CHAPTER 12
KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE

I. INTRODUCTION

A. PRELIMINARY CONSIDERATIONS

12.01-1 AUTHORITY
This ordinance is adopted pursuant to the authority granted by the Wisconsin Statutes but not limited to Sections 59.97, 59.971, 59.99, 87.30, 91.71 to 91.79, 92.10, 144.26, 59.07(16m) and 59.07(68) of the Wisconsin Statutes. Any mandatory amendments or repeals or recreations to state statutes pertaining to the subject matter of this ordinance are incorporated in this ordinance as of the effective date of the amendment, repeal or recreation. The Board of Supervisors of the County of Kenosha, Wisconsin do ordain as follows:

12.01-2 PURPOSE
(a) It is the finding of the Kenosha County Board of Supervisors that the regulation of land uses within Kenosha County serves to promote the general welfare of its citizens, the quality of the environment, and the conservation of its resources.

(b) The purpose of this ordinance is to regulate and encourage the use of land, waters and structures in Kenosha County in a planned and orderly manner so as to promote the public health, safety, morals, prosperity, aesthetics, comfort, convenience and general welfare of the citizens of Kenosha County.

(c) It is recognized by the Kenosha County Board of Supervisors that a Shoreland and Floodplain Zoning Ordinance enacted pursuant to Wisconsin Statutes, section 59.971 may be enacted separately from a general comprehensive zoning ordinance enacted pursuant to Wisconsin Statutes, section 59.97 for the reason that compliance by townships with a validly enacted shoreland/floodplain zoning ordinance is mandatory while town compliance with a general comprehensive zoning ordinance is voluntary. Nevertheless, it is the finding of the Kenosha County Board of Supervisors that there are certain advantages to combining the provisions and maps of both ordinances so as to afford the general public a clear and concise presentation and understanding of all zoning regulations which may pertain to a particular parcel of land. Therefore, while this general comprehensive zoning ordinance enacted pursuant to section 59.97 of the Wisconsin Statutes shall be applicable in all towns so adopting it, it shall also serve as a shoreland/floodplain zoning ordinance in all townships irrespective of town approval as mandated by section 59.971 of the Wisconsin Statutes and so as to effect the purposes of section 59.971 and section 144.26 of the Wisconsin Statutes.

12.01-3 INTENT
(a) By the enactment of this ordinance, it is the intent and objective of the Kenosha County Board of Supervisors pursuant to the authority cited in section 12.01-1 of this ordinance those areas falling within the jurisdiction of this ordinance to accomplish the following within:
Regulate the use of all lands, buildings, structures and waters in the unincorporated areas of Kenosha County so as to determine, establish, regulate and restrict:

a. The areas within which agriculture, forestry, industry, trades, business and recreation may be conducted;

b. The areas in which residential uses may be regulated or prohibited;

c. The areas in and along or in or along natural water courses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and location of buildings may be prohibited or restricted.

Designate certain areas, uses or purposes which may be subjected to special regulation.

Determine, establish, regulate and restrict the location, set back, side yard, height, bulk, number of stories and size of buildings and other structures.

Determine, establish, regulate and restrict the location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.

Determine, establish, regulate and restrict trailer camps or tourist camps and motels or both and mobile home parks.

Regulate population density and distribution.

Determine, establish, regulate and restrict the percentage of any parcel which may be occupied, size of yards, courts and other open spaces.

Provide healthy surroundings for family life.

Provide areas for peace and quiet, open space and privacy.

Determine, establish, regulate and restrict the location of roads and schools.

Insure adequate highway, utility, health, educational and other public facilities.

Lessen congestion in and promote the safety and efficiency of streets and highways; regulate parking, loading and access for safety and efficiency purposes.

Secure safety from fire, explosions, flooding, panic and other dangers.

Provide adequate light, air, sanitation and drainage.

Establish performance standards so as to guard against air and water pollution, unnecessary contamination, noises, vibrations and odors, and also glare, heat, fire, flooding, radiation, and other hazards and nuisances.

Promote the efficient and economical use of public funds.

Protect property values and the property tax base.

Recognize the needs of agriculture, forestry, industry, business and recreation and future growth.

Further the appropriate use of land and encourage uses of land and other natural resources which are in accordance with their character and adaptability.

Prevent and control soil erosion, sedimentation and water pollution of the surface and subsurface waters.

Further the maintenance of safe and healthful water conditions.
Prevent flood damage to persons and property and
minimise expenditures for flood relief and flood
control projects.
Preserve shore growth and cover and promote the
natural beauty of the shoreland and floodplain
areas.
Protect fish and animal life including the spawning,
esting, nesting, nursing and feeding areas.
Implement those municipal, county, watershed, and
regional comprehensive plans or components of such
plans applicable to and adopted by Kenosha County.
Obtain the wise use, conservation, development and
protection of the county's water, soil, wetlands,
woodlands, wildlife and other natural resources and
attain a balance between land uses and the ability
of the natural resource space to support and sustain
such uses.
Preserve natural growth and cover; promote, stabili-
ze and protect the natural beauty and amenities of
landscape and man-made developments within the
county and encourage the future aesthetic develop-
ment of the county.
Preserve historical sites.
Preserve neighborhoods and eliminate blight.

(b) To accomplish the above objectives, it is the further
intent of the Kenosha County Board of Supervisors in
enacting this ordinance to hereby:

1. Establish the Kenosha County Office of Planning and
   Zoning Administration.
2. Create, as part of this ordinance, all of the
   necessary districts, maps, and staffing deemed
   necessary for achieving all of the objectives of
   this Ordinance.
3. Delineate as clearly as possible those circumstances
   which when present will qualify as exceptions, to
   this ordinance as well as those circumstances in
   which changes and amendments may be made to the
   Ordinance or variances granted.
4. Delineate, without limitation due to enumeration,
   those aspects of zoning which are to be prohibited,
   such as use variances.
5. Follow all due process requirements and procedures
   so as to safeguard the rights of individual landown-
   ers.
6. Provide for the strict enforcement of this ordi-
   nance.
7. Establish a proper system for reviewing and appeal-
   ing the actions of the office of Kenosha County
   Planning and Zoning Administration.

12.01-4 TITLE
This ordinance shall be known as, referred to, and cited as the
"KENOSHA COUNTY, WISCONSIN GENERAL ZONING--AND SHORELAND/FLOOD-
PLAIN ZONING ORDINANCE" and hereinafter referred to as the
"Ordinance".

B. INTERPRETATION

12.02-1 ADOPTION, APPROVAL AND EFFECTIVE DATE-SHORELAND/FLOODPLAIN AREAS
Within those areas defined in this ordinance as shorelands and
floodplains, this ordinance shall be effective after a public
hearing, recommendation by the Land Use Committee, adoption by
the county board of supervisors and publication or posting as
provided by law. For purposes of this section, this ordinance
in its entirety shall consist of both the text and maps of the

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various districts in the unincorporated areas of Kenosha County falling within the shorelands/floodplains areas. (11/5/84)

12.02-2 ADOPTION, APPROVAL AND EFFECTIVE DATE—OTHER AREAS
(a) This ordinance shall be effective after a public hearing; recommendation by the county Land Use Committee and adoption by the county board of supervisors; publication or posting as provided by law; and with respect to an individual town, approval by the town board of supervisors. The zoning ordinance of Kenosha County 1959, as adopted and amended, shall remain in effect in each individual town until this ordinance is approved by the town board of supervisors, or for a period of one year from the date of adoption of this ordinance by the county board of supervisors in its entirety, whichever comes first. (11/5/84)

(b) If the town board of supervisors does not approve this ordinance by the end of the one year period aforementioned, neither this ordinance nor the zoning ordinance of 1959 as amended shall be in effect in that town except as provided in section 12.02-1 of this ordinance. The aforementioned period of one year shall not begin to run until such time as this ordinance is presented to the town boards in its entirety. For purposes of this section, this ordinance in its entirety shall consist of both the text and maps of the various districts in the unincorporated areas of Kenosha County.

12.02-3 JURISDICTION
(a) The provisions of this ordinance shall apply to all structures, land, water and air within the unincorporated areas of townships located within Kenosha County, Wisconsin, where this ordinance has been approved by the township pursuant to section 12.02-2 of this ordinance.

(b) Where this ordinance has not been approved by a particular township pursuant to section 12.02-2 of this ordinance, the provisions of this ordinance shall nevertheless apply to all structures, lands, water and air within the shoreland jurisdiction of Kenosha County. The shoreland includes all unincorporated areas within the following distances from the ordinary high water mark of all navigable waters: 1000 feet from a lake, pond or flowage; 300 feet from a river or stream; or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the high water mark thereof. (11/5/86)

(c) Unless specifically exempted by law, all cities, villages, town governments, and Kenosha County are required to comply with this Ordinance and obtain all necessary permits in those areas described in subsections (a) and (b) above. State agencies are required to comply with Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a) of the Wisconsin Statutes applies. (11/5/86)

12.02-4 REPEAL, CONFLICTING ORDINANCES AND GREATER RESTRICTIONS
Except as provided in section 12.02-2, the Zoning Ordinance of Kenosha County of 1959 as adopted and amended and the Shoreland/Floodplain Zoning Ordinance of Kenosha County of 1971 as amended are hereby repealed and superseded by this ordinance.
It is not the intent of this ordinance, however, to repeal any provisions in the County Floodland and Shoreland Sanitary Ordinance (Chapter 13, Municipal Code of Kenosha County) as created, amended or repealed and recreated or the Subdivision Control Ordinance (Chapter 14, Municipal Code of Kenosha County) as created, amended or repealed and recreated. In case of conflicts between this ordinance and any of the provisions of the above ordinances or other adopted county ordinances, those provisions providing for greater restrictions shall prevail.

12.02-5

PROJECTS IN PROGRESS
The provisions of this ordinance shall not apply to any construction project for which a valid zoning permit has been issued prior to the enactment of this ordinance, with the provision, however, that construction, has substantially commenced as defined in this ordinance, within six months after the issuance of the permit and with the further provision, however, that in the case of permits granted in the Shoreland-Floodplain District that substantial construction is completed, as defined in this ordinance, within 15 months after the issuance of the permit.

12.02-6

ABROGATION
It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law except as provided for in section 12.02-5 of this Ordinance. Nor is it the intent of this ordinance to abrogate, impair or interfere with the legal rights of individuals as they may be guaranteed by the state and federal constitutions, statutes, and administrative rules. Claims for such interference may be addressed through the administrative appeals procedure provided for in section 12.35 of this ordinance.

12.02-7

LIBERAL CONSTRUCTION
In the interpretation and application of this Ordinance, the provisions of this ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the county and shall not be construed to be a limitation or repeal of any other power granted by the Wisconsin Statutes, as may be amended from time to time, or now possessed by Kenosha County.

12.02-8

SEVERABILITY AND NON-LIABILITY
(a) If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(b) If any application of this ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

(c) The County does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation or that those soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies or employees for any flood damage, sanitation problems, structural or other damages that may occur as a result of reliance upon and conformance with this ordinance.
LIMITATION OF ACTION
Pursuant to Wisconsin Statutes section 59.97(14), a land owner, occupant or other person affected by this ordinance or amendment thereto who claims that this ordinance or amendment is invalid because procedures prescribed by the statutes or the ordinance were not followed shall be forever barred unless the court action is commenced within 6 months after adoption. Provided, this subsection shall not apply unless there has been at least one publication of a notice of a zoning hearing in a local newspaper of general circulation and unless a public hearing has been had on the ordinance or amendment at the time and place specified in such notice.

ZONING MAPS
A certified copy of the Zoning Maps shall be adopted and approved with the text as part of this ordinance and shall bear upon its face the attestation of the County Board Chairman, County Clerk and the Director of Planning and Zoning for Kenosha County, Wisconsin and shall be available to the public for inspection in the Office of Planning and Zoning Administration.

ZONING MAP AMENDMENTS-EFFECTIVE DATE
(a) Amendments to the Zoning Maps shall become effective upon adoption by the Kenosha County Board of Supervisors, notification of the Town Clerk of all Towns affected by the amendment, the filing of proof of publication thereof in the Office of Planning and Zoning Administration, and the expiration of any time limit imposed by section 59.97 of the Wisconsin Statutes within which Townships may veto the action and amendment of the County Board. It shall be the duty of the Office of Planning and Zoning Administration to enter all zoning map amendments and the date of the latest amendment upon the certified copy of the Zoning Map and secure any required certifications or attestations.

(b) Amendments to the FPO, Floodplain Overlay District, shall not become effective until approved by the Wisconsin Department of Natural Resources, (DNR). (2/6/90)

INTERPRETATION OF DISTRICT BOUNDARIES
(a) Boundaries of the districts set forth in section 12.20 to 12.26 are hereby established as shown on a series of eight (8) maps entitled, "Kenosha County Zoning Map" numbered, "Kenosha County - 1" through "Kenosha County - 8"; bearing the date of final county board approval of this ordinance and as hereafter properly amended and revised. These maps accompany and are herewith made a part of this ordinance and shall constitute the official zoning map of Kenosha County, Wisconsin until such time as the information contained therein is transferred to a series of 72 aerial photographs at a scale of one inch equals 400 feet entitled "Kenosha County Zoning Map" numbered "Kenosha County - 1" through "Kenosha County - 72", and adopted by the Kenosha County Board of Supervisors. Upon completion of the 72 maps and before their adoption by the county board, the maps shall be transmitted to each town for review and comment. No change in a zoning boundary shall be made except after petition, review and approval pursuant to the requirements of section 12.38 of this ordinance. The Office of Planning and Zoning Administration may publish additional zoning maps at scales other than the aforementioned official scale for informational purposes.
(b) Boundaries of the basic zoning districts shall be construed to follow corporate limits; U.S. Public Land Survey section lines; lot or property lines; centerlines of streets, highways, alleys, easements, navigable bodies of water, and railroad rights-of-way, or such lines extended. Lines which appear to be parallel to any of the aforementioned boundaries of specified distance shall be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scale shown on the official zoning map.

(c) Boundaries of the floodplain overlay district shall be determined as follows: Except for the Pike River Watershed, the boundaries of the FFZ, Floodplain Overlay District shall be determined through the use of flood profiles published in the Flood Insurance Study-Kenosha County, Wisconsin (Unincorporated Areas) by the Federal Emergency Management Agency (FEMA), Flood Insurance Administration and dated August 17, 1981. The information contained in the flood insurance study is further illustrated on the FEMA Flood Insurance Rate Maps and Floodway and Flood Boundary Maps, dated February 17, 1982. Boundaries of the floodplain overlay district within the Pike River watershed--including the Pike River, Kenosha Branch, Sorensen Creek, Nelson Creek, Pike Creek, Somers Branch, Airport Branch, Lamparski Creek, Chickory Creek, Waxdale Creek, Tributary to Waxdale Creek, and Bartlett Branch--shall be determined through the use of the flood profiles published in SEWRPC Planning Report No. 35, A Comprehensive Plan for the Pike River Watershed, dated June, 1983. The profiles are found in Figures G-1 through G-16 and the regulatory profile is labeled "Flood Stage-Year 2000 Planned Land Use and Existing Channel Conditions, 100-Year Recurrence Interval".

The boundaries of the floodplain overlay district are further depicted on the large-scale topographic mapping of Kenosha County. The boundaries of unnumbered A zones shall be determined by use of the scale contained on the "Kenosha County Zoning Map" dated May 3, 1983, which accompanies and is made a part of the Ordinance. Where a conflict exists between the floodland limits as shown on the map and actual field conditions, the elevations from the 100-year recurrence interval flood profiles contained in the Flood Insurance Study or the Comprehensive Plan for the Pike River Watershed, whichever is appropriate, shall be the governing factor in the regulatory floodland limits. (11/5/86)

(d) Boundaries of the C-1 Lowland Resource Conservancy District and the C-3 Natural and Scientific Area Resource Conservancy District are shown on the maps referred to in Section 12.02-12(a) and boundary locations were determined by the criteria set forth in Sections 12.25-1(b) and 12.25-3(b). The boundaries of the C-3 District are further shown on the 1" = 400" scale Supplementary Zoning Map for the Chiuwauke Prairie--Carol Beach Area of the Town of Pleasant Prairie, dated ______. (11/5/86)

12.02-13 ANNEXED LANDS
(a) Pursuant to Wisconsin Statute 59.97(7), whenever any area which has been subject to the Kenosha County Zoning ordinance petitions to become part of a village or city, the regulations imposed by this ordinance shall continue
in effect, without change, and shall be enforced by such village or city until such regulations have been changed by official action of the governing body of such village or city, except that in the event an ordinance of annexation is contested in the courts, the County Zoning Ordinance shall prevail and the County shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(b) When any lands previously under the jurisdiction of this ordinance have been finally removed from the jurisdiction of this ordinance by reason of annexation to an incorporated municipality, and after the regulations imposed by this ordinance have ceased to be effective as provided in subsection (a), the County Board may pursuant to Wisconsin Statute section 59.97(5)(e)7, on the recommendation of its Office of Planning and Zoning Administration, adopt such amendatory ordinances as shall remove or delete such annexed lands from the official zoning map or written descriptions without following any of the procedures provided for amendment or change to the ordinance as noted in Wisconsin Statute 59.97(5)(e)1 through 5, and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the County Clerk to the Clerk of each town in which the lands affected were previously located. Nothing in this section shall be construed to nullify or supersede those provisions set forth in Wisconsin Statute section 80.64.

12.02-14 DEFINITIONS
For the purpose of this ordinance, the definitions listed in Appendix "A" shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Words not defined in Appendix "A" shall be construed according to any applicable definition set forth in either the State Statutes, Administrative Code or County Ordinance or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.