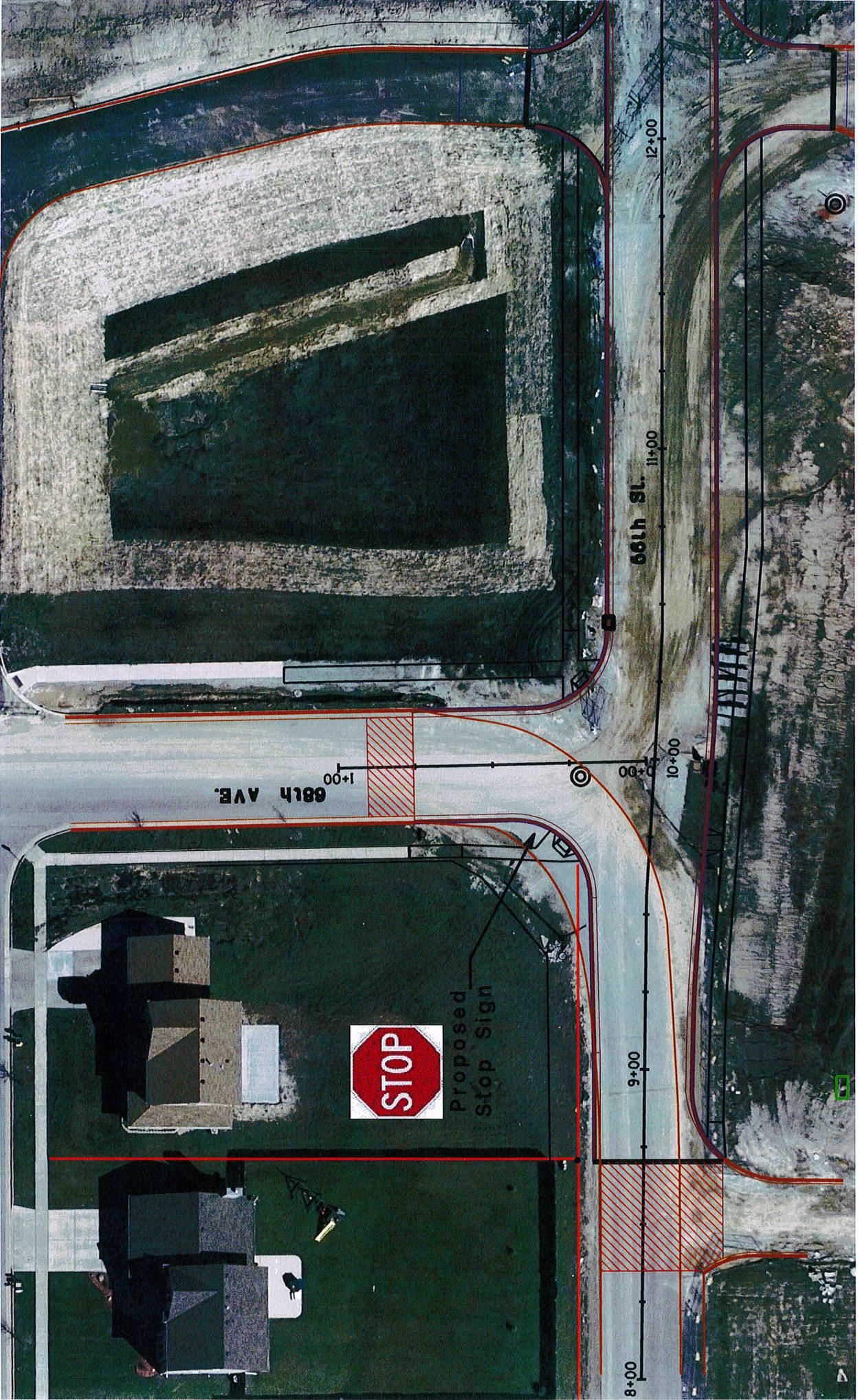
This request is to place a SB Stop Sign at the intersection of 68th Avenue and 56th Street. The city is nearing the completion of constructing a new road (56th Street between 64th Avenue and 68th Avenue) at this location. The intersection will be a "T" intersection with a Private entrance to the west and a new road to the east.

Since this is a school location and there is sight obstruction in the northwest quadrant of the intersection, a stop control may assist in routing traffic through this intersection safely. The project will place crosswalks at this location to add to the visibility near this school.

Staff recommends approval of a 90 day trial for SB stop control on 68th Avenue at 56th Street.

KKR

cc: Alderman Downing, w/a
Michael Lemens, Interim Director/City Engineer, w/a
Kevin Risch, P.E., w/a
Randy LeClaire, P.E., w/a



681h Ave. 1+00

661h St. 11+00



Proposed Stop Sign

12+00

11+00

10+00

9+00

8+00

ORDINANCE NO. _____

Draft 09/12/11**BY: ALDERPERSON PATRICK JULIANA**

TO CREATE SECTION 1.06 A.A. OF THE CODE OF GENERAL ORDINANCES ENTITLED “ETHICS BOARD” AND TO REPEAL AND RECREATE VARIOUS SECTIONS OF CHAPTER 30 OF THE CODE OF GENERAL ORDINANCES ENTITLED “CODE OF ETHICS”

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: **SECTION 1.06 A.A.** of the Code of General Ordinances for the City of

Kenosha, Wisconsin, is hereby created as follows:

1.06 A.A. ETHICS BOARD.

1. Title. There is hereby created an Ethics Board.

2. Purpose. The purpose of the Ethics Board is to render advisory opinions regarding the application of the City of Kenosha Code of Ethics, receive and investigate verified complaints alleging violations of the Code of Ethics, conduct hearings concerning alleged violations of the Code of Ethics, and make written findings of fact conclusions of law, determinations and recommendations regarding violations of the Code of Ethics.

3. Members. There shall be five (5) members who are residents of the City, one of whom shall be an attorney licensed to practice law in this State. Members of the Ethics Board shall not be elected officials, persons appointed to elective office, full-time appointed officials, or City employees, nor shall they be currently serving on any other City Board, Commission or Authority. All members shall be appointed by the Mayor and confirmed by the Common Council.

4. Term. The term of members shall be five (5) years, which shall be staggered by creating initial terms for a period of one (1), two (2), three (3), four (4) and five (5) years, respectively.

5. Officers. The Board shall elect a chairperson and a vice-chairperson from among its members at its initial meeting and annually at its first meeting of each calendar year.

6. By-Laws. The Board may, from time to time, adopt by-laws and rules of procedure fixing the time and place of meeting, prescribing the manner of keeping records, and treating other matters.

7. Duties. The Board shall have the duties specified in Chapter 30 of the Code of General Ordinances as may be amended from time to time.

Section Two: **Sections 30.08 through 30.13** of the Code of General Ordinances for

the City of Kenosha, Wisconsin are hereby repealed.

Section Three: **Sections 30.08 through 30.20** of **Chapter XXX** of the Code of General

Ordinances for the City of Kenosha, Wisconsin are hereby created as follows:

30.08 ADMINISTRATION AND ENFORCEMENT

Except as otherwise provided in this Chapter, the Code of Ethics shall be administered and enforced by the Ethics Board.

30.09 ADVISORY OPINIONS

Any covered person or the Office of the City Attorney may make a written request of the Ethics Board for an advisory opinion regarding the propriety of any matter or matters to which the covered person is or may become a party. Any appointing officer, with the consent of the prospective appointee, may make a written request of the Ethics Board for an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The Ethics Board shall review a written request for an advisory opinion and advise the person making the request. Advisory opinions of the Ethics Board shall be in writing. It shall be prima facie evidence of intent to comply with the Code of Ethics when a person making a written request for an advisory opinion abides by the advisory opinion of the Ethics Board provided the material facts are as stated in the advisory opinion request.

The identity of the person requesting the written advisory opinion, the request for an advisory opinion, any documents or records obtained or filed in connection with the request for an advisory opinion and any written advisory opinion of the Ethics Board shall not be made public and shall be closed in whole to public inspection unless the individual requesting the advisory opinion consents in writing to make public the individual's identity, the request, documents, records and/or advisory opinion. Meetings of the Ethics Board at which deliberations and actions are taken in connection with a written request for an advisory opinion shall not be open to the public. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion, documents or records obtained or prepared by the Ethics Board, including the Ethics Board advisory opinion, in connection with the request for an advisory opinion. Notwithstanding the foregoing, the Ethics Board may, but is not obligated to, make public a summary of an advisory opinion after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion.

30.10 COMPLAINTS

A. Filing of Complaints. Any person may file a complaint against any covered person alleging a violation of the Code of Ethics with the Ethics Board. The complaint shall be filed with the City Department of Human Resources. The complaint shall be in writing and shall be verified. A separate written verified complaint shall be requested for each named covered person. The complaint shall state with specificity the date of the alleged offense, the provision of the Code of Ethics alleged to have been violated, and the facts and circumstances upon which the allegations are based. Allegations shall be deemed to be made upon personal knowledge unless stated as being made upon information and belief.

B. Sufficiency of Complaints. Within ten (10) working days of the receipt of the verified complaint, the Ethics Board shall forward by regular mail to the accused covered person a copy of the verified complaint and a general statement of the applicable provisions of the Code of Ethics. Within twenty (20) working days after mailing, the Ethics Board shall meet to determine whether based upon the face of the verified complaint sufficient facts are alleged to constitute a violation of the Code of Ethics. If the Ethics Board determines that the verified complaint does not allege facts sufficient to constitute a violation of the Code of Ethics, the Ethics Board shall dismiss the complaint and notify the complainant and the accused covered person. If the Ethics Board determines that the verified complaint was brought for harassment purposes, the Ethics Board shall so state.

If the Ethics Board determines that the verified complaint alleges facts sufficient to constitute a violation

of the Code of Ethics, the Ethics Board shall conduct an investigation. The Ethics Board shall authorize any investigation by a motion which shall state the nature and purpose of the investigation and the actions or activities to be investigated. Upon adoption of a motion, the Ethics Board shall notify each accused covered person who is the subject of the investigation. Within ten (10) working days of the adoption of the motion, the Ethics Board shall forward by regular mail a copy of the motion to each accused covered person identified in the motion together with a notice informing the accused covered person that he or she is the subject of the investigation together with a general statement of the applicable provisions of the Code of Ethics involved in the investigation. Service of the notice is complete upon mailing.

If during the course of an investigation, the Ethics Board finds probable cause to believe that a violation of the Code of Ethics other than one contained in the verified complaint has occurred, the Ethics Board may amend the complaint upon its own motion to include such violations and to conduct an investigation. Within ten (10) working days of the adoption of the motion amending the complaint, the Ethics Board shall forward by regular mail to the accused covered person a copy of the motion, the amended complaint and a general statement of the applicable provisions of the Code of Ethics involved in the amended complaint and investigation. Service is complete upon mailing.

C. Limitations. No action may be taken by the Ethics Board on any complaint which is filed with the Ethics Board later than two (2) years after a violation of the Code of Ethics is alleged to have occurred. Any complaint, investigation or prosecution regarding violations of the Code of Ethics initiated prior to the effective date of this ordinance and any proceedings arising therefrom shall proceed pursuant to the provisions of Chapter XXX in effect prior to the effective date of this Ordinance and shall be unaffected by the adoption of this Ordinance.

30.11 POWERS

Pursuant to any investigation or hearing conducted under this Chapter, the Ethics Board has the power to:

A. Require any person to submit in writing such reports, documents, information and answers to questions in connection with the proceedings conducted under this Chapter as the Ethics Board may prescribe, such submission to be made within such period and under oath or otherwise as the Ethics Board may determine.

B. Require all persons who are the subject of the investigation or hearing to execute releases, authorizations and/or waivers to permit the Ethics Board to obtain information and documents in connection with the proceedings conducted under this Chapter as the Ethics Board may prescribe.

C. Administer oaths and issue subpoenas signed by the chairperson, or vice-chairperson in the absence of the chairperson, compelling the attendance and testimony of individuals and the production of any documentary evidence relating to the investigation or hearing being conducted.

D. Request and obtain from the Wisconsin Department of Revenue copies of state income tax returns and access to other appropriate information under Section 71.78 Wis. Stats. regarding all persons who are the subject of the investigation or hearing.

E. Retain the services of a court reporter, investigator, outside legal counsel, or other experts and staff as may be necessary from time to time in the administration of this Chapter.

30.12 PROBABLE CAUSE OF VIOLATION

Upon conclusion of the investigation, the Ethics Board shall make a determination of whether or not

probable cause exists to believe that a violation of the Code of Ethics has occurred. If the Ethics Board determines that no probable cause exists, the Ethics Board shall send written notice of such determination to the accused covered person and the complainant as soon as practicable. If the Ethics Board determines that there is probable cause to believe that a violation of the Code of Ethics has occurred, the Ethics Board shall issue written findings of fact and conclusions setting forth the basis for the probable cause finding which may also contain a referral to the district attorney recommending further investigation and possible prosecution and /or an order setting a date for a hearing to determine whether a violation of the Code of Ethics has occurred. The notice of hearing, probable cause findings and conclusions and a copy of the complaint shall be served upon the accused covered person. The hearing shall be held within forty-five (45) days after the date it is ordered unless the accused covered person petitions for and the Ethics Board consents to a later date. The Board of Ethics shall provide the accused covered person or his or her counsel exculpatory evidence in the possession of the Ethics Board.

30.13 INVESTIGATION AND HEARING PROCEDURE

The Ethics Board shall have the power to adopt by-laws and rules of procedure, including those related to the manner of conducting investigations and hearings. Any hearing before the Ethics Board shall be presided over by the chairperson or vice-chairperson in the absence of the chairperson. The Ethics Board may retain counsel and other experts and staff as needed in accordance with its by-laws to assist and advise the Ethics Board. The accused covered person may be represented by counsel. The accused covered person may present evidence, call and examine witnesses and cross-examine any witnesses called. All witnesses shall be sworn and all testimony shall be recorded by a court reporter. Upon request the Ethics Board shall issue subpoenas to compel the attendance of witnesses. The formal rules of evidence will not apply although basic principles of relevance, materiality, hearsay and probative value will be observed. The Ethics Board shall not find a violation of the Code of Ethics except upon a preponderance of the evidence admitted at the hearing. The hearing shall be conducted in closed session unless the accused covered person requests in writing that the hearing be open to the public.

30.14 DETERMINATIONS

Deliberations of the Ethics Board during or following a hearing shall be in closed session. Unless otherwise extended, within forty-five (45) days following the conclusion of the hearing, the Ethics Board shall issue written findings, determinations, orders and recommendations. If the Ethics Board determines that no violation of the Code of Ethics occurred, the Ethics Board shall as soon as practicable send written notice of such determination to the accused covered person and the complainant. If the Ethics Board determines that a violation of the Code of Ethics has occurred, the findings and determinations may contain one or more of the following orders or recommendations:

A. In the case of a covered person who is a City officer as defined by Wisconsin Statute a recommendation that the City officer be reprimanded, censured, suspended or removed from office. The recommendation shall be made to the appropriate disciplinary authority who may reprimand, censure, suspend or remove the City officer from office.

B. In the case of a covered person who is a City employee a recommendation that the City employee be discipline or discharged. The recommendation shall be made to the appropriate disciplinary authority.

C. An order requiring the covered person to conform his or her conduct to the Code of Ethics.

D. A recommendation that the City Attorney commence a civil forfeiture action in Municipal Court for a violation of the Code of Ethics..

E. A recommendation that the district attorney investigate and/or prosecute.

Notwithstanding the foregoing, no covered person subject to the jurisdiction of the Civil Service Commission or the Board of Police and Fire Commissioners shall be suspended or removed other than in accordance with the rules and regulations thereof.

30.15 REIMBURSEMENT OF LEGAL EXPENSES

In the event a complaint against an accused covered person is dismissed in its entirety the Ethics Board, the accused covered person shall be paid by the City for the reasonable cost of the defense upon assigning to the City any cause of action to recover the legal expenses incurred by the accused covered person from the complainant. The City in its discretion may pursue such assigned cause of action to recover the legal expenses from the complainant where the complaint has been dismissed in its entirety by the Ethics Board.

30.16 PUBLIC INSPECTION OF RECORDS

Except as provided in this Section, all records in the possession of the Ethics Board shall be open to public inspection at all reasonable times. The following records in the possession of the Ethics Board are not open to public inspection:

A. Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions. The Ethics Board may however, make such records public with the consent of the person requesting the advisory opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person is deemed to have waived the confidentiality of the request for an advisory opinion and of any record obtained or prepared by the Ethics Board, including the advisory opinion, in connection with the request for an advisory opinion.

B. Records obtained or prepared by the Ethics Board in connection with an investigation, except that the Ethics Board shall permit inspection of records that are made public in the course of a hearing by the Ethics Board to determine if a violation of the Code of Ethics has occurred. Whenever the Ethics Board refers investigation and hearing records to the appropriate disciplinary authority under Section 30.14 the records may be made public in the course of prosecution initiated under this Ordinance.

30.17 FAILURE TO COOPERATE

The failure of any accused covered person to cooperate with the Ethics Board in the investigation, hearing and disposition of complaints filed under this Ordinance shall be deemed a violation of the Code of Ethics subject to enforcement as provided in this Ordinance.

30.18 SEVERABILITY

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, as finally determined by a court of record, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

30.19 PENALTY

In addition to any other action, any covered person who violates the Code of Ethics shall be subject upon conviction to a forfeiture of not more than One Thousand (\$1,000.00) Dollars plus the cost of prosecution

for each violation, including actual reasonable attorney fees and expenses, and in the event of failure to make timely payment thereof shall be committed to the County Jail for a period not to exceed thirty (30) days.

Section Four: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
JONATHAN A. MULLIGAN
Assistant City Attorney

ORDINANCE NO. _____

BY: ALDERPERSON STEVE BOSTROM

TO REPEAL CHAPTER 28 OF THE CODE OF GENERAL ORDINANCES FOR THE CITY OF KENOSHA, ENTITLED "VACANT BUILDING CODE" IN ITS ENTIRETY

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Chapter 28 of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed in its entirety.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
MATTHEW A. KNIGHT
Deputy City Attorney

ORDINANCE NO. _____

Draft 9/13/11
Draft 9/20/11

SPONSOR: MAYOR

TO CREATE, AMEND, REPEAL, RECREATE AND RENUMBER VARIOUS SECTIONS PROVISIONS OF 13.0112 OF THE CODE OF GENERAL ORDINANCES ENTITLED “NON-STRUCTURAL DEMOLITION” ~~ALLOWING AN OWNER OF PROPERTY TO OBTAIN A PERMIT COVERING CONTRACTORS, ALLOWING FOR ALTERNATE FORMS OF SECURITY, AND ALLOWING FOR AN EXCEPTION TO THE ON-SITE CRUSHING PROHIBITION~~

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 13.0112 B. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

B. Permit. No person may salvage from a Vacated Building ~~without first obtaining~~ unless pursuant to a permit therefor granted by from the Common Council and issued to the applicant.

Section Two: Subsection 13.0112 C. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed, recreated and renumbered as follows:

C. Permit Application.

1. The applicant may be the owner of the real estate, or the Contractor hired by the owner. Under all circumstances, the applicant, if other than the owner, and along with the owner, shall be jointly and severally responsible for compliance with the terms of this Ordinance.

2. Form. Application for a permit, whether initial or renewal, shall be filed with the City Clerk on forms created by the Code Official and provided by the City. The application for a permit shall at a minimum comply with Section 9.05 of the Code of General Ordinances for the City of Kenosha. The Code Official may require additional information of a specific applicant.

23. Fees. A permit fee must accompany the application. Permit fees shall be established by the Kenosha Common Council by resolution.

Section Three: Paragraph 13.0112 D. 4 of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby created as follows:

After grant and after all conditions of issuance have been ~~complied~~ satisfied, the Code Official shall issue the permit to the applicant, who may then be referred to herein as permittee or permit holder.

Section Four: Subsection 13.0112 E. is of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

E. Irrevocable Letter of Credit. As a condition of issuance by the City Clerk of the permit, the

permittee shall post a Irrevocable Letter of Credit with the City in an amount required by the Common Council and in a form approved by the City Attorney. The Irrevocable Letter of Credit shall guarantee ~~of~~ performance by permittee. 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 City on demand without court action and without approval by permittee, to complete work or to repair damage that was the obligation of the permittee. The Irrevocable Letter of Credit must contain as a part of its provisions that it remains as an obligation to the City for no less than one year after completion of the last act by permittee of salvage 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 Common Council 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 on the City should the City have to address any matter due to the unwillingness or inability of the permittee to complete its obligations. Under extraordinary circumstances under which the Common Council determines that the requirement to obtain a Letter of Credit is unreasonable, the Common Council may in the exercise at of its discretion authorize alternate security.

Section Five: Subsection 13.0112 G. of the Code of General Ordinances

for the City of Kenosha, Wisconsin, is hereby amended as follows:

G. General Operating Requirements. The following general operating requirements shall apply to all ~~permit holders~~ permittees or those working for permittee subject to terms of the permit in accordance with the provisions of the ordinance.

Section Six: Paragraph 13.0112 G.5 of the Code of General Ordinances for

the City of Kenosha, Wisconsin, is hereby amended as follows:

5. ~~An applicant~~Permittees for a permit shall have the responsibility to maintain proof of insurance policies in the following minimum amounts, naming the City permit as an additional insured ~~for all entities or natural persons doing work on the property or associated with the work under the permit:~~
 - a. Commercial General Liability:
 1. General Aggregate:
One Million Dollars (\$1,000,000);
 2. Each Occurrence
One Million Dollars (\$1,000,000.00).
 - ab. Automobile Liability (Owned, non-owned, leased)
 - (1) Bodily Injury:
~~\$2,000,000.00~~ One Million Dollars (\$1,000,000) each occurrence
 - (2) Property Damage:
~~\$2,000,000.00~~ One Million Dollars (\$1,000,000) each occurrence.
 - bc. 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; ~~the Common Council may require a greater or lesser minimum amount down to and include zero (0) of Pollution Legal Liability insurance policy, depending on the circumstances of the project that is the subject of the permit.~~

e.d. Workers' 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.e. Umbrella Liability:

\$2,000,000.00 over the primary Commercial General Liability and Automobile Liability insurance coverages listed above.

Section Seven: Paragraph 13.0112 G.7 of the Code of General Ordinances for

the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

7. No mechanized process whatsoever shall be utilized on premises to reduce salvageable material or debris in volume after such salvageable material has been detached from the real property, unless a special exception is provided therefore. Such prohibited mechanized processes include, but are not limited to, crushers or shredders.

Section Eight: Paragraph 13.0112 G.16 of the Code of General Ordinances for

the City of Kenosha, Wisconsin, is hereby created as follows:

16. Permittee must provide to the City, and must maintain current, a list of contractors doing work that is subject to a permit issued pursuant to this Section, which list of contractors shall include proof of valid and subsisting policies of insurance in satisfaction of the General Operating Requirements specified herein. As used herein, the phrase "maintain current" means that the list filed with the City is updated by the permittee prior to the contractor commencing work pursuant to the permit.

Section EightNine: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ORDINANCE NO. _____

SPONSOR: MAYOR

**TO CREATE, AMEND, REPEAL, RECREATE AND RENUMBER
VARIOUS PROVISIONS OF 13.0112 OF THE CODE OF GENERAL
ORDINANCES ENTITLED “NON-STRUCTURAL DEMOLITION”**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 13.0112 B. of the Code of General Ordinances for the City of

Kenosha, Wisconsin, is hereby repealed and recreated as follows:

B. Permit. No person may salvage from a Vacated Building unless pursuant to a permit therefor granted by the Common Council and issued to the applicant.

Section Two: Subsection 13.0112 C. of the Code of General Ordinances for the City of

Kenosha, Wisconsin, is hereby repealed, recreated and renumbered as follows:

C. Permit Application.

1. The applicant may be the owner of the real estate, or the Contractor hired by the owner. Under all circumstances, the applicant, if other than the owner, and the owner, shall be jointly and severally responsible for compliance with the terms of this Ordinance.

2. Form. Application for a permit, whether initial or renewal, shall be filed with the City Clerk on forms created by the Code Official and provided by the City. The application for a permit shall at a minimum comply with Section 9.05 of the Code of General Ordinances for the City of Kenosha. The Code Official may require additional information of a specific applicant.

3. Fees. A permit fee must accompany the application. Permit fees shall be established by the Kenosha Common Council by resolution.

Section Three: Paragraph 13.0112 D. 4 of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby created as follows:

After grant and after all conditions of issuance have been satisfied, the Code Official shall issue the permit to the applicant, who may then be referred to herein as permittee or permit holder.

Section Four: Subsection 13.0112 E. is of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

E. Irrevocable Letter of Credit. As a condition of issuance by the City Clerk of the permit, the permittee shall post a Irrevocable Letter of Credit with the City in an amount required by the Common Council and in a form approved by the City Attorney. The Irrevocable Letter of Credit shall guarantee performance by permittee. 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 City on demand without court action and without approval by permittee, to complete work or to repair damage that was the obligation of

the permittee. The Irrevocable Letter of Credit must contain as a part of its provisions that it remains as an obligation to the City for no less than one year after completion of the last act by permittee of salvage 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 Common Council 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 on the City should the City have to address any matter due to the unwillingness or inability of the permittee to complete its obligations. Under extraordinary circumstances under which the Common Council determines that the requirement to obtain a Letter of Credit is unreasonable, the Common Council may in the exercise of its discretion authorize alternate security.

Section Five: Subsection 13.0112 G. of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby amended as follows:

G. General Operating Requirements. The following general operating requirements shall apply to all permittees or those working for permittee subject to terms of the permit in accordance with the provisions of the ordinance.

Section Six: Paragraph 13.0112 G.5 of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby amended as follows:

5. Permittees shall have the responsibility to maintain proof of insurance policies in the following minimum amounts, naming the City as an additional insured for all entities or natural persons doing work on the property or association with the work under the permit:

a. Commercial General Liability:

1. General Aggregate:
One Million Dollars (\$1,000,000);
2. Each Occurrence
One Million Dollars (\$1,000,000.00).

b. Automobile Liability (Owned, non-owned, leased)

1. Bodily Injury:
One Million Dollars (\$1,000,000) each occurrence
2. Property Damage:
One Million Dollars (\$1,000,000) each occurrence.

c. 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; the Common Council may require a greater or lesser minimum amount down to and including zero (0) of Pollution Legal Liability insurance policy, depending on the circumstances of the project that is the subject of the permit.

d. Workers' Compensation: Statutory Limits

e. Umbrella Liability:

\$2,000,000.00 over the primary Commercial General Liability and Automobile Liability insurance coverages listed above.

Section Seven:

Paragraph 13.0112 G.7 of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

7. No mechanized process whatsoever shall be utilized on premises to reduce salvageable material or debris in volume after such salvageable material has been detached from the real property, unless a special exception is provided therefore. Such prohibited mechanized processes include, but are not limited to, crushers or shredders.

Section Eight:

Paragraph 13.0112 G.16 of the Code of General Ordinances for the City

of Kenosha, Wisconsin, is hereby created as follows:

16. Permittee must provide to the City, and must maintain current, a list of contractors doing work that is subject to a permit issued pursuant to this Section, which list of contractors shall include proof of valid and subsisting policies of insurance in satisfaction of the General Operating Requirements specified herein. As used herein, the phrase "maintain current" means that the list filed with the City is updated by the permittee prior to the contractor commencing work pursuant to the permit.

Section Nine:

This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ORDINANCE NO. _____

SPONSOR: MAYOR

**TO REPEAL AND RECREATE ~~VARIOUS PROVISIONS OF SECTION~~
~~PARAGRAPH 9.17 B.3~~ OF THE CODE OF GENERAL ORDINANCES
FOR THE CITY OF KENOSHA ENTITLED “~~RAZING OF BUILDINGS~~”
~~FOUNDATION OF RAZED BUILDING~~ RELATING TO ALTERNATE
FORMS OF SECURITY, OPERATING REQUIREMENTS, AND EXCEPTIONS
AND EXEMPTIONS TO THE REQUIREMENTS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Paragraph 9.17 A.3. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

3. Surety Bond. Any application for a Permit to engage in the razing of Buildings within the boundaries of the City shall be accompanied by a Surety Bond, approved by the City Attorney as to form, in the amount of the actual cost of the Permitted Work. Such bond shall guarantee that all Work is performed in accordance with this Code and other State and local laws, rules and regulations, and hold the City harmless from any costs and expenses arising from the Permitted Work and secure timely performance of the Work. The City may reasonably require a bond of a greater amount, on a case-by-case basis, where deemed necessary, to protect the City. In extraordinary circumstances, the Common Council may allow for an alternate form of security in an amount deemed reasonably necessary and sufficient.

Section ~~One~~Two: Paragraph 9.17 B.3. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

3. Foundation of Razed Building. Whenever a Building has been razed, the foundation thereof, if any, shall be leveled to at least one (1') foot below grade and filled in with ~~ninety-five (95%) percent noncombustible~~ clean fill material approved by the City Engineer with the top two (2') feet of fill material being of dirt or sand. No combustible material may be used for the fill material ~~placed in said foundation.~~

Section ~~Two~~Three: Paragraphs 9.17 C. and D. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

C. Exceptions

After consideration of the factors in this Subsection C., the City Engineer or his or her designee, which designee is a licensed engineer, may grant an exception for any property for which the City will be taking title to the leveling and/or filling provisions of paragraph B.3 and/or the removal and replacement provision of paragraph B.4 and/or the grading or seeding requirements of paragraph B.5. In the exercise of discretion in granting an exception, the City Engineer or his or her designee, shall consider the following factors:

1. Type of contamination that may be on the property or the larger, integrated site associated with the building to be razed;
2. Suspected level of contamination on the property based on best evidence available;
3. Possible vectors of migrations from the property;
4. Any known migration of contamination from the property;
5. Reasonableness of other means of remediation or containment;
6. Any communication from the state or federal government suggesting the necessity or adequacy of maintaining the foundation, or portion thereof, for environmental protection.

D. Exemption.

1. Residential Remodeling. This Section shall not be construed to apply to contractors or homeowners doing demolition Work on part of a Building which is necessary in the course of Building construction Work being conducted under a Building Permit.

D.2. Accessory Buildings and Detached Garages. This Section shall not apply to demolition of Accessory Buildings or detached garages not greater than five hundred (500) square feet.

Section ThreeFour: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ORDINANCE NO. _____

SPONSOR: MAYOR

TO REPEAL AND RECREATE VARIOUS PROVISIONS OF SECTION 9.17 OF THE CODE OF GENERAL ORDINANCES FOR THE CITY OF KENOSHA ENTITLED “RAZING OF BUILDINGS” RELATING TO ALTERNATE FORMS OF SECURITY, OPERATING REQUIREMENTS, AND EXCEPTIONS AND EXEMPTIONS TO THE REQUIREMENTS

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Paragraph 9.17 A.3. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

3. Surety Bond. Any application for a Permit to engage in the razing of Buildings within the boundaries of the City shall be accompanied by a Surety Bond, approved by the City Attorney as to form, in the amount of the actual cost of the Permitted Work. Such bond shall guarantee that all Work is performed in accordance with this Code and other State and local laws, rules and regulations, and hold the City harmless from any costs and expenses arising from the Permitted Work and secure timely performance of the Work. The City may reasonably require a bond of a greater amount, on a case-by-case basis, where deemed necessary, to protect the City. In extraordinary circumstances, the Common Council may allow for an alternate form of security in an amount deemed reasonably necessary and sufficient.

Section Two: Paragraph 9.17 B.3. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows:

3. Foundation of Razed Building. Whenever a Building has been razed, the foundation thereof, if any, shall be leveled to at least one (1') foot below grade and filled in with clean fill material approved by the City Engineer with the top two (2') feet of fill material being of dirt or sand. No combustible material may be used for the fill material.

Section Three: Paragraphs 9.17 C. and D. of the Code of General Ordinances for the City of Kenosha, Wisconsin, are hereby repealed and recreated as follows:

C. Exceptions

After consideration of the factors in this Subsection C., the City Engineer or his or her designee, which designee is a licensed engineer, may grant an exception for any property for which the City will be taking title to the leveling and/or filling provisions of paragraph B.3 and/or the removal and replacement provision of paragraph B.4 and/or the grading or seeding requirements of paragraph B.5. In the exercise of discretion in granting an exception, the City Engineer or his or her designee, shall consider the following factors:

1. Type of contamination that may be on the property or the larger, integrated site associated with the building to be razed;
2. Suspected level of contamination on the property based on best evidence available;
3. Possible vectors of migrations from the property;
4. Any known migration of contamination from the property;
5. Reasonableness of other means of remediation or containment;
6. Any communication from the state or federal government suggesting the necessity or adequacy of maintaining the foundation, or portion thereof, for environmental protection.

D. Exemption.

1. Residential Remodeling. This Section shall not be construed to apply to contractors or homeowners doing demolition Work on part of a Building which is necessary in the course of Building construction Work being conducted under a Building Permit.

2. Accessory Buildings and Detached Garages. This Section shall not apply to demolition of Accessory Buildings or detached garages not greater than five hundred (500) square feet.

Section Four: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney