

ZONING ORDINANCE FOR THE CITY OF KENOSHA, WISCONSIN

SECTION 10.0 CHANGES AND AMENDMENTS

10.01 AUTHORITY

The Common Council, by Ordinance, following review and recommendation by the City Plan Division and by the City Plan Commission may rezone (change to district boundaries) or amend this Ordinance whenever the public necessity, convenience, or good zoning practice so require.

10.02 INITIATION

A. Rezoning Initiated (Amend The Zoning Map To Change The District Boundaries). A petition to rezone (amend the Zoning Map to change the district boundaries) any lot/land may be initiated by the Common Council, City Plan Commission, or property owners. Where the petition is initiated by property owners, owners of at least fifty (50%) percent of all of the lots/lands sought to be rezoned must sign the petition to rezone the property to a certain district.

A petition to rezone by property owner(s) shall be filed with the City Plan Division of the Department of City Development and shall include/have attached the following:

1. Application Fee. A nonrefundable application fee in the amount established by the Common Council, from time to time, by Resolution, without a concept plan and with a concept plan.

2. Purpose. A statement of the purpose of rezoning.

3. Plot Plan. A plot plan drawn to scale showing the area proposed to be rezoned, its location, its dimensions, and adjacent zoning districts. The lots/lands sought to be rezoned shall also be identified by address(es), tax parcel identification number(s) and legal description.

4. Conceptual Development Plan. A Conceptual Development Plan consisting of, but not limited to, the following:

a. Building Plan. Color rendering of the proposed building(s), inclusive of all elevations. A display board including all facade and roof materials. A general floor plan for proposed buildings.

b. Site Development Plan. Location of buildings, parking lots, access drives, landscaping areas, drainage features and significant material features of the development in compliance with City General and Zoning Ordinances.

5. Land Use and Operational Plan. A Land Use and Operational Plan describing the proposed land uses and a plan of business operation.

6. Additional Information. Additional information as required by the City Plan Commission, Common Council, or City Planner at any time during the review process.

The City Plan Division shall prepare a list of the names and addresses of all property owners which are authorized to file a protest petition pursuant to Wisconsin Statutes, and this Ordinance. The Division will mail to all such listed property owners, by regular mail, a notice of the proposed rezoning and a map depicting the location and scope of the proposed rezoning in relation to the adjacent zoning districts. Written notice shall be addressed to the owner appearing on the most current tax roll of the City at the address stated on said tax roll. If no owner or address for the owner appears on the tax roll, the written notice to such property owner shall not be required. Failure of a property owner to receive said notice shall not invalidate any action taken by the Common Council due to the publication of a legal notice in the official City newspaper.

B. Ordinance Amendments. An Ordinance amendment may be initiated and sponsored by the Mayor, Common Council, an Alderperson, Alderpersons, or the City Plan Commission.

C. Lands Coming Into the City through Boundary Adjustment Agreement or a Special Act of the State Legislature. The Common Council may divide areas of land depicted as Parcels A1 through A10 on the map identified in Article IV A of the "Agreement to Clarify and Ultimately Supersede the 1984 Cooperative Agreement for Orderly Development between the City of Kenosha and the Town of Pleasant Prairie" effective December 12, 1988, coming into the City through boundary adjustment agreement under authority of §66.027, Wisconsin Statutes, or through a special Act of the State Legislature, into zoning districts in accordance with the City Zoning Ordinance and as depicted on the Official City Zoning Map and may cause said areas of land to be placed into said Zoning Ordinance districts upon the effective date any such parcel of land comes into the City. The procedure specified in §62.23(7)(d)1, Wisconsin Statutes, for preparing and recommending zoning districts for such areas of land shall be followed.

10.03 RECOMMENDATIONS

The City Plan Commission shall review all proposed rezonings and amendments and shall

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recommend to the Common Council that the petition be granted as requested, modified or denied.

10.04 HEARINGS

The Common Council shall hold a public hearing upon each rezoning or amendment after publishing a Class 2 Notice under Chapter 985 of the Wisconsin Statutes, listing the date, time, place, and rezoning or amendments proposed. The City Clerk shall also give at least ten (10) days prior written notice to the Clerk of any municipality within one thousand (1,000') feet of any land to be affected by the proposed rezoning or amendment.

10.05 COMMON COUNCIL'S ACTIONS

A. Common Council Action. Following such hearing and after careful consideration of the City Plan Commission's recommendations, the Common Council shall vote on the passage of the proposed rezoning. The City Plan Commission's unfavorable recommendations may only be overruled by three-fourths (3/4ths) of the members of the Common Council voting on the proposed rezoning. Other rezonings, except where a valid protest petition is filed, shall require a simple majority vote of the members of the Common Council voting on the proposed rezoning.

B. Conceptual Development Plan Consistency Required. The Rezoning Ordinance shall contain a requirement that the development of the property be consistent with conceptual development plans required in **Section 10.02 A**.

10.055 ANNUAL REVIEW OF ZONING MAP AMENDMENTS

Zoning Map amendments petitioned by a majority of property owners and subsequently approved by the Common Council for a proposed development shall be reviewed on an annual basis by the City Plan Commission. The Commission shall evaluate and recommend whether the zoning classification should be amended in the event that site development has not commenced.

10.06 FLOODLAND DISTRICT BOUNDARY CHANGES LIMITED

A. Authority. The Common Council may change or supplement the Floodland Zoning District boundaries and this Ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

1. Any change to the Official Floodplain Zoning Map, including the floodway line or boundary of any floodplain area.

2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.

3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

5. Any upgrade to a Floodland Zoning District ordinance text required by Section 116.05, Wisconsin Administrative Code, or otherwise required by law, or for changes by the City.

6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodland fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

B. Changes in the FW Floodway District Boundaries shall not be permitted where the change will increase the flood stage elevation to equal or more than one hundredth (0.01) foot, unless the petitioner for such a change has made appropriate legal arrangements with all property owners affected by the flood stage increase. Petitions for FW Floodway District changes shall show the affects of the change within the associated flood fringe utilizing the single degree of hydraulic encroachment principle, and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations.

C. Removal of Land from the Floodland Districts. Compliance with the provisions of this Ordinance shall not be grounds for removing land from the floodland unless it is filled at least two (2') feet above the regional or base flood elevation, the fill is contiguous to land outside the floodland, and the map is amended pursuant to Section 10.06. Removal of land from the floodland districts shall not be permitted where the development of the land will increase flood stage to equal or more than one hundredth (0.01) foot, unless the petitioner or developer has made appropriate legal arrangements with all property owners affected by the flood stage increase. Under no circumstances shall the flood stage increase to equal or more than one hundredth (0.01) foot. Petitions to remove lands from the floodland district shall show the affects upon flood

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storage utilizing the single degree of hydrologic encroachment principle, and shall provide adjusted water surface profiles and adjusted floodland limits to reflect the increased flood elevations. Petitions to remove lands from the floodland districts shall include certification from the petitioner that the petitioner has requested a Letter of Map Change from FEMA consistent with petitioner's petition. Unless the property owner has received a letter of map changes from FEMA, removal of land from floodland will not relieve the property owner of the Federal provisions for mandatory purchase of flood insurance.

D. Amendment of Unnumbered A Zones shall not be permitted unless the petitioner provides the City with engineering data showing the flood profile, necessary river cross-sections, flood elevations, and any affect the establishment of a floodway/flood fringe will have on flood stages. The effects shall be limited as set forth earlier in this Section to less than one-hundredth (0.01) foot increase in flood stage unless appropriate legal arrangements have been made. If an unnumbered A Zone is less than five (5) acres in area and where the cost of the proposed development is less than Seventy-five Thousand (\$75,000) Dollars, the Wisconsin Department of Natural Resources (DNR) may assist the petitioner in determining the required flood elevations.

E. No river or stream shall be altered or relocated until a floodland zoning change has been applied for and granted in accordance with the requirements of this Section, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood-carrying capacity within an altered or relocated watercourse shall not be reduced to less than the flood-carrying capacity of the river or stream prior to the alteration or relocation.

F. Special Additional Procedures For Amendment of Floodland Districts. In addition to all other procedures for amending the Ordinance, in the event an amendment is proposed that will either amend the text of provisions of this Ordinance specifically limited to floodland zoning districts or amend floodland zoning district boundaries, the following must also be satisfied before the amendment is effective:

1. The proposed amendment shall be referred to the City Plan Commission for a public hearing and recommendation to the Common Council. The amendment and notice of public hearing shall be submitted to the Regional Office of the Wisconsin Department of Natural Resources for review prior to the hearing.

2. No amendments shall become effective until reviewed and approved by the Wisconsin Department of Natural Resources.

3. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the City.

4. For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Wisconsin Department of Natural Resources, the Zoning Administrator's visual on-site inspections and other available information.

10.07 PROTEST

In the case of a protest against a proposed rezoning, duly signed and acknowledged by the owners of twenty (20%) percent or more either of the areas of the land included in such proposed rezoning, or by the owners of twenty (20%) percent or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20%) percent or more of the land directly opposite thereto extending one hundred (100') feet from the street frontage of such opposite land, such proposed rezoning shall not be come effective except by the favorable vote of three-fourths (3/4's) of the members of the Common Council voting on the proposed change.

10.08 SHORELAND - WETLAND DISTRICT AMENDMENTS

A. Amendments. The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this Ordinance in accordance with the requirements of §62.23(7)(d)2, Wisconsin Statutes, NR 117, Wisconsin Administrative Code, and the following:

1. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the municipal planning agency;

2. All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by §62.23(7)(d)2, Wisconsin Statutes. The appropriate district office of the Department shall be provided with

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written notice of the public hearing at least ten (10) days prior to such hearing.

B. Criteria. In order to insure that this Ordinance will remain consistent with the shoreland protection objectives of §144.26, Wisconsin Statutes, the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

1. Storm and flood water storage capacity;
2. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
4. Shoreline protection against erosion;
5. Fish spawning, breeding nursery or feeding grounds;
6. Wildlife habitat; or,
7. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat or endangered species.

C. DNR Review and Notification.

1. Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in **§10.08 B.** of this Ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.

2. The appropriate district office of the Department shall be provided with:

a. A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the municipal governing body.

b. Written notice of the action on the proposed text or map amendment within ten (10) days after the action is taken.

3. If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in **§10.08 B.** of this Ordinance, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than thirty (30) days have elapsed since written notice of the municipal approval was mailed to the Department, as required by **§10.08**

C.2.b. of this Ordinance. If within the thirty (30) day period, the Department notifies the municipality that the Department intends to adopt a superseding Shoreland-Wetland Zoning Ordinance for the municipality as provided by §62.231 (6), Wisconsin Statutes, the proposed amendment shall not become effective until the Ordinance adoption procedure under §62.231 (6), Wisconsin Statutes, is completed or otherwise terminated.