

CHAPTER XXVIII
VACANT BUILDING CODE

28.01 TITLE

This Chapter of the Code of General Ordinances shall be known as the "Vacant Building Code".

28.02 PURPOSE

A. This Code is enacted to facilitate the identification, inspection of, and to assure the property maintenance of vacant buildings for the purpose of preserving and promoting the public health, safety, prosperity and general welfare, and to abate and prevent public and private nuisances and potential fire hazards.

B. The Common Council of the City of Kenosha, Wisconsin, finds that there are now, and may in the future be, vacant buildings which are dilapidated, unsafe, unhygienic and inadequately maintained so as to create or contribute to blight and so as to jeopardize the health, safety, prosperity and general welfare, and so as to create a public and/or private nuisance.

C. Intent. The purpose of the Code is to establish the measures and requirements reasonably necessary to protect the health, safety and welfare of the public from the public nuisances, blight and negative market impact of vacant or abandoned buildings and structures.

28.03 GENERAL

Scope. The provisions of this Code shall apply to all existing vacant commercial and mixed occupancy buildings, and constitute minimum requirements for permitting and maintaining vacant commercial and mixed occupancy buildings.

28.04 RULES OF INTERPRETATION AND DEFINITIONS

A. Rules of Interpretation.

1. Tense. Words used in the present tense shall be interpreted to include the future tense.

2. Gender. Words used stating or implying gender shall be interpreted to include the masculine, feminine and neuter.

3. Number. Words used implying the singular shall be interpreted to include the plural, where appropriate, and vice versa.

4. "May" and "Shall".

- a. The word "may" is permissive.
- b. The word "shall" is mandatory and not directory.

5. "Used For". The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "arranged for".

B. Definitions.

1. Accessory Building/Structure. A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principal building or structure or use of the land; i.e., a child's playhouse, garden house, greenhouse, garage, carport, shed, fence, or retaining wall.

2. Building. Any Structure used or intended for supporting or sheltering any use or occupancy.

3. Code of General Ordinances. The Code of General Ordinances for the City of Kenosha, Wisconsin, which includes the Vacant Building Code.

4. Code Official. The Director of the Department of Neighborhood Services and Inspections, or any duly authorized designee of the Director.

5. Department. The Department of Neighborhood Services and Inspections of the City of Kenosha, Wisconsin.

6. Exterior Premises. The open space on the premises or the portion of the premises upon which there is not a structure.

7. Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

8. Good Repair. "Good Repair" shall mean free from blighting and hazardous conditions, clean and sanitary, and in a safe condition.

9. Imminent Hazard. A condition which could cause serious or life-threatening injury or death at any time.

10. Mixed Occupancy. Occupancy of a structure in part for residential use and in part for some other lawful use under the Zoning Ordinance, not accessory thereto.

11. Occupied. A building is occupied when it is open to the public, when a business or manufacturing activity is performed therein, when people reside therein, or when any personal property is moved therein. Any building or structure shall be

deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Chapter, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer.

12. Owner. Any person having a title to the premises, as recorded in the Office of the Register of Deeds for Kenosha County, or as recorded on the City of Kenosha assessment rolls.

13. Partially Vacant. A multi-storied building or structure that has one (1) or more stories vacant.

14. Responsible Person. A natural person who is the owner, operator or manager of any structure or premises.

15. Rubbish. Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

16. Structure. Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

17. Unified Business District. Any commercial building or group of commercial buildings comprised of permitted and/or conditional uses located on a lot or group of lots, which lot or group of lots has a common ownership, and which is planned, developed or functions as a unit.

18. Vacant. A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupants or tenant(s) on a permanent, nontransient basis.

19. Waste. "Waste" shall mean garbage, ashes, rubbish and trash, but not of an earthy or construction nature.

20. Weeds. "Weeds" or "Noxious Weeds" shall mean Canada thistle, leafy spurge, field

bindweed (Creeping Jenny), *Ambrosia trifida* (commonly called Giant Ragweed), *Arubosia trifida* (commonly called Common Ragweed), and such other weeds as are defined in "Weeds of the Northern Central States, North Central Regional Research Publication No. 281, Bulletin 772", published by the University of Illinois at Urbana-Champaign, College of Agriculture, Agricultural Experiment Station.

21. Zoning Ordinance. The Zoning Ordinance for the City of Kenosha, Wisconsin.

C. Terms Defined Elsewhere. Where terms are not defined in this Code and are defined in other City Ordinances, Codes or ASHRAE and NFPA 70, such terms shall have the meanings ascribed to them therein.

D. Terms Not Defined. Where terms are not defined herein, or through the methods of interpretation authorized by this Section, such terms shall have ordinarily accepted meanings, such as the context indicates.

28.05 APPLICABILITY

A. General. The provisions of this Vacant Building Code shall apply to all manufacturing, commercial, institutional and mixed occupancy buildings vacant for one hundred eighty (180) consecutive days, and all manufacturing, commercial and mixed occupancy buildings, which have been partially vacant for one hundred eighty (180) days and have a history of violations of the Code of General Ordinances or of the Zoning Ordinance. All buildings with a valid City of Kenosha Building or Raze Permit shall also be exempt from the provisions of this Code.

B. Conflict. In any case where a provision of this Code is found to be in conflict with a provision of the Zoning Ordinance or any other provisions of the Code of General Ordinances, the provision which established the higher standard for the protection of the public health, safety and welfare shall prevail.

C. Application of Other Ordinances. Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Code of General Ordinances or the Zoning Ordinance. Repairs, additions or alterations to a structure shall be done in accordance with the procedures and provisions of State law, **Chapter 9** of the Code of General Ordinances and NFPA 70. Nothing in this Vacant Building Code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance.

D. Existing Remedies. The provisions in this Code shall not be construed to abolish or impair existing remedies of the City, or its officers or agencies, under State laws or other City General or Zoning Ordinances relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary, or the abatement of public nuisances.

E. Historic Buildings. The provisions of this Code shall apply to structures designated by the Federal Government, State or City as historic buildings. Any work to said structures shall also comply with Chapter 15 of the Zoning Ordinance and Chapter 70 ILHR of the Wisconsin Administrative Code.

F. Referenced Statutes, Ordinances, Codes and Standards. The Statutes, Ordinances, Codes and standards referenced in this Code shall be incorporated herein by reference and be a part of the requirements of this Code to the prescribed extent of each such reference, and include amendments, renumbering and successor acts.

G. Requirements Not Covered By This Code. The requirements necessary for the strength, stability, or proper operation of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this Code, shall be determined by the Code Official, subject to a right of appeal to the Board of Housing Appeals.

28.06 SEVERABILITY

A. If any provision of this Vacant Building Code is, for any reason, held to be unconstitutional, invalid or unenforceable by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining provisions of this Code, which shall remain in full force and effect.

B. If the application of any provision of this Vacant Building Code is for any reason held to be an invalid application to a particular premises or structure by any court of competent jurisdiction, such provision shall continue to apply and remain in full force and effect to any premises or structure not specifically included in said judgment.

28.07 CODE OFFICIAL

A. Code Official. The Code Official shall have the authority to exercise the powers and duties of the position specified in this Code. The Code Official shall administer and enforce this Code.

B. Code of Conduct. The Code Official, in administering and enforcing this Code, shall abide by

the City of Kenosha's Code of Ethics and the Department's Code of Conduct.

C. Inspections. The Code Official has the power to inspect Premises and structures to determine compliance with this Code. All reports of such inspections shall be in writing, signed or initialed and dated. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise in the course of their duties, in accordance with Department policy.

D. Right Of Entry. The Code Official is authorized to enter structures or Premises, at reasonable times, with the express or implied consent of the owner, operator or occupant, to inspect in accordance with the Department's Policy and Procedure for Entering Onto Private Property to conduct administrative interior and exterior inspections for Code administration and enforcement and Licensing/Permitting purposes specified in other ordinances. If entry is refused or not obtained, the Code Official is authorized to pursue recourse to obtain entry as provided by law.

E. Reinspections. Every owner, operator and occupant of a Premises shall cooperate with and facilitate reinspections of Premises at reasonable times pursuant to reasonable notice by the Code Official to determine Code compliance with an Order to Repair. Failure by said owner, operator or occupant to cooperate with and facilitate such reinspections by the Code Official shall be a violation of this Code.

F. Obstruction. No owner, or operator of a Premises may deny the Code Official the right to enter and inspect any portion thereof under the control of a lawful occupant where such occupant has consented to said entry and inspection.

G. Denial of Entrance. No occupant of a Premises shall obstruct the owner thereof from complying with any order(s) of the Code Official made under authority of this Code. Obstruction shall include the denial of entrance into a Premises at reasonable times pursuant to reasonable notice.

H. Identification. The Code Official shall carry Department issued identification when entering and inspecting Premises in the performance of their duties under this Code and display such identification, when asked.

I. Notices and Orders. The Code Official shall, as necessary, issue notices and orders to responsible persons and tenants, where relevant, to obtain compliance with this Code.

J. Department Records. The Director of the Department is responsible for keeping official records of all business and activities of the Department specified in the provisions of this Code in accordance with State and City record keeping requirements.

28.08 VACANT OR ABANDONED BUILDING OR STRUCTURE REQUIREMENTS

A. Vacant Building Permit. The owner of a vacant building or structure shall obtain a Vacant Building Permit for the period during which it is vacant. When a building or structure becomes vacant, as defined by this Code, the owner of the building or structure shall apply for and obtain a Vacant Building Permit and pay the fee, as set forth in **Section 28.09**.

Upon the expiration of a Vacant Building Permit, if the building or structure is still vacant, the owner shall arrange for an inspection of the building and premises with the Code Official pursuant to **Section 28.09**, and renew the permit within ten (10) days of expiration in the same manner as the expired permit. All renewed permits shall be subject to all conditions and obligations imposed by this Code.

B. Code Compliance. The owner of a vacant building or structure shall comply with all building, fire, property maintenance, zoning, and other applicable Codes or Ordinances, and shall apply for all necessary building, fire prevention and zoning permits upon application for a Vacant Building Permit.

C. Waste Removal. The owner of a vacant building or structure shall immediately remove all waste from the interior of the structure. The owner of a vacant building or structure shall also immediately remove any waste, debris or excessive vegetation from the exterior premises surrounding the vacant building or structure in accordance with the vacant building maintenance standards of this Code and the Code of General Ordinances.

D. Owner's Responsibility. The owner of a vacant building or structure shall immediately lock, barricade or secure all doors, windows and other openings in the building or structure to prohibit entry by unauthorized persons in accordance with the Vacant Building Maintenance Standards of this Code.

If the owner does not reside within the State, the owner shall provide to the Code Official, the name, address and telephone number of an agent who is available for service of process within the State of Wisconsin.

The owner shall provide to the Code Official, the name, address and telephone number of a manager

who is a natural person who is available for contact by the Code Official at all times for emergency repairs and maintenance, and who will respond to the vacant building or structure when required by the Code Official.

The agent and manager may be the same person, and/or either may be a Responsible Person.

The owner shall notify the Code Official within thirty (30) business days of any changes to the name, address or telephone number of the agent or manager.

E. Owner's Obligations Continuous Through Term of Vacancy. The obligations of owners of a vacant building or structure are continuing obligations which are effective throughout the time of vacancy, as that term is defined in this Code.

28.09 VACANT BUILDING PERMIT; INSPECTION; MAINTENANCE STANDARDS; FEES

A. Permit Application. Application by the owner of a vacant building or structure for a Vacant Building Permit shall be made on a form provided by the Code Official. Applicants shall disclose all measures to be taken to ensure that the building will be kept weathertight, secure from trespassers, and safe for entry by police officers and firefighters in times of exigent circumstances or emergency. The application shall include, but not be limited to, the following:

1. Contact information for each owner. If the owner is other than a natural person or persons, the following shall apply, as appropriate:

a. If the owner is a corporation, limited liability company, limited or liability partnership, the registration statement shall provide the names and residence addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to Wisconsin State Statutes.

b. If an estate, the name and business address of the personal representative of the estate.

c. If a trust, the names and addresses of the trustee or trustees.

d. If a partnership, the names and residence addresses of the partner or partners.

e. If another form of unincorporated association, the name and residence address of a responsible person.

f. If an individual person, the name and residence address of that individual person.

2. Any rehabilitation or demolition plans.

3. An acknowledgment by the owner that grass

and weeds shall not exceed a height of eight (8") inches, and that snow and ice shall be removed from the public right-of-way within twenty-four (24) hours of a snowfall.

B. Inspection of Premises.

1. Purpose. The Code Official, or his/her designee, may inspect vacant buildings to determine the structural integrity of the building, the repairs necessary to maintain structural integrity, to determine what repair actions must be undertaken to maintain the premises safe for entry of police officers and firefighters in times of exigent circumstances or emergency, that the building and its contents do not present an imminent hazard to the public during the time that the building remains vacant, and that the building and structure are in compliance with the Vacant Building Maintenance Standards.

2. Inspector. The Code Official, or his/her designee, may conduct inspections made pursuant to the provisions of this Vacant Building Code in conjunction with other inspectors of the Department, police officers, firefighters, or inspectors from other governmental bodies.

3. Types of Inspections.

a. Code Official Directed.

(1) Implied Consent. Any owner of a building, which is either the subject of a Vacant Building Permit or an application filed by a responsible person, for a Vacant Building Permit, is deemed to have given consent to inspections of the building.

(2) Reinspections. At any time subsequent to the issuance of an Order to Repair, the Code Official may conduct reinspections to determine compliance with the Order to Repair. Such reinspections will be conducted only after a reasonable time has been afforded to a responsible party to comply with portions of the Order. Reinspections are subject to reinspection fees under **Section 28.11**.

(3) Emergency Inspections/Emergency Repairs. If, at any time, the Code Official has reason to believe than an emergency situation exists with respect to the building, which tends to create an imminent hazard to health, welfare or safety of the general public, the Code Official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If the Code Official finds an emergency situation exists in fact, which presents an imminent hazard to the health, welfare or safety of the general public, the maintenance of which, until such time as the responsible party could conduct the repairs, would be unreasonable, the Code Official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs. Costs incurred in the performance of

emergency repairs shall be paid by the City and the Code Official shall recover the costs through special assessments levied against the benefited property. A One Hundred (\$100.00) Dollar administrative fee for processing and administering the special assessment shall be added to the special assessment against the benefited property.

(4) Inspections Made Pursuant To A Special Inspection Warrant. If any responsible party takes any action contrary to the Implied Consent given by the owner in Section 28.09 B.3.a.(1), above, the owner hereby consents to the issuance of a Special Inspection Warrant by a judge of a court of competent jurisdiction, pursuant to Section 66.0119, Wisconsin Statutes, or any successor thereof. Any interior inspection made pursuant to a Special Inspection Warrant shall be deemed a reinspection for the purpose of imposition of fees pursuant to **Section 28.11**.

b. Responsible Party Requests For Inspection. Requests from responsible parties for inspections of buildings which are both subject to a Vacant Building Permit and are under the control of the requesting responsible party.

C. Issuance of Orders To Repair. The Code Official, upon inspection, shall issue orders to repair for work needed to:

1. Adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the Vacant Building Maintenance Standards set forth in this Code; and,

2. Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officers or firefighters entering the premises in times of emergency.

When issuing such orders, the Code Official shall specify the time for completion of the work. All work done pursuant to this Section shall be done in compliance with the applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.

D. Issuance of Vacant Building Permit. The Code Official shall issue a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with the Vacant Building Maintenance Standards set forth in this Vacant Building Code, and is adequately protected from intrusion by trespassers and from deterioration by the weather. This Permit shall be effective for a

period of three hundred sixty (360) days.

E. Vacant Building Maintenance Standards.

A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following Vacant Building Maintenance Standards:

1. Building Openings. Doors, windows, areaways, and other openings shall be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken glass in doors, windows and other such openings shall be repaired/replaced with glass. No building opening shall be boarded.

All first floor or ground level windows, doors and openings shall be free of any posters, paper or fabric coverings.

2. Roofs. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain or roof draining; and, allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.

3. Drainage. The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.

4. Building Structure. The building shall be maintained in good repair, structurally sound, and free from debris, rubbish and garbage. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety and welfare.

5. Structural Members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.

6. Foundation Walls. The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rat-proof.

7. Exterior Walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

8. Decorative Features. The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

9. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

10. Chimneys and Towers. Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

11. Walkways. Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of snow and ice. Snow and ice removal shall be completed within twenty-four (24) hours of a snowfall.

12. Accessory Building/Structures. Accessory buildings/structures such as garages, sheds and fences shall be free from safety, health and fire hazards; and, shall comply with these Vacant Building Maintenance Standards.

13. Exterior Premises. The premises upon which the structure or building is located shall be clean, safe, sanitary, free from waste, rubbish, garbage, excessive vegetation, exterior storage, and shall not pose a threat to the public health, welfare or safety.

F. Vacant Building Permit Fee. The Common Council shall from time to time, by Resolution, establish a Vacant Building Permit fee.

G. Unpaid Permit. If an application for a Vacant Building Permit is filed, and following mailing of a second notice of Permit fees due to the applicant, Permit fees, as provided for by this Chapter, remain unpaid, said fees shall be charged to the property owner of record as a special assessment against the real estate upon which the Permit is issued and shall be a lien upon the Premises until paid in full, with interest accruing on the unpaid balance at a rate of interest established in

Section 2.10 of the Code of General Ordinances. There shall also be a One Hundred (\$100.00) Dollar Administrative Fee added to the charge and special assessment to cover the administrative costs of charging and assessing the Premises.

28.10 BOARD OF HOUSING APPEALS

Appeal and Fee. Any person receiving a notice of violation and order which has been issued in connection with the enforcement of any provision of this Code and aggrieved thereby, may appeal the order and shall be granted a hearing on the matter before the Board of Housing Appeals, provided that such person shall file in the Office of the Department of Neighborhood Services and Inspections a written notice of appeal and request for hearing, setting forth a brief statement of the grounds therefor, within twenty (20) days after the date the notice of violation and order was served. Upon receipt of such appeal, the Board of Housing Appeals shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice of violation and order should be modified or withdrawn. No appeal to the Board of Housing Appeals shall be deemed perfected or shall be heard until the appellant shall pay an appeal fee of Twenty-five (\$25.00) Dollars.

28.11 REINSPECTION FEES

To compensate the City for inspection and administrative costs related to the enforcement of this Chapter, an escalating fee established by the Common Council through resolution, may be charged for any reinspection following the initial inspection which resulted in a order for corrective action, and the first reinspection to determine compliance with an order for corrective action issued hereunder. There shall be no reinspection fee for a final inspection indicating compliance, or for a reinspection occurring during the period of an approved time extension granted for good cause and involving a good faith effort on the part of the property owner to comply with the order.

Reinspection fees which are not paid by or on behalf of the property owner within thirty (30) days of mailing an invoice to the property owner of record on the City tax roll shall be charged and collected as a special assessment against the real estate upon which the reinspections were made, and shall be a lien upon the real estate until paid in full, with interest accruing on the unpaid balance at the rate of seven (7%) percent per annum. There shall also be a One Hundred (\$100.00) Dollar administrative charge added to the charge and special assessment to cover the administrative costs of charging and specially

assessing the property.

28.12 PENALTIES

A. Violation Penalties. Any person who shall violate a provision of this Code shall, upon conviction, be subject to a forfeiture of not more than One Thousand (\$1,000.00) Dollars; and, in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense. Failure to promptly pay said forfeiture shall subject the violator to be sentenced to the County Jail for a period not to exceed sixty (60) days.

B. Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct business, or utilization of the structure or premises.