

ZONING ORDINANCE FOR THE CITY OF KENOSHA, WISCONSIN

SECTION 8.0 ADMINISTRATION

8.01 PLAN COMMISSION

The City Plan Commission shall have the duties of making reports and recommendations relating to the plan and development of the City to public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens. The Commission, its members and City of Kenosha support staff, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.

8.02 ZONING ADMINISTRATOR DESIGNATED

The Director of the Department of Neighborhood Services and Inspections is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance and hereafter shall be referred to as the Zoning Administrator or Administrator. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, following on-site inspection, all permits required by this Ordinance. The Zoning Administrator shall, to the best of his/her ability:

A. Establish that all necessary permits that are required for floodland uses by State and Federal Law have been secured.

B. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.

C. Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Ordinance to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.

D. Assist the City Attorney in the prosecution of Ordinance violations.

E. Seek access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to ensure compliance with this Ordinance. If, however, the Administrator is refused entry after presentation of his/her identification, the Administrator may procure a Special Inspection Warrant in accordance with §66.0119 of the Wisconsin Statutes.

F. Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection.

G. Request assistance and cooperation from any governmental office or agency as deemed necessary.

H. Advise applicants of the Ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

I. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

J. Keep records of all official actions, such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations for floodplain development;

3. Records of water surface profiles, floodplain zoning maps and Ordinances, nonconforming uses and structures, including changes, appeals, variances and amendments.

4. All substantial damage assessment reports for floodplain structures.

K. Submit copies of the following items to the Regional Office of the Wisconsin Department of Natural Resources:

1. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case-by-case analyses, and any other information required by the Department of Natural Resources, including an annual summary of the number and types of floodplain zoning actions taken.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

4. Copies or reports of violations of this Ordinance involving floodlands.

L. Submit copies of text and map amendments and biennial reports to the FEMA Regional Office.

8.03 BUILDING PERMIT APPLICATIONS

A. Surveys.

1. All applications submitted for a Building

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Permit to construct new buildings and additions shall be accompanied by a survey prepared and certified by a registered land surveyor.

2. At the discretion of the Chief of Inspection, applications submitted for a Building Permit to construct a new accessory building or structure may be required to be accompanied by a survey prepared and certified by a registered land surveyor should inconsistent property data present itself.

B. Required Survey Site Plan Contents. The form and size of the survey shall be specified by the Administrator and said survey shall be drawn to scale containing the following information:

1. Elevation of existing ground.
2. Location of proposed foundation and building projections exceeding two (2') feet.
3. Elevation of proposed building foundation.
4. Elevation of proposed surface drainage plan and designated easements as related to adjacent lots (finished grade).
5. Location of structures on abutting properties.
6. Elevation of structures on abutting properties.
7. Elevation of existing abutting property grade.
8. Location and elevation of all other unique land characteristics (retaining walls, large trees, existing structures, etc.).
9. A legal description.
10. The size and location of off-street parking spaces, if required.
11. Proposed sidewalk elevation as determined by the City of Kenosha. Datum is available through the Department of Public Works.
12. Any additional information as may be required by the Administrator.

C. Elevation Determination.

1. Surface drainage elevations, as required in **B.4.** and **B.8.** above, shall correspond to previously established design criteria on file with the Department of Public Works and Department of City Development.

2. Building elevations for any parcel of real estate shall be established as follows:

a. Proposed foundation elevation shall be in conformance with a City approved Drainage Plan through Subdivision Platting, a Conditional Use Permit, or a City approved Certified Survey.

b. If there is no City approved drainage plan in effect, the proposed foundation elevation shall be at least twenty-four (24") inches above the predetermined grade of the sidewalk at the highest point.

c. Any alternative building foundation elevation shall require approval from the City Engineer.

3. Final foundation elevation shall be eight (8") inches above the required finished grade.

4. Elevation of rough grade at building and property lines shall be within three (3") inches of the required finished grade.

D. Post Foundation Survey. Within ten (10) working days from the date a foundation is installed, backfilled and rough graded, and prior to any additional work being performed, a post foundation survey shall be submitted to the Administrator. The Administrator shall not authorize any additional construction work to be performed until and unless a survey is submitted which shows:

1. Location of foundation with respect to property lines.

2. Height of foundation in accordance with **Subsection C.**

3. Rough grade in accordance with **Subsection C.**

E. Impact Fees. The issuance of a Building Permit shall be conditioned upon the applicant paying an Impact Fee imposed in accordance with Chapter 35 of the Code of General Ordinances, where not previously imposed as a condition of approval of a Land Division or Conditional Use Permit.

8.04 CERTIFICATE OF OCCUPANCY

A. Certificate of Occupancy Required. A Certificate of Occupancy from the Administrator shall be required as a condition of any person occupying:

1. A building which has been the subject of new construction or erection.

2. A building which has been moved to another foundation on the same or any other parcel of property.

3. A building which has been the subject of an expansion, addition, alteration or reconstruction.

4. A building, or portion thereof located in the B-1, B-2, or B-3 Business District, or in the M-1 or M-2 Manufacturing District, or IP Institutional Park District, which is not used for residential purposes and is subject to a new occupancy, whether owner or tenant.

5. A parcel of land, unimproved by a building, which is used for a business or manufacturing purpose.

6. A residential building used for a Home Occupation under **Section 3.03 E.** of the Zoning Ordinance.

7. A building which has been vacant and unoccupied for more than ninety (90) days.

8. A building subject to a business license under Chapters 10, 12, and 13 of the Code of General Ordinances.

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B. Prohibition. It shall be unlawful for any person to occupy a building, parcel of land, or portion thereof without:

1. Having first obtained a Certificate of Occupancy where required, except where having obtained a Temporary Certificate of Occupancy which has not expired or been terminated.
2. Following the expiration or revocation of a Certificate of Occupancy.
3. Following the expiration of a Temporary Certificate of Occupancy.
4. Contrary to the terms, conditions and limitations of a Certificate of Occupancy or Temporary Certificate of Occupancy.
5. Contrary to the terms, conditions and limitations of a Temporary Certificate of Occupancy.

C. Certificate of Occupancy.

1. Application. The owner or tenant of a building or parcel of land subject to the requirement of a Certificate of Occupancy shall apply to the Administrator for a Certificate of Occupancy:

- a. Concurrent with an application for a Building Permit, where applicable.
- b. Prior to a change in occupancy of a building or parcel of land, under circumstances where a Building Permit application was not required.
- c. Prior to occupancy of a residential building for the purpose of engaging in a home occupation.
- d. Prior to occupancy of a building which had been vacant and unoccupied for more than ninety (90) days.
- e. Concurrent with an application for a business license under Chapters 10, 12 and 13 of the Code of General Ordinances.

2. Conditions and Standard for Issuance of Certificate of Occupancy. A Certificate of Occupancy shall be issued by the Administrator within ten (10) working days of the final inspection of the building or parcel of land subject thereto, provided that such building or parcel of land is in compliance with all applicable provisions of the Code of General Ordinances and Zoning Ordinances, applicable State laws, rules and regulation, and Land Use Agreements and permits required by the City.

3. Form of Certificate of Occupancy. The Certificate of Occupancy, where issued, shall certify compliance with the applicable conditions and standards and state the use of the building or parcel of land which is approved, whether conforming or lawfully nonconforming with the Zoning Ordinance. The Certificate of Occupancy, however, shall in no event certify compliance with any environmental law, rule or regulation.

D. Temporary Certificate of Occupancy.

1. Eligibility and Application. The owner or tenant of a building or parcel of land which is not eligible for a Certificate of Occupancy, but will meet the eligibility requirements of the Zoning Ordinance within the time period specified under this Section, may apply to the Administrator for and obtain a Temporary Certificate of Occupancy as hereinafter provided. The application must be made and Certificate obtained prior to occupancy.

2. Term. The term of a Temporary Certificate of Occupancy shall not exceed the following:

a. Winter Temporary Occupancy Permit. An applicant may obtain a Winter Temporary Occupancy Permit for any occupancy occurring between November 1 and June 30. The Temporary Occupancy Permit may be obtained upon payment of a One Hundred (\$100.00) Dollar application fee, posting of cash performance deposit and compliance with this Section. All Temporary Winter Occupancy Permits shall expire on June 30.

b. Special Thirty (30) Day Temporary Occupancy Permit. An applicant may obtain a Special Thirty (30) Day Temporary Occupancy Permit between July 1 and October 31. This permit may be obtained upon payment of a Five Hundred (\$500.00) Dollar nonrefundable application fee, posting of the required cash performance deposit and compliance with this Section. Applicant may obtain an additional thirty (30) day extension upon payment of an additional Five Hundred (\$500.00) Dollar nonrefundable application fee. The total duration for a Special Thirty (30) Day Temporary Occupancy Permit, with extension, shall not exceed sixty (60) days.

3. Conditions and Standards for Issuance of Temporary Certificate of Occupancy. A Temporary Certificate of Occupancy shall be issued by the Administrator within five (5) working days of an inspection of a building or parcel of land subject thereto, provided such building or parcel of land is in compliance with the following standards for issuance:

a. The building or parcel of land will be the subject of a Certificate of Occupancy within the period of time specified under **Section 8.04 D.2.**

b. With respect to Multi-Unit Residential Developments, prior to occupying an individual unit, the exterior of the building shall be one hundred (100%) percent complete. With respect to Commercial, Industrial and/or Institutional Developments, prior to occupying the building or any individual unit or tenant space, the exterior of the building shall be one hundred (100%) percent

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complete.

c. The building or parcel of land shall be capable of being occupied without unduly endangering the public health, safety or welfare.

d. A completed Temporary Occupancy Permit application shall be submitted and permit fee paid.

e. All exterior lighting shall be installed.

f. All concrete streets, drives, sidewalks, and parking areas shall be completed. All parking areas to be paved in asphalt shall have the first lift binder course of asphalt installed.

g. The site shall be graded in accordance with the approved plans on file with the Department of City Development.

h. There shall be compliance with any conditions of approval within an approved Conditional Use Permit, Site Plan Review or Developer's Agreement and Subdivider's Agreement, where applicable.

4. Temporary Occupancy Cash Performance

Deposit. In addition to the permit fee, an applicant shall post a cash performance deposit in the amount of forty (40%) percent of the uncompleted work or Two Thousand (\$2,000.00) Dollars, whichever is greater. The deposit shall be forfeited if all required work has not been completed prior to the expiration of the Temporary Occupancy Permit. A notice of the forfeiture shall be sent to permit holder with notice of appeal rights. Within ten (10) days of receipt of notice, the forfeiture may be appealed by filing notice of appeal with the Department of Neighborhood Services and Inspections. The Board of Zoning Appeals shall hear the appeal. If such work has been timely completed, the cash performance deposit shall be refunded. In the case of a phased multi-family development which consists of two (2) or more buildings on the same lot, the cash performance deposit shall be posted upon application for an Occupancy Permit for the last building of each phase. All phasing plans must be approved by the Review Authority. There shall be no more than four (4) buildings per each phase of development.

5. Temporary Occupancy Permit

Administration. The administration and issuance of Occupancy Permits shall be in accordance with **Section 8** of the Zoning Ordinance and with the policies for Occupancy Permits on file with the Department of Neighborhood Services and Inspections.

E. Existing Occupancies. Businesses which have been operating since May 1, 1993, may be granted a Certificate of Occupancy, although exempt from the requirements of this Section of the Zoning Ordinance. Owners and tenants of said businesses shall provide supporting documentation and make application to the Department of Neighborhood

Services and Inspections for an Occupancy Permit. There shall be no charge for a Certificate of Occupancy for such existing occupancy.

F. Permit Fees. Should an application be made for a Certificate of Occupancy or a Temporary Certificate of Occupancy for a building following occupancy of such building without any such certificate, then the permit fee shall be five (5) times the standard permit fee.

8.05 SHORELAND, WETLANDS, AND FLOODLANDS: ADMINISTRATION

A. Zoning Permits. Unless another section of this Ordinance specifically exempts certain types of development from this requirement, a Zoning Permit shall be obtained from the Zoning Administrator before any new development, as defined in **§12.0 B** of this Ordinance, or any change in the use of an existing building or structure is initiated.

1. An application for a Zoning Permit shall be made to the Zoning Administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:

a. Name, address, and telephone number of applicant, property owner and contractor, where applicable.

b. Legal description of the property and a general description of the proposed use or development.

c. Whether or not a private water supply or sewage system is to be installed.

2. The Site Development Plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

a. Dimensions and area of the lot;

b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;

c. Description of any existing or proposed on-site sewage systems or private water supply systems;

d. Location of the ordinary high-water mark of any abutting navigable waterways;

e. Boundaries of all wetlands;

f. Existing and proposed topographic and drainage features and vegetative cover;

g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;

h. Location of existing or future access roads; and,

i. Specifications and dimensions for areas of proposed wetland alteration.

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3. All permits issued under the authority of this Ordinance shall expire six (6) months from the date of issuance.

4. When a Zoning Permit is approved, an appropriate record shall be made by the Zoning Administrator of the use and structures permitted.

5. When the conditions of a Zoning Permit are violated, the permit shall be revoked by the Board of Appeals.

B. Certificate of Compliance.

1. Except where no Zoning Permit is required, no land shall be occupied or used, and no building which is thereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a Certificate of Compliance is issued by the Zoning Administrator subject to the following conditions:

a. The Certificate of Compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Ordinance.

b. Application for such certificate shall be concurrent with the application for a Zoning or Conditional Use Permit.

c. The Certificate of Compliance shall be issued within ten (10) days after notification of the completion of the work specified in the Zoning or Conditional Use Permit, providing the building or premises and proposed use thereof conform with all the provisions of this Ordinance.

2. The Zoning Administrator may issue a temporary Certificate of Compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.

3. Upon written request from the owner, the Zoning Administrator shall issue a Certificate of Compliance for any building or premises existing at the time of Ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Ordinance.

C. Certificate of Compliance in FW, FFO, and GFD Districts. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced, shall be occupied if such land or building is subject to FW Floodway District, FFO Floodplain Fringe Overlay, or GFD General Floodplain District, until a Certificate of Compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

1. The Certificate of Compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Ordinance.

2. Application for such certificate shall be concurrent with the application for a permit.

3. If all Ordinance provisions are met, the Certificate of Compliance shall be issued within ten (10) days after written notification that the permitted work is completed.

4. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of **Section 4.03 B.6.**